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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 (WT/ACC/MOL/2) and the Questions and Replies raised thereon by members of the Working Party (WT/ACC/MOL/3 and WT/ACC/MOL/4), with the request that they be circulated to Working Party members. The Annexes mentioned hereunder will be submitted in the near future.

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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE
2. Economic Policies
(b) Monetary and fiscal policies

Question 1.

We commend Moldova for its decision (response to Question 7 of WT/ACC/MOL/3) to apply the principle of destination for VAT and excise taxation no later than January 1998. We also welcome the Government of Moldova's plan to adjust the excise tax rates, consistent with national treatment requirements, by January 1998.

According to the response to Question 7 of WT/ACC/MOL/4, the State budgetary expenditure for subsidies increased because payments were transferred from the budget of the Central Government to budgets of local authorities and not to subsidies to enterprises.

Are the local authorities authorized to expend these funds for subsidies to enterprises? How does the Central Government ensure that these funds are not provided as subsidies to the enterprises in a manner that is inconsistent with the WTO Agreement on Subsidies and Countervailing Duties?

Answer:

Local authorities do not have the right to grant subsidies to enterprises. Budgets of local authorities have increased because they gradually take over social services which were formerly part of State-owned enterprises, e.g., kindergartens, medical or sports facilities.

Question 2.

According to the response to Question 8 of WT/ACC/MOL/4, the Government of Moldova is no longer granting credits to economic agents.

However, the Government is providing loan guarantees, issued against a risk premium of at least 5 per cent of the principal amount of the loan which is paid into the Risk Fund. State guarantees can only be issued up to a total value not exceeding the amount in the Risk Fund.

What is the current amount of the Risk Fund? What percentage of this amount has been issued as State guarantees? Please describe any export performance or import substitution requirements that exist in connection with the issuance of these loan guarantees.

Answer:

The Law on State Debt and State Guarantees (No. 943-XIII of 18 July 1996, promulgated under No. 115-P of 12 November 1996) replaced an earlier Parliamentary Decision (No. 570-XIII of 22 July 1995) which first established the Risk Fund. Contributions to the Risk Fund are drawn from the Budget and from beneficiaries of State guarantees. Risk premiums need not be paid at the time the guarantee is issued and beneficiaries have been granted grace periods of up to three years. As a result only MDL 1,064,561 have been received by the Risk Fund since its inception in August 1995 as contributions from beneficiaries.

Defaults on payment for government guaranteed loans were, however, substantially higher and in 1996 the Government was obliged to transfer MDL 47,158,600 from the Budget to the Risk Fund to meet its guarantee obligations. This figure is down from MDL 57,740,800 in 1995.

The 1997 Budget Law allocates MDL 30 million as budgetary contribution to the Risk Fund. In addition, the Budget Law set upper limits for new internal and external guarantees at MDL 20 million and US\$ 35 million, respectively.

With the upcoming privatization of the energy sector, due to start later this year, which accounts for most of the defaults on government guaranteed loans, it is expected that the contributions of the Budget to the Risk Fund will be phased out.

The issuance of State guarantees is not linked to export performance or import substitution requirements.

Question 3.

According to the response to Question 8 of WT/ACC/MOL/4, the energy company Thermocomenergo received a grant of MDL 17,429,100 to cover its operating losses. The Moldovan Railways also receive subsidies in the form of exemptions from the Land Tax and the Real Estate Tax in excess of MDL 6,500,000.

What steps is Moldova taking in order to reduce the size of these subsidies in future years? Please describe the conditions that are attached to the issuance of these subsidies.

Answer:

The payment to Thermocomenergo had become necessary to cover the difference between the government-set energy price and the cost price. As the government-set price was below cost price Thermocomenergo incurred a loss.

Moldova has agreed a series of restructuring measures for the energy sector with the World Bank and the IMF in order to eliminate the need for budgetary subsidies to energy companies. These measures include the privatization of Thermocomenergo and the raising of energy prices to cost-recovering level.

The raising of energy tariffs to cost-recovering level will be accomplished in the course of 1997. The privatization of Thermocomenergo and the other energy providers will begin in 1997 and is expected to be completed in 1998.

The objective of the subsidy to Moldovan Railways is to facilitate the purchase of new rolling stock. It is a temporary investment subsidy, not a subsidy to cover operating losses.

Question 4.

According to the response to Question 8 of WT/ACC/MOL/4, Moldova provided subsidies amounting to MDL 17,463,600 in 1996 to enterprises restructuring from the military-industrial complex.

Please identify the five enterprises which are the largest recipients of these funds and the amounts of subsidies they received in 1996. For each enterprise, please describe the items that are being produced and will be produced pursuant to this programme.

Answer:

Company	Subsidies Received MDL	Products Promoted
PERFUZON	11,400,000	Pharmaceuticals
FARMACO	4,600,000	Pharmaceuticals
PROTOS	350,000	Maintenance and repair of agricultural machinery
Other	1,113,000	
Total	17,463,000	

Question 5.

What was the 1996 budgetary cost of the VAT exemption for the facilitation of the restructuring process?

Answer:

The budgetary cost of the VAT exemption for the facilitation of the restructuring process in 1996 was MDL 1,700,000.

Question 6.

According to the response to Question 13 of WT/ACC/MOL/4, the Law on the Road Fund provides for four types of charges, including a charge for using roads by vehicles not registered in Moldova.

Please describe the road use charges, including amounts, for both foreign and Moldovan-registered vehicles.

Answer:

The road use charges, including amounts, for both foreign and Moldovan-registered vehicles are contained in Annex 1 of the Law on the Road Fund No. 720-XIII of 2 February 1996 which was submitted together with WT/ACC/MOL/4 and is available for consultation in the WTO Secretariat (Accessions Division, Room 1126).

The rates charged for vehicles not registered in Moldova are higher than those charged for vehicles in Moldova. Foreign suppliers may, however, register their vehicles in Moldova without difficulty and on the same terms as Moldovan service suppliers. Once registered in Moldova, the vehicles of foreign service suppliers pay the rates for Moldovan-registered vehicles.

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

2. Government Entities Responsible for Making and Implementing Policies Affecting Foreign Trade

Question 7.

When will the draft Government Decision on External Economic Relations come into effect. Could Moldova provide more information on the role of the Governmental Commission for External Economic Relations which will have the task of coordinating external economic activity.

Answer:

The Government Decision on External Economic Relations came into effect on 4 September 1997 (date of publication) as Government Decision No. 777 of 13 August 1997 on Improving the Mechanisms of Regulating Foreign Trade. The new Government Decision abolished the Commission.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulation

(b) Characteristics of national tariff

Question 8.

We have obtained two customs tariff schedules for Moldova and are uncertain which currently applies. The first schedule is entitled Attachment 1, 'Import Customs Tariff of the Republic of Moldova'. The second schedule is Annex 10 to the Law 'On State Budget for 1997'. However, neither of these schedules are fully broken out to the eight-digit level and it is not clear if they use the HS 1996 nomenclature. To help avoid further confusion and to provide an accurate analysis for market access discussions, please provide a tariff schedule with complete breakout by HS number and provide it in electronic format to the WTO Secretariat, for review by the Working Party, at the earliest opportunity.

Which of these schedules is currently applied in the Republic of Moldova? What tariff nomenclature is being used for each of these schedules, i.e. the European 1996 HS system?

Answer:

As stated in an earlier communication, the customs tariff is approved every year as part of the Budget Law. The tariff contained in Attachment 1 was part of the 1996 Budget Law. The customs tariff contained in Annex 10 was part of the 1997 Budget Law, which superseded the 1996 customs tariff. In addition, there have been amendments to the 1996 customs tariff which were also superseded by the 1997 Budget Law.

Both, the 1996 and the 1997 tariffs use the 1992 European HS system. While the 1997 tariff goes to the eight-digit level for some positions, the 1998 tariff will be fully broken out to the eight-digit level but will also use the 1992 European HS system, as the customs authorities will not be able to implement the changes before year end. The 1996 HS system will be introduced as of 1999.

The 1997 tariff, i.e. Annex 10 to the 1997 Budget Law, will be submitted on diskette in the near future.

Question 9.

The two schedules have different tariff rates for the same products. For example, under tariff number 0905, the tariff on the first schedule (Attachment 1) was free, and on the second schedule (Annex 10) was 5 per cent. Did tariff rates increase? What was the effective date of the tariff rate increases?

Answer:

The tariffs enacted with the 1997 Budget Law are higher for a number of positions. The 1997 customs tariff took effect on the day of the publication of the 1997 Budget Law, i.e. 24 April 1997.

Question 10.

The tariff schedule provided in Attachment 1 also lists many items (such as those in Chapters 72 through 80), as being duty-free. The table provided in the response to Question 20 of WT/ACC/MOL/3 also lists the duties for these chapters as zero. However, the schedule in Annex 10 lists the rate of duty for the same items as "ex," indicating a range of tariff rates. What are the applicable tariff rates for Chapters 72-80?

Answer:

The abbreviation "ex." stands for "exempt". For the purposes of the customs tariffs "ex." and "0%" have been used interchangeably. The applicable tariff rates for Chapters 72-80 are zero per cent.

Question 11.

Will customs tariffs continue to be amended each year as part of the Budget Law?

Answer:

After ratification of the Accession Protocol by the Moldovan Parliament the Moldovan Government will set the customs tariffs within the agreed ceiling levels.

(c) Tariff quotas, tariff exemptions

Question 12.

According to the responses to Question 24 of WT/ACC/MOL/3 and Question 49 of WT/ACC/MOL/4, there is an import duty exemption for imports of goods pursuant to "Co-operation Contracts," including the GSP system of the European Communities. Imports of raw materials are exempt from duty if the final product is exported to the European Communities.

Does Moldova apply the "Cooperation Contracts" exemption on a most-favoured basis? Are imports from all WTO Member States exempt from duties if the goods are incorporated into final products exported to the European Communities? Does the import duty exemption apply to raw materials for all final products exported to the European Communities, or only to raw materials for those final products which are exported to the European Communities under GSP?

Answer:

The import duty exemption referred to in the response to Question 24 of WT/ACC/MOL/3 and Question 49 of WT/ACC/MOL/4 applies to raw material imports from all countries if the final product is subsequently exported. The exemption is not limited to exports under GSP or to the European Communities.

(d) Other duties and charges

Question 13.

We commend the Government of Moldova for its decision to change its system for customs users fees to bring them into WTO conformity by January 1998. Please outline for the Working Party how Moldova will make this change.

We would appreciate more details on Moldova's plans to change the customs user fee from an *ad valorem* to a fee reflecting the actual cost of processing.

Answer:

The Ministry of Finance and the Department of Customs are currently discussing ways to bring the customs user fee into line with WTO requirements. The customs user fee will either be incorporated into the tariff or a flat fee will be charged. Moldova will inform the Working Party at the next session as to which alternative has been chosen.

(e) Quantitative import restrictions

Question 14.

Could Moldova provide more details on the application of temporary export and import restrictions, including the procedures leading to the application of the restrictions. How long are temporary measures applied.

Answer:

As stated in response to Question 51 of WT/ACC/MOL/4, Article 13 of the Law on Foreign Economic Activity authorizes the Government to restrict the export and import of goods and services or to suspend foreign economic transactions. Temporary export and import restrictions for certain goods and services for specific countries or groups of countries can be introduced for balance-of-payments reasons or under other economic and political conditions. However, such temporary measures must respect provisions of international treaties and agreements to which Moldova is a party (Article 3, Law on Foreign Economic Activity). After accession to the WTO this will include the WTO Agreements.

There are no specific rules on the duration of such temporary measures.

(f) Import licensing procedures

Question 15.

According to the response to Question 52 of WT/ACC/MOL/4, the Government of Moldova is preparing to replace Decision No. 371, which currently provides the rules for import licensing procedures.

Please describe the provisions of the new decision on import licensing procedures by resubmitting the information provided in Annex 3 of the Memorandum on the Foreign Trade Regime.

Moldova says that a new decision on import licensing is currently being examined. Could Moldova provide an update on progress and details of changes to the current decision.

Answer:

Moldova will resubmit the information provided in Annex 3 of the Memorandum in the near future. Moldova is aware that the licence fee structure is not yet in conformity with the relevant WTO regulations. The necessary amendments will be introduced in the course of 1998.

Question 16.

Please identify the items, including HS numbers, that will be covered by the forthcoming decision on import licensing.

When will Moldova provide us with a final list of products submitted to licensing procedures? Does Moldova intend to specify more specifically the list mentioned on pages 15 and 16 by introducing a six-digit nomenclature?

Answer:

Moldova will submit the new Government Decision No. 777 of 13 August 1997 on Improving the Mechanisms of Regulating Foreign Trade in the near future. Annex 1 lists all products to be covered by the new import licensing regulation with HS numbers except for alcohol and tobacco products which are covered by Annex 4. The HS codes of the goods covered by Annex 4 will be published in a ministerial regulation which is currently under preparation.

Question 17.

For the import of medications, drugs or medical equipment, importers need to address themselves to a special commission of the Ministry of Health. What is the specific function of this commission? Is there a similar commission dealing with import licensing procedures in the Ministry of Agriculture?

Answer:

The new Government Decision No. 777 abolished both the commission in the Ministry of Agriculture and the Ministry of Health.

(h) Customs valuation

We commend the Government of Moldova for its commitment to implement a WTO-consistent customs valuation regime prior to accession.

(k) Application of internal taxes on imports

Question 18.

We appreciate the Government of Moldova's acknowledgement that its VAT and excise regimes are not compatible with the requirements of the Agreement. We are pleased that Moldova has

pledged to remedy the deficiencies, involving VAT and excise tax exemptions for several products originating in certain countries (pursuant to the 1997 Budget Law), VAT exemption for all products from certain countries and discriminatory excise tax rates on certain products. We note positively that Moldova has already eliminated its excise tax exemption for imports from Romania.

Please describe how the Government of Moldova intends to amend the 1997 Budget Law to bring the VAT and excise tax regimes into conformity with GATT requirements. Please submit a translated copy of the draft legislation to the WTO Secretariat when available. When does the Government of Moldova intend to implement fully a GATT-consistent VAT and excise tax regime?

We are pleased to hear of the steps Moldova is taking to bring its VAT system into conformity with WTO obligations and seek further details on these plans.

What plans does Moldova have to equalize the excise rates charged for domestic and imported goods.

Answer:

In a first step, the Government has already approved a concept paper for the 1998 Budget Law. The paper states that the VAT and excise tax systems shall be in conformity with the relevant WTO provisions.

In particular, the government draft Budget Law will provide for the following:

- (i) general application of the principle of destination for VAT purposes;
- (ii) no discriminatory VAT exemptions for domestic products;
- (iii) general application of the principle of destination for excise tax purposes;
- (iv) no discriminatory excise tax rates.

The general application of the principle of destination for VAT purposes is also stipulated in the new draft Law on VAT which has been submitted to Parliament. Moldova will submit a translated copy of the draft Law on VAT (Part III of the Tax Code) in the near future.

Moreover, a new Government Decision has been drafted which stipulates, *inter alia*, that all fees and charges imposed in connection with import or export transactions should be modified to cover only the actual costs of services rendered. A translated copy of the draft Government Decision will be submitted in the near future.

Question 19.

We note that the 1997 Budget Law contained Gatt-inconsistent provisions. Will the Government of Moldova commit to refrain from introducing other inconsistent legislation during its WTO accession process?

Answer:

The WTO-inconsistent provisions of the 1997 Budget Law, notably the discriminatory exemption from VAT for agricultural products and pesticides, were introduced at the parliamentary stage and are therefore beyond the control of the Government. The discriminatory exemption from VAT for

pesticides has already been cancelled. Moreover, the government draft Budget Law for 1998 will cancel the discriminatory exemption from VAT for agricultural products.

However, the severe budgetary difficulties currently encountered by Moldova may require temporary fiscal measures which might be inconsistent with WTO regulations. Such measures, if applied, will be brought into conformity with WTO regulations prior to accession.

Question 20.

According to the response to Question 83 of WT/ACC/MOL/4, the Republic of Moldova provides a VAT exemption for all agricultural products if sold by the producers.

Does the Republic of Moldova intend to eliminate this VAT exemption or extend it to imports of basic agricultural products prior to the WTO accession? If not please indicate how such a discriminatory application is consistent with WTO rules.

Answer:

See previous question.

(l) Rules of origin

While we have not yet reviewed Moldova's draft rules of origin, we are pleased that the Government of Moldova will adopt and administer WTO-consistent rules of origin prior to WTO accession.

2. Export Regulation

(c) Quantitative export restrictions

We commend Moldova for the elimination of its export ban on unbottled wine.

(d) Export licensing procedures

Question 21.

Could Moldova provide more details on its intention to abolish the registration requirement for export contracts.

Answer:

The registration requirement for export contracts has been abolished with the entering into force of the new Government Decision No. 777 of 13 August 1997 on Improving the Mechanisms of Regulating Foreign Trade, superseding Government Decision No. 371 of 6 June 1995.

Question 22.

According to the response to Question 71 of WT/ACC/MOL/3, Moldova introduced licensing of exports of precious metals and minerals, precious stones and articles made thereof in accordance with GATT Article XX(c).

GATT Article XX(c) only applies to the importation or exportation of gold and silver. Does Moldova require licensing of any metals or minerals, stones, or articles made thereof, other than gold or

silver? For exports of products other than gold or silver, will the Government of Moldova eliminate this export licensing requirement prior to WTO accession?

Answer:

The new Government Decision No. 777 has amended the list of goods subject to licensing. The new list only contains gold and silver. Other precious metals are no longer subject to licensing.

Question 23.

According to the response to Question 84 of WT/ACC/MOL/3, the Republic of Moldova charges special fees on exports in the context of the European Communities' GSP Programme and Moldova's Textile Agreement with the European Communities.

Do the special fees also apply to exports to countries other than the European Communities pursuant to a GSP programme? If not, what is the rationale for subjecting only GSP exports to the European Communities for these special fees?

Answer:

The new Government Decision No. 777 has modified the licence fee structure. The new fee structure provides for a uniform charge of 0.1 per cent of the value of the goods for the issuance of a licence for all goods listed in Annex 1 of the Government Decision, GSP and other.

Question 24.

Are exporters of products to the European Communities pursuant to the GSP or to the Textile Framework Agreement required to pay the MDL 180 general licence fee and 0.1 per cent *ad valorem* regular licence fee?

Answer:

The licence fees payable until recently by exporters of products to the European Communities pursuant to the GSP or to the Textile Framework Agreement, as stipulated in the now abrogated Government Decision No. 371, were indicated in rows four and five of the table provided in response to Question 84 of Document WT/ACC/MOL/3.

However, the new Government Decision No. 777 stipulates that only one charge of 0.1 per cent of the value of the goods is payable as a licence fee.

3. Internal Policies Affecting Foreign Trade in Goods

(a) Industrial policy, including subsidy policies

See IV.1(k) on internal taxation regarding elimination of VAT exemption for all agricultural products sold by producers.

(b) Technical regulations and standards

We welcome the Republic of Moldova's commitment and steps already undertaken, as described in the response to Question 95 of WT/ACC/MOL/3, to remedy existing deficiencies in its standards and inspection regime prior to WTO accession.

Question 25.

It appears from the answer to questions that Moldova currently uses only mandatory standards. Could Moldova provide more details.

Answer:

As stated in response to Question 86 of WT/ACC/MOL/4, of the 20,000 standards mentioned in the Memorandum, about 5,000 are mandatory. According to Article 13 of the Law on Standardization the following standards are mandatory:

- national standards for products, processes and services, material goods and the environment which ensure the safety of human life and health;
- national standards which ensure the compatibility of (foreign with domestic) technology and information;
- national standards which ensure the compatibility of (foreign with domestic) products;
- national standards which ensure the uniformity of methods of control and marking.

Question 26.

As mentioned in document WT/ACC/MOL/3, Moldova is currently considering the introduction of voluntary standards to prepare its accession to the TBT Agreement. Could we obtain more information on the categories of products for which such standards will be relevant?

Answer:

Approximately 90 per cent of the new voluntary standards concern food products.

(c) Sanitary and phytosanitary measures

Question 27.

Please provide a detailed comparison of the requirements for the issuance of a quality certificate for domestic and imported goods including a detailed list of the documentation required for domestic goods.

Answer:

The following table provides an overview of the regulations, the goods concerned and the competent authority:

Overview of SPS Requirements

Rules	Goods/Objects	Competent Authority	Certificate Issued
Medico-Biological Requirements No.5061-89 Food safety requirements (harmonized with the Codex Alimentarius)	food products	State Sanitary-Epidemiological Service (Ministry of Health)	Hygiene Certificate

Rules	Goods/Objects	Competent Authority	Certificate Issued
Sanitary requirements as part of product standards	<ul style="list-style-type: none"> - raw-materials, machines and equipment the use of which may constitute a source of danger for human health; - goods for children; - materials and equipment used in drinking water systems; - cosmetics and perfume; - soap and detergents; - textiles 	State Sanitary-Epidemiological Service (Ministry of Health)	Hygiene Certificate
Phytosanitary requirements (harmonized with the European Plant Protection Organization)	products, materials or objects which could contribute directly or indirectly to the spreading of pest, diseases or objects under phytosanitary quarantine	Chief State Inspectorate for the Phytosanitary Quarantine (Ministry of Agriculture)	Import Permit, Phytosanitary Certificate (for export)
Veterinary requirements (harmonized with International Epizootics Organization)	<ul style="list-style-type: none"> - live animals of all kinds; - meat and meat products; - milk and milk products; - poultry, eggs and egg products; - fish and seafood products and raw materials of animal origin; - products of animal origin for animal feeding; - goods for veterinary use. 	State Veterinary Inspectorate (Ministry of Agriculture)	Sanitary Avis, Authorization, Veterinary Health Certificate

Notes:

1. The competent authority prepares the relevant technical requirements jointly with Moldovastandard. Testing and certification for SPS purposes is the competence of the body indicated in Column 3. For testing, these bodies may engage the services of accredited State laboratories.

2. For product standards which are composed of SPS and other non-SPS components, certification for conformity with the relevant product standard (conformity certificate) is done by Moldovastandard on the basis of the hygiene certificate (for the SPS components) and additional testing (for the non-SPS components).

Hygiene Certificate of the State Sanitary-Epidemiological Service

Domestic producers, if their production process satisfies the relevant requirements, are issued a hygiene certificate with a validity of up to three years on condition that their production method does

not change. Importers, if they satisfy the relevant requirements (which are the same as for domestic producers), receive a certificate which is valid for the shipment concerned.

The products and production facilities of the domestic producer are usually examined once or twice a year. If need be (e.g., company record, complaints), the intervals may be shorter. Imported goods are inspected at the customs office of the district where the importer is registered.

Special arrangements have been made for perishable goods which are imported (although the scheme is also open to importers of other goods). Importers of such goods may conclude an agreement by which the foreign production site is issued with a hygiene certificate of up to three years' validity and the goods are stamped with a special stamp indicating that the goods have been produced according to Moldovan SPS requirements. The expenses for visiting and examining the foreign production site have to be borne by the foreign producer or by the importer. Special arrangements for perishable goods may also involve the competent SPS bodies in the producing countries. In these cases the foreign SPS bodies would ensure the compliance with Moldovan SPS requirements.

Importers of goods who have not concluded special agreements have to present the following documents:

- invoice;
- quality certificate from the producer;
- certificate of origin;
- if no Moldovan standard exists, a description of relevant foreign or company standard and a compliance certificate.

Domestic producers have to present the same documents except for the invoice (as their hygiene certificate will be issued not for a specific shipment but for the production process for a certain period of time) and the certificate of origin.

Foreign producers which have concluded special agreements also have to present the above-mentioned documents except for the invoice (as their hygiene certificate will be issued not for a specific shipment but for the production process for a certain period of time).

In all cases the issuance of the hygiene certificate is subject to examination, either of the shipment or of the production facilities (including the products) and subject to the same sanitary requirements.

Import Permit of the Chief State Inspectorate for the Phytosanitary Quarantine

This document is only required for imported goods. Importers have to present the following documents:

- phytosanitary certificate from country of origin;
- laboratory analysis (in some cases);
- certificate about disinfestation or disinfection treatment.

The phytosanitary requirements of Moldova are harmonized with the standards and regulations of the European Plant Protection Organization to which Moldova is an observer. The information provided in response to Question 93 of WT/ACC/MOL/4 in this regard was erroneous.

Phytosanitary Certificate of the Chief State Inspectorate for the Phytosanitary Quarantine

This document is only required for goods to be exported. Exporters have to submit the following information:

- description of the consignment;
- laboratory analysis (in some cases);
- indication of possible disinfestation or disinfection treatment.

Veterinary Certificates

Domestic producers, if their production facilities and process satisfy the relevant requirements, are issued an authorization with a validity of up to three years on condition that their production method does not change. The facilities are inspected in random intervals during this period. In addition, every lot produced is inspected and, if cleared, issued with a veterinary health certificate.

For imported products, every lot imported is inspected.

For the authorization, domestic producers have to submit a request to the State Veterinary Inspectorate. For the veterinary health certificate required for each lot of production the domestic producer has to submit the authorization and a quality certificate issued by the producer.

Importers, prior to shipment and in order to obtain the sanitary avis, have to submit a description of the consignment providing the information to be inserted into the sanitary avis. Upon importation the importer has to present the sanitary avis, stamped by the veterinary authorities of all transit countries, the veterinary certificate of the exporting country and a quality certificate issued by the producer. The lot will be inspected by the State Veterinary Inspectorate and, if cleared, a veterinary health certificate issued.

Question 28.

Please provide detailed examples of acceptable safety certificates from exporting countries and a description of any additional tests conducted on foreign goods by the Government of Moldova.

Answer:

Hygiene certificates issued by competent CIS institutions are recognized. Negotiations are ongoing with a number of other countries such as Romania, France and Germany to conclude similar agreements.

In addition, Moldova recognizes company hygiene certificates if the company has concluded an agreement with the relevant Moldovan body (see previous question). In the framework of special arrangements, e. g. for perishable goods, Moldova also recognizes hygiene certificates issued by certain foreign certification bodies such as the German TÜV for the purposes of such arrangements.

There are no additional tests conducted on foreign goods by the Government of Moldova if these are accompanied by hygiene certificates issued by recognized foreign bodies.

Import permits for phytosanitary permits may only be issued by the Chief State Inspectorate for the Phytosanitary Quarantine of Moldova.

Veterinary health certificates may only be issued by the State Veterinary Inspectorate of Moldova.

Question 29.

Please identify all organizations within Moldovastandard and the Ministry of Agriculture, as well as any other agency (i.e., environment, public health ministries) that conduct SPS testing. Does the Government of Moldova contract with any private entities to conduct SPS testing. If so, please identify the entity, the products covered and the tests conducted by the private entities.

Answer:

For organizations conducting SPS testing see response to Question 27 above. Moldova does not engage the services of private companies to conduct SPS testing.

Question 30.

According to the response to Question 97 of WT/ACC/MOL/4, the responsibility for the development of standards for agricultural products lies with Moldovastandard in collaboration with the Ministry of Agriculture. Please provide further detail on the structure of the relationship between Moldovastandard and the Ministry of Agriculture with respect to the development of standards for agricultural products. What role does each entity play in the development of standards for agricultural products imported into Moldova?

Answer:

The relevant departments of the Ministry of Agriculture and Moldovastandard create joint committees which determine product standards for agricultural goods. The standards are the same for imported and for domestically produced goods.

In these committees the Ministry of Agriculture would normally contribute detailed knowledge of the product and Moldovastandard the technical knowledge for developing standards. The committees take decisions by consensus so that both parties' points of view are fully taken into account. The committees' decision is subsequently approved by Moldovastandard which gives the standard legal effect.

Question 31.

Please describe the inspection procedures that take place at the border for imported products and during the production process for domestic products.

Please elaborate on the response to Question 102 of WT/ACC/MOL/4. How does the Government of Moldova enforce its sanitary and phytosanitary requirements for domestic products? How does this enforcement differ from that for imported products?

Answer:

Sanitary and phytosanitary requirements are enforced through inspections and testing.

Sanitary Requirements

Domestic producers and foreign producers which have concluded a special agreement are inspected by a team of experts from the State Sanitary-Epidemiological Service and Moldovastandard once before the hygiene certificate is issued and then at regular intervals. Usually a production site is inspected once or twice a year but the intervals may be shorter if there are special reasons.

The team of inspectors examines both the products and the production facilities on these occasions.

Imported goods are inspected by taking samples and carrying out tests on these samples. The quantity taken and method of taking the samples varies between products and is set out in the internal regulations of the inspectors. The inspection takes place at the customs station to which the place where the importer is registered is assigned.

Phytosanitary Requirements

Prior to shipment, the foreign exporter has to send a request to the Chief State Inspectorate for the Phytosanitary Quarantine indicating the goods to be shipped. The Inspectorate will issue a preliminary import permit which stipulates specific phytosanitary requirements which the goods to be shipped have to satisfy.

Upon arrival the goods will be inspected. If they satisfy the requirements the preliminary import permit will be stamped and becomes definitive. In cases where the test cannot be conducted at the border laboratory, the sample is taken to the central laboratory in Chisinau.

If the shipper has not submitted a request before sending the goods, the form requesting the import permit may also be completed at the border.

Veterinary Requirements

Prior to shipment, the foreign exporter has to send a request to the State Veterinary Inspectorate indicating the goods to be shipped. The Inspectorate will issue a preliminary import permit, the sanitary avis, which has to be stamped the veterinary authorities of all transit countries. Upon arrival every lot is inspected by taking samples and carrying out tests on these samples. The quantity taken and method of taking the samples varies between products and is set out in the internal regulations of the inspectors. The inspection takes place at the customs station to which the place where the importer is registered is assigned.

When goods subject to veterinary requirements are unloaded (importation) or loaded (exportation) a representative of the State Veterinary Inspectorate has to be present.

Question 32.

Please describe in detail the procedural steps to be followed by an importer for dispute settlement, including steps to initiate a proceeding and a description of the roles played by Moldovastandard and the Moldova Economic Courts. Do foreign exporters have the same standing and rights as an importer in the Moldovastandard and the Moldovan Economic Courts?

Please elaborate further on the steps an importer and exporter must take to initiate an appeal regarding the application of SPS requirements to the courts.

Answer:

An importer wishing to appeal against a decision of Moldovastandard should, in the first instance, write to the Director-General of Moldovastandard who will try to resolve the issue amicably. Most disputes are resolved in this manner. If the importer wishes to pursue the matter further he should file a law suit at the Chisinau Economic Court. If the importer's case is upheld the decision of the Court overrides the decision of Moldovastandard.

As an applicant for a conformity certificate a foreign exporter and an importer have the same standing vis-à-vis Moldovastandard and in the Economic Courts.

Appeals against decisions of the Chief State Inspectorate for the Phytosanitary Quarantine and the State Veterinary Inspectorate should be addressed, in the first instance, to the head of the organization. In the second instance, the importer may file a law suit in the Economic courts. If the importer's case is upheld the decision of the Court prevails.

Question 33.

Are there any areas where Moldova's SPS regime is currently not compatible with the SPS Agreement. If so, could Moldova provide information on measures and timeframe for bringing them into conformity.

Answer:

Moldova does not yet have an enquiry point covering all SPS regulations and procedures. Work on establishing such an enquiry point is under way, although no timeframe has been set.

(e) State-trading practices

Question 34.

Are there any enterprises which retain special privileges in Moldova or which retain a privileged or monopoly position.

Answer:

There are no enterprises which retain special privileges in Moldova or which retain a privileged or monopoly position as far as goods are concerned. For more detailed information on the energy sector see response to Question 109 of WT/ACC/MOL/4.

(f-g) Free zones and free economic zones

Question 35.

According to the response to Question 108 of WT/ACC/MOL/3, a free zone already exists in Chisinau and further free zones are foreseen in the future.

To the extent that access to the favourable terms of production and trade in the free zones, economic zones or special economic zones relates to export performance, the measures may constitute prohibited subsidies and conflict with the provisions of the Agreement on Subsidies and Countervailing Measures.

Please submit a translated copy of the Law of the Republic of Moldova No. 1451-XII of 25 May 1993 With Regard to Zones of Free Business Undertakings to the WTO Secretariat for review by the Working Party.

Answer:

Moldova will submit a translated copy of the Law on Free Economic Zones No. 1451-XII of 25 May 1993 in the near future.

Question 36.

Please describe the eligibility criteria that must be satisfied for an enterprise to operate in a free zone or free economic zone. Are foreign enterprises and foreign-owned enterprises allowed to operate in the free economic zones and take full advantage of the incentives available to domestic firms?

Answer:

There are no special eligibility criteria that must be satisfied for an enterprise to operate in a free zone or free economic zone. All enterprises, domestic, joint-venture, foreign and foreign-owned are allowed to operate in the free economic zones and take full advantage of the incentives available.

The Chisinau Free Zone admits enterprises on the basis of a public tender and only joint-ventures and foreign-owned enterprises are eligible.

Question 37.

We note in the response to Question 110 of WT/ACC/MOL/4 that there are no export requirements for enterprises operating within these zones. Are there any domestic content requirements? Are any benefits conditioned on export performance or import substitution requirements?

Answer:

There are no domestic content requirements. Benefits are not conditioned on export performance or import substitution requirements.

Question 38.

Please identify the locations being considered for free zones and free economic zones. What is the current status of the establishment of these zones?

Answer:

The following table gives an overview of the free zones and free economic zones in Moldova:

Location	Type	Status
Chisinau	free zone	operational
Tvarditsa	free economic zone	operational
Giurgiulesti/Danube	free zone	planned
Ungheni	free zone	planned
Taraklia	free zone	planned
Vulcanesti	free zone	planned

Question 39.

For 1995 and 1996, what were the total revenues generated by firms operating within the free zones and economic zones?

Answer:

The Chisinau Free Economic Zone was opened on 1 July 1996. The Tvarditsa Free Economic Zone only began operations towards the very end of 1996. Hence, there no figures for the Tvarditsa zone for the years 1995 and 1996. The figures in the table below refer to the period 1 July 1996 - 1 July 1997.

Location	Investment	Profits Generated	Contributions to the Budget
Chisinau	MDL 8,500,000	MDL 4,000,000	MDL 3,000,000

(l) Government procurement practices

Question 40.

We seek a commitment from Moldova that it will adhere to the WTO Agreement on Government Procurement at the time of accession.

Answer:

Moldova is committed to begin negotiations on joining the WTO Agreement on Government Procurement immediately after accession.

Question 41.

According to the response to Question 113 of WT/ACC/MOL/3, the Government of Moldova expected the draft procurement law to be adopted by the Moldovan Parliament in the first half of 1997 without any substantial changes. What is the current status of this legislation?

Answer:

The Law on Government Procurement has been adopted by Parliament and Moldova will be submitting a translated copy in the near future.

4. Policies Affecting Foreign Trade in Agricultural Goods

(a) Imports

Question 42.

Please describe the customs clearance procedures followed by the Republic of Moldova to reduce to a minimum any delays in clearing import shipments of dairy or other perishable agricultural products.

Answer:

The waiting time for imports from all countries at the border with Romania does, on average, not exceed 30 minutes. The same holds true for the border with Ukraine. The actual customs clearance takes place at the regional customs office of the place where the importing firm is located. The decentralized nature of this system has kept the time required for customs clearance to a minimum.

As for the hygiene certificate, and in some cases the conformity certificate which is required for clearing food products, Moldova has instituted a system of special arrangements allowing the hygiene inspection to take place at the place of the foreign producer. See response to Question 27 for details.

(b) Exports

Question 43.

According to the response to Question 89 of WT/ACC/MOL/3, Moldova is not currently maintaining export subsidies.

We strongly encourage the Republic of Moldova to maintain its export subsidy-free regime and bind its export subsidy commitment at zero.

We note that Moldova has said that it does not use export subsidies and we seek a commitment that Moldova will bind its export subsidies at zero.

Please confirm that the Government of Moldova does not provide subsidies to exports through the satisfaction of barter transactions with agricultural products valued at less than fair market value.

Answer:

Moldova confirms that it does not maintain, nor has the intention to introduce subsidies contingent on export performance or on domestic content. Moldova further confirms that it does not provide subsidies to exports through the satisfaction of barter transactions with agricultural products valued at less than fair market value.

(c) **Export prohibitions and restrictions**

Question 44.

According to the response to Question 138 of WT/ACC/MOL/3, the Government of Moldova intends to abolish the export registration requirement for agricultural products.

What steps has the Government of Moldova taken to abolish this registration requirement? Will the registration requirement be abolished prior to WTO accession?

Answer:

The export registration requirement for certain agricultural products has already been abolished when the new Government Decision No. 777 superseded Government Decision No. 371 of 6 June 1995.

(e) **Internal policies**

Information provided by Moldova.

Moldova will resubmit WT/ACC/4 taking into account the comments received from the Working Party. Moldova is currently preparing a policy document outlining the subsidy policy in the agricultural sector in the context of the privatization process, primarily to support newly emerged private farms. This document will constitute the basis for Moldova's offer on agricultural subsidies. Moldova will make a copy of the document available to the Working Party once it has been prepared.

Question 45.

The information contained in WT/ACC/SPEC/MOL/1 on domestic support and export subsidies is denominated in Moldovan Lei. What are the relevant quantitative units of Lei (i.e., thousand, millions) as represented by the amounts shown in the columns?

Answer:

The figures indicate millions of Moldovan Lei.

Question 46.

Please provide detailed information on the policies given in Domestic Support Table 1, with specific reference to the criteria listed in Annex 2 of the Agreement on Agriculture.

Answer:

Moldova provides the following details on policies given in Domestic Support Table 1:

- (i) the measures to conserve soil and to prevent erosion are exempted in accordance with category 2(g). These measures were infrastructural works of a general nature benefitting rural communities as a whole and did not involve direct payments to producers or processors. They excluded the subsidized provision of on-farm facilities and of inputs, or subsidies of operating costs or preferential user charges;
- (ii) aids for the purchase of agricultural research equipment were exempted in accordance with category 2(a);

- (iii) the preparation of a plant classification system was exempted in accordance with category 2(e);
- (iv) the payments made under the Natural Calamities Laws in 1995 and 1996 were made in accordance with category 8. In both years, the adoptions of the laws constitute the formal declaration of the natural disaster. The disasters were extremely bad weather conditions.

In 1995, unseasonal weather led to a fall in the production of potatoes in the order of 68 per cent, of tobacco in the order of 30 per cent and of fruits in the order of 9 per cent. In 1996, the country was hit by heavy rains, flooding and late frosts in the early part of the year; this was followed by a severe drought. Grain production fell by 37 per cent. Tobacco production fell by another 24 per cent, fruits by another 15 per cent, vegetables by 47 per cent.

The debt relief was only granted to farms which suffered loss of income from the disasters and covered only a fraction of the loss suffered. The beneficiaries did not receive payments under income insurance or income safety-net programmes.

- (v) the Fund for Environmental and Natural Resources Protection covered salaries and other current expenditure of the following institutions or services:
- Republican Ecological Inspectorate and regional agencies of the Department of the Environment;
 - Agency for forecasting and monitoring of weather conditions;
 - Moldsilva (Forestry Agency).

The expenditure for the Agency for forecasting and monitoring of weather conditions will be taken out when Moldova resubmits WT/ACC/4.

Question 47.

Please provide a detailed breakout (including calculations and explanation) of the grants provided to livestock producers which are included in Domestic Support Table 7.

Answer:

Although the whole amount of MDL 7.8 million was entered in Domestic Support Table DS:7 as a grant, the subsidy had, in fact, a grant component of MDL 6.3 million and a loan component of MDL 1.5 million, as stated in DS:6. The beneficiaries were State-owned farms and the repartition was as follows:

Component	Amount in thousand MDL
Purchase of high quality breeding animals	856
Long-term stock-breeding programmes	50
Maintaining the livestock genetic fund	634
Purchase of protein-rich forage	2,500
Advanced technologies	950
Animal exhibitions and auctions	320
Animal registers and books	78
Credits for forage	1,500
Other	912

Component	Amount in thousand MDL
Total	7,800

Question 48.

Please describe the grain subsidy included under wheat in Domestic Support Table 7. Please identify any grains other than wheat which receive this support. Do grain processors receive the subsidy? If the subsidies are paid to the processors, how do these payments benefit wheat (grain) producers?

Answer:

The grain subsidy included in Domestic Support Table 7 is described in detail in document WT/ACC/MOL/2/Add.2. It only covered wheat. The subsidy benefits grain processors (millers and subsequent production stages). The subsidy does not confer any financial benefit to producers of a basic agricultural product. The wheat subsidy will be taken out when Moldova resubmits WT/ACC/4.

Question 49.

We would be grateful for confirmation that Moldova will be making developed country commitments in its accession.

Answer:

Moldova maintains that it considers itself a developing country. However, for the purposes of Moldova's accession to the WTO, Moldova will be making developed country commitments with additional flexibility in certain areas, as discussed during the first session of the Working Party.

Question 50.

Moldova should relate its claims on AMS to the value of its agricultural production. For *de minimis* on product-specific support, total product-specific support would be less than 5 per cent of the total production of a basic agricultural product during the relevant year. For *de minimis* on non-product-specific support, total non-product-specific support would be less than 5 per cent of the value of total agricultural production. If it is *de minimis*, this support would not be included in the total AMS or be subject to reduction.

Answer:

The following tables relate the figures provided for domestic support to the value of agricultural production:

De Minimis Calculation: 1995

Product	Value of Production 1995 in million MDL	Domestic Support 1995 in million MDL	Domestic Support as a Percentage of the Value of Production
Livestock	1,338.0	7.8	0.6%
Grapes (viticulture)	331.8	15.0	4.5%

Product	Value of Production 1995 in million MDL	Domestic Support 1995 in million MDL	Domestic Support as a Percentage of the Value of Production
Fruits (fruit tree growing)	291.7	6.5	2.2%
Wheat	249.8	4.5	1.8%
Non-product specific support	3,770.4	47.4	1.2%

De Minimis Calculation: 1996

Product	Value of Production 1996 in million MDL	Domestic Support 1996 in million MDL	Domestic Support as a Percentage of the Value of Production
Grapes (viticulture)	297.1	9.5	3.2%
Livestock	1,123.5	9.3	0.8%
Fruit (fruit tree growing)	270.1	6.0	2.2%
Milk	348.7	37.6	10.7%
Meat	446.0	16.7	3.7%
Tobacco	581.2	7.5	1.2%
Vegetables	184.7	5.4	2.9%
Wheat	150.2	64.4	42.9%
Non-product specific support	3,322.8	53.9	1.6%

Moldova is aware that many of the items included in WT/ACC/SPEC/MOL/1 fall under the *de minimis* clause, but considers that it is necessary to include figures for all relevant support to agriculture in the years 1995 and 1996 in order to fully demonstrate the recent development of agricultural policy in Moldova, and as background to the negotiation of future AMS limits.

Question 51.

Can Moldova confirm that its payments for relief from natural disasters compensation by debt cancellation is provided only to the agricultural sector?

Answer:

Moldova confirms that its payments for relief from natural disasters compensation by debt cancellation is provided only to the agricultural sector.

Question 52.

We note that Moldova has provided supporting tables DS:4 indicating data for years 1995 and 1996. We would expect that since Moldova indicates that no subsidies were paid in 1994 (reply 137,

page 47, WT/ACC/MOL/3) that it should include zero figures for this year and provide an average, not the sum, of support for the 1994-96 three year period (table DS:4).

Answer:

In the early days of Moldova's transition to a market economy agriculture was still mostly State-owned. Although agricultural subsidies were then not identified as such, and not paid out of separate budget lines, agricultural production was subsidized in other ways, including the accumulation of considerable losses to the Budget, to the Social Fund and to the employees. Many of the losses had to be written off and were eventually covered by the State.

Including zero figures for 1994 would not be informative and would not give a true picture of what Moldova's policy has been.

Question 53.

WT/ACC/MOL/2/Add.2 of 24 September 1996 provided an outline of Moldova's viticulture improvements, livestock improvements and "improvement of fruit tree growing". It indicated that Moldova was exempting them from the AMS calculation on the basis of Article 6:2. Moldova is now claiming these support programmes as non-exempt direct payments. We therefore need to establish exactly what the nature of the support is to enable us to assess whether it is to be included in the AMS. We presume that Moldova is intending to no longer claim such programmes as exempt from reduction commitments.

Answer:

When document WT/ACC/MOL/2/Add.2 was prepared, Moldova was still seeking developing country status. Since then it has emerged that Moldova, although being a developing country, would be expected to make developed country commitments.

As the exemption under Article 6:2 applies only to developing countries and in view of the new developments, Moldova has entered these programmes as non-exempt direct payments.

Question 54.

We note that Moldova has not provided supporting table DS:5. Can Moldova therefore confirm that it provides no product-specific market price support on any agricultural products.

Answer:

Moldova confirms that it provides no product-specific market price support on any agricultural products.

Question 55.

Moldova provides a VAT exemption for milk, meat, tobacco and vegetables. Can Moldova confirm that VAT exemptions are directed only at agricultural produce or are there non-agricultural products that are exempt from VAT?

Answer:

WT/ACC/MOL/3/Add.2 contains a list of all goods and services which are VAT exempt. The list includes both agricultural and non-agricultural goods.

Question 56.

Moldova has indicated previously that it grants no subsidies to agricultural exports. We would expect therefore that Moldova will provide supporting table ES:1 stating that they have no export subsidies.

Answer:

Moldova will provide supporting table ES:1 stating that it has no export subsidies.

Question 57.

We seek more details on the VAT exemption for all agricultural products if sold by the producer.

Answer:

The 1997 Budget Law exempted domestic agricultural products from VAT at the first point of sale, i.e. if they are sold by the producer. Sales of agricultural products through wholesalers and other intermediaries do not benefit from this exemption. See Section IV.1(k) for more details.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

1. General

Additional information provided by Moldova.

The Moldovan Parliament has adopted and published resolutions for the accession to the following IPR agreements:

- Strasbourg Agreement on International Patent Classification;
- Locarno Agreement on the Establishment of an International Classification for Industrial Designs;
- Vienna Agreement on the Establishment of a Classification of the Figurative Elements of Marks;
- Nice Agreement on the International Classification of Goods and Services for the Purposes of the Registration of Marks;
- Madrid Agreement for the Repression of False or Deceptive Indications of Sources on Goods.

(e) Fees and taxes

Question 58.

Please explain how the Government of Moldova applies the schedule of fees for the intellectual property rights contained in Annex I to Government Decision No. 415 as of 13 June 1994 (attached to WT/ACC/MOL/4). Are the amounts listed in column five of the schedule denominated in Moldovan Lei or in minimum wages? If they are denominated in minimum wages, what are the current fees priced in Moldovan Lei? Do the owners of the rights have the option of deciding whether to pay in United States' Dollars or in Moldovan Lei?

Answer:

There has been a reproduction error regarding Annex I to WT/ACC/MOL/4. The figures in column four are denominated in minimum wages, the figures in column five in United States' Dollars. Domestic applicants pay the amounts quoted in column four, foreign applicants the Dollar amounts quoted in column five or their MDL equivalents. One minimum wage is MDL 18.

2. **Substantive Standards of Protection, Including Procedures for the Acquisition and Maintenance of Intellectual Property Rights**
 - (a) **Copyright and neighbouring rights**

Question 59.

According to the response to Question 132 of WT/ACC/MOL/4, there are economic benefits for the author to register his copyright. Please describe fully the economic benefits for authors of registered copyrights that are not available for unregistered copyrights. Please explain how the requirement of registration to obtain these benefits complies with Article 5 of the Berne Convention, incorporated into the TRIPS Agreement by Article 9.1, which states that the enjoyment and exercise of rights shall not be subject to any formality?

Answer:

As stated in reply to Question 132 of WT/ACC/MOL/4, the registration of a copyright constitutes a presumption of authorship for the court. Article 8 of the Copyright Law stipulates that the enjoyment and exercise of rights are not subject to any formality. The information that additional economic benefit were conferred by registering a copyright was erroneous.

Question 60.

How did Moldova restore copyright protection, in accordance with Article 18 of the Berne Convention, for works that were in the public domain in Moldova, prior to its accession to the Berne Convention, which were still under copyright protection in their country of origin, but whose full term of protection in Moldova had not yet expired?

Answer:

Moldova acceded to the Berne Convention on 22 July 1995. For works which were already in the public domain by 31 December 1994 because the protection period had expired, the protection was not restored. For works the period of protection of which was due to expire after 31 December 1994, the period of protection has been adjusted in the following way: if the term of protection for a work by a foreign author that is used in the Republic of Moldova is greater, under the laws of the country of the author, than the term set out in the Moldovan Copyright Law, the term of protection laid down by this law shall apply; if it is lesser, the term of protection laid down by the laws of the country of the author shall apply (Article 17:12, Copyright Law).

Question 61.

How does Moldova intend to restore protection for sound recording producers, in accordance with Article 14 of the TRIPS Agreement?

The Moldovan Government states that producers of phonograms and broadcasting organizations have the exclusive right to use a phonogram in any form. Does the right of a producer of a

phonogram include the right to authorize or prohibit the direct or indirect reproduction of the phonogram and does the right of a broadcasting organization include the right to prohibit the reproduction of fixations?

Answer:

The right of a producer of a phonogram includes the right to authorize or prohibit the direct or indirect reproduction of the phonogram (Article 28.2 Copyright Law). The right of a broadcasting organization includes the right to exploit its broadcast in any form, including the right to authorize or to prohibit reproductions of a recording of a broadcast (Article 29.1 Copyright Law).

Question 62.

Does a performer have the possibility under Moldovan Law to prevent the reproduction of a fixation of his/her unfixed performance when undertaken without the authorization of the performer?

Answer:

Under Moldovan law a performer has the exclusive right to authorize or prohibit, *inter alia*, the reproduction of a recording of a performance, except where reproduction is made for the same purposes for which he had given his consent when authorizing the recording (Article 27(2) Copyright Law).

(b) Trademarks

Question 63.

According to the response to Question 134 of WT/ACC/MOL/4, colours are recognized as trademarks “if their spectrum has a special connotation to a particular product”. Please explain what this means.

Answer:

Moldovan law does not recognize individual colours as such as trademarks, but the colour or the combination of colours of a word mark or a figurative mark (or a combination of the two) are protected as part of the trademark (Article 4 and Article 5, Law on Trademarks and Appellations of Origin).

A colour is deemed identical to a colour protected as part of a trademark if through a series of tests it is found similar to the point of confusion.

Question 64.

According to the response to Question 138 of WT/ACC/MOL/4, “...in concrete cases, the mark is considered well-known based on the awareness of a great number of people about this particular mark”. If the product involved is one that has a specialized market, plumbing supplies, for example, is it sufficient to obtain protection that merely a large number of persons dealing with that market are familiar with the mark?

Answer:

The Moldovan authorities would first consider the market share of the product and, second, conduct a poll in the respective special market segment.

Question 65.

Does Moldovan legislation contain provisions to protect a well-known mark in cases where the goods or services are not similar to those in respect of which a trademark is registered, provided that the use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered trademark and provided that the interests of the owner of the registered trademark are likely to be damaged by such use?

Answer:

Marks well-known in Moldova and protected without registration under Article 6 bis of the Paris Convention are protected in Moldova independently of the product (Article 7.4(b), Law on Trademarks and Appellations of Origin).

(c) Geographical indications

Question 66.

Does Moldovan law allow for the refusal or invalidation of the registration of a trademark which contains or consists of a geographical indication with respect to goods not originating in the territory indicated, if the use of the indication in the trademark for such goods in that Member is of such a nature as to mislead the public as to the true place of origin?

Answer:

Moldovan law allows for the refusal or invalidation of the registration of a trademark in these cases (Article 7.1(e) and Article 7.2(a), Law on Trademarks and Appellations of Origin).

Question 67.

Could the Government of Moldova clarify whether protection is granted against a geographical indication which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another territory?

Answer:

Moldovan law grants protection in these cases (Article 22.2, Article 7.1 Law on Trademarks and Appellations of Origin).

Question 68.

Does the Government of Moldova intend to introduce specific provisions for the protection of geographical indications for wines and spirits along the lines of Article 23 of the TRIPS Agreement? If so, what is the timeframe.

Answer:

Moldova considers the provisions of the Trademark Law and of Government Decision No. 760 of 10 November 1995 to be consistent with Article 23 of the TRIPS Agreement.

(e) Patents

Question 69.

Could the Government of Moldova explain whether the Law on Patents for Inventions contains any conditions for granting a compulsory licence and government use which correspond to those set out in Articles 31(a) to (l) of the TRIPS Agreement? Please explain.

Answer:

See response to Question 149 of WT/ACC/MOL/4.

(h) Protection of undisclosed information

Question 70.

The Government of Moldova explains that the marketing of pharmaceutical and agricultural chemical products is subject to the approval by the Ministries of Health and Agriculture. How is data, which is submitted to obtain such an approval, protected against disclosure?

Answer:

Data submitted to the Ministry of Health or the Ministry of Agriculture which satisfies the requirements of a commercial secret according to Moldovan law is protected by the Law on the Protection of the Commercial Secret. For the requirements of a commercial secret according to Moldovan law, see response to Question 157 of WT/ACC/MOL/4.

Question 71.

According to the response to Question 157 of WT/ACC/MOL/4, undisclosed information will be considered a commercial secret if it is marked, by stamp or otherwise, as confidential. Does Moldova protect unrecorded undisclosed information, including information passed orally only to those involved in an operation with a need to know? For example, would Moldova provide trade secret protection for the temperature at which a chemical process produces the greatest yield?

Answer:

Although the Law on the Commercial Secret also protects unrecorded undisclosed information, the Moldovan authorities responsible for intellectual property, for licensing, product registration, etc. generally require confidential information submitted in connection with the application for licences, registration certificates, etc., to be recorded and marked for purposes of clarity.

Question 72.

The response to Question 159 of WT/ACC/MOL/4 indicates that the Moldovan Ministries of Health and Agriculture approve marketing of pharmaceuticals and agricultural chemicals, respectively,

without requiring submission of undisclosed test data. Please describe the information that must be submitted to obtain marketing approval for these products.

Answer:

In order to import and sell agricultural chemicals in Moldova, an importer needs to obtain an import licence and a hygiene or conformity certificate. For the procedures to obtain these documents, see response to Question 27 above and the resubmitted questionnaire on import licensing to be submitted in the near future.

For the importation of pharmaceuticals, Moldova requires a import licence. The procedures are set out in the resubmitted questionnaire on import licensing. In addition, pharmaceuticals to be imported have to be registered. The National Pharmaceutical Institute of the Ministry of Health has issued an information leaflet for foreign producers describing in detail the registration procedures. Moldova will be submitting a copy in the near future.

4. Enforcement

(a) Civil judicial procedures and remedies

Question 73.

Do judicial authorities have the authority to order a party to desist from an infringement, *inter alia* to prevent the entry into the channels of commerce in their jurisdiction of imported goods that involve the infringement of an intellectual property right, immediately after customs clearance of such goods?

Answer:

If requested by the injured party, the Moldovan judicial authorities are empowered to order a party to desist from an infringement, *inter alia* to prevent the entry into the channels of commerce in their jurisdiction of imported goods that involve the infringement of an intellectual property right, immediately after customs clearance of such goods.

Question 74.

What specific remedies can be taken with regard to counterfeit trademark goods?

Could the Government of Moldova explain in more detail the criminal procedures and penalties which are provided by Moldovan legislation in cases of trademark counterfeiting and copyright piracy? Do such measures include the seizure, forfeiture and destruction of infringing goods and of any materials and implements?

Answer:

At the request of the injured party, the equipment and material used unlawfully to reproduce and affix the trademark or appellation of origin concerned shall be rendered incapable for use of that purpose. Stocks of infringing signs reproducing the mark or appellation of origin shall be destroyed and marks or appellations unlawfully affixed to products shall be removed, even if that leads to the destruction of the products.

For copyright piracy such measures include the seizure of infringing copies of works or phonograms or the materials and the equipment used for their manufacture and reproduction. Confiscated

infringing copies are handed over to the owner of the copyright if the person so requests. If not, the infringing copies will be sold or destroyed in accordance with the court ruling.

For additional administrative infringement and penal procedures, see responses to Questions 167-169 of WT/ACC/MOL/4.

(b) Provisional measures

Question 75.

Could the Government of Moldova explain in more detail the procedures for provisional measures?

Answer:

Provisional measures are obtained by written application from the injured party or the public prosecutor (only for criminal offences) to the court or the arbitration body (only for civil litigation) requesting such measures.

Provisional measures include:

- order to the infringing party to stop the manufacture, reproduction, sale, rental, import, etc. of infringing objects until the court or the arbitration body has decided the case;
- seizure of infringing objects;
- seizure of materials and equipment used to produce the infringing objects;
- seizure of accounts and other documentation that may be used as evidence in the inquiry.

Whether or not a provisional measure is granted, and which provisional measure is granted depends on whether sufficient evidence of an infringement of an intellectual property right has been presented.

(c) Special border measures

Question 76.

Has the law on general border enforcement policy been adopted so far?

Answer:

The draft law on border enforcement measures has been submitted to Parliament in the form of an amendment of the Customs Code. It is not yet approved.

VI. TRADE-RELATED SERVICES REGIME

1. General

Question 77.

Please describe your existing trade regime in the form of a response to Questionnaire WT/ACC/5 prior to the next meeting of the Working Party.

Answer:

The questionnaire has been circulated as document WT/ACC/MOL/6.

Question 78.

According to the response to Question 162 of WT/ACC/MOL/3, any investment over US\$ 5 million is subject to approval from anti-trust authorities. Are any of the criteria used for the anti-trust determination inconsistent with GATS Articles XVI and XVII?

Answer:

As the required approval from the anti-trust authorities does limit market access in any of the ways provided for in Article XVI of the GATS, and as the criteria used for the anti-trust determination are the same for domestic, joint-venture and foreign companies, i.e. joint-venture and foreign companies enjoy national treatment, Moldova considers the provision to be in accordance with GATS Articles XVI and XVII. See response to Question 26 of WT/ACC/MOL/4 for more details.

Question 79.

When will Moldova submit its first schedule of commitments regarding the regulation of different service sectors in Moldova?

Answer:

Moldova will submit its first schedule of commitments regarding the regulation of different service sectors in time for the next meeting of the Working Party.

2. Policies Affecting Trade in Services
Financial services

Question 80.

According to the response to Question 179 of WT/ACC/MOL/4, off-shore banks not licensed in Moldova are subject to some restrictions. Please identify and describe fully these restrictions.

Please identify and describe any limitations on the ability of foreign financial institutions to accept deposits from or lend to Moldovan citizens or foreign citizens residing in Moldova.

Answer:

Until now there have no off-shore banks which have expressed an interest to conduct their operations from Moldova and the National Bank has not issued any regulations for such banks. The National Bank is currently looking at licensing the activities of additional types of financial institutions.

Foreign financial institutions licensed in Moldova are not limited in their ability to accept deposits from or lend to Moldovan citizens or foreign citizens residing in Moldova, except for the prudential requirements which are the same for domestic banks.

Question 81.

Is financial leasing permissible in Moldova? Please identify and describe any limitations on the ability of foreign financial institutions to provide financial leasing.

Answer:

Every bank, domestic or foreign-owned, which is licensed in Moldova can engage in financial leasing (Article 26, Law on Financial Institutions).

Question 82.

According to the response to question 168 of WT/ACC/MOL/3, foreign institutions are permitted to buy and sell securities on their own account and on behalf of others. May foreign institutions also buy and sell foreign exchange on their own account and on behalf of others?

Answer:

Foreign financial institutions may also buy and sell foreign exchange on their own account and on behalf of others on condition that they are licensed as a financial institution by the National Bank of Moldova (Article 26, Law on Financial Institutions).

Question 83.

Please describe any restrictions on the ability of foreign institutions to underwrite and engage in the placement of all kinds of securities. Please describe any restrictions on the ability of foreign financial institutions to engage in money brokering and asset management.

Answer:

Foreign institutions may underwrite and engage in the placement of all kinds of securities, engage in money brokering and asset management. They are subject to the same terms and conditions as domestic banks, i. e. they have to be licensed as a financial institution by the National Bank of Moldova (Article 26, Law on Financial Institutions).

Question 84.

Please describe any limitations on the ability of foreign financial institutions to provide settlement and clearing services for financial assets including securities, derivative products or other negotiable instruments.

Answer:

There are no limitations for foreign financial institutions licensed in Moldova to provide settlement and clearing services for financial assets including securities, derivative products or other negotiable instruments.

Question 85.

Please describe any limitations on the ability of foreign financial institutions to provide financial services cross-border from the foreign country to Moldova. Please describe any restrictions on the ability of Moldovan consumers to purchase financial services in a foreign country.

Answer:

Foreign financial institutions are not limited in their ability to provide financial services cross-border from the foreign country to Moldova. For services which require the opening of an account in a foreign country, Moldovan citizens need the approval of the National Bank. The approval is required because, whilst Moldova has current account convertibility, capital investments abroad are still subject to some restrictions

Question 86.

Licences for subsidiary or branch offices of foreign banks are granted only if: (b) the competent foreign authorities that supervise the financial activities at the head office of the foreign bank concerned have given their written consent to the granting of such licences; (c) the Central Bank is satisfied that the foreign bank is adequately supervised on a consolidated basis by such foreign authorities.

Could we obtain further clarification on both of those requirements (level of foreign authority which is recognized as to be competent, conditions which satisfy the Central Bank under point (c))?

Answer:

As for the foreign competent authority, the National Bank requires a document signed by the chairman, president, governor or other duly authorized person of the foreign institution which is responsible for the supervision of the financial institution concerned. The document should state that the institution is competent and the financial institution has the right under the foreign domestic law to open a subsidiary or branch office in Moldova.

As for the requirement to be adequately supervised on a consolidated basis, the National Bank requires that the foreign financial institution meets the criteria of the Basel Convention at least to the same degree as Moldova.

Transport services

Question 87.

There is currently a monopoly of the State company for railroad transportation services. Does Moldova intend to liberalise this sector in the near future? Could we obtain more specific information regarding auxiliary services? Which of those services have already been liberalised?

Answer:

Although there is a monopoly for the State company Moldovan Railways for rail transport services, Moldovan Railways has issued at one point a licence to a private operator for the service Chisinau-Bucharest. The private company has ceased operations in the meantime.

Against a background of severe financial difficulties, the Ministry of Transport has drawn up alternative plans for a fundamental restructuring of the sector, including both the railroad transport and auxiliary services. Moldova will communicate details of these plans as they become known.

Telecommunication services

Question 88.

Is MOLDTELECOM the only State-trading enterprise which has been granted exclusive rights in Moldova?

Answer:

Apart from Moldtelecom, Posta Moldovei, the national post office, and the Moldovan Railways also operate as monopoly suppliers.

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

1. Bilateral and Plurilateral Agreements Relating to Foreign Trade in Goods and Services

Question 89.

We seek a commitment from the Republic of Moldova that it will adhere to the WTO Agreement on Trade in Civil Aircraft at the time of accession.

Answer:

No decision has been taken in this regard.

Question 90.

According to the response to Question 182 of WT/ACC/MOL/4, Moldova permits duty-free import of raw materials for textile and clothing products from the European Communities, provided the finished products are subsequently exported to the European Communities (inward processing).

Is the Republic of Moldova obliged to provide duty-free access for these raw materials pursuant to the Agreement with the European Communities on Textiles and Clothing or does Moldova grant this duty-free access autonomously? How does the Government of Moldova intend to bring this duty exemption into conformity with the most-favoured-nation requirement of Article I of the Agreement, i.e. why is only European Communities' trade subject to this programme?

Answer:

The import duty exemption referred to in response to Question 182 of WT/ACC/MOL/4 applies to raw material imports from all countries if the final product is subsequently exported. The exemption is not limited to the Textiles and Clothing Agreement, to the GSP or to imports from, or to exports to the European Communities (Government Decision No. 689 of 8 November 1993, last amended by Government Decision No. 421 of 20 June 1995).

Question 91.

According to the response to Question 182 of WT/ACC/MOL/4, under the agreement with the European Communities on textiles and Clothing, Moldova "shall create favourable conditions for imports of textile products originating in the European Communities". Please describe the

measures used by the Republic of Moldova to create favourable conditions for imports of textile products from the European Communities.

Answer:

No concrete measures have been taken.

Question 92.

For each of the past three years, what was the value of textile and clothing products imported from the European Communities pursuant to the Agreement on Textiles and Clothing?

Answer:

As imports from the European Communities under the Agreement on Textiles and Clothing do not enjoy preferential treatment, no separate statistics for imports under the Agreement are being kept. The total values of imports of textiles and clothing from the European Communities were as follows:

Imports of Textiles and Clothing from the European Communities

Year	Value of Imports in US\$ million
1994	40,6
1995	42,0
1996	54,8

Question 93.

The Agreement on Textiles and Clothing provides the European Communities with non-discriminatory treatment in the application of quantitative restrictions, the granting of licences and the allocation of currency needed to pay for imports. Is this non-discriminatory treatment also available to other Members on a most-favoured-nation basis?

Answer:

This non-discriminatory treatment is also available to other Members on a most-favoured-nation basis (Government Decision No. 689 of 8 November 1993, last amended by Government Decision No. 421 of 20 June 1995).

Question 94.

According to the response to Question 187 of WT/ACC/MOL/4, Moldova would consider extending the preferential access for reconditioned marked packages and bottles, currently available to Bulgaria, to all WTO Members, under the same conditions.

What conditions apply to this preferential market access for Bulgarian marked packages or bottles? If the Government of Moldova does not decide to extend this market access to other WTO Members, please explain how it will comply with the most-favoured-nation requirements of GATT Article I.

Answer:

The preferential access for raw materials, including bottles and marked packages, in connection with inward and outward processing has already been extended to all countries. The detailed regulations governing the import of raw materials in connection with inward and outward processing are set out in Annex 4 of the new Government Decision No. 777. Moldova will be submitting a translated copy to the Working Party.

2. Economic Integration, Customs Unions, Free Trade Areas

Question 95.

According to the response to Question 195 of WT/ACC/MOL/3, parties to a free trade agreement may introduce customs duties for individual products on a temporary basis.

For each free trade agreement, please identify all products, including HS number, for which the Republic of Moldova is currently applying customs duties on a temporary basis. Also please provide the applicable customs duty rate and the date that the temporary duty will expire.

Answer:

Moldova does not apply temporary customs duties to any product in the framework of any free trade agreement.

Question 96.

For each trading partner covered by a free trade agreement, please provide the value of all imports received duty free and the value of imports received which were subject to temporary customs duties, for each of the past three years.

Answer:

As Moldova has not, either now or in the past three years, imposed temporary customs duties on imports from countries with which Moldova has concluded free trade agreements, all imports from such countries were received duty free.

Question 97.

According to the response to Question 196 of WT/ACC/MOL/3, Russian oil and oil products are not subject to excise taxes.

The list of imported goods subject to excise taxes only includes automobile gasoline and diesel. Please identify, including HS numbers, all oil and oil products subject to excise taxes and the applicable rates. What is the rationale for excluding only Russian-produced oil and oil products from the excise tax?

How does the Government of Moldova intend to bring the excise tax exemption of Russian oil and oil products into conformity with the most-favoured-nation requirements of GATT Article I?

Answer:

The response to Question 196 of WT/ACC/MOL/3 states, *inter alia*, that Moldova has concluded separate agreements with the CIS countries (including Russia) providing for the principle of origin for excise tax purposes, i.e. the excise tax is charged only once in the country of origin. Deviating from this practice, Moldova had temporarily subjected Russian oil and oil products to excise taxation at the place of destination. The measure was, however, not applied and has been cancelled.

The list of goods subject to excise taxes, which was submitted to the Working Party is therefore complete and continues to be in force.