

WORLD TRADE ORGANIZATION

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Working Party on the Accession of Moldova

DRAFT REPORT OF THE WORKING PARTY ON THE ACCESSION OF MOLDOVA

I. INTRODUCTION

1. The Government of the Republic of Moldova applied for accession to the General Agreement on Tariffs and Trade (GATT 1947) on 25 November 1993. On 21 December 1995, the Government of the Republic of Moldova applied for accession under Article XII of the Agreement Establishing the World Trade Organization. Having regard to the decision adopted by the General Council of the World Trade Organization (WTO) on 31 January 1995, the existing Working Party on the Accession to the GATT 1947 was transformed into a WTO Accession Working Party. The terms of reference and the membership of the Working Party were reproduced in document WT/ACC/MOL/7/Rev.2.

2. The Working Party met on 17 June 1997, 18 March 1998, 16 April 1999, and [] under the chairmanship of Mr. M. Kumar (India).

II. DOCUMENTATION

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Regime of Moldova (WT/ACC/MOL/2 and Addenda 1 and 2) and the questions submitted by Members of the foreign trade regime of Moldova, together with the replies thereto WT/ACC/MOL/3 and Corr.1 and Add.1 and 2; WT/ACC/MOL/4 and Add.1 and Corr.1; WT/ACC/MOL/8 and Add.1; WT/ACC/MOL/9 and WT/ACC/MOL/11 and other information provided by the Moldovan authorities (WT/ACC/MOL/5 and Corr.1 and Corr.2, WT/ACC/MOL/6, WT/ACC/MOL/7 and Corr.1 and Corr.2, and WT/ACC/MOL/10, and 12-24). The Government of Moldova made available to the Working Party the following documents:

Laws and Resolutions

- Law "On the Customs Code" - No. 1321 - XII, 9.03.1993
- Law "On Amendments to the Customs Code" - No. 44 - XIII 12.04.1994
- Law "On Improving the Mechanism of Regulation of Foreign Economic Relations" - No. 371 6.06.1995.
- Law "On Sanitary and Epidemiological Protection of the Population" - No.1513 -XII 16.06.1993

- Law "On Foreign Investments" - No. 998 - XII 1.04.1992
- Law "On Amendments to the Law on Foreign Investments" - No. 197 - XIII 27.07.1994, No. 92 XIII 11.05.1994, No. 321 - XII 16.03. 1994
- Law "On the Government of the Republic of Moldova" No. 64-XII 31.05. 1990
- Law "On Export and Import Reglementation of Goods and Services" No. 188-XII 26.07.1990;
- Law "On Banks and Banking Activity" No. 601-XII 12.06.1991 (with amendments);
- Law "On the National Bank of Moldova" No. 599-XII 11.06.1991 (with amendments);
- Law "On Foreign Economic Activity";
- Law "On Foreign Investment" No. 998-XII 01.04.1992 with the following amendments:
- Law "On Entrepreneurship and Enterprises" - No. 845 - XII 3.01.1992
- Law "On Cooperation" - No. 864-XII, 16.01.1992
- Law "On Enterprises and Entrepreneurial Activity" No. 845-XII 03.01.1992 (with amendments);
- Law "On Insurance" No. 1508-XII 15.06.1993 (with amendments);
- Law "Provisions with Regard to Sanitary-Epidemiological Security of the Population of the Republic of Moldova"; No.1513-XII , 16. 06. 1993;
- Law "On Consumers Rights Security"; No. 1453, 25. 05. 1993
- Law No. 92-XIII 11.05. 1994
- Law No. 321-XIII 13.12. 1994
- Law No. 197-XIII 27.07. 1994
- Law "On Monopoly Activities Limitation and Development of Competition" No. 1 13.05.1994;
- Law "On Copyright and Neighbouring Rights" No. 293-XII, 23. 11.1994"
- Law "On Amendments to the Legislative Acts" No. 51-XIII, 14.04.1994
- Law "On Legal Status of Foreigners and Persons without Citizenship in the Republic, of Moldova" No.276-XIII 10.11. 1994;
- Law "On Administrative Infringements" No. 51-XII, 14. 04.1994, art. III.
- Law "On Entry and Stay in the Republic of Moldova of Foreigners and Persons without Citizenship"
- Law "On Excise tax" - No. 347 27.12.1994
- Law "On VAT " - No. 96 - 09. 12.1995
- Law "On Commercial secret" - No. 126 - 10.11.1995
- Law "On Financial Institutions" No. 550-XIII 21.07.1995;
- Law "On Audit" No. 729-XIII 15.02. 1996;
- Law "On Banks and Banking activities - No. 601 - XII 12.06.1991
- Law "On Rent"- No. 861 14.01.92
- Law "On Employment"- No. 878 - XII 16.01.92
- Law "On Accounting" - No. 321 25.05.1995
- Law "On Cooperatives"
- Law "On Financial Institutions"
- Law "On Foreign Economic Activity"
- Law "On Foreign Investment and "On Amendments to the Law on Foreign Investment"
- Law "On the Government of the Republic"
- Law "On Monopoly and Development of Competition"
- Law "On the National Bank"
- Law "On Protection of Consumers' Rights"
- Law "On Value Added Tax"
- Law on Trademarks and Appellations of Origin No. 588-XIII of 22 September 1995;
- Law on Copyright and Neighbouring Rights No. 293-XIII of 23 November 1994;
- Law on Patents for Inventions No. 461/1995;
- Law on Standardization and Decision on the Organization of Standardization and Metrology Activities;
- Law on Audio-visual Services;
- Law on Plant Variety Protection;

- Law on the Protection of Industrial Designs;
- Law on Securities;
- Law No. 171-XIII of 6 July 1994 On Commercial Secrets;
- Law No. 347-XIII of 27 December 1994 On Excises;
- Law On Bases of Tax System;
- Law On Profit Tax of the Enterprises;
- Law No. 344-XIII of 23 December 1994 On the Legal Status of Gagauzia (Gagauz-Yeri);
- Law No. 720-XIII of 2 February 1996 On the Road Fund;
- Law on Customs Tariff;
- Law on Governmental Procurement;
- Law on Budget 1998;
- Law on Vineyard and Vine No. 131, 02.07.94;
- Law on Veterinary Activity No. 1539-XII (23.06.93);
- Law on Privatization Programme for 1997-1998 No. 1217, 25.06.97, (amended by No.1566/26.02.98; No.187/06.11.98; No.237/23.12.98; No. 239/23.12.98; No. 253/24.12.98;
- Law on Phytosanitary Quarantine No. 506-XIII 22.06.95;
- Law on Government Procurement No. 1166-XII, 30.05.97; and
- Law on Free Enterprise Zone "Expo-Business-Chisinau" No. 625-XIII. 03.11.95, amended by 1517-XIII/18.02.98.

Decrees

- Decree "On the Promulgation of the 1995 Finance Act";
- Decree "On the Promulgation of the 1996 Finance Act";
- Decree of the Parliament No. 1430-KP of 18 May 1993 Concerning the Introduction of the Securities Operations Tax Law;

Decisions and Instructions and other legislative acts

- Decision of the Government of the Republic of Moldova "On preventing the important illicit marketing of chemical and biological products intended to be used in agriculture and forestry on the territory of the Republic of Moldova" - No.740 of 2 November 1995;
- Penal Code Art. 141 "Violation of copyright", Art. 512 "Violation of property right on intellectual property";
- Decision No. 659 of 15 September 1994 "On Issue and Turnover of Bills";
- Decision No. 719 of 23 September 1994 "On Ministry of Telecommunications and Informatics";
- Decision No. 713 of 23 October 1995 "On the copyright owner's remuneration for the use of copyright and neighbouring rights";
- Decision No. 494 of 17 July 1995 "On the establishment of a provisional National Register of Computer Software";
- Decision No. 524 of 24 July 1995 "On the administration on a collective basis of patrimonial rights of holders of neighbouring rights";
- Decision No. 1318-XII of 2 March 1995 "On the accession to the World Convention on Copyright" (6 Sep. 1952);
- Decision No. 510-XII of 22 June 1995 "On the accession to the Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Companies" (Rome 1961);
- Decision No. 511-XII of 22 June 1995 "On the accession to the Berne Convention for the Protection of Literary and Artistic Works" (Paris Act 1971);
- Statute of the State Agency on Industrial Property Protection of Moldova;
- Provisional Statute on Industrial Property Protection of Moldova;
- Provisional Statute on Patent Attorneys of Moldova;
- Instructions on Compiling and Filing of Applications for Granting Patents on Invention;
- Instructions on Compiling and Filing of Applications for the Registration of Utility Models;

- Instructions on Compiling and Filing of Applications for the Registration of Trademarks and Service Marks;
- Instructions on Compiling and Filing of Applications for the Registration of Applications of Origin of Goods;
- Instructions for the Application of the Provisional Statute for Industrial Property Protection in Moldova Concerning Inventions on which the Patent on the Responsibility of the Applicator is Requested and Instruction for the Application of the Provisional Statute for Industrial Property Protection in Moldova Concerning Industrial Designs;
- Instructive-methodical indications with regard to State sanitary control of imported food products and raw materials, No.3177-84;
- Medico-biological requirements and sanitary rates with regard to imported food products and raw materials, No. 5061-89;
- Tax Code;
- Extracts of the 1997 Draft Budget Law;
- List of Goods Subject to Excise Taxes and Their Rates in 1996;
- List of Goods For Which Certification is Mandatory Upon Importation;
- Conception of the Tax Reform;
- Resolution No. 99 on Customs Valuation;
- Decision No. 658 on the Mechanism of Public Procurement;
- Regulation on the Issue of Licences for Insurance Services;
- List of Companies Registered in the State Register as Major Domestic Producers;
- List of Products for which Certification is Permitted on the Basis of Manufacturer's Declaration;
- Annex 5 to the Law No. 390-XIII On the State Privatization Programme for 1995-1996 of 15 March 1995;
- List of Companies Registered in the State Register as Major Domestic Producers;
- List of Goods and Services Exempted from VAT;
- List of Goods Subject to Excise Taxes and Their Rates in 1997;
- Import Customs Tariff of the Republic of Moldova;
- Annex 10 to the Law On State Budget for 1997;
- List of Internal and External State Guarantees;
- Government Resolution No. 371 of 6 June 1995 On Improving the Mechanism of Regulating External Economic Relations;
- Government Resolution No. 340 of 2 June 1993 On the Approval of General Provisions On the Structure of Expenses On Production and Realization of Goods (Works, Services), Included in its Cost Price and On Order of Forming the Financial Outcomes of Enterprises;
- Summary On the Order of Calculation of the Tax on Banks and the Order of Payment of It to the Budget (16 January 1994);
- Trade Agreement Between the Government of the Republic of Moldova and the Government of the Islamic Republic of Iran;
- Interim Agreement On Trade and Trade-Related Matters Between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Moldova, of the other part;
- Agreement Between the European Economic Community and the Republic of Moldova On Trade in Textile Products, initialled at Brussels on 14 May 1993;
- Governmental Decision No. 777 of 13 August 1997 with subsequent amendments;
- Government Decision No. 859 of 13 August 1998;
- Government Decree No. 1154, 15/12/97 concerning the Optimization of Control Services Activity at State Customs, amended by No.168/16.02.98; No. 112/02.02.99;
- Government Decision No. 760, 10.11.95 on Production of Wine and Other Wine Products with Appellation of Origin;
- Government Decision on Veterinary Statute of the Republic of Moldova, No. 378, 22.06.98;
- Government Decision on the Establishment of a Provisional National Register of Computer Software No. 494 17.07.95;

- Government Decision on the Copyright Owner's Remuneration for the Use of Copyright and Neighbouring Rights, No. 713, 23.10.95;
- Government Decision on the Administration on a Collective Basis of Patrimonial Rights of Holders of Neighbouring Rights No. 524, 24.07.95;
- Government Decision on Regulation of Certain Types of Activity (Licensing) No. 859, 13.08.98 Amended by Government Decision No. 75, 02.02.99;
- Government Decision on Improving the Mechanism of Regulating Foreign Trade (Import Licensing) No. 777, 13.08.98 amended by the Government Decision No. 76, 22.01.98 and Government Decision No. 716/30.06.98;
- Government Decision on Establishment of State Services of Phytosanitary Quarantine, No. 697/10.10.95, amended by No. 641/25.11.96; No. 515/05.06.97; No. 505/15.05.98;
- Provisional Statute on Industrial Property Protection in the Republic of Moldova;
- Rules on the Protection of the Republic of Moldova Territory Against the Entry or Introduction from Other Countries of Quarantined Pests, Pathogenic Agents of Plant Diseases and Weeds.
- List of all types of activity needing license authorization; and
- List of enterprises in which the State still owns over 25 per cent.

Draft laws and regulations

- Draft Law on Foreign Trade Activity;
- Draft Law on the Customs Tariff;
- Draft Government Decision On Improving the Mechanism of External Economic Relations;
- Draft Law on Government Procurement;
- Draft Law on Budget 1999;
- Draft Law on Certification;
- Draft Law on Anti-dumping, Countervailing Duties and Safeguard Measures;
- Draft Law on Licensing Certain Types of Activity;
- Draft Amendment to the Law on Standardization No. 590-XII/ 22.09.95;
- Draft Amendments to the Law on Consumer Rights Protection No. 153, 25.05.93;
- Draft Law on Technical Barriers to Trade;
- Draft Amendments to the Law on the Protection of Industrial Designs No. 991, 15.10.96;
- Draft Law on Utility Models;
- Draft Government Decision on the special provisions regarding the border measures on Protection Industrial Property; and
- Draft Amendments to the Government Decision No. 697/10.10.95 on Supplement to the Statute of the State Services on Phytosanitary Quarantine.

Free Trade Agreements

- Armenia;
- Azerbaijan;
- Belarus;
- Kazakstan;
- Kyrgyz Republic;
- Romania;
- Russian Federation;
- Turkmenistan;
- Ukraine;
- Uzbekistan.
- Agreement on the organizational basis of social-economical collaboration between the Republic of Moldova and Transnistria.
- Import statistics on Trade with the European Union 1997

- **Introductory Statements**

4. The representative of Moldova stated that Moldova had achieved considerable results in transforming a centrally-planned economy to a market-based economy since it had declared independence in 1991. The strategic objective of the economic policy of Moldova had been a transition to a market economy and the country's integration into the international economic community. The Constitution of Moldova adopted by the Parliament in July 1994 stated: "The economy of the country is market and society oriented, based on private and public property and free competition". Article I states that Moldova is a democratic State regulated by Law. Article 9 ensures private property rights and Article 126 defines the general characteristics of the economy as socially oriented and based on private and public property rights and free market principles. He noted that Moldova continued to be a country in transition whose economy was undergoing a process of structural adjustment in order to correct an excessive dependence on primary production. Initially inflation had been brought down to a monthly rate of 1.1 per cent in April 1996 from 32 per cent in February 1993. The budget deficit in 1995 had amounted to 4.9 per cent of GDP. The exchange rate of the Lei, introduced in 1993, was approximately 4.5 Lei to the US dollar in May 1995. However, the last few months of 1998 were characterised by an acute lack of funds in the banking sector followed by the massive depreciation of the Moldovan Leu and a growing inflation. This situation was linked with the financial crisis in the region and current developments in the financial market. The value of the Moldovan Leu had dropped by more than 33.7 per cent against the US dollar.

5. Members of the Working Party welcomed Moldova's application for accession to the WTO, noting that Moldova had been pursuing economic reform and trade liberalization decisively. They expressed strong support for the early accession of Moldova on the basis of comprehensive market-access commitments and the early implementation of the WTO Agreements.

III. ECONOMIC POLICIES

- **Monetary and fiscal policies**

6. In response to requests for information, the representative of Moldova said that all the key sectors, namely agriculture, manufacturing industry and construction had registered a decline of output in 1998 over a similar period in 1997. Private agriculture was becoming increasingly important in Moldova, so was farm restructuring. The information for the first half of 1998 showed that the number of registered companies with foreign participation had been rising quite fast. Figures for the

first nine months of 1998 showed that the employment level had dropped by 7.4 per cent compared to a year earlier. This was a further decline over the first half of 1998. Agriculture and manufacturing had shown a decline of 11 per cent over the same period, with wholesale and retail trade at 15.5 per cent and construction at 16.6 per cent lower than a year ago. The dependence on imported goods and services had been steadily growing, from 51 per cent of the GDP in 1993 to 77 per cent in 1997. The share of imports from non-CIS countries had increased, particularly with regard to machinery and equipment. Trade with CIS countries had been showing a reverse pattern. The trade deficit with non-CIS countries during 1998 had reached US\$363.8 million. In 1998, the total external debt had reached US\$1.3 billion. The accumulated arrears on the government's debt servicing had risen to US\$68.4 million by the end of 1998. He explained that the State budgetary expenditure had increased because payments were transferred from the budget of the Central Government to the budgets of local authorities and not as subsidies to enterprises. Local authorities did not have the right to grant subsidies. The budgets of local authorities had also increased because they gradually took over social services which were formerly part of State-owned enterprises.

7. The representative of Moldova added that the Government was no longer granting credits to economic agents. However, the Government was providing loan guarantees, issued against a risk premium of at least 5 per cent of the principal amount of the loan which was paid into the Risk Fund. State guarantees could only be issued up to a total value not exceeding the amount in the Risk Fund set up by the Law on State Debt and State Guarantees (No. 943-XIII of 18 July 1996, promulgated under No. 115-P of 12 November 1996). Contributions to the Risk Fund were drawn from the Budget and from beneficiaries of State guarantees. In 1997 MLD 75 million had been issued as internal guarantees and US\$9 million as external ones. In 1998 the amount of MLD 100 million has been issued as internal guarantees and the amount of US\$39 million as external guarantees for the EBRD loans. It was expected that with the ongoing privatization of the energy sector, the contributions of the Budget to the Risk Fund would be phased out. The issuance of the State guarantees was not linked to export performance or import substitution requirements.

8. The representative of Moldova noted that 1998 had been a very difficult year for Moldova. By the last quarter of 1998, the combination of weak public finances, a problematic energy sector, and the fall of the Russian market produced an acute economic crisis in the country. The crisis was characterized by capital flight, a depreciating exchange rate, international reserves that fell to critically low levels, rising expenditure arrears and budget financing coming only through central bank credit. Real GDP fell by 8.6 per cent in 1998 and stood at MDL (Moldovan Leu) 8,804 million. Both industrial and agricultural output dropped in 1998. At the same time, final consumption constituted more than 102 per cent of GDP, with the trade deficit growing from 15.4 per cent of GDP

in 1997 to 24 per cent last year. 1998 was the first year since independence when both export and import volumes registered a reduction, exports by 27 per cent and imports by 12 per cent as compared with 1997. The pattern of trade had changed, with exports to CIS countries in the second half of 1998 only one half the levels recorded during the same period of 1997. The crisis in Russia had not only influenced output through the collapse of Moldova's major export market, but also put pressure on the Leu causing the annual inflation rate for 1998 to stand at 18.2 per cent, ending the excellent anti-inflation record of the previous years.

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

10. In view of this difficult situation the Government and the National Bank of Moldova (NBM) was seeking to stabilize the economy and avoid an inflationary spiral and further depreciation of the currency, continue restructuring and therefore resume growth, avoid a default on treasury bill redemption, renegotiate external debt and external debt arrears, and create a stable and credible policy environment to restore confidence and growth. The 1999 budget that was approved by the Parliament in December 1998 called for spending cuts in all major areas. It met the IMF's fiscal austerity requirements, and opened the way for resuming IMF funding. In January 1999 the IMF released a US\$35 million from a three-year EFF. However, this budget was built on the assumption of one per cent growth in real output in 1999, and an average overvalued exchange rate of MDL 7 : US\$1. Both assumptions may prove to have been overly optimistic. In mid-January 1999 the National Bank of Moldova approved a monetary and credit policy for 1999. The target of this policy was to reduce the inflation rate from 18.2 per cent to 13-15 per cent. The programme envisages that by the end of 1999 the money stock should be increased by 35 per cent and reach the level of MDL 2.29 billion,

monetary base by 24 per cent to the level of MDL 1.23 billion, and the volume of lending that goes directly to the national economy by 18 per cent to the level of MDL 2.1 billion. In order to implement this it was planned to diminish the bank liquidity ratio from 0.94 to 0.89 and to gradually reduce the obligatory reserves ratio back to 8 per cent from 15 per cent. The last measure became necessary in order to ease the pressure on an already fragile banking system. As a result of resumed IMF lending, international reserves had risen, and were expected to rise again with disbursement of US\$35 million from the World Bank. The low levels of reserves would force the NBM to continue its non-intervention policy, and its relative inability to protect the Leu against further pressure. Since reaching its low point in December 1998, the Leu had succeeded in remaining relatively stable through January and February 1999. Nevertheless in March one could observe the cash exchange rate to decline much faster than the official rate, plunging to MDL 10.3 = US\$1. This made it evident that the Leu remained vulnerable to shocks, either due to debt crisis in Moldova or to further real depreciation in the currencies of its major trading partners.

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

- **Foreign exchange and payments systems**

12. In response to questions, the representative of Moldova informed that the national currency - the Leu - was convertible. However, due to the growing demand for foreign exchange the National Bank of Moldova decided that the exchange rate would be calculated as a weighted average rate of all transactions in foreign currencies concluded by commercial banks. There were restrictions on foreign exchange and the transactions in foreign currency were subject to the National Bank's foreign exchange regulations. Enterprises in Moldova which receive foreign currency had to transfer it to their accounts with an authorised bank no later than 60 days from the date of the receipt of the money and no later than 150 days from the date of the customs declaration confirming the export of goods or

delivery of services. Enterprises as legal entities were allowed one account in foreign currency and an additional one in any of the non-convertible currencies. If enterprises bought foreign exchange at the Interbank currency exchange and did not use it to carry out payments abroad within 30 days from the date of purchase the sum would have to be offered for sale through the authorised bank. Legal entities of any country could open accounts in Moldovan Lei without an authorisation by the National Bank of Moldova.

13. The representative of Moldova noted that Moldova was a member of the IMF and had accepted the obligations of Article VIII of the IMF Articles of Agreement. Moldova met the Funds' standards of current account convertibility and had received assistance from the IMF in the area of monetary policy. A Memorandum on a programme of co-operation with the IMF was signed on 3 April 1996.

- **Investment Regime**

14. The representative of Moldova said that since 1994 a major objective of national economic policy had been to promote a transparent and fair business environment for both domestic and foreign investors. To attract foreign investment, Moldova had established a stable legal and institutional base, and introduced incentives and guarantees for foreign investors. He stated that the general legal provisions concerning foreign investments were set forth in the Foreign Investment Act of 1 April 1992, which offers tax and customs incentives precisely defined. From the date it commenced operations and submitted its first tax return, a company with foreign investment enjoyed a 50 per cent reduction in income tax for a five year period on the condition that the foreign investment exceeded US\$ 250,000 and that over 50 per cent of the income of the enterprise came from the sale of its own production.

15. Some members of the Working Party requested information on the basic provisions regulating investment and any restrictions or registration measures affecting foreign investment. The representative of Moldova confirmed that the former State monopoly in foreign trade had been abolished. Except for the limitation that goods the import or export of which was subject to licensing could only be imported or exported by firms, including individual firms (Government Decision No. 371 of 6 June 1995), there were no restrictions on the right of foreign and domestic individuals and enterprises to import and export goods and services incompatible with WTO Agreements. The relevant legal provisions were Article 9 of the Constitution which provided for free economic initiative and fair competition, and the Law on Fundamentals of Foreign Economic Activity in the Republic of Moldova No. 849-XII of 3 January 1992. All industrial sectors were open to foreign investments provided that they did not conflict with national security, anti-trust legislation, and were consistent with the protection of the environment, public health and public morals. The criteria for registration of companies were set out in the Law on Enterprises and Entrepreneurship of 3 January 1992. There were additional

requirements for certain type of business such as banking, insurance and joint stock companies set out in the respective laws published in the Monitorul Oficial, Journal of the Law of Foreign Investment. The fees for registering foreign-invested companies with the State Registration Chamber in the Ministry of Justice were the same as for the registration of domestic companies (Article 13, Law on Foreign Investment).

16. In response to additional questions the representative of Moldova said that establishment of companies with a foreign equity participation exceeding US\$ 5 million had to be approved by the anti-trust authorities in accordance with Article 11 of the Law on Foreign Investment. Possible restrictions of competition by domestic companies were examined according to Article 8 of the Law on Monopoly Activities Limitations and the Development of Competition. There were no differences in the approval for foreign and domestic investors by to the State Environmental Protection Agency and the Medical and Epidemiological Agency.

17. Some members of the Working Party asked whether foreign investors were protected against expropriation or nationalization of their assets. The representative of Moldova said that according to Article 39 of the Foreign Investment Law, in case of expropriation, nationalization or other equivalent measures, compensation should correspond to the value of the investment. Compensation had to be paid not later than three months after the measure had been taken, and included accrued interest calculated on the basis of an appropriate interest rate. Moreover, the Foreign Investment Law granted the foreign investor the right to challenge in court the lawfulness of the expropriation, nationalization or equivalent measure and the amount of the compensation.

18. The representative of Moldova said that Article 35 of the Law on Foreign Investment exempted all goods, capital and other, from customs duties if they were used as in-kind contribution to the formation or increase of the capital of an enterprise with foreign equity participation.

- **State ownership and privatization**

19. The representative of Moldova said that privatisation of State property was a key component of economic reform as stipulated in the Privatisation Act adopted in 1991. The Act gave Moldovans the right to acquire shares in former State property. They could use their National Patrimonial Bonds (NPBs), a voucher, to purchase shares in all kinds of enterprises and to buy privatised homes. All Moldovan nationals were entitled to NPBs related to the length of their work history in the country. NPBs could not be traded for cash. As a rule employees of an enterprise to be privatised may purchase up to 20 per cent of the enterprises' shares at par value. By October 1995 the whole population had received its NPBs.

20. Some members of the Working Party requested details concerning the pace of privatization in Moldova, the percentage of GDP privatized, the participation of foreign investors, and progress achieved to date in the privatization of energy. The representative of Moldova said that a new Law on Privatization Programme 1997-1998 extended to all sectors and branches of the economy, except for those which were not subject to privatization in compliance with the Law. At present, in the economy of the Republic of Moldova the private sector represented 60 per cent of the industrial production, 70 per cent of services provided by the retail trade and public services sector and 44 per cent of capital construction works and transport. 50.2 per cent of the total number of industrial enterprises were privatized, including 93 per cent of processing enterprises and 82 per cent of light industry enterprises, as well as 95 per cent of the State-owned trade and public services enterprises. Enterprises in the following industries were scheduled for total privatization: textiles and garments, electronics, machine building, chemical and furniture manufacture, leather goods, foodstuff and package producing enterprises, as well as hotels. Concerning restrictions on foreign investors participation in privatization, the representative of Moldova stated that no specific conditions other than those for domestic investors were attached to the participation of foreign investors in the privatization programme. Foreign natural and legal persons were eligible to participate in the Privatization Programme.

21. The representative of Moldova stated that a special regime existed for agricultural enterprises. Only employees of the formerly State-owned agricultural enterprises were eligible to participate in the privatization of agricultural enterprises. Under the first stage of agricultural reform the size of household plots was raised up to 0.7 ha and the tenure changed from use right to ownership. By 1 April 1996, 85 per cent of claimants had been issued with certificates for land ownership. The land not used for agricultural production and the built-up land could be traded freely and also be purchased by foreigners. For other categories of land, a new Law on the Sale of Land was still in preparation.

22. Regarding privatization of energy, the representative of Moldova said that the restructuring of the energy sector had started. The Law on the Concept of privatization of enterprises from the energy sector no. 63-XIV of 25 June 1998 envisaged that distributing companies would be privatized first, followed by the generating companies. Currently the Ministry for Development of Territories, Construction and Public Services together with the Ministry of Economy and Reforms were carrying out the Concept of Privatization of the thermo-energy sector. The initial stage foresaw the restructuring of the enterprises in this sector and their transformation into joint-stock companies. The reorganization of Moldenergo and the creation of a Moldovan-Russian joint venture on the basis of MoldovaGas were the major elements of the programme of reforms in this sector.

23. In response to further questions, the representative of Moldova provided the following table on the third stage of the privatization process.

Information on the privatization process

(Third stage of the process – privatization by cash)
September 1997 – December 1998

Information provided according to Moldova's Law on Privatization Programme for 1997-1998

Steps Undertaken	Sector						Total
	Industry	Agriculture	Construction	Communication and Transport	Culture	Other	
Objects to be privatized	145	181	69	31	51	235	712
Enterprises included in a list of objects to be privatized	128	109	63	24	47	181	552
Enterprises, which are privatized according to individual projects, approved by Parliament.	3	18	0	7	0	2	30
Unfinished objects to be privatized	14	54	6	0	4	52	130
Objects included in the privatization programme:							
- Auctions	112	138	60	29	48	232	619
- Investment tenders	33	43	9	2	3	3	93
Privatized objects:	94	15	17	0	8	14	148
- auction	86	12	15	0	7	13	133
- investment tenders	8	3	2	0	1	1	15
Incomes (MDL thousand)	NA	NA	NA	NA	NA	NA	24,639

Object to be privatized: Enterprises, plants, stores, gas stations, shops, cafeterias and other objects.

NA: Not available by sectors.

24. The representative of Moldova confirmed the readiness of Moldova to ensure the transparency of its ongoing privatization programme and to keep WTO Members informed of its progress in the reform of its transforming economic and trade regime. The representative of Moldova stated that his Government would provide annual reports to WTO Members on developments in its programme of privatization as long as the privatization programme was in existence. 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.

- **Pricing policy**

25. The representative of Moldova stated that for social reasons the price of bread had been fixed so that the price charged could be no higher than 20 per cent of the delivery prices. Until 1 January 1998, the Government was setting prices for energy supplied by State-owned utilities and housing in State-owned buildings. The newly created National Energy Regulatory Agency had the right, according to the paragraph 6 of the Governmental Decision Nr. 767 of 11 August 1997, to control how prices were established, the quality of services and compliance with other conditions stipulated in the license contract. By the end of 1997, energy tariffs were raised to cost-recovering levels.

26. In response to further questions the representative of Moldova stated that in accordance with Governmental Decision No. 767 of 11 August 1997 National Energy Regulatory Agency (NERA) was created, being considered as a main regulatory body of the relations between energy market players. However this Agency is a non - governmental, independent regulatory body. According to paragraph 6 of that decision, NERA had the following functions:

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

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

At the time Governmental Decision No. 415 of 10 May 1999 was adopted, it ensured cost recovery I with recalculation for the previous months for the electricity, thermic energy and natural gas sectors (fixing the tariffs in MDL) but with the dramatic depreciation of the Moldovan currency the tariffs established on the internal market for the energy products again fell below delivery costs. Nevertheless, a new draft Governmental Decision presented to the Government was expected to bring tariffs for the energy products to the cost-recovery level again, thus being consistent with the above mentioned methodology. He further added that in addition to Governmental Decision No. 767 of 11 August 1997, Governmental Decision No.547 of 4 August 1998 "On State coordination and regulation of prices and tariffs" established legal authority to apply state control over the prices for a number of items listed in table below.

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

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

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

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

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

Table 3

	Description of product	HS code
5.	Canned meat foodstuff	1602
6.	Fruits and vegetables for children	0702, 0704-0709
7.	Vegetables oil	1507-1515
8.	Butter and dairy products	0405
9.	Cheese	0406
10.	Sugar	1701
11.	Flour	1101-1102
12.	Bread and bakery products	1905
13.	Footwear for children	Part of 64
14.	Notebooks for children	482020
15.	Household soap	340219
16.	Detergents	3402
17.	Toys	9501
18.	Pharmaceutical products (approved by the Ministry of Health)	30

27. The representative of Moldova confirmed that Moldova would apply its current state prices and any other state prices or price controls applied from the date of accession in a WTO-consistent fashion, and would take account of the interests of exporting WTO Members as provided for in Article III. 9 of the GATT 1994. Moldova would publish any list of goods and services subject to State pricing or price controls in the Official Journal, including any changes in existing measures. The Working Party took note of these commitments.

- **Competition Policy**

28. The representative of Moldova stated that the legal framework for anti-monopoly regulation was the Law "On Monopoly Activities Limitation and the Development of Competition" of 13 May 1994. This Law established the fundamental principles for regulating the activity of enterprises having a *de facto* monopoly and for supporting the development of competition.

29. The representative of Moldova added that as part of the implementation of the Law, a package of prudential requirements approved on 5 October 1993 (Government Resolution No 619) included provisional regulations applying to holding companies. A State Register was maintained of companies, which were major producers of a product in the domestic market without holding a dominant market

position. The list was established for taxation purposes as the Government considered that because of their "de facto" monopolistic position on the domestic market they should pay an extra tax. Progressively, with the restructuring of the economy the position of these producers was being challenged by new producers and by imports.

30. Some members of the Working Party asked for information on the manner in which Moldova's Law "On Monopoly Activities Limitation and the Development of Competition" dealt with vertical and horizontal restraint arrangements, and the recourse foreign firms had if opportunities were impaired by such arrangements. In response, the representative of Moldova stated that vertical and horizontal restraint arrangements were forbidden by the Moldovan Law "On Monopoly Activities Limitation and the Development of Competition" if one of the parties had a dominant market position, i.e. a market share of 35 per cent or more; and if the arrangement led or could lead to restricting competition. Article 4(1) banned horizontal arrangements; Article 4 (2) banned vertical arrangements. The decision whether or not specific arrangements violated the Law was taken by the Committee on Economic Reform (CER). Proceedings could be initiated by businesses, regulatory authorities, consumers associations, trade unions or the CER on its own initiative. Foreign firms, like domestic firms, had the right to file complaints at the Public Prosecutor's Office. He further added that competition was monitored by a unit in the Ministry of Economy to which foreign firms had access. Exclusive dealerships were allowed by Moldovan Law if they did not contravene the provisions of Article 4(2). Existing exclusive dealerships did not need to be registered and the Government did not keep a register of such arrangements.

IV. FRAMEWORK FOR MAKING AND ENFORCING POLICIES

- Powers of executive, legislative and judiciary, administration of policies on WTO-related issues

31. The representative of Moldova stated that, in pursuance of the Constitution, the powers of the State were divided among the executive, legislative and judicial branches, with the President being the Head of the State. After a parliamentary vote of confidence, the President appointed the Government and designated the Prime Minister in consultation with the parliamentary majority. The President had the right to dissolve Parliament in the case of inability to form the Government or when the passing of new legislation had been deadlocked for three consecutive months. Executive powers were exercised by the Government that consisted of the Prime Minister, the First Deputy Prime Minister, the other Deputy Prime Ministers, Ministers, and Directors-General who headed Departments, as well as other

members. The role of the Government was to carry out the domestic and foreign policy of the State and to exercise general control over the public administration. The legislative power was vested in the Parliament which consisted of 101 deputies elected for a four-year term. The Parliament enacted laws, ratified international treaties and checked the Executive which was accountable to Parliament. The Judiciary was independent of the Executive and the Legislature. Justice was administered by the Supreme Court of Justice, the Court of Appeal, Tribunals (High Courts) and Courts of Law (Magistrates and County Courts). Except for the Supreme Court, judges were appointed by the President on the basis of a proposition from a special commission. The members of the Supreme Court were appointed by Parliament.

32. The representative of Moldova said that there were several governmental entities responsible for making and implementing policies affecting foreign trade. The Department of Foreign Economic Relations (DFER) in the Ministry of Economy was responsible for Moldova's international economic relations. The DFER prepared, implemented and co-ordinated foreign economic policy and international co-operation. Responsibility for economic policy as a whole rested with the Ministry of Economy and included the implementation of the economic reforms undertaken in the framework of the transition to a market economy. The Ministry of Agriculture, the Ministry of Health and a technical assistance and humanitarian aid performed specific functions connected to licensing. The Department of Customs implemented the Government's customs policy and ensured that customs legislation was observed. Parliament was the only competent body to set tariffs and taxes on imports in the annual Budget Law. Government Decision No. 777 of 13 August 1997 on Improving the Mechanisms of Regulating Foreign Trade had come into effect on 4 September 1997. Its purpose was to bring Moldova's foreign trade law into line with WTO requirements.

33. The representative of the Moldova said that the National Bank defined the national monetary policy and was responsible for the stability of the currency, regulated the money supply, set the exchange rate policy and supervised the activities of commercial banks and other credit institutions. The National Bank issued licences for the establishment of commercial banks, and organized and monitored prudential requirements. The National Bank was independent of the Government and reported directly to Parliament. The Ministry of Finance formulated financial and fiscal policy including aspects relating to trade and supervised the implementation of the fiscal regime in commercial activities. The Department of Standards, Metrology and Technical Supervision ensured that the requirements of standardisation and certification were met. The Department provided information to importers on products subject to certification and on conformity procedures. There was also a State Agency for the Protection of Industrial Property (AGEPI), and a State Agency on Copyright.

34. The representative of Moldova said that the Law "On Reorganization of the judicial system", enacted in May 1996, provided for Supreme Court of Justice, Economic Courts, Military Courts, Courts of Appeal, five tribunals (High Courts) each covering one of five regions, to be set up. The Law on Economic Courts, enacted on 14 July 1996 stipulated the authority over disputes connected to the economic relations among natural and legal persons. The Economic Courts had been established by the Parliament and judges were appointed by the President of the Republic of Moldova based on proposition from the Supreme Council of Magistrate. The Law on Economic Courts had established the following system: Economic courts of districts, Economic Court of the Republic of Moldova, and the Supreme Court for economic disputes. All disputes relating to the subject-matter of the WTO Agreements involving legal persons were required to be heard by the economic courts, whereas all disputes involving natural persons were required to be heard by the ordinary courts. Within the structure of Economic Court of the Republic of Moldova there are Appeal and Causation Board.

35. In response to further questions the representative of Moldova stated that any administrative decisions on issues covered by the WTO could be appealed. An appeal in the first instance could be taken within the responsible governmental institution according to the Law on Petitioning No. 190 - XIII of 19 July 1994 with amendments introduced by the Law No. 18 - XIII of 14 May 1998. Article 2 of the Law on Petitioning permitted foreigners to address complaints to the respective governmental institutions or tribunals when their legitimate rights were affected. Articles 8 and 9 stipulated that the timeframe for examination of petitions was between one week to one month. In special cases the examination could take a maximum of two months.

36. The representative of Moldova also noted that appeals could be made to an independent tribunal. When both parties at the trial were legal persons the issue was examined by the economic courts. There are two economic courts in Moldova. One has the jurisdiction over the Chisinau municipality and the other over the rest of Moldova.. If one of the parties to the trial was a natural person, the issue was brought before the ordinary court and other superior judicial institutions. Courts of first instance were based in each administrative unit (former rayons), in total 40. Despite the creation of new administrative units - judets, that consist of several rayons, courts of first instance remained in each former administrative unit, as well as major cities: Chisinau, Balti, Bender and Tiraspol had several such courts based on their internal administrative division. Higher ranking tribunals were based in Chisinau, Balti, Bender, Tiraspol and Cahul. There was one Court of Appeal in Chisinau and the Supreme Court of Justice is also based in Chisinau.

37. In response to questions concerning the ratification of the WTO Agreement and Moldova's Protocol of Accession thereto, the representative of Albania stated that after ratification by the

Moldovan Parliament and following entry into force of the Protocol, the provisions of the WTO Agreement and Protocol would overrule any domestic laws that were in conflict with them.

38. In response to requests for information on the status of draft and implementing legislation concerning the various WTO Agreements, the representative of Moldova presented a detailed table entitled Analytic Note Listing Moldovan Legislation, Decrees, Decisions and Regulations Relevant to the WTO Legal Texts: Status of Draft Legislation and Draft Amendments in document WT/ACC/MOL/22.

- **Authority of sub-central governments**

39. The representative of Moldova stated that the exclusive responsibility for making and implementing policies affecting foreign trade was vested with the central Government. However, according to "Law on Special Judicial Statute of the Gagauz-Yeri", the Gagauz-Yeri region was an autonomous territorial entity with authority to settle political, economic and cultural matters in order to safeguard the interests of its population. The Popular Assembly had competence to adopt local legislation in the following fields: science, culture, education; household and town-planning; health care and sports; local budget; financial and fiscal activity; economy and environment; labour and social assistance. The Gagauz-Yeri region had no autonomous authority with respect to foreign trade, did not issue or implement technical standards, sanitary or phytosanitary standards and did not subsidize.

40. In response to requests for information regarding the Agreement on the Transnistria region, the representative of Moldova referred to the Memorandum On the Basis for Normalization of Relations Between the Republic of Moldova and Transnistria signed in Moscow on 8 May 1997. Based on the memorandum, an agreement on the organizational basis of social-economical collaboration between the Republic of Moldova and Transnistria signed on 10 November 1997 established an institutional basis for better coordination among the central government and local authorities of the Transnistrian region.

41. In response to further questions, the representative of Moldova stated that the Law on Special Judicial Statute of the Gagauz-Yeri No. 344 of 23 December 1994 had established the autonomy of the "Gagauz-Yeri region" in economic matters refers mostly concerning its autonomy in administrating its own budget and running economic activity. This region had no authority regarding the excise, stamp, or sales taxes or any other taxes related to trade, as well as on establishing requirements for investment, e.g., trade related investment measures covered by the WTO Agreement on TRIMS. These were under the exclusive authority of the Moldovan Parliament. All legal acts adopted by the People's Assembly of Gagauz-Yeri region would not contradict Moldovan legislation

or international commitments taken by Moldova. All WTO Agreements and Moldova's commitments in the WTO would be applied uniformly on its customs territory

42. The representative of Moldova confirmed that all fiscal, financial and budgetary activities performed by local governments would be in compliance with Article III of the GATT 1994. The representative of Moldova confirmed that sub-central entities had no autonomous authority over issues of subsidies, taxation, trade policy or any other measures covered by WTO provisions. He confirmed that the provisions of the WTO Agreement, including Moldova's Protocol, shall be applied uniformly throughout its customs territory and other territories under its control, including in regions engaging in border trade or frontier traffic, special economic zones, and other areas where special regimes for tariffs, taxes and regulations are established. He added that when apprised of a situation where WTO provisions were not being applied or were applied in a non-uniform manner, central authorities would act to enforce WTO provisions without requiring affected parties to petition through the courts. The Working Party took note of these commitments.

V. POLICIES AFFECTING TRADE IN GOODS

- Registration and right to trade

43. The representative of Moldova stated that the Law on Foreign Trade Activity would recognize formally the right to trade. Nevertheless pursuant to the Decision of the Government No. 371 from 6 June 1995), there were no specific registration requirements for engaging in importing. The only requirement was that the intention to perform import activities should be mentioned in the statute of the enterprise. Enterprises whose statutes did not yet specify import activities could add these without difficulty.

44. Some members of the Working Party requested further information on the meaning of the "statute of the enterprise". In response, the representative of Moldova stated that the statute of the enterprise was comparable to the articles of incorporation for corporations and partnership agreements for partnerships. A detailed list of the information to be provided in the statute was contained in Article 23 of the Law on Enterprises and Entrepreneurship. For certain types of organizations, e.g., banks, insurance, joint stock companies and cooperatives, special provisions existed in the relevant laws. All types of enterprises, including those without legal personality, had to be registered and required a statute. Statutes were not registered. Statutes were submitted together with the application for registration of the enterprises and a document confirming the payment of a registration fee.

45. The representative of Moldova added that all forms of business enterprises, including corporations, partnerships and individual firms could engage in the business of importing and exporting. Individuals could also engage in the importation and exportation activities of a commercial nature. The only requirement was that individuals had to register their activities as a business. If the importation and exportation activities were for the individuals' personal consumption, there were no requirements. However, natural persons were not allowed to import or export goods which were subject to licensing. The same rules applied to foreigners and citizens of Moldova.

46. Some Members of the Working Party asked whether Moldova could confirm that Governmental Decision No. 859 had established "activity licensing" requirements for firms performing certain activities, such as importing or wholesaling alcohol beverages or tobacco products; importing or selling petrol and diesel; and importing or trading in chemical and biological products and fertilizers for plants. Licensing appeared to also be required for trade or storage of chemical reagents, liquefied gas and toxic chemical substances in danger of deflagration; ozone depleting substances; and ionic radiation sources radioactive materials. In response, the representative of Moldova stated that a recent decision of the Constitutional Court had abolished Governmental Decision No. 859. Accordingly, the only law establishing a licensing system for some types of activities was the Law "On Licensing of Certain Types of Activities". Article 18 of Chapter V "Final Provisions" provided that within two months' of the enactment of that law, the Government was required to adjust its normative acts in accordance with the present law. Annex 2 of that Law listed the types of activities for which a licence is required and responsible institutions for issuing such licensing. The list was presented to members of the Working Party in document WT/ACC/MOL/13. The representative of Moldova further noted that Articles 6, 7, and 12 of the Draft Law on Licensing of Certain Types of Activities" governed the procedures for issue and granting of licences. Article 13 detailed the procedure by which a legal or natural person denied a licence could obtain review of that decision.

- **Customs tariff**

a) **Ordinary customs duties**

47. The representative of Moldova said that the present import customs tariff of Moldova introduced by Presidential Decree No. 185 of 4 November 1993 had been modified several times since. The customs tariff was approved every year as part of the Budget Law. The representative of Moldova confirmed that after ratification of the Accession Protocol by the Moldovan Parliament, the Moldovan Government would set the custom tariffs within the agreed ceiling levels.

48. In response to questions concerning the rates of the specific duties the representative of Moldova provided the Working Party with the following tabulation:

Code	Description	Rate of Duty (%)
2203	Malt beer	1.0 ecu/l
2204	Natural wine, including strong wines; must of grapes other than in item 2009	1.32 ecu/l
2205	Vermouths and other wines flavoured with herb or other aromatic substances	1.32 ecu/l
2206	Other fermented drinks (e.g. apple or pear cider, hydromel); mixtures of other fermented drinks and nonalcoholic drinks not mentioned in other items	0.24 ecu/l
2207	Essential alcohol of 80% or more; ethyl alcohol and other alcoholic drinks, of any concentrations	1.0 ecu/l
220710	Ethyl alcohol of 80% or more	10.0 ecu/dal
2208	Ethyl alcohol of up to 80%:	10.0 ecu/dal
220810 -220890	Of which vodka, liqueur and other alcohol products	4.0 ecu/l
2402	Leaf cigarettes, cigars made of tobacco or its substitutes	30 ecu/1000 pieces

The administration of the specific duties followed the normal rules of customs procedures.

49. The representative of Moldova provided the following tabulation of the average customs tariff rates:

Description	Year	Percentage
Simple average	1995	9.5%
Simple average	1996	n.a. *
Trade weighted average	1995	5.9%
Trade weighted average	1996	4.8% (using 1995 trade) *
Trade weighted average	1997	11.6% (using 1996 trade)

* A simple average for 1996 was calculated as the 1996 tariff included a number of relatively high fixed duty rates. When calculating the weighted average these could be ignored as there had not been important import volumes in these tariff lines.

50. Some members of the Working Party said that there was uncertainty concerning the customs tariff schedule currently applied in Moldova. In response, the representative of Moldova submitted the customs tariff for 1998 in electronic format which was part of the 1998 Budget Law and had superseded all previous customs tariffs. The Government had proposed to the Parliament to modify this system through the adoption of a customs tariff with base duty rates and applied rates as an annex to the Law on Customs Tariff. Only amendments to the tariff would be passed through the Budget Law. This new scheme was expected to be effective from the year 2000.

b) Tariff quotas, tariff exemptions

51. The representative of Moldova stated that, although at present, there were no tariff quotas, Moldova might consider their use in connection with the market access negotiations. Regulations with regard to the application of the customs tariff (Decision No. 689, along with some modifications specified in Decision No. 640 of 26 August 1994) provided for complete exemption from duties of imports from members of the CIS and from Romania in accordance with the free trade agreements signed with these countries, and of imports from countries classified by the United Nations as least developed. He provided the following data for 1997: duty free imports through tariff exemption for inputs in goods that are ultimately exported, 4.4 per cent of total import; imported goods in the free trade zone under the customs supervision regime, 4 per cent of the total import; imports from countries with whom Moldova has signed free trade agreements (CIS and Rumania), 61.5 per cent of total import; trade at zero duty rate (except CIS and Rumania), 8.6 per cent of total import; imports under technical assistance projects and humanitarian aid exempted from customs taxes, 2 per cent of total import.

52. In response to questions concerning tariff exemptions, the representative of Moldova stated that tariff exemptions did not depend on the type of product but on its use. He provided a list of imports which benefited from tariff exemptions. They included charitable donations from organizations and individuals to recognized charity institutions, goods imported under "co-operation contracts", the GSP system, agreements of technical cooperation etc. The import duty exemptions applied to raw material imports from all countries if the final product was subsequently exported. Tariff exemptions other than those provided for in the context of a customs union or a free trade agreement were applied on an m.f.n. basis, except for the exemption for goods originating from the least-developed countries in accordance with the "Enabling Clause" decision of the GATT 1947 contracting parties. Moldova was prepared to undertake that exemptions would only be granted to third countries in accordance with the provisions of the WTO.

c) Other duties and charges

53. Some members of the Working Party asked whether Moldova levied other duties and charges. In response, the representative of Moldova said that Moldova would change its customs system so that the 0.25 per cent customs user fee would be incorporated in the customs tariff in the column "Other duties and charges" of the Schedule of Moldova and a flat fee reflecting the approximate cost of processing a customs declaration would be introduced. Moldova expected this amendment to enter into force no later than the time of adoption of the Budget Law 2000. Some members of the Working Party

reiterated that other duties and charges in Moldova's Schedule of Tariff Concessions should be bound at zero.

54. The representative of Moldova confirmed that Moldova had agreed to bind at zero other duties and charges in its Schedule of Tariff Concessions pursuant to Article II:1(b) of the GATT 1994. The Working Party took note of that commitment.

- **Import surcharge**

55. In response to questions from members of the Working Party the representative of Moldova stated that due to particular balance of payment difficulties, through Article 17.2 of the Budget Law Moldova had introduced a special import surcharge at a rate of five per cent *ad valorem* which applied to 700 tariff lines at four digit level. He further stated that the surcharge was applied in a manner consistent with the requirements of the Understanding on Balance-of-Payments Provisions of the GATT 1994, as well as Article XII of the GATT 1994.

56. The representative of Moldova stated that from the date of accession Moldova would ensure that all charges applied to imports were applied in a manner consistent with the requirements of the Understanding on Balance-of-Payments Provisions of the GATT 1994, as well as Article XII of the GATT 1994. The Working Party took note of that commitment.

- **Fees and charges for services rendered**

57. Some members of the Working Party noted that Moldova had applied an *ad valorem* tax to user fee operations and questioned whether the fee was commensurate with the approximate costs of the services rendered as provided for in Article VIII of the GATT 1994. The representative of Moldova informed the Working Party that the 0.25 per cent customs user fee had been replaced by a flat fee for customs declaration. With reference to the licence fees, the representative of Moldova said that the Decision of the Constitutional Court No.14 of 19 May 1998 and Government Decision No.716 of 30 June 1998 had introduced certain amendments to the Decision No.777 that had abolished the licence fee of 0.1 per cent, as well as the licensing fee of MDL 200,000 for import of alcohol or tobacco products.

[58. The representative of Moldova confirmed that, from the date of accession, Moldova would not apply or reintroduce an *ad valorem* customs fee. Moldova applied a flat fee for import processing, which would be applied in conformity with WTO obligations, in particular Articles VIII and X of the GATT 1994. The level of the applied fee would not exceed the approximate cost of the customs processing of imports, revenues from the fee would be used solely for customs processing of imports

and total annual revenue from collection of the fee would not exceed the approximate cost of customs processing operations for the items subject to the fees. He confirmed that revenues from the fee would not be used for customs processing of exports or imports exempted from the fee, should there be any, or for any other objective. Information regarding the application and level of the fee, revenues collected and their use, would be provided to WTO Members upon request. The Working Party took note of these commitments.]

Application of internal taxes on imports

- Value Added Tax

59. Some members of the Working Party requested Moldova to bring its VAT system in line with Article I of the GATT 1994, so that it was applied equally to imports from all third countries, including CIS countries. In response the representative of Moldova stated that 20 per cent VAT was imposed on the majority of imported and domestically purchased goods. The Budget Law 1998 No. 1446-XIII enacted on 27 December 1997 had brought the application of excise tax and VAT into conformity with the relevant WTO provisions. The only exception (Article 13) concerning VAT application was made for Russia and Belarus. As the Chapter III of the Fiscal Code foresaw no such exceptions, the 1999 Budget Law enacted in December 1998 had brought the application of excise tax and VAT fully into conformity with the relevant WTO provisions, without any exceptions. He added that VAT for domestically produced goods was paid together with the price of the goods. Firms and enterprises submitted a monthly statement to the Ministry of Finance, not later than the 20th of the following month, and paid the VAT due together with the submission of the statement. VAT on imported goods had to be paid before the goods entered the customs territory of the Republic of Moldova. Moldova would comply with the provisions of the WTO concerning taxation.

60. The representative of Moldova said that VAT exemptions applied to the following regardless of the country of origin:

- transactions involving the sale of: - bread, bakery products, and flour for their production to enterprises; - milk and dairy products on the territory of the republic by all enterprises;
- electrical power provided to the general public;
- income from the sale of natural and liquefied gas;

- municipal services provided to the public involving the supply of heating, hot water, drinking water, and sewer services;
- precious metals and precious stones in any form and condition, including scrap and waste products containing precious metals and precious stones, acquired and sold by the State Repository for Valuables;
- work associated with the appraisal of real estate owned by individuals, performed at request of local government authorities, and work related to confirming the rights of land owners;
- computers for the "Internet Medicine" system, imported by Soros Foundation in Moldova for the Medical Information Center at the N. Testemitean State University of Pharmacy and Medicine;
- imported equipment and spare parts (with the exception of office equipment and equipment for the gambling business and entertainment industry), vehicles and spare parts, as well as imported agricultural equipment in accordance with a list established by the Parliament;
- elite and super-elite seeds intended for propagation and incorporation into the production of new technologies, pesticides, protein-vitamin-mineral premixes, pedigreed livestock and poultry, day-old chicks of all types of poultry, and incubation eggs imported from countries that assess the value-added tax based on the place of destination;
- work to complete the construction of housing based on a list established by the Government;
- cement sold by the "Ciment" joint-stock company;
- editorial activity; the publication and printing of books focusing on culture, child development, science, and education; the publication and printing newspapers and magazines; transactions involving the sale of mass media publications, child development, science, and education; shipping services, loading and unloading, and handling of periodicals and products focusing on culture, child development, science, and education.

Exemptions from payment of the value-added tax to the budget applied to: agricultural enterprises regardless of their type of ownership and organizational-legal form on the sale of products from crop farming and animal husbandry in unprocessed form and on a live-weight basis. The amount of value-added tax shall be entered on a separate line in sales documents for these products. The amount of value-added tax remaining at the enterprises' disposal shall not be subject to the income tax.

Excise Tax

61. The representative of Moldova confirmed that the excise tax on domestically produced goods was paid by the producers of the goods on a monthly basis. Producers submitted a monthly statement to the Ministry of Finance, not later than the 20th of the following month, and paid the excise due. Excise tax on imported goods had to be paid before the goods entered the customs territory of the Republic of Moldova. For this purpose importers purchased excise stamps and marked the goods with the stamps. The following groups of products were subject to excise taxes:

1999 Budget: List of Excisable Products

Name of products	Unit of measurement	Excise rate
1. Vodka, liqueurs	0.5l bottle	0.75 leu
2. Liquor, including national drinks	0.5l bottle	0.50 leu
3. All types of 100 per cent alcohol (excluding alcohol for medical, pharmaceutical, veterinary, perfumery use), denatured alcohol, aldehyde-ester fraction	1 dal	30 leu
4. Dry grape wines	0.7l bottle	0.30 leu
5. Fortified grape wine	0.7l bottle	0.40 leu
6. Low alcohol drinks (up to 8.5. per cent)	0.5l bottle	0.30 leu
7. Wine material for production of natural wines; natural wines in bulk	1dl	10 leu
8. Wine material for production of fortified wines; fortified wines in bulk	1dl	12 leu
9. Carbonated grape wines:		
- natural, carbonated	0.75l bottle	1.0 leu
- traditional	0.75l bottle	1.5 leu
10. Divin (cognac), matured:		
- less than 6 years	0.5l bottle	4.0 leu
- over 6 years	0.5l bottle	7.0 leu
11. Other alcohol-containing wine-making and canning Products; harmonized sulphated grape wort (excluding wort for producing non-alcoholic beverages); fruit wine Materials and fruit-grape wine material (with grape wine Content of up to 50 per cent), grape-apple wines, fruit and berry wines	1l	0.40 leu
12. Beer:		
- in cask		0.5 leu/litre
- in bottle / can	1l	1 leu/litre
13. Tobacco goods:		
- cigars and cigarillos	1000 pcs	800 leu

Name of products	Unit of measurement	Excise rate
- filter cigarettes:		
size over 81 mm	1000 pcs	25 leu
size below 81mm	1000 pcs	10 leu
- non-filter cigarettes	1000 pcs	5 leu
14. Non-fermented tobacco	1 ton	2 000 leu
15. Precious metals jewelry:		
- gold (standard of fineness below 600)	Gram	10 leu
- gold (standard of fineness 600 and over)	Gram	20 leu
- silver	Gram	1.50 leu
- diamond	Item	170 leu
16. Motor petrol	1 ton	1000 leu
17. Diesel fuel	- 1 ton	500 leu
18. Motor cars (motor volume, cu cm):		
- 1 500 and less	Per piece	2 300 leu
- 1 500 to 1 750	Per piece	3100 leu
- 1 750 to 2 000	Per piece	4 050 leu
- 2 000 to 2 250	Per piece	5 900 leu
- 2 250 to 2 500	Per piece	7 400 leu
- 2 500 to 2 750.	Per piece	9 300 leu
- 2 750 to 3 000	Per piece	11600 leu
- over J 000	Per piece	14 500 leu
19. Coffee grains	1 ton	800 leu
20. Ground coffee and instant coffee	1 ton	1000 leu
21. Garments of natural furs (mink, polar fox, fox, sable)	<i>Ad valorem</i>	25 per cent
22. TV sets; tape recorders and' other audio equipment:	Per piece	
- TV sets, screen size:		
Less than 14"		US\$20
14.1" to 20"		US\$25
20.1"to 24"		US\$30
24.1" to 28"		US\$50
Over 28		US\$65
TV sets with VCRs		US\$50
VCRs		US\$15
- Video cameras		US\$55
- Music center		US\$25
- Amplifiers		US\$30
- Audio cassette-recorder		US\$10
- Motor car cassette-player		US\$10
- Audio player		US\$10
- Tape-recorder		US\$10
23. Office furniture	<i>Ad valorem</i>	10 per cent
24. Top class home furniture	<i>Ad valorem</i>	15 per cent
25. Black caviar	Per kg	30 leu
26. Red caviar	Per kg	20 leu
27. Perfume	<i>Ad valorem</i>	10 per cent

Notes:

1. These excise tax rates are applicable to imported goods (products) and domestically manufactured goods (products) which are either exported to the CIS countries or sold at the domestic market. Excise taxes are not applicable when wine materials, wine in bulk and non-fermented tobacco are sold by producer which possesses processing capacities and is a taxable subject of the Republic of Moldova.

Excise tax is applicable to motor cars that are imported only.

2. When excisable goods are sold in units other than specified for the purposes of excise tax, the volume is re-computed in the required unit and the established tax rate is applied. Similar procedure is applied to compute the excise tax on alcohol on the basis of the absolute alcohol content.
3. Jewelry components imported by the "Gluvaer" jewelry factory of Chisinau for use in manufacturing are exempt from excise tax.
4. Paid excise taxes on procured alcohol, which is utilised in medicine, pharmacology and veterinary is offset against the budget.

62. Referring to the table above, some members of the Working Party asked Moldova to ensure that the exemption from excise tax for spirits used in pharmacology and veterinary products did not create an incentive for abuse of the exemption. In response the representative of Moldova stated that manufacturers of pharmaceuticals or veterinary products were granted exemption from excise taxes for imported spirits on a *bona fide* basis if they declared that the imported spirits would be used for the production of pharmaceuticals or veterinary products. However, exemptions from excise taxes were being monitored and unusual supplies which could not be explained would give rise to an investigation.

63. Some members of the Working Party requested information on how the Government of Moldova intended to amend the Budget Law to bring the VAT and excise tax regimes into conformity with WTO requirements. In response the representative of Moldova explained that the Government had already approved a concept paper for the 1998 Budget Law. The paper stated that the VAT and excise tax systems should be in conformity with the relevant WTO provisions. In particular, the Budget Law would 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 was also stipulated in the new Law on VAT. According to the Government plan, Moldova had intended to apply the principle of destination for VAT and excise taxation and to adjust the excise tax rates, consistent with national treatment requirements starting with the Budget Law 2000. However, the Budget Law 1998 No. 1446-XIII, enacted on 27 December 1997, had brought the application of excise tax and VAT into conformity with the relevant WTO provisions. The only exception (Article 13) was made for Russia and Belorussia concerning VAT application. As Chapter III of the Fiscal Code foresaw no such exceptions, the Budget Law 1999, enacted in December 1998, had brought the application of excise

tax and VAT without any exceptions fully into conformity with the relevant WTO provisions. However, the severe budgetary difficulties currently encountered by Moldova could require temporary fiscal measures which might be inconsistent with WTO regulations. Such measures, if applied, would be brought into conformity with WTO rules prior to accession.

64. Some members of the Working Party stated that they were of the view that the excise taxation regime on alcoholic beverages was inconsistent with the requirements of Article III of the GATT 1994 in light of recent WTO Dispute Settlement proceedings. Those members asked how Moldova planned to ensure conformity of its excise taxation of alcoholic beverages with the GATT 1994. In response, the representative of Moldova stated that Moldova considered that its excise tax regime was in conformity with the requirements of the GATT 1994, although if that was not the case, Moldova would of course take all necessary steps to bring its regime into conformity.

65. The representative of Moldova confirmed that, from the date of accession, Moldova would apply its domestic taxes, including those on products listed in paragraphs 60 to 64 in strict compliance with Article III of the GATT 1994. The Working Party took note of this commitment.

- **Quantitative import restrictions**

66. Some members of the Working Party requested information concerning those provisions in Moldovan Law that authorized the Executive to apply quantitative restrictions. In response, the representative of Moldova explained that under the Article 13 of the Law on Foreign Economic Activity the Government could restrict the export and import of goods and services or to suspend foreign economic transactions for balance-of-payments reasons or under other economic and political conditions. However, such temporary measures had to respect provisions of international treaties and agreements to which Moldova was a party (Article 3, Law on Foreign Economic Activity). There were no specific rules on the duration of such temporary measures. Moldova did not maintain import prohibitions although import prohibitions could be imposed under the Law on Foreign Trade Activity. He added that Moldova would only apply import restrictions, quotas and restrictive import licencing in conformity with the relevant WTO provisions.

67. Some members of the Working Party noted that Article 12 of the draft Foreign Trade Law appeared to authorize, as a rule, the setting of quantitative restrictions, awarding of quotas and issuing of licenses "through holding a tender or an auction," and that "distribution of quotas and issue of licenses are conducted by an authorized body of public administration, with preference given to manufacturing organizations." Those members asked whether the auctioning of quotas, licenses and other quantitative restrictions be compatible with the provisions of Articles II, XI, and XIII. In

response, the representative of Moldova stated that Article 10 of the draft Foreign Trade Law provided that importation and exportation was not subject to any quantitative restrictions. The Government of the Republic of Moldova could only introduce quantitative restrictions on import and export only in the exceptional cases foreseen in the new draft law. These exceptional cases were stipulated in Article 11 of the Foreign Trade Law and were in compliance with Articles XX and XXI of the GATT 1994. Governmental Decisions concerning the introduction of quantitative restrictions on import and export were required to be published at least 30 days before the entry into force of these restrictions. In the case of establishment of any quantitative restrictions, the distribution of quotas and the issue of licenses was effected by the authorized body of public administration. He further noted that Article 3 of the draft Law that provided that the supremacy of that Law over any international agreements to which the Republic of Moldova is part, the consistency with the WTO Agreements is assured, including as regards Articles IX and XIII of the GATT 1994.

68. Some members of the Working Party asked how preferential treatment in the distribution of licenses was compatible with the provisions of Article III and XI. In response, the representative of Moldova stated that Article 12 of the draft Foreign Trade Law had been amended to delete all references to preferences.

- **Import licensing procedures**

69. Some members of the Working Party requested information on the products subject to import licensing, the justifications thereof, the authorities involved, the cost and procedures, and the documentation requirements. In response, the representative of Moldova confirmed that only a limited number of products were subject to licensing. The product groups subject to licensing are listed in the following paragraph. Lottery-type inventions, equipment for different types of lottery, slot machines, fortune games, and industrial waste subject to international control were also subject to import licensing. The import licensing system applied to imports irrespective of their origin, including imports from CIS countries and other countries with which Moldova had a preferential trade agreement. In order to provide the Working Party with further information, the representative of Moldova presented further information on import licensing in document WT/ACC/MOL/8/Add.1; which was revised and supplemented in document WT/ACC/MOL/15.

70. Some members of the Working Party asked to whom an application for import licence should be made. The representative of Moldova said that the institutions and the product groups covered, excluding the alcohol and tobacco products covered by Annex 4 of Governmental Decision No. 777 and petrol and diesel (HS 27100021-27100039 and HS 2710006 respectively) covered by Governmental

Decision No. 305 of 27 March 1997, as well as the reason for each licensing requirement and WTO justification are listed in the table below:

Special Governmental Committee

Product Group	HS-Code	Reason for licensing	GATT reference
Weapons, ammunitions, military equipment, kits to produce such equipment, works and services in the field of technical-military cooperation	93.00	National security	Art. XXI (b) (ii)
Explosive substances	36.01-36.04	National security	Art. XXI (b) (ii)
Nuclear materials, technologies, equipment and installations to produce such materials	2844, 8401	National security	Art. XXI (b) (ii)

Ministry of Health

Product Group	HS-Code	Reason for licensing	GATT reference
Pharmaceutical products	1204, 1207, 1211, 2924, 2935-2938, 2941, 3001-3006, 370110, 4014, 4015, 481840, 481890, 7017	Protection of human, animal or plant life or health	Art. XX (b)
Medical and optical equipment, parts and accessories, bio-media for the development of microorganisms	9001-9004, 9018-9022, 3821	Protection of human, animal or plant life or health	Art. XX (b)
Diagnostic tests and chemical reactives	3822, 38084	Protection of human, animal or plant life or health	Art. XX (b)
Drugs, substances with psychotropic effects; materials to produce such substances	1302, 2921, 2922, 2926, 2929, 2932, 2939, 280610, 2807, 28416, 290231, 290911, 291411, 291412, 29143, 291524, 291633, 29242950, 29329073-29329071, 293332, 29394, 29396.	Protection of human, animal or plant life or health	Art. XX (b)

Ministry of Agriculture and Processing Industry

Product Group	HS-Code	Reason for licensing	GATT reference
Poisons	280480, 280540, 2837, 2838, 284160, 2904, 2907, 2908, 291521,	Protection of human, animal or plant life or health	Art. XX (b)
Chemical and biological products for plant protection and stimulation of plant growing.	31, 3808	Protection of human, animal or plant life or health	Art. XX (b)

Product Group	HS-Code	Reason for licensing	GATT reference
Tools and devices for vet services	9018-9022	Protection of human, animal or plant life or health	Art. XX (b)

Ministry of Finance

Product Group	HS-Code	Reason for licensing	GATT reference
Precious metals (silver and gold), objects made thereof, alloys, semifabricates, wastes containing precious metals (except electronic articles containing precious metals),	7106, 7108, 7113, 7114, 7115, 7118, 711210	Special role of gold and silver	Art. XX (c)

71. The representative of Moldova added that although imports of medications, drugs and medical equipment had previously been to prior authorization by the Ministry of Health, that requirement had now been eliminated following the Decision of the Constitutional Court No.14 of 19 May 1998,. Government Decision No.716 of 30 June 1998 had introduced certain amendments to the Decision 777 that abolished the license fee of 0.1 per cent.

72. The representative of Moldova noted that there were no fees related to the issuing of import licenses. Licenses were automatic. A licence was required to be issued within five days after the complete set of documents had been submitted. Import licenses were valid for the period requested by the importer. Import licenses could be extended upon the request of the importer.

73. In response to further questions the representative of Moldova re-confirmed that the Government of Moldova published information concerning import licensing procedures. The rules and regulations, including the procedures for obtaining import licences established in Government Decision No. 371 of 6 June 1995 had been published in the Monitorul Oficial (official bulletin of the State) This Decision had been replaced by Government Decision No. 777 of 13 August 1997 "On Improving the Mechanism of Regulation External Economic Relations" setting the mechanism for licensing products. Amendments to the import licensing system had been introduced by Governmental Decision No. 76 of 22 January 1997 and Governmental Decision 716 of 30 June 1998. The latter had abolished inconsistencies with GATT 1994 Article VIII that existed in the regulation on imports of alcohol and tobacco products. Due to the peculiarities of the product groups that are licensed, the Ministry of Finance elaborated in the framework of the Government Decision 777 separate regulations for each of

the product groups concerned. A new Government Decision No. 859 dated 13 August 1998 on Regulation of certain types of activities in the Republic of Moldova required that licenses be issued to persons or companies engaging in certain activities but did not establish any limitations on the quantities of products traded.

[74. The representative of Moldova confirmed that the former state foreign trade monopoly had been abolished and that no restrictions existed on the right of foreign and domestic individuals and enterprises to import and export goods within Moldova's customs territory, with the exception that the importation and exportation of goods under licence could be undertaken only by registered firms, and with the exception of licensing requirements for those activities listed in paragraph 70. The importation or exportation of products covered by activity licenses were subject only to requirements consistent with the WTO Agreement. The activity licenses enumerated in paragraph 70 did not restrict foreign participation as they applied equally to foreign and domestic businesses. Activity licenses were administered for the purpose of ensuring national security, product safety and the protection of human, animal or plant life or health. The criteria for granting activity licenses were published in the Official Journal. The criteria for engaging in import and export trade in the restricted sectors were consistent with generally applicable restrictions placed on trade in similar domestically produced goods. The availability of activity licenses was not restricted nor was the licensing applied to restrict imports, the production, wholesale or retail trade in any product.]

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

- **Customs valuation**

76. Some members of the Working Party noted that Decision No. 99 of 27 February 1995 did not implement the WTO Customs Valuation Agreement and, in many cases, was in conflict with the Agreement. The regulations set forth in Decision No. 99 concerning the methods of valuation would need to be modified to conform to the Agreement, or revoked. Specific questions were raised with regard to Articles 1, 5, 6, 7, 8, 9, 11, 12, 15 and 16, the Interpretative Notes, the Decision on the Treatment of Interest Charges and the Valuation of Carrier Media Bearing Software etc.

77. The representative of Moldova confirmed that Moldova intended to bring its customs valuation regime into conformity with WTO requirements prior to the date of accession. The Law on Customs Tariff had been enacted on 20 November 1997. This Law consists of two major parts: customs valuation and rules of origin. Both issues had been addressed to meet the WTO requirements on these subjects in Moldovan legislation and to implement the respective WTO Agreements.

78. Some members of the Working Party posed many questions related to the apparent lack of conformity of the Draft version of the Law on the Customs Tariff with the requirements of the WTO Agreement on Customs Valuation. The representative of Moldova noted that most of the inconsistencies identified by members of the Working Party had been remedied in the final draft of the legislation. However, certain problems remained and would be remedied by a draft governmental decision introducing the provisions of the relevant Notes from the WTO Valuation Agreement had been presented to the relevant institutions for comments. Both documents were expected to be approved shortly by the Government and the Parliament.

79. Some members of the Working Party asked whether the Customs Law satisfied the requirements of Article 11 of the WTO Valuation Agreement. In response, the representative of Moldova stated that final version of the Article 7 (Rights and responsibilities of declarant) of the enacted Law provided importers with the right of appeal according to the procedures established by the Code of Civil Procedure - which stipulated in Chapter II the procedure to be followed while lodging a complaint in the economic courts and ordinary appeal procedure in its Chapter III. In addition, the Customs Code in its Chapter 16, Article 96 gave to the importer the initial right of appeal to an authority within the customs administration or to an independent body. A current draft of the law amending the Law on Customs Tariff in its Article 1 (2) and (3) introduced language for the right of appeal without penalty. In addition a new draft of the Customs Code was in the final stage of coordination. It would also provide for the right of appeal according to the WTO Valuation Agreement. He further added that Moldova would provide a copy of the finalised new draft once it was ready.

80. In response to questions from members of the Working Party, the representative of Moldova noted that Article 10 of the Law on Customs Tariffs (Methods of determination of the customs value of the goods) provided for the sequential application of valuation methods and stipulated that the deductive and computed value methods could be applied in reverse order at the request of the importer. In the interests of further improving the legislation, Moldova had taken the step of preparing a draft Governmental Decision "On Regulation on Application of Provisions of the Law on Customs Tariff", reiterating the provisions of General Notes, Sequential Application of Valuation

Methods in Annex I of the WTO Valuation Agreement. He further added that Moldova would also inform members of the Working Party whether it would take a reservation under Article 4 as set forth in Paragraph 3 in Annex III of the WTO Valuation Agreement.

81. Some members enquired whether Moldova applied minimum pricing or reference pricing. In response, the representative of Moldova stated that by Governmental Decision No. 1092 of 29 October 1998 had introduced reference prices.

82. At a later stage and in responses to the above questions, the representative of Moldova provided detailed information cross-referencing the provisions of the Customs Valuation Agreement with the Articles of the Customs Tariff Law in document WT/ACC/MOL/14.

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

84. The representative of Moldova confirmed that, from the date of accession, Moldova would apply fully the WTO provisions concerning customs valuation, including in addition to the Agreement on the Implementation of Article VII of the GATT 1994, the decisions on the Treatment of Interest Charges in Customs Value of Imported Goods and for the Valuation of Carrier Media Bearing Software for Data Processing Equipment. The Working Party took note of that commitment.

- **Rules of origin**

85. Some members of the Working Party asked for confirmation that Moldova would adopt legal provisions for rules of origin that conform fully with the requirements of the WTO Agreement on Rules of Origin. The representative of Moldova stated that the Customs Tariff Law of November 1997 established Moldova's rules of origin.

86. In response to questions the representative of Moldova said that rules of origin were required only for goods imported from countries covered by a preferential trade agreement and from least-developed countries. The rules of origin under the Free Trade Agreements signed with CIS

countries and Romania, as well as under preferences in the framework of the GSP, were included in respective agreements. The proof was constituted by a valid, official certificate of origin. He further added that the country of origin was ascertained by verifying whether the certificate of origin which was submitted coincided with the merchandise to be imported.

87. The representative of Moldova confirmed that Moldova would adopt legal provisions for rules of origin that comply fully with the requirements of the WTO Agreement on Rules of Origin.

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

- **Pre-shipment inspection**

89. In response to questions from members of the Working Party, the representative of Moldova said that, currently, neither the Government nor any State-owned enterprise used the services of PSI companies and that, at present, there were no Government regulations on pre-shipment inspection.

- **Anti-Dumping, countervailing and safeguards**

90. Some members of the Working Party requested that the Government of Moldova undertake a commitment that any anti-dumping, countervailing or safeguards measures would only be taken in conformity with the WTO Agreements on Anti-Dumping, Subsidies and Countervailing Measures and Safeguards. In response, the representative of Moldova stated that the Government of Moldova was preparing a law on anti-dumping, countervailing and safeguard measures which would comply with the respective WTO regulations. Safeguard measures were addressed in Article 15 of the draft "Law on Foreign Trade Activity" which had been submitted to the Working Party in May 1997. Moldova would not use anti-dumping, countervailing duty or safeguard measures until such legislation was in place.

91. The representative of Moldova confirmed that Moldova would not apply any anti-dumping, countervailing or safeguard measure until it had notified and implemented appropriate laws in conformity with the provisions of the WTO Agreements on the Implementation of Article VI, on Subsidies and Countervailing Measures, and on Safeguards. In the elaboration of any legislation concerning such anti-dumping, countervailing and safeguard measures Moldova would ensure their full conformity with the relevant WTO provisions, including Article VI and XIX of the GATT 1994

and the Agreements on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. After such legislation was implemented, Moldova would also only apply any anti-dumping duties, countervailing duties and safeguard measures in full conformity with the relevant WTO provisions. The Working Party took note of these commitments.

- **Export Regulation**

- **Customs tariffs, fees and charges and internal taxes applied to exports**

92. Some members of the Working Party asked Moldova to explain the justifications of export licensing requirements and the registration of export contracts. They expressed concern that the current customs user fee of a 0.25 per cent was inconsistent with Article VIII of GATT 1994 and asked Moldova to bring its system into line with WTO rules.

93. The representative of Moldova said that there were no export licensing requirements and that the registration of export contracts had been abolished by Government Decision No. 777 of 1997. The Government of Moldova was aware of the GATT 1947 panel decision of 1988 that the use of an *ad valorem* system of customs user fees was inconsistent with the provisions of Article VIII of the GATT 1994 to the extent that it caused fees to be levied in excess of the approximate costs of the services rendered by the customs. He confirmed that Government Decision No. 716 of 30 June 1998 had amended Government Decision No. 777 of 1997 and abolished the license fee of 0.1 per cent. The customs user fee had been replaced by a flat rate which represented the approximate cost of the services rendered by the Customs Administration.

- **Export restrictions**

94. In response to questions, the representative of Moldova said that Moldova no longer maintained the temporary export restriction on unbottled wine intended to promote the quality image of Moldovan wine. Because the restriction had proved ineffective to achieve this objective it had been removed.

- **Export licencing**

95. The representative of Moldova informed members of the Working Party that export licences were required for "goods with a special character" and that, in accordance with Government Decision No. 777 of 13 August 1997, the list of products was the same as the list of products subject to import licencing reproduced in paragraph 49 above. It included weapons, ammunition, military equipment,

kits to produce such equipment; explosives; nuclear materials, technologies, equipment and installations to produce such materials; ionic radiation sources; drugs, psychotropic effect substances and preparations, materials to produce such substances and preparations, poisons; lottery-type inventions, means and equipment for different types of lottery; slot machines, fortune games; chemical substances (including fertilisers and plant-protection substances) and industrial waste subject to international control; medicines, medical appliances and equipment. The list also included precious metals: gold and silver.

96. In response to questions from some members of the Working Party, the representative of Moldova confirmed that the registration requirement for export contracts had been abolished by Government Decision No. 777 of 13 August 1997 on Improving the Mechanisms of Regulating Foreign Trade. The export license fee had also been abolished.

- **Export subsidies**

97. In response to requests for information, the representative of Moldova said that Moldova did not maintain export subsidies, special promotion or financing policies. If Moldova decided to introduce such measures in the future, it would do so in accordance with the relevant WTO provisions, such as the Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture.

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

- **Internal Policies Affecting Trade in Goods**

- **Industrial policy, including subsidies**

99. In response to requests for information, the representative of Moldova stated that the Government had a general policy to create a broad-based market economy and to privatize all government-owned commercial enterprises and assets. The Government also had a general policy to attract foreign investment into the country and to involve, as far as possible, foreign investors and technology in all sectors of the economy for the purpose of furthering the creation of a market economy and the privatization of government-owned commercial enterprises and assets. Industry continued to be an important element in the development of the national economy and, as part of its economic policy Moldova had identified priority development sectors. Tax incentives and relief were granted to sectors

such as energy, transport, road building and telecommunications in the form of priority loans and technical assistance provided by international organisations or bilateral co-operation programmes. No subsidies were granted to domestic industrial production. In 1998, Moldova had accorded the following tax exemptions:

- (i) Exemptions from payment of the income tax to the budget applied to:
 - sheltered workshops which employ disabled persons and are operated by psychiatric hospitals of the Ministry of Health;
 - the Republican Experimental Center for Prosthetics, Orthopedics, and Rehabilitation under the Ministry of Labor. Social Protection and the Family
 - enterprises operated by penitentiaries on the conditions that at least 70 per cent of income is earmarked for production development;
 - commercial banks, by the amount of income lost from serving the public by accepting payment to the budget
 - income earned by enterprises in the fuel and energy complex as a result of including funds to cover debts in rates for energy resources, in an amount that corresponds to their share of the total rates;

- (ii) Income tax exemption applied to:
 - military personnel, officers and rank-and-file personnel of internal affairs agencies, the penitentiary system, and the fire and emergency rescue service Defense and Emergency Situations, on income earned at their principal place of employment. These persons may not transfer their personal exemptions to their spouses;
 - athletes and coaches, on financial assistance provided to them by the International Olympic Committee;
 - legal entities and individuals, on income earned from government securities acquired before 1 January 1999, regardless of their maturity date;

- (iii) Land tax exemptions applied to:
 - institutions financed at the expense of state and local budget funds;

- enterprises operated by penitentiaries;
- for parcels of land occupied by residential buildings, private farming plots, and plots used by the gardening cooperatives, within the limits of the established norms.

(iv) Real Estate Tax exemption applied to:

- institutions financed at the expense of state and local budget funds;
- enterprises operated by penitentiaries;
- social and cultural facilities appearing on the balance sheets of economic entities, regardless of their type of ownership and organizational-legal form, and not used for entrepreneurial activity;
- civil defense facilities;
- diplomatic missions on real estate provided to them rent-free on a reciprocal basis;
- religious organizations on real estate intended for the performance of religious rites;
- the Republican Experimental Center for Prosthetics, Orthopedics, and Rehabilitation under the Ministry of Labor, Social Protection, and the Family;
- Moldova Railway, on the condition that the amount of assessed taxes is used to acquire rolling stock;

(v) Water Fee exemption:

- the incidental removal of ground water accompanying the extraction of minerals or the removal of ground water for the purpose of averting (eliminating) its harmful effects;
- water used in fire-fighting operations;
- water drawn from surface and underground sources to meet the drinking water needs of the population and for household use;
- surface water used in fish farming;
- water consumption by enterprises operated by organizations the disabled and charitable organizations;

- (vii) The Stamp duty exemption applied to citizens filing inquiries with judicial authorities concerning the allocation of land of equal value and a stake in property ownership.
- (viii) The value-added tax, customs duties, and the customs processing fee did not apply to goods(work, services), both imported and acquired on the territory of the Republic at the expense of credits and grants provided to the Government of Moldova or issued against government guarantees, at the expense of loans granted by international financial organizations (including at the expense of the share of the Government of the Republic of Moldova), which are intended for the implementation of the relevant projects in accordance with a list established by the Government.

100. In response to requests for more information, the representative of Moldova added that the Government of Moldova facilitated the adjustment process through the following tax-related measures which were awarded on a case-by-case basis: rescheduling tax arrears for companies in restructuring; forgiving penalties for late payment of taxes; rescheduling social insurance contributions; forgiving penalties for late payment of social insurance contributions; write-off tax liabilities of former State companies in the framework of liquidations and break-ups; VAT credit for expenditures related to the restructuring process agreed between the company and the creditors represented in the State Creditors Council up to specified limits. In 1995, the Government had allocated MDL 180,000 to support the introduction of new technologies. In 1996, there were no allocations.

101. In response to questions from members of the Working Party concerning the mechanisms and policies used to enable the development programmes for the agricultural sector, the representative of Moldova stated that the development of the agricultural sector was supported by the Government with the following measures:

- (i) privatization of land and of State-owned agricultural enterprises, e.g., kolchoses and sovchoses;
- (ii) restructuring of privatized farms supported by international aid agencies and establishment of an Agency for Assistance to Farms in Restructuring (ARA);
- (iii) support to agricultural research in the framework of a major loan of an international aid agency;
- (iv) improving the availability of credit at market rates to small farmers and preparation of a credit line for the agriculture sector as a whole which would be financed by an international aid agency;

- (v) financial support programmes;
- (vi) improving the legislative framework. Moldova was redrafting the Law on the Normative Price of Land and was preparing a Law on the Sale of Land. Although the necessary legislation to regulate the trading of land was not yet in place, efficient allocation of land and agricultural machinery was facilitated through leasing and renting arrangements.

102. Some members of the Working Party asked for information on Government aid to investment projects. In response, the representative of Moldova stated that Government aid to investment projects launched by the private sector was granted in the framework of: (i) concessions, in accordance with Article 46, Law on Foreign Investment; (ii) free enterprise zones, in accordance with Article 46, Law on Foreign Investment and the provisions governing such zones; (iii) agreements with the EBRD, including technical assistance and exemptions from VAT. The following investment projects launched by the private sector had received Government aid: REDECO according to the terms of the concessional agreement on prospecting and exploitation of oil and gas (Article 26.6, 1996 Budget Law); construction of a sports footwear factory in Orhei carried out by JSC Ascom-Kelme, Gheco and Constructurul-24; Chisinau Bottle Factory; modernization of Thermocomenergo carried out by ROCARO. He stated that the Government support measures for concessions were negotiated on an individual basis. They were not part of a Government investment support programme. There were no administrative procedures for applying and receiving this governmental assistance.

103. The representative of Moldova stated that any subsidy programmes provided by its Government after accession would be administered in line with the Agreement on Subsidies and Countervailing Measures and that all necessary information on noticeable programmes would be notified to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement upon entry into force of Moldova's Protocol of Accession. The Working Party took note of those commitments.

- **Technical Barriers to Trade**

104. Some members of the Working Party asked Moldova to submit information of the measures being taken to meet the requirements of the TBT Agreement. In response the representative of Moldova said that Moldova was taking the following measures. Preparing amendments to the Law on Standardization, draft Law on Certification, as well as in all basic standards of the national standardization system of the Republic of Moldova. Mandatory standards referred only to the safety of products (services). The existence of mandatory standards was conditioned by the absence of technical

regulations. At present, the Department of Standards was taking measures to introduce the concept of technical regulations and the transfer of mandatory standards into the category of technical regulations. Steps undertaken to ensure fulfilment of the TBT Agreement requirements included the analysis of nonconformity and the adoption of measures for its removal, pursuing a technical policy directed to applying of international standards (or their projects) while national standards are elaborated. Plans to elaborate national standards were published in Moldova Standards edition "Buletinul de Standardizare", which was available to interested users. The elaboration of national standards was carried out by technical committees on standardization that consisted of all specialists from interested parties. Moreover, newly developed standards were being harmonized with relevant international or European standards. All norms and standards were being revised every five years. In the course of the revision norms and standards developed previously were harmonized with international or European standards. An enquiry point had been established by Decision of the Director General of the Department of Standards, Metrology and Technical Supervision.

105. The representative of Moldova added that at present there were standards for the following products or product groups in force in Moldova:

Standards relating to Different Products/Product Areas

Standards	Products/Product Groups
Medico-biological requirements to ensure that food products are safe and meet minimum nutritional value requirements, issued by the Ministry of Health	Food products
Sanitary standards as part of product standards, issued by Ministry of Health	Broad range of non-food products
Safety and compatibility standards	Construction and building activity
Safety norms and labour standards	Services provided at the work place
Environmental standards, including radiation safety	General

Out of 20,000 standards, about 5,000 were mandatory. According to Article 13 of the Law on Standardization the following standards were mandatory: national standards for products, processes and services, material goods and the environment which ensured the safety of human life and health; national standards which ensured the compatibility of (foreign with domestic) technology and information; national standards which ensured the compatibility of (foreign with domestic) products; national standards which ensured the uniformity of methods of control and marking. He confirmed that Moldova would consider the introduction of voluntary standards to prepare for its accession to the WTO. Approximately 90 per cent of the new voluntary standards would concern food products. Against a background of a difficult economic situation, the absence of other obligatory technical requirements, product shortages and the limited purchasing power of the population, Moldova had considered mandatory safety and sanitary standards the only practical way to keep out poor quality or

dangerous products. The newly developed standards were being harmonized with ISO standards and the existing standards would be harmonised over time through a process of periodic revisions.

106. Some members of the Working party requested information concerning certification procedures. In response, the representative of Moldova stated that the draft Law on Certification had been submitted to the Parliament. At present, certification requirements for specific classes of products were spelled out by the Standards Department for each accredited body and were elaborated in conformity with Document RG (General Requirement) 01-06-92. RG 01-06-92 was under revision and would be developed into a National Standard. The following publications contained information on draft technical regulations, standards and procedures:

- "Buletinul Standartisarii" (published every three months);
- "Standartizarea" published (monthly in Romanian language);
- "Standarti i Kacestvo" (published monthly in Russian language).

Through their participation in the technical committees, domestic producers were being made aware of the contents of drafts on standards, but no public notice or possibility of comments on such drafts were provided at the present time. Besides the national standards Moldova applied international standards (ISO, MAC), regional standards (GOST, EN) and carried out International Conventions requirements regulating the safety of chemical, poison, inflammable, explosive and other substances. In Moldova, there were no specific regulations or requirements covering electrical safety, telecommunications equipment, medical devices and other classes of equipment. Production certification in the Republic of Moldova was carried out according to the TBT Agreement conformity requirements. Moldova did not apply specific certificate classes, excluding hygienic certificates introduced by the Ministry of Health, as a temporary class, in connection with the epidemiological situation in Moldova. These requirements were specified in the technical regulations of the Ministry of Health. The State Inspection for Consumers' Rights Protection carried out sample selection and quality control before the goods were sold. Domestic products which were subject to the same standards as foreign goods were controlled during the production process in Moldova.

107. In response to additional questions concerning certification procedures, the representative of Moldova said that only certificates from certification bodies in the CIS countries and Romania were recognized, but negotiations to recognize foreign certificates were going on with other countries. Other products were examined by one of the 16 official certification bodies. In the past three years, there had been a total of 45 cases in which the entry of goods was denied or delayed because the goods did not

satisfy the regulations or standards, measurement or quality, or were not correctly documented under such regulations. The most significant problems had arisen in the areas of food and alcoholic beverages as well as household goods where shipments were returned to the countries of exportation because existing standards had not been met.

108. The representative of Moldova said that Article 4.4 of the Law on Standardization of 22 September 1995 expressly provided that Moldovan standards had to be based on modern scientific research, techniques and technology, on international and regional standards and on advanced standards of other countries. Also Article 18 of the Law stipulated as the main objective of international co-operation between Moldova and other countries was the harmonisation of national standards with international and regional standards and with advanced national standards of other countries.

109. In response to further questions the representative of Moldova stated that newly prepared legislation had been introduced to address the following deficiencies in relation to the TBT Agreement:

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

He provided the following information on the status of implementing legislation:

Stage of implementation of Moldova's legislation related to TBT

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

No.	Draft laws and regulations	Circulation of the final draft for comments	At Government for approval	At Parliament for approval
5.	Law on Accreditation	X		
6.	Law on Industrial Security	X		
7.	Amendments to the Statute of Phytosanitary Inspectorate	X		

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

In response to requests for information concerning the compatibility of the draft legislation with the requirements of the WTO Agreement on Technical Barriers to Trade, the representative of Moldova provided the following table

Moldovan Legislation/Draft Legislation	Requirements under the WTO
1. The draft Law on TBT (Articles 2 and 6) provides for the introduction of new standards, technical regulations and conformity assessment procedures should be fully compatible with the TBT Agreement.	Generally agreed principle in WTO accession negotiations
2. The draft Law on TBT and the amendments to the Law on Standardization will provide for implementation and administration of the agreement.	Article 15.2 and TBT Committee Decision (/TBT/I)
3. The draft Law on TBT (Article 13-14) provides provision for Establishment and operation of a single Contact Point for Information ("inquiry point"). The inquiry point was created within the Department of Standards, Metrology and Technical Supervision. Currently the database is preparing and will be fully operational by the day of accession.	Article 10
4. The draft Law on TBT (Articles 13 and 18) provides for Identification of authority responsible for notifications, publications and other internal procedures to ensure transparency obligations are met on an ongoing basis.	Articles 2, 3, 5, 7, 10, 15.2, Annex 3 and G/TBT/I
- The draft Law in TBT (Article 6) provides identification of publication where notices of proposed technical regulations and conformity assessment procedures will appear: These are "Monitorul Oficial al Republicii Moldova" and "Buletinul standardizării".	Articles 2.9.1, 3.1, 5.6.1, 7.1, 10.1.5
- The draft Law on TBT (Article 13, 16) and the Decision of the Department of Standards, Metrology and Technical Surveillance on establishing the Information Center for Standardization and Certification which is the authority responsible for making notifications to the WTO;	Articles 2.9.2, 2.10.1, 3.2, 3.3, 5.6.2, 5.7.1, 7.2, 7.3, 10.7, 10.10

Moldovan Legislation/Draft Legislation	Requirements under the WTO
<p>- The draft Law on TBT (Article 6) will ensure that the regulatory authorities afford non-discriminatory consideration of comments in the preparation of a final regulation; Regarding the elaboration of the technical regulation, the concerned bodies will allow for a reasonable period of time for countries- members and interested parties to present their considerations, but no longer than 6 months with exception for certain cases (depending on urgency consideration).</p>	<p>Articles 2.9.4, 2.10.3,3.1,3.3, 5.6.4, 5.7.3, 7.1, 7.3</p>
<p>- The draft Law on TBT (Article 6) ensures that regulatory authorities allow a reasonable period of time between the final publication of a technical regulation and conformity assessment procedure and its entry into force so that suppliers can adapt;</p>	<p>Articles 2.11, 2.12, 3.1, 5.8, 5.9, 7.1</p>
<p>- The draft amendments to the Law on standardization (Article 10) provides for publication of the programme for developing standards should be published every 6 months and draft the Law on TBT (Article 6) provides for publication of notices about the intent to draft technical regulations.</p>	<p>Article 4, Annex 3 (J, K, L, N, O); Article 8.1</p>
<p>5. The draft "Law on TBT", the draft "Law on Certification" provides for Development and Application of Technical Regulations and Conformity Assessment Procedures: Existence of legal and/or administrative underpinnings (or "reasonable measures" as appropriate) to ensure ongoing compliance with provisions of the agreement concerning, in particular:</p>	<p>Articles 2, 3, 5, 6, 7</p>
<p>- The draft Law on TBT (Article 12) and the draft Law on Certification of Goods and Services (Article 13.3) provides for non-discrimination with respect to the treatment of products.</p>	<p>Articles 2.1, 3.1, 5.1, 5.2, 7.1</p>
<p>- The draft "Law on TBT" (Articles 2 and 6.2) provides for the prohibition of unnecessary Obstacles to international trade and the Consideration of less trade-restrictive alternatives to fulfilling legitimate objectives;</p>	<p>Articles 2.2, 3.1, 5.1, 5.2, 7.1</p>
<p>The draft "Law on TBT" (Article 6.7) the ongoing review of technical regulations to ensure they are appropriate to achieve the desired legitimate objective;</p>	<p>Article 2.3, 3.1, 7.1</p>
<p>- The draft "Law on TBT" (Articles 5 and 6) the amendments of "Law on Standardization"(Article 4.2) provides for the consideration of appropriate international standards, guidelines and recommendations as a basis for technical regulations and conformity assessment procedures;</p>	<p>Article 2.4, 3.1, 5.4, 7.1</p>
<p>- The draft "Law on TBT" (Article 7) provides for the consideration of equivalent technical regulations of other Members;</p>	<p>Articles 2.7, 3.1, 7.1</p>
<p>- The draft "Law on Certification" (Article 7) provides for the acceptance of the results of conformity assessment procedures conducted by bodies in an exporting Member country in case that Moldova signed bilateral agreement on mutual recognition or in case of accession to specialized regional or international organizations.</p>	<p>Articles 6, 7.1</p>

Moldovan Legislation/Draft Legislation	Requirements under the WTO
- The relevant ministries and institutions will implement a non-discriminatory and cost-based fee structure. (*) as provide for in the draft Law on Certification of Goods and services (Article 15.3)	Articles 5.2, 7.1, 10.4
6. Development and Application of Standards and Conformity Assessment Procedures: Existence of legal and/or administrative underpinnings (or 'reasonable measures' as appropriate) to ensure ongoing compliance with provisions of the agreement concerning, in particular:	Article 4 and Annex 3, Article 8
- The draft Law on TBT (Article 12) provides for non-discrimination treatment with respect to the treatment of products.	Annex 3 (D), Article 8.1
- The Moldovan Standards SM 1-0.1999 (the amendments N0.1) provides that the Standards will not be used for the arbitrary and unjustified discrimination among countries having analogous conditions and will not create any unnecessary obstacles to international trade;	Annex 3 (E), Article 8.1
- The draft Law on TBT (Articles 5, 6 and 8) and the Moldovan Standards SM 1-0, make provision for consideration of appropriate international standards, guidelines and recommendations as a basis for standards;	Annex 3 (F), Article 8.1
- The draft Law on TBT (Articles 13, 15, 16) and amendments No.1 to SM1-3 establish a non-discriminatory and cost-based fee structure.	Annex 3 (M), Annex 3 (P), Article 8.1, Article 10.4

110. In response to questions from members of the Working Party the representative of Moldova noted that an inquiry point had been created within the National Centre for standardization and certification. The address was:

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

111. The representative provided further information to the Working Party on operation of the TBT regime in Moldova in document WT/ACC/MOL/16.

[112. The representative of Moldova said that the Government of Moldova was aware that Moldova's standards and inspection regime did not yet fully comply with certain requirements of the TBT Agreement. Moldova would take the necessary steps, prior to its WTO accession, to remedy the

existing deficiencies and would apply fully the Agreement on Technical Barriers to Trade from the date of accession. The Working Party took note of this commitment.]

- **Sanitary and phytosanitary measures**

113. Some members of the Working Party requested detailed information concerning agricultural products, in particular how Moldovan standards and regulations compared with those of the Codex Alimentarius (Codex), Organisation of International Epizootics, and the European Plant Protection Organisation. In response, the representative of Moldova said that Moldovan standards and regulations fully complied with the regulations of the Codex Alimentarius. Moldova was a member of the Organisation of International Epizootics and was using its regulations. Moldova was not a member of the European Plant Protection Organisation,.

114. In response to requests for information, the representative of Moldova said that the following products required a hygienic certificate from the State Sanitary-Epidemiological Service: 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. The certificate for domestic goods was issued on the basis of relevant documentation, including the results of hygienic tests. For foreign products, the certificate was issued based on a safety certificate of the exporting country and additional tests in Moldova.

115. Concerning the veterinary inspection and quarantine requirements that applied to livestock, animal products, fish, veterinary drugs and animal feed, the representative of Moldova said that the Moldovan Law on Veterinary Activity obliged holders of livestock to: (i) respect the veterinary, sanitary and zoo-hygienic rules regarding the maintenance, feeding reproduction and exploitation of animals; (ii) take the necessary actions to prevent infectious diseases and, to eradicate sources of infections and prevent their spreading; (iii) ensure systematic medical examination of personnel and prohibiting the employment of sick persons; (iv) notify without delay the veterinary authorities about the existence or suspicion of existence of a disease which could require the imposition of quarantine measures, isolate the sick or dead animals, and prevent the use or sale of their meat; (v) notify within 24 hours the local veterinary authorities of the acquisition of animals from other areas of the country and keep these animals separate from the existing stock; (vi) provide to the veterinary authorities access to the animals for inspection purposes; (vii) sell animals, products and meat only with the authorization of the local veterinary service; (viii) keep the facilities (stables, pastures, water supply) in clean condition, in accordance with veterinary regulations. The importation into Moldova of livestock for breeding was only permitted if: (i) no infectious diseases had occurred during the last three years in the country of exportation; (ii) an inspection had been carried out in the country of exportation by a recognized

agency, at least 30 days prior to importation; (iii) the livestock to be imported into Moldova did not have any disease; (iv) and the radioactivity of the livestock did not exceed bk/kg. He further added that the importation into Moldova of livestock for slaughtering was only permitted if: (i) no dangerous infectious diseases had occurred during the last 30 days prior to importation in the country of exportation; (ii) it was in good condition; (iii) it had been vaccinated against the anthrax disease; (iv) and the radioactivity of the livestock did not exceed bk/kg. The conditions for the importation of fish and seafood products were determined on a case by case basis. No specific requirements existed for the importation of veterinary drugs and animal feed.

116. The representative of Moldova presented the following table, containing an overview of the regulations, the goods concerned and the competent authority:

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
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 sea-food-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

Rules	Goods/Objects	Competent Authority	Certificate Issued
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 sea-food-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 prepared the relevant technical requirements jointly with Moldovastandard. Testing and certification for SPS purposes was the competence of the body indicated in Column 3. For testing, these bodies could engage the services of accredited State laboratories.
2. For product standards which were composed of SPS and other non-SPS components, certification for conformity with the relevant product standard (conformity certificate) was 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 were issued a hygiene certificate with a validity of up to three years on condition that their production method did not change. Importers received a certificate valid only for the shipment concerned. Imported goods were inspected at the customs office of the district where the importer was registered. Importers of perishable goods could conclude an agreement by which the foreign production site was issued with a hygiene certificate of up to three years' validity and the goods were stamped with a special stamp indicating that the goods had been produced according to Moldovan SPS requirements. In all cases the issuance of the hygiene certificate was 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 was only required for imported goods. Importers had to present the following documents: phytosanitary certificate from country of origin; laboratory analysis (in some cases); certificate about disinfestation or disinfection treatment.

Phytosanitary Certificate of the Chief State Inspectorate for the Phytosanitary Quarantine: This document was only required for goods to be exported. Exporters had 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 were issued an authorization with a validity of up to three years on condition that their production method did not change. The facilities were inspected in random intervals during this period. For imported products, every lot imported was inspected. Upon importation the importer had 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 would be inspected by the State Veterinary Inspectorate and, if cleared, a veterinary health certificate was issued.

117. In response to additional questions, the representative of Moldova said that hygiene certificates issued by competent institutions were recognized. Moldova recognized company hygiene certificates if the company had concluded an agreement with the relevant Moldovan body. There were no additional tests conducted on foreign goods by the Government of Moldova if these were accompanied by hygiene certificates issued by recognized foreign bodies.

118. Some members of the Working Party requested more information concerning the structure of the relationship between Moldovastandard and the Ministry of Agriculture with respect to the development of standards for agricultural products. The representative of Moldova said that the relevant departments of the Ministry of Agriculture and Moldovastandard created joint committees which determined product standards for agricultural goods. The standards were the same for imported and for domestically produced goods.

119. Some members of the Working Party requested information on the inspection procedures that took place at the border for imported products and during the production process for domestic products. The representative of Moldova said that sanitary and phytosanitary requirements were enforced through inspections and testing.

Sanitary Requirements: Domestic producers and foreign producers which had concluded a special agreement were inspected by a team of experts from the State Sanitary-Epidemiological Service and Moldovastandard once before the hygiene certificate was issued and then at regular intervals. Imported goods were inspected by taking samples and carrying out tests on these samples.

Phytosanitary Requirements: Prior to shipment, the foreign exporter had to send a request to the Chief State Inspectorate for the Phytosanitary Quarantine indicating the goods to be shipped. The Inspectorate would issue a preliminary import permit which stipulated specific phytosanitary requirements which the goods to be shipped had to satisfy. Upon arrival the goods would be inspected. If they satisfied the requirements the preliminary import permit would be stamped becoming definitive.

Veterinary Requirements: Prior to shipment, the foreign exporter had to send a request to the State Veterinary Inspectorate indicating the goods to be shipped. The Inspectorate would issue a preliminary import permit, the sanitary avis, which had to be stamped the veterinary authorities of all transit countries. Upon arrival every lot was inspected by taking samples and carrying out tests on these samples. When goods subject to veterinary requirements were unloaded (importation) or loaded (exportation) a representative of the State Veterinary Inspectorate had to be present.

120. In response to additional questions, the representative of Moldova said that an importer wishing to appeal against a decision of Moldovastandard would have, in the first instance, to write to the Director-General of Moldovastandard. 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 could file a law suit in the Economic courts.

121. Concerning transparency, the representative of Moldova stated that Moldovan standard SM 1-3:1997 paragraphs 3.8.1 and 3.8.2 provided for the drafts of standards to be subject to public comment during 60 days. The official publication “Buletinul standardizarii” published documents drafted by technical committees and informed the public of time limits for comments.

122. In response to questions from members of the Working Party the representative of Moldova noted that an inquiry point had been created within the National Centre for standardization and certification. The address was:

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

123. Some members of the Working Party said that there were areas where Moldova’s SPS regime was not fully compatible with the SPS Agreement, and asked Moldova to provide information on measures and the timeframe for bringing them into conformity. The representative of Moldova presented the Working Party with further information on the SPS regime in Moldova in the following table.

Description of the principles and WTO reference	Compliance by Moldova
1. Standstill: the introduction of new standards, animal health regulations and food safety regulations shall conform to SPS Agreement principles (general agreed principal in WTO accession negotiations).	Moldova agrees that any introduction of new standards, animal health regulations and food safety regulations will conform to SPS Agreement.
2. Establishment and operation of a single Contact Point for Information (“enquiry point”) (Article 7 and Annex B.3).	<p>The Supplement (Art. 5) establishes the Main State Inspectorate on Phytosanitary Quarantine, the Sanitary-Epidemiological Service (Ministry of Health) and the Veterinary Services (Ministry of Agriculture) responsible for the preparation of the documents on SPS measures to be provided in response to any Member’s request through the single inquiry point, which was set up within Department of Standards.</p> <p>Article 5 of the Supplement stipulates:</p> <p>The Main State Inspectorate on Phytosanitary Quarantine will establish within its field an unit, responsible for supplying through the single inquiry point answers to all reasonable questions of WTO members, as well as to supply appropriate documents on:</p> <ul style="list-style-type: none"> any phytosanitary regulation adopted or proposed on its territory; the procedures of determining the risk and the corresponding level of the phytosanitary protection; the commitment or participation of the Republic of Moldova or of the constituting bodies of its territory in the international phytosanitary systems and bodies, as well as the texts of agreements and arrangements.
3. Transparency: notification and access to documentation (Article 7 and Annex B, also G/SPS/7):	<p>The Supplement outlines WTO compatible notification and transparency principles in paragraphs 3,4 and 5 which stipulate the following:</p> <p>Article 3:</p> <p>The Main State Inspectorate on Phytosanitary Quarantine is subjected to the Government of the Republic of Moldova and is designated as Central Notification Body, regarding the modification of phytosanitary measures and in order to supply information about the phytosanitary activity.</p> <p>Article 4:</p> <p>In the case of the absence of an international standard, directive or recommendation, or in case the contents of a standard, directive</p>

Description of the principles and WTO reference	Compliance by Moldova
	<p>or recommendation do not correspond to the contents of an international standard, directive or recommendation, and which can have a significant effect on the trade undertaken by other countries, members of WTO, the Main State Inspectorate on Phytosanitary Quarantine:</p> <ul style="list-style-type: none"> i. publishes an announcement, in an early stage in such a way, as to allow the countries-members of WTO to get acquainted with the emerging changes and corresponding regulations; ii. will notify the other members, the WTO Secretariat, of products, intended to be regulated, together with a short description of the objective and motivation for the proposed regulation. Such notifications are to be done during an earlier stage, when it is still possible to introduce amendments, and when it is still possible to take into account comments; iii. will supply, at the request of the members, through the inquiry, copies of the proposed regulation, and to the extent possible will identify the elements, differing fundamentally from the international standards, directives or recommendations; iv. at the appropriate time, to supply the countries members of WTO written comments at their request, in order to take into consideration the comments and the results of discussions. (see Article 5 presented above)
(A) identification of authority responsible for making notifications to the WTO and ensuring transparency obligations are met on an ongoing basis (Annex B.5 (b) and Annex B.10);	The Main State Inspectorate on Phytosanitary Quarantine will undertake notification obligations and will ensure that transparency requirements are met on an ongoing basis (see Articles 3 and 4 presented above).
(B) establish guidance or law requiring publication of proposed measures at an early stage for comment (Annex B.5 (a));	Principles applied concerning early publication are laid out in Article 4, paragraph (i) of the Supplement (see Article 4 presented above).
(C) provision in law or administrative procedure to provide copies of proposed measures to WTO Members (Annex B.5	Article 4, paragraph (iii) of the Supplement provides for notification and provision of copies of proposed measures to WTO Members (see Article 4 presented above).

Description of the principles and WTO reference	Compliance by Moldova
<p>(c)); and (D) require in law or administrative procedure, a reasonable period of time for comment from Members and the public and establishment of a process to take comments into account without discrimination (Annex B.5 (d)).</p>	<p>Article 4, paragraph (ii) of the Supplement provides for a reasonable time for comments from WTO Members (see Article 4 presented above).</p>
<p>4. Necessity: measures are applied only to the extent necessary to protect human, animal or plant health (Article 2.2)</p>	<p>Article 7, paragraph (ii) of the Supplement requires that phytosanitary measures be applied only to the extent to assure the appropriate level of protection. ii. for the appreciation or support of certain phytosanitary measures for the realization of the respective level of phytosanitary protection, the Main State Inspectorate on Phytosanitary Quarantine insures that these measures are only those necessary for exerting the needed level of phytosanitary protection as determined by the Law on Phytosanitary Quarantine.</p>
<p>5. Regulations Based on Science: regulations governing animal and plant health and food safety shall based on scientific evidence (Articles 2.2, 3.3, and 5.2).</p>	<p>Article 7 of the Supplement requires scientific evidence to be used in taking SPS measures. Article 7 stipulates: While determining the risk, there are taken into consideration the scientific proofs, existing in this domain, the methods and procedures of production, model inspections, the spread of diseases, of plants and weeds pests, the existence of certain zones where there are no quarantine objective, the conditions of the environment, of quarantine regimes and so on.</p>
<p>6. Harmonization: to the extent possible, members shall follow international standards, guidelines, and recommendations in establishing SPS measures (Articles 3.1, 3.3, and 3.4).</p>	<p>Articles 2 and 6 of the Supplement address the interest of Moldova in following international standards. Article 2 of the Supplement gives the definition of the Harmonization principle: Harmonization – establishment, recognition and application of phytosanitary measures, common with those applied in other countries, members of WTO. Article 6 of the Supplement stipulates: The Main State Inspectorate on Phytosanitary Quarantine of the Republic of Moldova represents the interests of the State regarding the phytosanitary quarantine in competent international organizations and will fully participate in the activities of international organizations and their subsidiary bodies, especially the Commission of the Codex Alimentarius, undertaking its activity on the basis of the International Convention for plant</p>

Description of the principles and WTO reference	Compliance by Moldova
	protection, in order to promote within these organizations the elaboration and periodical examination of standards, directives and recommendations regarding all these aspects of phytosanitary measures and their conformity with international standards, directives and recommendations.
7. Equivalence: members shall recognize different measures that achieve the same level of protection (Article 4).	The concept of equivalence is recognized in Article 9 of the Supplement which stipulates: The Main State Inspectorate on Phytosanitary Quarantine recognizes phytosanitary measures of other countries – members of WTO as equal, even when these differ from the domestic ones, and that being proved by their usage, it is possible to obtain an adequate level of phytosanitary protection for the Republic of Moldova.
8. Risk assessment: developing scientific evidence and conducting risk assessments to ensure that measures are based on science and applied only to the extent necessary to protect health (Articles 5.1, 5.2 and 5.3).	Articles 7 and 8 of the Supplement requires that risks be assessed and there be development of scientific evidence to ensure that SPS measures are based on science and applied only to the extent necessary to protect health.
9. Regional conditions: measures take into account the regional characteristics both of the areas from which products originate and the areas for which they are destined (Article 6 and Annexes A.6 and A.7).	Article 12 of the Supplement addresses regional conditions with regard to regional characteristics both of the areas from which products originate and the areas for which they are destined. Article 12 stipulates: The Main State Inspectorate on Phytosanitary Quarantine will insure that the measures would be adopted in accordance with the phytosanitary characteristics of the zone – be it totally of a country, a part of the country or the entity or parts of other countries – where the products has its origins and to which it is supplied. While evaluating the phytosanitary characteristics of the region, there is going to be taken into account, inter alia, the level of expansion of pests and specific diseases, the existence of programmes of their fight and adequate criteria or directives, which may be elaborated by the competent international organization.
10. Non-discrimination: measures do not arbitrarily or unjustifiably discriminate between different members or between domestic and	Article 10 of the Supplement provides for non-discrimination: The Main State Inspectorate on Phytosanitary insures that the phytosanitary measures would not create discrimination between the countries members of WTO, where there are similar conditions, including the territory of the Republic of Moldova and other WTO countries – members.

Description of the principles and WTO reference	Compliance by Moldova
foreign suppliers (Article 3 and Annex C.1 (a) and (d).	
11. Control, inspection and approval procedures: ensure that procedures, including systems for approval of the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs comply with the Agreement (Article 8 and Annex C).	Article 11 of the Supplement fully implements the SPS provisions regarding control, inspection and approval procedures.

[124. The representative of Moldova said that Moldova would apply fully the Agreement on Sanitary and Phytosanitary Measures from the date of accession. The Working Party took note of this commitment.]

- **Trade Related Investment Measures (TRIMs)**

125. The representative of Moldova stated that in Moldova there were no trade-related investment measures of the kind covered by the TRIMS Agreement. Moldovan legislation did not contain an authority to apply TRIMs, either at the central or sub-central level.

- **State-trading practices**

126. Some members of the Working Party asked for a list of the enterprises included in the State Register of companies which were major producers in the domestic market and they asked for a notification of what each of these companies produced. In response, the representative of Moldova said that at the beginning of the transition process large former State companies were automatically considered monopolies because they were the only Moldovan suppliers in their domains. In reality they had a small share of the market as more and more foreign products were imported. Against this background the Government no longer compiled this list.

127. Some members of the Working Party asked for confirmation that Moldova had no fully or partially State-owned enterprises which received any exclusive or special rights or privileges, and that

the enterprises in the energy sector listed in document WT/ACC/MOL/2/Add.2 did not correspond to the definition in the Understanding on the Interpretation of Article XVII of the GATT 1994. In response, the representative of Moldova confirmed that there were no State-trading enterprises covered by the provisions of Article XVII of the GATT 1994. Three of the five suppliers of energy in Moldova, i.e. Moldovagaz, Moldenergo and Thermocom, were de facto, but not de jure, sole suppliers, and did not have any exclusive or special rights or privileges.

128. In response to further questions concerning the large enterprises that had at least 25 per cent State equity ownership and engaged in international trade, the representative of Moldova said that in Moldova every enterprise irrespective of ownership had the right to engage in foreign trade. He submitted a list of enterprises that had at least 25 per cent State equity ownership that engage in international trade.

129. Some members of the Working Party noted that Article 14 of the Draft Foreign Trade Law appeared to grant a state monopoly on the import and exportation of certain types of goods. Those members asked whether Moldova intended to preserve a state monopoly in the trade of any product. In response, the representative of Moldova stated that currently Moldova had no state monopoly in the trade of any product and did not intend to exercise any. In reply, some members of the Working Party asked whether Moldova intended to notify its state trading enterprises under Article XVII of the GATT 1994.

130. The representative of Moldova stated that if Moldova were to introduce state trading as defined by the Understanding on Interpretation of Article XVII of the GATT 1994, it would ensure that all relevant regulations were in conformity with the requirements of Article XVII of the GATT 1994 and the Understanding on Interpretation of Article XVII of the GATT 1994, including those provisions requiring the application of "commercial considerations" in the sale and purchase of state traded commodities. He confirmed that Moldova would observe the provisions of Article XVII of the GATT 1994, the WTO Understanding on that Article, and Article VIII of the GATS regarding State trading. The Working Party took note of these commitments.

- **Free Zones, Free Economic Zones**

131. The representative of Moldova said that the Moldovan legislation relating to free zones was Law No. 1415-XII of 25 May 1993. They would be fully subject to future WTO commitments of Moldova. He provided the following table:

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

So far, only two of these zones were operational - Expo-Business-Chisinau and "Tvardita". Current activities in Expo-Business-Chisinau zone were split approximately in the following way (data are for the first half of 1997 and 1998 respectively): 57,5 per cent and 42.2 per cent trade, 14.6 per cent and 6.9 per cent industrial production and 27.5 per cent and 45.9 per cent services. The portion of imports generated by the free trade zone accounts for 4 per cent of the total imports of Moldova. The portion of re-export from this zone in total exports accounts for 1.2 per cent. He said that normal customs formalities, taxes and tariffs applied to goods entering the rest of Moldova from a free economic zone and a free zone. He added that there were no special eligibility criteria. All enterprises - domestic, joint-venture, foreign and foreign-owned – were allowed to operate in the free economic zones and take full advantage of the incentives available.

132. In response to questions concerning the advantages offered by the zones, the representative of Moldova said that Moldovan legislation offered guarantees and privileges to the residents. The Free Enterprise's Zone was open for the following licenced types of activities: organization of fair and exhibitions, information and advertising, leasing, banking and insurance, tourism and hotel business, trading and storage business, public catering services, environment-friendly production output. Residents enjoyed exclusive customs and tax regimes. In particular, exemption from customs duties for goods and items imported in the FEZ for final consumption. The profit tax had been set up to 20 per cent (elsewhere in the republic it was 32 per cent). Goods and services manufactured and rented in the FEZ were exempt from VAT. Residents who invested US\$250,000 and more in the zone's development were relieved from paying profit tax for five years. The residents had the rights accorded by legislation for ten years. There were no requirements that the output produced in the zones be exported, and there were no domestic content requirements. Benefits were not conditioned on export performance or import substitution requirements.

- **Government procurement**

133. The representative of Moldova said that the Law on Government Procurement No. 1166-XII had been adopted on 30 April 1997. The Moldovan Government did not collect statistics on government procurement. There were three domains of public procurement: procurement in connection

with loans from international aid agencies such as the World Bank, the European Bank for Reconstruction and Development; procurement for security and defense purposes; and other government procurement. There was no breakdown of the public sector procurement market by product type available. The estimated overall value of central government purchasing in 1996 had been approximately MDL 200m.

134. The representative of Moldova stated that in accordance with the Moldovan procurement law (Article 2; Article 45 of the Law on Government Procurement) the following institutions were involved in the procurement process: procuring entities, engaged in the acquisition of goods, construction and services; the Bureau for Project Assistance and Public Procurement, renamed "National Agency for Government Procurement" (NAPP). The NAPP was supervising and monitoring procuring entities in the conduct of procurements and oversaw their compliance with the provisions of the procurement law and other legislative requirements such as regulations, rulings, and orders of general application in this area. Concerning advertising, the representative of Moldova said that a procuring entity had to solicit tenders by publishing an invitation to tender or an invitation for preliminary qualification in the Romanian and Russian languages in the Public Procurement Bulletin (PPB) issued by the NAPP. In particular situations, the invitation to tender also had to be published in the English language in mass media of wide international circulation (Article 18 and Article 26 of the Law on Government Procurement). The invitation to tender contained, inter alia, specifications of the goods, construction and services to be supplied in terms of nature, quantity, place and time, the criteria and procedures to be used for evaluating the qualifications of suppliers, place and deadline for the submission of tenders, means and place of obtaining the solicitation documents. The procuring entity could engage in pre-qualification proceedings with a view towards identifying qualified suppliers prior to the submission of tenders. Only suppliers that had been pre-qualified were entitled to participate further in the procurement proceedings. Further details were included in Article 7 of the Law on Government Procurement. A procuring entity should engage in procurement of goods or construction by means of open competitive tendering proceedings as the preferred method of procurement. Under special conditions, a procuring entity could use the following methods of procurement (Article 19 of the Law on Government Procurement): two-stage tendering (Article 20; Article 40 of the Law on Government Procurement); restricted tendering (Article 21; Article 41 of the Law on Government Procurement); specialized restricted tendering (Article 22; Article 42 of the Law on Government Procurement); request for quotations (Article 23; Article 43 of the Law on Government Procurement); and single-source procurement (Article 24; Article 44 of the Law on Government Procurement).

135. In response to questions, the representative of Moldova said that once a procuring entity had been approved by the NAPP, it acquired the right to grant a margin of preference for the benefit of

tenders for construction by domestic contractors or for the benefit of tenders for domestically produced goods. The margin of preference could not exceed 10 per cent (Article 37 of the Law on Government Procurement). A system of electronic tendering for public procurement had not been set up in Moldova yet, but the establishment of a database system for availability of data/information on tendering was foreseen. The procuring entity had no right to establish any criterion, requirement or procedure with respect to the qualifications of suppliers that discriminated against or among suppliers or against categories thereof on the basis of nationality (Article 6 the Law on Government Procurement).

136. Some members of the Working Party asked whether Moldova would accept the WTO Government Procurement at the time of accession. The representative of Moldova confirmed that Moldova would begin negotiations on the acceptance of the WTO Agreement on Government Procurement after accession.

137. The representative of Moldova stated that upon accession to the WTO, Moldova would seek to become an observer to the Agreement on Government Procurement and would initiate negotiations for membership to the Agreement by tabling an entity offer immediately after accession. The Working Party took note of those commitments.

- **Government-mandated counter-trade and barter**

138. The representative of Moldova stated that in order to obtain from its trading partners, whose economies were in transition, essential products such as energy, metals, machinery and spare parts, the Moldovan Government occasionally entered into negotiations with these partners to pay for such supplies with agricultural products purchased by the Moldovan Government on the domestic market.

- **Trade in civil aircraft**

139. Some members of the Working Party asked whether Moldova would accept the WTO Agreement on Trade in Civil Aircraft at the time of accession.

140. The representative of Moldova stated that Moldova would accept the Agreement on Trade in Civil Aircraft as soon as possible after accession. The Working Party took note of this commitment.

- **Transit**

141. The representative of Moldova stated, at present, that transit of commodities through the territory of Moldova was free from the levy of fees and customs duties. In relation to VAT and excise tax, Moldova granted freedom of transit through its territory to the trade of WTO members as prescribed

by Article V of the GATT. The only charges levied were those for transportation and those commensurate with administrative expenses or with the cost of services rendered. He added that Moldova was party to a multilateral agreement on transit trade within the framework of the CIS. Moldova had also signed transit agreements with Romania, Ukraine, Belarus and Russia.

- **Policies Affecting trade in Agricultural Products**

- **Imports – description of the types of border protection maintained**

142. The representative of Moldova said that agricultural products could be imported freely into Moldova without quantitative restrictions. Duties applicable to individual products were to be found in Moldova's customs tariff.

143. Some members of the Working Party asked whether the customs clearance procedures followed by the Republic of Moldova reduced to a minimum delays in clearing import shipments of dairy or other perishable agricultural products. In response, the representative of Moldova stated that the waiting time for imports from all countries at the border with Romania and Ukraine, on average, did not exceed 30 minutes. The actual customs clearance took place at the regional customs office of the place where the importing firm was located. The decentralized nature of this system had kept the time required for customs clearance to a minimum.

- **Exports**

144. The representative of Moldova said that Moldova granted no subsidies to exports of agricultural products. Moldova did not restrict or prohibit the export of agricultural products.

145. Some members of the Working Party requested information concerning domestic support and export subsidies. The representative of Moldova submitted the relevant information in document WT/ACC/SPEC/MOL/1/Rev.4.

146. In response to requests for information, the representative of Moldova said that the export registration requirement had not been abolished by Government Decision No. 777 of 1997.

Internal policies – i.e. description of and the budgetary expenditure and any revenue foregone involved in each of the domestic support measures in place

147. In response to requests for information concerning the grants provided to livestock producers, the representative of Moldova explained that although the whole amount of MDL 7.8 million was entered in Domestic Support Table DS:7 as a grant, the support 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 distribution 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
Total	7,800

148. In response to requests for information concerning the grain subsidy included under wheat in Domestic Support Table 7, the representative of Moldova stated support covered wheat and did not confer any financial benefit to producers of a basic agricultural products. Moldova provided no product-specific market price support on any agricultural products.

149. Some members of the Working Party asked whether Moldova would be making commitments comparable to those of developed Members in its accession to the WTO. In response, the representative of Moldova said that even though Moldova considered itself at the level of development of developing countries, as discussed in the Working Party, for the purposes of accession to the WTO Moldova would need additional flexibility only in certain areas.

150. Some members of the Working party noted that Moldova provided supporting tables DS:4 indicating data for years 1995 and 1996. The members expected that since Moldova indicated that no subsidies were paid in 1994 that it should have included zero figures for this year and provided an average, not the sum, of support for the 1994-96 three year period (table DS:4). In response, the representative of Moldova stated that in the early period of Moldova's transition to a market economy, agriculture was still mostly State-owned. Although agricultural support was then not identified as such, and not paid out of separate budget lines, agricultural production was achieved 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. Consequently, including zero figures for 1994 would not give a true picture of Moldova's policy.

151. Some members of the Working Party requested information on Moldova's support programmes such as viticulture improvements, livestock improvements and "improvement of fruit tree growing". In response, the representative of Moldova explained that as a result of the questioning of its level of development, Moldova had entered these programmes as non-exempt direct payments.

- **Textiles regime**

152. The representative of Moldova said that there was no special regime for textiles and clothing. Moldova permits duty-free import of raw materials for textile and clothing products from the European Union, provided the finished products are subsequently exported to the European Union (inward processing). This regime applied to all countries.

VI. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

1. General

a) Intellectual property policy

153. The representative of Moldova stated that since its independence, Moldova had followed a policy of developing mutually advantageous relations with all countries of the world. The national legislation had been transformed to adjust to international standards. The policy of transition to a market economy had largely determined the approach to intellectual property and the extension of the rights of its owners. Intellectual property rights had become rights of legal persons and individuals. The main directions of the policy had been: (i) enactment of special national legislation on individual intellectual property rights; (ii) establishment of public authorities responsible for intellectual property rights; (iii) membership in international conventions and treaties on trade-related intellectual property rights. The protection of industrial property, the rights of owners of titles of protection and investors had been implemented on the basis of the Provisional Regulation No. 456 "On the Protection of Industrial Property in the Republic of Moldova" adopted by the Government in 1993. The titles of protection in Moldova were the following: patents for inventions or improvements of inventions; certificates of registration of industrial designs, trademarks and service marks, appellations of origin of goods and utility models. The Official Bulletin on Industrial Property Issues (BOPI) provided information on inventions, designs and trademarks claimed and registered in Moldova, as well as on legal acts and regulations relating to intellectual property.

154. The representative of Moldova presented the Working Party with a further information on the TRIPS regime in document WT/ACC/MOL/18.

155. The representative of Moldova stated that the Moldovan Parliament had adopted and published resolutions for membership in 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.

156. Some members of the Working Party said that the TRIPS Agreement was a fundamental component of the obligations undertaken by all WTO Members. These members expected Moldova to implement the WTO TRIPS Agreement fully as of the date of accession, without recourse to any transitional arrangements. The representative of Moldova said that Moldova was prepared to implement the TRIPS Agreement from the date of accession. A detailed programme of specific legislation required to be implemented would be shortly presented to the Government for approval. This programme foresaw the enactment of the necessary legislation no later than January 2000. As a result of the judicial system reforms, all the conditions for implementation of the TRIPS provisions had been created. In response to requests the representative of Moldova submitted in tabular form a Checklist of Illustrative TRIPS Requirements and Compliance by the Republic of Moldova in document WT/ACC/MOL/21.

b) Responsible agencies for policy formulation and implementation

157. The representative of Moldova stated that the main directions of policy in the field of intellectual property protection were defined by the State Agency for Industrial Property Protection (AGEPI), established on 25 May 1992 by the Decree of the President Moldova No. 120, and by the State Agency for the Protection of Copyright and Neighbouring Rights established on 25 November 1991 by Decree of the President of Moldova.

c) Membership of international intellectual property conventions

158. The representative of Moldova stated that the Republic of Moldova was a member of the following Conventions and treaties:

- World Intellectual Property Organisation (WIPO);
- Paris Conventions for the Protection of Industrial Property;
- Patent Co-operation Treaty (PCT);
- Madrid Agreement concerning International Registration of Marks;
- Hague Agreement concerning the International Deposit of Micro-organisms for Patent Procedure Purposes;

- Nairobi Treaty on the Protection of the Olympic Symbol; and
- Eurasian Patent Convention.

In November 1993 Moldova had become a member of the WIPO Permanent Committee on Industrial Property Information (PCIPI). Talks had been scheduled with the Administration of UPOV (International Union of the Protection of New Varieties of Plants) to discuss the terms of Moldova's accession to the UPOV Convention. AGEPI co-operates with the European Patent Organisation (EPO) and a more formal co-operation programme was under discussion. In addition, AGEPI had signed co-operation agreements with 25 patent offices throughout the world.

159. In response to questions concerning Moldova's future intentions, the representative of Moldova said that his country intended to become a party to the following international Agreements:

- Madrid Agreement for the Repression of False or Deceptive Indications of Sources on Goods;
- Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (1989);
- Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1958);
- Strasbourg Agreement Concerning the International Patent Classification (1971);
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1957);
- Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks (1973);
- Locarno Agreement Establishing an International Classification for Industrial Designs (1968); and,
- UPOV Convention.

d) Application of national and MFN treatment for foreign nationals

160. The representative of Moldova stated that Moldova applied the principle of national treatment with regard to intellectual property. The exceptions stipulated in Article 19 of the Constitution referred to the rights to vote and to be elected, military service and related issues.

e) Fees and taxes

161. The representative of Moldova stated that there was a fee payable for patents for inventions, utility models, industrial designs, trademarks, and appellations of origin of goods. Terms and amounts were regulated by the Decree of the Government of Moldova No. 415 of 13 June 1994. The schedule of fees for the intellectual property rights were listed in Annex I of WT/ACC/MOL/4. Domestic applicants paid the amounts quoted denominated in minimum wages, foreign applicants paid the Dollar amounts quoted or their MDL equivalents. One minimum wage was MDL 18. Moldova would formulate proposals to amend existing legislation with the aim to eliminate any differences in national treatment with regard to fees and taxes paid by foreign and domestic applicants.

2. Substantive Standards of Protection, Including procedures For the Acquisition and Maintenance of Intellectual Property Rights

- Copyright and related rights, including rights of performers, producers of phonograms and broadcasting organizations

162. The representative of Moldova stated that the copying and neighbouring rights were governed by the law "On Copyright and Neighbouring Rights" No. 293 -XII as of 23 November 1994. This law protected intellectual property in the domain of literature, art and science, expressed in a form that allowed it to be reproduced irrespective of the form, the destination and the value of each work, as well as the procedure of its reproduction. As creator, the author had the exclusive copyright for his work. The copyright also included the personal and economic rights of the author. The personal rights entitled the author to the following: (i) the right to paternity; (ii) the right to his name; (iii) the right to the work's integrity; (iv) the right to advertise his work or to allow (or to prohibit) its publication, as well its withdrawal. The economic rights gave the holder of the copyright the exclusive right to the use of the work in any form and by any procedure. The exclusive right of use of the work was defined as the right of the author or other copyright holder to realise, to allow or to prohibit the following activities: reproduction of the work; distribution; public demonstration of the work; translation. He added that the copyright owners had the right to prevent the rental of a copy of a work even after that particular copy had been sold and that sound recording producers had a similar right to prevent the rental of copies of

the sound recordings, even after those copies were sold.

163. In response to requests for information, the representative of Moldova stated that audio-visual works, computer software, databases, phonograms and musical works and compilations of data were protected by the same Law on Copyright and Neighbouring Rights (Article 6 and 10). The Law granted the holder of a copyright the exclusive right to exploit his work in any form and by any means. The copyright on audio-visual work was conferred to: writer of scenario; director/producer; composer as the author of the music; cameraman; designer. The author of a work created before, adapted or included without any changes within the audio-visual work, as part of this work, was considered co-author of this audio-visual work.

164. In response to requests for information concerning protection of copyrights, the representative of Moldova stated that under Moldovan law, the producer of a phonogram had the exclusive right for its use in any form, including the right to obtain remuneration for its use; the distribution of copies of the phonogram; the modification or change of the phonogram; the importation of copies of the phonogram in order to broadcast it. The producer could transfer the right by means of a contract to another person (Article 28, Law On Copyright and Neighbouring Rights). The performer of a phonogram had the exclusive right to permit or allow: the recording of an unrecorded performance; the play-back of the recorded performance; the transmission of the performance by radio-electronic means, cable or other means of communication; the rental of a published phonogram; as well as the right to defend the performance against any disfigurement or contortion or undermining of the reputation of the performer, and to transfer the right by means of a contract to another person (Article 27, Law On Copyright and Neighbouring Rights). Broadcasting organizations had the exclusive right to use phonograms in any form (Article 29, Law On Copyright and Neighbouring Rights). He added that foreigners enjoyed national treatment with regard to these provisions.

165. In response to more questions, the representative of Moldova confirmed that the Moldovan Copyright Law 'On Copyright and Neighbouring Rights 'No. 293-XII' of November 1994 was in full compliance with the requirements of the Articles 1 through 21 of the Berne Convention (1971) and the Appendix thereto as required by Article 9 of the TRIPS Agreement.

166. Some members of the Working party asked to describe in detail any limitations on the exclusive rights of copyright owners or owners of neighbouring rights. In response, the representative of Moldova stated that very detailed regulations on the limitation on the exclusive rights of copyright owners or owners of neighbouring rights existed and related to: reproduction of works for personal use; reprographic reproduction by libraries; free use of works; reproduction of computer programs and computer data bases. He added that details were included in Chapter III, Articles 20-23 of the

Moldovan Copyright Law, based on the Berne Convention. The Law provided for a term of protection of copyright and neighbouring rights of 50 years. Article 17(9) and Article 33 of the Law provided for the of authors to be protected without limitation in time.

167. In response to requests for information concerning the advantages obtained by the registration of a work, the representative of Moldova stated that under Article 8.4 of the Copyright Law, the certificate of registration constituted, in the event of the dispute, a presumption of authorship for the court in the absence of proof to the contrary.

168. Some members of the Working Party requested the information on how Moldova restored copyright protection for works that were in the public domain in Moldova, prior to its accession to the Berne Convention on 22 July 1995. In response, the representative of Moldova stated that for works which were already in the public domain by 31 December 1994 the protection was not restored. For works whose period of protection was due to expire after 31 December 1994, the adjustment was made in the following way: if the term of protection for a work by a foreign author that was used in the Republic of Moldova was greater, under the laws of the country of the author, than the term set out in the Moldovan Copyright Law, the term of protection stipulated by the Moldovan law had to apply; if it was lesser, the term of protection stipulated by the laws of the country of the author had to apply (Article 17:12, Copyright Law).

169. The representative of Moldova said that on 28 January 1998, the Republic of Moldova ratified the Treaty on Copyrights and the Treaty on Interpretations and Phonograms adopted on 20 December 1996 by Diplomatic Convention. The Decision of the Government of the Republic of Moldova No. 524 of 24 July 1995 established a four-year (1995-1998) transition period from the administrative system to the administrating system on the basis of collective principles of patrimonial rights of authors and related rights of owners. According to this Decision, besides the State Agency for Copyrights of the Republic of Moldova an Authors and Related Rights Owners Council was set up which establishes the level of author remuneration, adopts samples for contracts and licenses regarding turning account of works, interpretations, phonograms etc., establishes the level of commission remuneration for collection, distribution and paying off the author remuneration services and controls the activity of Agency for paying off the author remuneration. Organizational work was ongoing for setting up a non-governmental organization to administer the patrimonial rights of the authors and related rights owners on the basis of collective principles.

- **Trademarks, including service marks**

170. The representative of Moldova said that the Law On Trademarks and Appellations of Origin of Goods No. 588-XII of 22 September 1995 defined a trademark as a sign which served to distinguish the products or services of enterprise, legal persons or individuals from the products or services of other enterprises, legal persons or individuals. Two kinds of trademark had been taken into account: collective marks and certification marks. The trademarks could be: verbal, consisting of letters, numbers, words, names and surnames; pictures, flat or three dimensional; combined, consisting of verbal and figurative elements. The trademark could be registered in black and white or in colour. The certificate of registration was the title of protection for trademarks in Moldova. The registration was harmonised with the international legal conventions in force. The application for the trademark and the correspondence concerning the application should be made at the AGEPI in Moldova. The other documents of the application could be submitted in Moldovan or in any other language on the condition that a translation into Moldovan was submitted within two months from the filing date. The trademark was to be valid for 10 years from the date of the filing of the application. The filing date of an application was considered to be the date on which the application and the bill of payment were received by the AGEPI. The objections of third parties had to be made within 3 months from the application date of publication. Individuals and legal foreign persons enjoyed the same rights as legal persons and individuals resident in Moldova on the basis of the international conventions of which Moldova was a member.

171. Some members of the Working Party requested more information concerning the rights conferred by a trademark under Moldovan law. In response, the representative of Moldova said that Moldovan law granted the owner of a registered trademark throughout the term of the validity of the trademark an exclusive right to dispose of and exploit it as well as the right to prohibit other persons from using it on the territory of Moldova (Article 6(1), (2)). He added that the following acts constituted an infringement of the rights of the trademark owner if carried out without his consent: the manufacture, use, import, offer for sale, sale or any form of marketing, or holding for such purposes, of a trademark or a product designated by such trademark, or the use of a similar sign liable to mislead the consumer, in relation to goods or services of the same type (Article 6(3)). The exclusive trademark right could not extend to elements of the trademark which, were taken separately. There were no limitations to these rights.

172. In response to requests for more information, the representative of Moldova said that in the Republic of Moldova well known marks were protected without registration in compliance with Article 6 *bis* of the Paris Convention for the Protection of Industrial Property and Article 7(4) of the Moldovan Law On Trademarks and Appellations of Origin indifferent to the similarity of goods or

services. The use of a trademark was not a condition for filing an application or to maintain a registration. In conformity with Article 2(1) of Law No. 588/1995, the definition of trade mark includes product marks as well as service marks.

173. In response to requests for information concerning colours, the representative of Moldova said that Moldovan law did not recognize individual colours as such as trademarks, but the colour or the combination of colours of a word mark or a figurative mark were protected as part of the trademark (Article 4 and Article 5, Law on Trademarks and Appellations of Origin). A colour was deemed identical to a colour protected as part of a trademark if through a series of tests it was found similar to the point of confusion.

174. Some members of the Working Party asked whether if a party believed that its interests would be injured by the registration of a mark by another, it was possible for that party to oppose the registration or to seek its cancellation as provided for in Article 15.1 of the TRIPS Agreement. In response, the representative of Moldova said that an opposition of a registration of a trademark was possible under Article 17 of the Trademark Law by way of an application to the Appeals Board of the Agency for Industrial Property Protection (AGEPI) and subsequently to the courts. Cancellation of registration of a trademark could be requested under Article 26 of the Law. The registration of a trademark could be cancelled at any time during its term of validity if it had been obtained through infringement of the Law. Any person could submit to the AGEPI Appeals Board a request for cancellation of a registration, for which the Law did not prescribe any time-limits.

- **Geographical indications, including appellations of origin**

175. The representative of Moldova said that the appellation of origin was defined by the law On Trademark and Appellation of Origin of Goods as geographical name of a country, region, locality or specific place, as well as geographical or historical appellation which were due exclusively or essentially to the geographical environment, including natural and human factors. The appellation of origin could also be a word derived from the geographical name of a country or from one of its territorial-administrative parts. The certificate of registration was the title of protection for appellations of origin in Moldova. The right to receive titles of protection for the appellations of origin belonged to individuals or legal persons who conducted their activity in the geographical area indicated in the application. The application had to be filed in the state language. All parties doing business in connection with the product associated with the appellation had to apply separately for the certificate. The registration of an appellation of origin was valid for an unlimited term. An application for registration of an appellation of origin had to be filed with the AGEPI.

176. Some members of the Working Party requested more details on how geographical indications were protected (e.g. against unfair competition, misleading the public). In response, the representative of Moldova stated that the use of a registered geographical indication was prohibited for any person who was not the holder of the registration certificate. The use of products of the same type, of similar designation that could mislead consumers as to the place of origin and special properties of the products was also prohibited (Article 22 (2), Law on Trademarks and Appellations of Origin). Article 7 (2,a) of the Law stipulated grounds for refusal to register a trademark or an appellation of origin in case they were deceitful or liable to mislead the consumer. There was no additional protection of wines and spirits. However, special procedures for registering wines and spirits which were contained in the Governmental Decision No. 760 of 10 November 1995.

177. Some members of the Working Party asked if the Government of Moldova could clarify whether protection was granted against a geographical indication which, although literally true as to the territory, region or locality in which the goods originated, falsely represented to the public that the goods originated in another territory. In response, the representative of Moldova said that geographical indications which were not literally true as to the territory, region or locality in which the goods originate, and falsely represented that goods originate in another territory were not registered on the basis of article 7(2)a of the Law on Trade Marks No. 588/1995.

178. Some members of the Working Party asked if the Government of Moldova intended to introduce specific provisions for the protection of geographical indications for wines and spirits along the lines of Article 23 of the TRIPS Agreement. In response, the representative of Moldova stated that Moldova considered 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. Nevertheless, a special provision for the protection of geographical indications for wines and spirits would be included in the Law on Trade Marks.

- **Industrial designs**

179. The representative of Moldova said that under the Provisional Regulation on the Protection of Industrial Property any ornamental or aesthetic aspect of an article with an industrial application could be registered as industrial design. To register an industrial design an application had to be submitted to AGEPI. Foreign residents, both legal and natural persons, had to be represented by the Patent Attorney at the time of submitting an application. The Attorney's rights had to be confirmed with a power of attorney, issued by the applicant. After filing, an application was subject to: formal examination; publication of the application; substantive examination, if requested; registration of industrial design;

granting of the certificate of registration. The registration of an industrial design was granted either without substantive examination at the applicant's responsibility, or after substantive examination.

180. The representative of Moldova further said that the title of protection for the industrial design in Moldova was the certificate of registration. The certificate of industrial design registration conferred to the owner the exclusive right of its use on the territory of Moldova as well as the right to prohibit or to allow third persons to carry out without authorisation the following actions: reproduction; fabrication; sale or importation of the industrial products in which it was incorporated. Protection was valid for ten years from the date of the filing of application with the AGEPI and may be renewed for five years.

181. In response to requests for more information the representative of Moldova said that the criteria for protection of industrial designs included the independent creation of an industrial design as well as the condition of being new and original. In order to be protected industrial designs had to differ from known designs or combinations of known design features (Article 4; Article 6(1) of the Law On Protection of Industrial Designs). He added that textile designs were protected in the same way as industrial designs i.e., they could be registered as a design or industrial model if they had a new appearance and utility function. There were no limitations provided on protection of industrial designs.

- **Patents**

182. According to the law " On Patents for Inventions" No. 461-XII as of May 18, 1995 a patent for invention could be granted for a new product or method as well as for the utilisation of a product or a method known before with a new purpose. The word "product" meant: equipment, substance, micro-organisms, cellular cultures of plants and animals. He added that at present in Moldova new animal breeds were protected in the same way as inventions. The adoption of a "Law on Breed Protection" was expected in the future.

The following were not regarded as inventions:

- scientific theories and mathematical methods;
- conventional signs, rules, schedules;
- methods of perforating purely mental acts;
- methods of economic organisation and administration,
- algorithms and computer software.

- aesthetic creations (designs),
- topographies of integrated circuits;
- plant or animal varieties.

Patents could not be granted for inventions which violated accepted standards of public morality.

183. The representative of Moldova said that the priority date of the inventions was the date the application was submitted. The application had to include the following documents: a request with information concerning the applicant and his successor in title, three copies; description, three copies; claims, three copies; drawing and graphics, if necessary, three copies. All application materials had to be submitted in Moldovan. The description, claims and drawings could be submitted in French, German, English or Russian, but a Moldovan translation had to be presented within two months from the date of submission of the application at the AGEPI. AGEPI was authorised to grant patents without substantive examination on the applicants responsibility. Applicants had the possibility to request the substantive examination provided that the respective fees were paid during the validity of the period of the patent. In Moldova the patent or invention was valid for 20 years. The owner was obliged to pay an annual fee for maintenance of his patent in force during all the all tile period of validity of the patent. The extent of the protection conferred by the patent was defined by the claims, in connection with the description and drawings.

184. In response to requests for more information, the representative of Moldova said that a holder of a patent had the exclusive right on the invention protected by the patent which consisted of the right to use the invention, provided the usage did not interfere with the rights of other patent holders, to dispose of the patent and to forbid others to use the invention protected by the patent (Article 22(1), Law On Patents for Invention) He added that under Moldovan law there was no condition to work a patent. In civil infringement proceedings involving process patents, TRIPS Article 32 provided that judicial authorities had the authority to order the defendant to prove that the process to obtain an identical product was different from the patented process.

185. Some members of the Working Party asked whether there were any provisions on compulsory licensing and government use. In response, the representative of Moldova explained that if the invention had not been used for three years since the patent had been issued, or it had not been sufficiently used by the holder, the person who wished to utilise the invention could submit a request to the court or arbitrage to be awarded a non-exclusive obligatory licence. In the interest of national security, the Moldovan Government had the right to authorize the use of the invention by third parties without the consent of the patent holder, paying the latter an adequate financial compensation. The

holder had the right to contest the amount of compensation in the court (Article 33(4), Law On Patents for Invention). He added that processes were protected under Moldovan law on the same basis as products. At a later stage he noted that draft amendments to the law to bring it into conformity with the provisions of Article 31 of the TRIPS Agreement had been prepared to permit issuing of a compulsory licence in certain narrowly defined circumstances. If such a licence was issued the Agency was required to take steps to inform the patent holder about the decision concerning the grant of a non-exclusive compulsory licence; the Agency was required to record the decision in the National Patent Register; notify the issuance of the licence in the Official Bulletin within 3 months following the date on which they were entered in the National Patent Register. He further noted that if the holder of a non-exclusive compulsory licence had not used the licence within the year following the grant of the licence, the non-exclusive compulsory licence may be cancelled.

186. In response to requests for more information, the representative of Moldova confirmed that Moldova did not have a provision corresponding to Article 34 of TRIPS, however it planned to adjust its legislation prior to WTO accession.

- **Plant variety protection**

187. The representative of Moldova stated that the Government adopted a Law On Plant Variety Protection which entered into force on 28 November 1996. It superseded the "Provisional Statute of Industrial Property Protection in Moldova". The Law provided for special protection of plant varieties. Protection was granted on the basis of certificates issued by the State Commission for the Testing of Plant Varieties. The term of protection was 25 years for trees, fruit trees and ivy - vines and 20 years for plant varieties and other species, with the possible extension for a further ten years. The Law granted the exclusive rights of exploitation to the patentee which were listed in Article 13 (Law on Plant Variety Protection). Moldova had also become a member of UPOV.

- **Layout designs of integrated circuits**

188. The representative of Moldova stated that legislative protection was granted only for genuine layouts and not for ideas, processes, systems, technology or coded information which could be embodied in layouts. Layout rights were accorded by the certificate of the layout registration. Registration was made without substantive examination. The certificate was valid for ten years.

189. Some members of the Working Party requested more information concerning the rights acquired by the holder of a certificate of the layout registration. In response, the representative of Moldova said that presently there were no provisions governing layout-designs of integrated circuits. A

Draft Law on Layout Designs of Integrated Circuits which would comply with relevant international agreements was in preparation and would be submitted to the Working Party in due course.

- **Requirements on undisclosed information, including trade secrets and test data**

190. The representative of Moldova said that in Moldova commercial secrets were protected by the Law on the Protection of the Commercial Secret, No. 171 adopted by Parliament on 6 June 1994. Information was considered a commercial secret if: (i) it had real or potential value to the economic agent; (ii) access to it was restricted; (iii) was marked, by stamp or otherwise as confidential; (iv) was not covered by the provisions on copyright or patents. Special provisions applied for state secrets and matters of national interest. He added that commercial secrets were protected as long as they satisfied the listed criteria. There were no limitations on the protection and no compulsory licensing provisions in the Law.

191. Some members of the Working Party asked whether Moldova protected unrecorded undisclosed information, including information passed orally only to those involved in an operation with a need to know. The representative of Moldova said that, although the Law on the Commercial Secret also protected unrecorded undisclosed information, the Moldovan authorities responsible for licencing intellectual property generally required that confidential information submitted in connection with the application for licences, registration certificates, etc., was recorded and marked for purposes of clarity.

192. In response to requests for information concerning marketing of pharmaceuticals and agricultural chemical products, in the context of the Paragraph 3 of TRIPS Article 39, the representative of Moldova stated that the marketing of pharmaceuticals and agricultural chemical products which utilised new chemical entities without registration of intellectual property rights was only subject to approval by the Ministry of Health or the Ministry of Agriculture, respectively. He added that Moldova did not require the submission of undisclosed test or other data as a condition of approving the marketing of products mentioned in the question. In order to import and sell agricultural chemicals in Moldova, an importer had to obtain an import licence and a hygiene or conformity certificate. For the importation of pharmaceuticals, Moldova required a import licence. In addition, pharmaceuticals to be imported had to be registered. The National Pharmaceutical Institute of the Ministry of Health had issued an information leaflet for foreign producers describing in detail the registration procedures.

- **Any other categories of intellectual property**

193. The representative of Moldova stated that the Republic of Moldova recognised utility models if they concerned the constructive execution of means of production and of consumer goods or their

component parts and if they had novelty and industrial applicability. The right to a utility model was confirmed by the certificate of registration. The utility model application had to be filed at the AGEPI and it should have contained the following documents copies: a request with information concerning the applicant (inventor), or his successor in title; description; claims; drawing and graphics, if necessary. Those documents ensured the priority rights of the application from the date of filing the application at the AGEPI.

194. The representative of Moldova further explained that in the case of refusal, a patent application could be transformed into a utility model application with an initial priority date. In this case, the applicant must, after 3 months from the decision of refusal but not later than 4 years from the filing of the application, file a request for utility model registration for the same object at the AGEPI with the priority request of the initial filing date. The transformation of a utility model application into a patent application for the invention was possible up to the acceptance prior to the decision for utility model registration. In this case the priority date would be the date of the initial deposit. The certificate was valid for five years from the filing date.

3. Measures to Control Abuse of Intellectual Property Rights

195. The representative of Moldova stated that enforcement proceedings were available under existing Moldovan laws and permitted effective action against infringement on intellectual property rights. The initiative for action against infringement was up to the holder of the property right. The Customs Control Service was allowed to hold back copies of works and phonograms introduced or taken out without license. Provisions for special measures by customs concerning the infringement of right of intellectual property rights were at the stage of preparation.

4. Enforcement

- Civil judicial procedures and remedies

196. The representative of Moldova said that the legislation in force provided for the possibility to pursue infringements on intellectual property rights and regulated the presentation of proof. The principle of competition and presumption of innocence applied. A Court system existed in which the competence of tribunals depended on the type of dispute to be considered. Contesting parties had the possibility to solve disputes by recourse to the services of arbiters, one was permanently available in the AGEPI.

197. In response to more questions, the representative of Moldova explained that while Moldovan Civil Law contained general provisions relating to property rights, the specific provisions relating to the

protection of intellectual property rights were contained in the respective Moldovan intellectual property rights laws.

198. Some members of the Working Party asked to describe the structure of the court system in the Republic of Moldova and the tribunals having jurisdiction over disputes involving intellectual property rights. In response, the representative of Moldova stated that jurisdiction for Intellectual Property Rights in Moldova rested, depending on the particular case, with: (i) the ordinary courts, against whose judgments appeals could be submitted to the Court of Appeals and ultimately to the Moldovan Supreme Court; (ii) the Economic Court in Chisinau, where appeals could be submitted to the Economic Appeals Court and ultimately to the Moldovan Supreme Court.

199. In response to requests for more information, the representative of Moldova explained that when a right-holder believed that his intellectual property rights were injured he could initiate a civil, penal or administrative case in the courts. In cases of fraud or similar cases the public prosecutor could also initiate a separate case under the Penal Code of Moldova. The normal rules on evidence governing civil litigation in Moldova applied to intellectual property right cases. The person found guilty of an infringement could be sentenced to pay a fine, damages or compensation. If it was appropriate, the injured party could have also requested that the goods or the equipment used to produce the goods concerned be destroyed or rendered incapable of the use which infringed on his rights (see Article 25, Trademark Law).

200. Some members of the Working Party requested more information about the remedies that could be taken with regard to counterfeited trademark goods. In response, the representative of Moldova stated, that at the request of the injured party, the equipment and material used unlawfully to reproduce and affix the trademark or appellation of origin concerned was to be prohibited for use of that purpose. Stocks of infringing signs reproducing the mark or appellation of origin had to be destroyed and marks or appellations unlawfully affixed to products had to be removed, even if that led to the destruction of the products. In accordance with Article 25, paragraph 2 of the Law on Trademarks and Appellations of Origin of Products, if the simple removal of the mark does not exclude the possibility of misleading the consumers, the products shall be destroyed. For copyright piracy such measures included the seizure of infringing copies of works or phonograms or the materials and the equipment used for their manufacture and reproduction. Article 51 of the Code on Administrative Infringements provides for fines of up to 30 times the minimum wage to a person committing an intentional infringement of a copyright or neighbouring rights for gain and having caused considerable prejudice to the holder of the right. In addition, Article 38(8) of the Copyright Law provides for confiscation of the goods involved. The present legislation established measures of criminal responsibility for the international infringement of

copyrights and related rights, which caused considerable material damages. The judicial authorities, at the request of the right holders will undertake measures immediately after customs clearance of such goods according to Article 51 of the Administrative Contraventions Code and Article 141 of the Criminal Code.

- **Provisional measures**

201. According to present legislation, respectively Chapter 13, Articles 135-142 of the Code of Civil Procedure, the judicial authority may undertake measures to issue an injunction if the participants at the dispute request so. The issue of an injunction is permitted at any stage of the process. The infringement of stipulated interdictions is sanctioned with a penalty of ten to twenty five minimum salaries. The plaintiff has the right to ask the redress of damages caused by the to issue the injunction. The application to issue an injunction was examined in the same day without notifying the person complained against. Appeals could be launched regarding all the resolutions related to the issue of the injunction. In conformity with Article 142, the redress of damages caused by the issue of the issuance of the injunction was permitted.

202. Some members of the Working Party requested the Government of Moldova to explain in details the procedures for provisional measures. In response, the representative of Moldova stated that provisional measures were obtained by written application from the injured party or the public prosecutor to the court or the arbitration body requesting such measures. Provisional measures included: (i) order to the infringing party to stop the manufacture, reproduction, sale, rental, import, etc. of infringing objects until the court or the arbitration body had decided the case; (ii) seizure of infringing objects; (iii) seizure of materials and equipment used to produce the infringing objects; (iv) seizure of accounts and other documentation that could be used as evidence in the inquiry. Whether or not a provisional measure was granted depended on whether sufficient evidence of an infringement of an intellectual property right had been presented.

- **Any administrative procedures and remedies**

203. Some members of the Working Party asked for information on the administrative procedures and remedies available to holders of intellectual property rights. The representative to Moldova explained that Article 51 of the Code on Administrative Infringements provided for fines of 10-75 minimum salaries and confiscation of goods in cases of violation of an exclusive industrial rights. Article 152.2 of the same Code provided for a fine of 25 minimum salaries and confiscation of goods in cases of false utilisation of trademarks.

- **Any special border measures**

204. The representative of Moldova said that the adoption was foreseen of appropriate standards conceding the procedures allowing the right holder to request the competent customs authorities to withhold the release into circulation of materials which infringe on intellectual property rights.

205. In response to requests for more information, the representative of Moldova stated that at the present time no indication of the time-frame for adoption of provisions on border measures could be made. A draft law on border enforcement measures had been submitted to Parliament in the form of an amendment of the Customs Code.

- **Criminal procedures**

206. The representative of Moldova stated that articles 34 and 35 of the Law on Patents for Invention defined those acts that were subject to criminal and civil punishment in the form of imprisonment of up to two years (Article 34) with the possibility of paying a penalty instead of imprisonment, or only the penalty (Article 35) and also prescribing compensation for the damage caused to the right holder for profits lost and for the liquidation of the goods or transfer of them to the patent owner. Other measures were provided by the Law on the protection of Consumer right No. 1453 of May 25, 1993 as well as by the Articles of the Criminal code:

- 141 - infringement of inventor's rights;
- 158 - unlawful utilisation of trademarks;
- 122 - misappropriation of the owner's property by swindle;
- 220 - acquisition or sale of property obtained by crime;
- 200 - obstruction or damaging of posters, public declarations, notifications, advertisements of the Code concerning administrative infringements.

207. Some members of the Working Party asked for information on the criminal procedures and penalties applicable to the unlawful utilisation of trademarks, as provided by Article 158 of the Criminal Code. In response, the representative of Moldova said that the procedures in these cases were the same as for ordinary criminal offences.

208. Some members of the Working Party asked Moldova to describe the criminal procedures and penalties applicable to copyright piracy on a commercial scale. In response, the representative of

Moldova said that according to Article 38(12) of the Copyright Law, a person committing an intentional infringement of a copyright or neighbouring rights for gain and having caused considerable prejudice to the holder of the right was liable to a term of imprisonment of between one and three years or to a fine of between 100 and 1000 times the minimum wage or both.

209. The representative of Moldova stated that Moldova would fully apply the Agreement on Trade-related Aspects of Intellectual Property Rights from the date of accession to the WTO. The Working Party took note of this commitment.

VII. POLICIES AFFECTING TRADE IN SERVICES

210. The Government of Moldova provided the description of the services regime in the Memorandum on the Foreign Trade circulated in document WT/ACC/MOL/2. Moldova submitted the initial offer on services in document WT/ACC/SPEC/MOL/2/Rev.2.

211. In response to requests for information, the representative of Moldova said that only limited data were available on Moldova's services sector and its trade in services. Many services had remained largely unregulated, particularly in relation to any distinction between domestic and foreign supply. He said that the new Government Decision No. 859 dated 13 August 1998 On Regulation of Certain Types of Activities in the Republic of Moldova authorised the following bodies specified in the table below to issue the licences for engaging in certain types of activities. These licenses were issued only for engaging in the activities listed and did not establish any limitations on the quantities of products.

Institution	Activity
Ministry of Finance	Import and wholesale of alcohol beverages, Import and wholesale of tobacco products, Import and sale of petrol and diesel.
Ministry of Agriculture and Processing Industry	Import and trade of chemical and biological products and fertilizers for plants.
Department of Standards, Metrology and Technical Supervision.	Import, utilization, storing and sale of chemical reagents, liquefied gas and toxic chemical substances and with danger of deflagration, Import, export, production and utilization on the territory of Moldova of the ozone depleting substances, Import, deposit, exploitation and utilization of ionic radiation sources radioactive materials.

More generally Moldovan laws and regulations did not, for the most part, distinguish between trade in goods and services. The banking sector was open to foreign banks which were allowed to set up subsidiaries, branches or representative offices. Every bank, domestic or foreign-owned, which was

licensed in Moldova was allowed to engage in financial leasing (Article 26, Law on Financial Institutions No. 550-XIII of July 21 1995).

212. 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 from 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 a joint venture could not exceed 49 per cent. 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 Licences for Insurance Services" from 17 November 1995.

213. The representative of Moldova stated that the Law "On Banks and Banking Activities" No. 601-XII of June 12 1991 (with subsequent amendments) defined the banking system of Moldova as including the National Bank of Moldova, commercial banks and other credit institutions. The notion of credit institutions covers legal persons and individuals that were involved in banking transactions. In 1991 a two-tier banking system with the National Bank of Moldova serving as the central bank was established. The activity of the National Bank had been regulated by the Law "On the National Bank" No. 599XII of June 11 1991 (with amendments) and had been controlled by Parliament. Commercial banks duly licensed by the National Bank could open branches and regional offices throughout Moldova. The banking sector was open to foreign banks which were allowed to set up subsidiaries, branches or representative offices. In banking joint-ventures, the foreign partner had to be a bank which contributed its capital in foreign currency.

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

214. The representative of the Republic of Moldova stated that Moldova had concluded a number of bilateral and multilateral agreements which provide the legal framework for the development of trade and economic relations between Moldova and its partners. These agreements aimed at promoting, facilitating and developing commercial exchanges and economic co-operation, were based on the principles of equality and reciprocal advantage agreements and related to foreign trade in goods and/or services.

215. In response to requests for information, the representative of Moldova said that the Agreement of Partnership and Co-operation with the European Union had not yet been ratified by all members States of the European Union. The interim agreement did not contain any provisions with restrict Moldova's ability regarding market access and national treatment for goods and services. Furthermore, under the Textiles and Clothing Agreement with the EU, Moldova textile and clothing products could enter the European Union (EU) market without quota limitations. The Agreement also provided 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. The representative of Moldova confirmed, that this non-discriminatory treatment was also available to other WTO Members on a most-favoured-nation basis (Government Decision No. 689 of 8 November 1993, amended by Government Decision No. 421 of 20 June 1995).

216. The representative of Moldova informed the members of the Working Party that the preferential access for raw materials, including bottles and marked packages, in connection with inward and outward processing had been extended to all countries. The detailed regulations governing the import of raw materials in connection with inward and outward processing were set out in Annex 4 of the Government Decision No. 777 of 1997.

217. Some members of the Working Party recalled Article XXIV of the GATT 1994 permitted exceptions to Article I in the case of economic integration agreements provided that the conditions of Article XXIV and the respective Understanding were met. The members of the Working Party asked Moldova to ensure that a framework agreement towards the creation of a custom union with several CIS countries would be consistent with the WTO Agreement. In response, the representative of Moldova stated that the Government of Moldova supported economic integration within the CIS. It was Moldova's intention to ensure that the customs union and the steps leading to it would be in conformity with the provisions of Article XXIV of the GATT 1994. Moldova would provide information concerning all its agreements in the format used by the WTO Committee on Regional Trade Agreements.

218. Some members of the Working Party requested 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. In response the representative of Moldova stated that the information on the free trade agreements signed with CIS countries and Romania was under preparation. Some members of the Working Party also requested a schedule describing the state of all preferential agreements presently held by Moldova, and a description of their compatibility with the relevant provisions of the WTO Agreement. In response,

the representative of Moldova stated that the requested detailed information requested was under preparation.

[219. 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 its trade agreements, and would ensure the notification of the provisions of these agreements to the WTO. The Working Party took note of this commitment.]

TRANSPARENCY

- Publication of Information on Trade in goods and services

220. Some members of the Working Party requested the information concerning the special information facility outlined in Article 21 of the Law on Foreign Trade Activity. In response the representative of Moldova stated the special trade information facility outlined in Article 21 of the Law on Foreign Trade Activity had been activated within the Ministry of Economy and Reforms.

221. The representative of Moldova said that Moldova would implement the transparency requirements of Article X of the GATT 1994. All the relevant laws and regulations as described in Article X of the GATT 1994 would be published promptly in "Monitorul Oficial al Republicii Moldova" which was main publication for this purpose. Other decisions or regulations in specific areas were published in specialized newspapers or magazines. A general rule (according to the provision 76 of the Constitution of the Republic of Moldova) applied that no law, decision or regulation was enacted and implemented without prior publication.

222. Some members of the Working Party requested information on how Moldova would be able to fully apply the transparency requirements of the GATS, including GATS Article III. In response, the representative of Moldova stated that Governmental Decision No. 1104 of 28 November 1997 provided that all laws, governmental decisions and other legal documents would enter into force only after their publication thus ensuring compliance with Article III (1) of GATS. The information centre that would be established at the Ministry of Economy and Reforms could serve as a central GATS inquiry point. Other similar inquiry points would be established in other governmental institutions, such as the Ministry of Finance, National Bank, Ministry of Transport and Communications thus ensuring compliance with paragraphs 3 and 4 of Article III of GATS. In addition the representative of Moldova confirmed that it will undertake all necessary measures to ensure full application of other transparency requirements of the GATS, including GATS Article III.

- **Notification**

223. The representative of Moldova stated that Moldova would provide all initial notifications required by any Agreement constituting part of the WTO Agreement at the latest upon the entry into force of its Protocol of Accession. The Working Party took note of this commitment.

[Conclusions]

[224. The Working Party took note of the explanations and statements of Moldova concerning its foreign trade regime, as reflected in this report. The Working Party took note of the commitments given by Moldova in relation to certain specific matters which are reproduced in paragraphs [8, 13, 22, 24, 27, 42, 54, 56, [58], 65, [75], [83], 84, 88, 91, 98, 103, [112], [124], 130, 137, 140, 209, [219] and 223] of this Report. The Working Party took note that these commitments had been incorporated in paragraph 2 of the Protocol of Accession of Moldova to the WTO.]

[225. Having carried out the examination of the foreign trade regime of Moldova and in the light of the explanations, commitments and concessions made by the representative of Moldova, the Working Party reached the conclusion that Moldova be invited to accede to the Marrakesh Agreement Establishing the WTO under the provisions of Article XII. For this purpose, the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this report, and takes note of Moldova's Schedule of Specific Commitments on Services (document WT/ACC/MOL/.../Add.1) and its Schedule of Concessions and Commitments on Goods (document WT/ACC/MOL/.../Add.2) that are annexed to the Protocol. It is proposed that these texts be adopted by the General Council when it adopts the Report. When the Decision is adopted, the Protocol of Accession would be open for acceptance by Moldova which would become a Member thirty days after it accepts the said Protocol. The Working Party agreed, therefore, that it had completed its work concerning the negotiations for the accession of Moldova to the Marrakesh Agreement Establishing the WTO.]

[to be completed]

APPENDIX

ACCESSION OF MOLDOVA

Draft Decision

The General Council,

Having regard to the results of the negotiations directed towards the establishment of the terms of accession of the Republic of Moldova to the Marrakesh Agreement Establishing the World Trade Organization and having prepared a Protocol for the Accession of Moldova,

Decides, in accordance with Article XII of the Marrakesh Agreement Establishing the World Trade Organization, that the Republic of Moldova may accede to the Marrakesh Agreement Establishing the World Trade Organization on the terms set out in the said Protocol.

**PROTOCOL OF ACCESSION OF MOLDOVA
TO THE MARRAKESH AGREEMENT ESTABLISHING THE
WORLD TRADE ORGANIZATION**

Draft

The World Trade Organization (hereinafter referred to as the "WTO"), pursuant to the approval of the General Council of the WTO accorded under Article XII of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as "WTO Agreement"), and the Republic of Moldova (hereinafter referred to as "Moldova"),

Taking note of the Report of the Working Party on the Accession of Moldova to the WTO in document WT/ACC/MOL/.... (hereinafter referred to as the "Working Party Report"),

Having regard to the results of the negotiations on the accession of Moldova to the WTO,

Agree as follows:

Part I - General

1. Upon entry into force of this Protocol, Moldova accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.
2. The WTO Agreement to which Moldova accedes shall be the WTO Agreement as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of entry into force of this Protocol. This Protocol, which shall include the commitments referred to in paragraph [224] of the Working Party Report, shall be an integral part of the WTO Agreement.
3. Except as otherwise provided for in the paragraphs referred to in paragraph [224] of the Working Party Report, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with the entry into force of that Agreement shall be implemented by Moldova as if it had accepted that Agreement on the date of its entry into force.

4. Moldova may maintain a measure inconsistent with paragraph 1 of Article II of the GATS provided that such a measure is recorded in the list of Article II Exemptions annexed to this Protocol and meets the conditions of the Annex to the GATS on Article II Exemptions.

Part II - Schedules

5. The Schedules annexed to this Protocol shall become the schedule of Concessions and Commitments annexed to the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "GATT 1994") and the Schedule of Specific Commitments annexed to the General Agreement on Trade in Services (hereinafter referred to as "GATS") relating to Moldova. The staging of concessions and commitments listed in the Schedules shall be implemented as specified in the relevant parts of the respective Schedules.

6. For the purpose of the reference in paragraph 6(a) of Article II of the GATT 1994 to the date of that Agreement, the applicable date in respect of the Schedules of Concessions and Commitments annexed to this Protocol shall be the date of entry into force of this Protocol.

Part III - Final Provisions

7. This Protocol shall be open for acceptance, by signature or otherwise, by Moldova until

8. This Protocol shall enter into force on the thirtieth day following the day of its acceptance.

9. This Protocol shall be deposited with the Director-General of the WTO. The Director-General of the WTO shall promptly furnish a certified copy of this Protocol and a notification of acceptance thereto pursuant to paragraph 7 to each member of the WTO and Moldova.

10. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this ... day of one thousand nine hundred and ninety nine, in a single copy in the English, French and Spanish languages each text being authentic, except that a Schedule annexed hereto may specify that it is authentic in only one or more of these languages.

ANNEX

SCHEDULE – REPUBLIC OF MOLDOVA

Part I - Goods

[to be completed]

Part II - Services

[to be completed]
