

# WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/SPEC/MOL/4/Rev.2

20 October 1999

(99-4539)

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## Working Party on the Accession of Moldova

### DRAFT REPORT OF THE WORKING PARTY ON THE ACCESSION OF MOLDOVA

#### Revision

#### I. INTRODUCTION

1. The Government of Moldova applied for accession to the General Agreement on Tariffs and Trade (GATT 1947) in November 1993. 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 of Moldova 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, 19 July, and [ ] 1999 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 12-22). The Government of Moldova made available to the Working Party the following documents:

#### - **Laws and Resolutions**

- Law "On the Customs Code" - No. 1321-XII of 9 March 1993;
- Law "On Amendments to the Customs Code" - No. 44-XIII of 12 April 1994;
- Law "On Sanitary and Epidemiological Protection of the Population" - No.1513-XII of 16 June 1993;
- Law "On Foreign Investments" - No. 998-XII of 1 April 1992;
- Laws "On Amendments to the Law on Foreign Investments" - No. 197-XIII of 27 July 1994, No. 92-XIII of 11 May 1994, No. 321-XII of 13 December 1994;

- Law "On the Government " - No. 64-XII of 31 May 1990;
- Law "On Export and Import Regulation of Goods and Services" - No. 188-XII of 26 July 1990;
- Law "On Banks and Banking Activity" - No. 601-XII of 12 June 1991, which was abrogated through the Law "On Financial Institution";
- Law "On Financial Institution" – No.550-XIII of 21 July 1995;
- Law "On the National Bank of Moldova" - No. 599-XII of 11 June 1991 (with amendments);
- Law "On Foreign Economic Activity" – No. 849-XII of 3 January 1992;
- Law "On State Budget 1999;
- Law "On Licensing Certain Types of Activities" – No.332-XII of 26 March 1999;
- Law "On Cooperation" - No. 864-XII of 16 January 1992;
- Law "On Enterprises and Entrepreneurial Activity" - No. 845-XII of 3 January 1992 (with amendments);
- Law "On Insurance" - No. 1508-XII of 15 June 1993 (with amendments);
- Law "On Consumers Rights Security"- No. 1453-XII of 25 May 1993;
- Law "On Monopoly Activities Limitation and Development of Competition" - No.906-XII of 29 February 1992;
- Law "On Amendments to the Legislative Acts" - No. 51-XIII of 14 April 1994;
- Law "On Legal Status of Foreigners and Persons without Citizenship in the Republic, of Moldova" - No.276-XIII of 10 November 1994;
- Law "On Entry and Stay in the Republic of Moldova of Foreigners and Persons without Citizenship" – No. 269-XII of 9 November 1994;
- Law "On Excise tax" - No. 347-XII of 27 December 1994;
- Law "On VAT " - No. 264-XII of 9 December 1995;
- Law "On Audit" - No. 729-XIII of 15 February 1996;
- Law "On Rent"- No. 861-XII of 14 January 1992;
- Law "On Employment"- No. 878–XII of 16 January 1992;
- Law "On Accounting" - No. 426 of 4 April 1995;
- Law "On Trademarks and Appellations of Origin" - No. 588-XIII of 22 September 1995;
- Law "On Copyright and Neighboring Rights" – No. 293-XIII of 23 November 1994;
- Law "On Patents for Inventions" – No. 461-XIII of 18 May 1995;
- Law "On Standardization" – No. 590-XIII of 22 September 1995;
- Law "On Audiovisual Services" – No.603-XIII of 3 October 1995;
- Law "On Plant Variety Protection" – No. 915 of 11 July 1996;
- Law "On the Protection of Industrial Designs" – No. 991-XIII of 15 October 1996;
- Law "On Securities" – No.1427-XIII of 18 May 1993;
- Law "On Commercial Secrets" - No. 171-XIII of 6 July 1994;
- Law "On Bases of Tax System" – No.1198-XII of 17 November 1992;
- Law "On Profit Tax of the Enterprises" – No.1214-XII of 2 December 1992;
- Law "On the Road Fund" - No. 720-XIII of 2 February 1996;
- Law "On Customs Tariff" – No.1380-XIII of 20 November 1997;
- Law "On Budget 1998" – No. 1446-XII of 27 December 1997;
- Law "On Vineyard and Vine" - No. 131-XIII of 2 July 1994;
- Law "On Veterinary Activity" - No. 1538-XII of 23 June 1993;
- Law "On Privatization Programme for 1997-1998" - No. 1217-XIII of 25 June 1997, (amended by Laws No.1566-XIII of 26 February 1998; No.187-XIII of 6 November 1998; No.237-XIV of 23 December 1998; No. 239-XIV of 23 December 1998 and No. 253-XIV of 24 December 1998;
- Law "On Phytosanitary Quarantine" - No. 506-XIII of 22 June 1995;
- Law "On Government Procurement" - No. 1166-XII of 30 May 1997; and
- Law "On Free Enterprise Zone "Expo-Business-Chisinau" - No. 625-XIII of 3 November 1995, amended by 1517-XIII of 18 February 1998.

- **Law and Agreements on local authorities**
- Law On the Legal Status of Gagauzia (Gagauz-Yeri) - No. 344-XIII of 23 December 1994;
- Memorandum on the Basis for Normalization of Relations between the Republic of Moldova and Transnistria signed in Moscow on 8 May 1997;
- Agreement on the organizational basis of social-economical collaboration between the Republic of Moldova and Transnistria signed on 10 November 1997.
- **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**
- Governmental Decision No.740 of 2 November 1995 "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";
- Governmental Decision No. 371 of 6 June 1995 "On Improving the Mechanism of Regulating External Economic Relations";
- Governmental Decision 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)";
- Government Decision No. 859 of 13 August 1998 "On Licensing Certain Types of Activities", which was abrogated thorough the Law No.332 of 26 March 1999 "On Licensing Certain Types of Activities";
- Governmental Decision No. 1154 of 15 December 1997 "On Optimization of Control Services Activity at State Customs", amended by Governmental Decisions No.168 of 16 February 1998; No. 112 2 February 1999;
- Government Decision No. 760 of 10 November 1995 "On Production of Wine and Other Wine Products with Appellation of Origin";
- Government Decision No. 378 of 22 June 1998 "On Veterinary Statute of the Republic of Moldova";
- Government Decision No. 777 of 13 August 1998 "On Improving the Mechanism of Regulating Foreign Trade (Import Licensing)" amended by the Government Decision No. 76 of 22 January 1998 and Government Decision No. 716 of 30 June 1998;
- Government Decision No. 697 of 10 October 1995 "On Establishment of State Services of Phytosanitary Quarantine", with amendments;
- Penal Code Art. 141 "Violation of copyright", Art. 512 "Violation of property right on intellectual property";
- Governmental Decision No. 659 of 15 September 1994 "On Issue and Turnover of Bills";
- Governmental Decision No.719 of 23 September 1994 "On Ministry of Telecommunications and Informatics";
- Governmental Decision No. 363 of 25 June 1996 "On the Organization of Standardization and Metrology Activities";
- Governmental Decision No. 713 of 23 October 1995 "On the copyright owner's remuneration for the use of copyright and neighboring rights";
- Governmental Decision No. 494 of 17 July 1995 "On the establishment of a provisional National Register of Computer Software";

- Governmental Decision No. 524 of 24 July 1995 "On the administration on a collective basis of patrimonial rights of holders of neighboring rights";
  - Governmental Decision "On the accession to the World Convention on Copyright" (6 Sep. 1952);
  - Governmental Decision "On the accession to the Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Companies" (Rome 1961);
  - Governmental Decision "On the accession to the Bern Convention for the Protection of Literary and Artistic Works" (Paris Act 1971);
  - Governmental Decision No. 743 of 31 December 1996 "On 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 of the Ministry of Finance regarding 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;
  - List of goods for which certification is mandatory upon importation;
  - Conception of the Tax Reform;
  - Governmental Decision No.99 of 27 February 1996 "On Customs Valuation";
  - Governmental Decision No.658 of 20 September 1995 "On the Mechanism of Public Procurement";
  - Rules of the Ministry of Finance "On the Issue of Licenses 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 of 15 March 1995 "On the State Privatization Programme for 1995-1996";
  - Import Customs Tariff of the Republic of Moldova;
  - List of Internal and External State Guarantees; and
  - List of enterprises in which the State still owns over 25 per cent.
- Draft laws and regulations**
- Draft Law on Certification;
  - Draft Law on Anti-dumping, Countervailing Duties and Safeguard Measures;
  - Draft Amendment to the Law on Standardization No. 590-XII of 22 September 1995;
  - Draft Amendments to the Law on Consumer Rights Protection No. 153-XII of 25 May 19993;
  - Draft Law on Technical Barriers to Trade;
  - Draft Amendments to the Law on the Protection of Industrial Designs No. 991-XIII of 15 October 1996;
  - 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 of 10 October 1995 "On Supplement to the Statute of the State Services on Phytosanitary Quarantine".

- **Free Trade Agreements and other Agreements:**

- Armenia;
- Azerbaijan;
- Belarus;
- Kazakstan;
- Kyrgyz Republic;
- Romania;
- Russian Federation;
- Turkmenistan;
- Ukraine;
- Uzbekistan;
- Trade Agreement Between the Government of the Republic of Moldova and the Government of the Islamic Republic of Iran;
- Moldova-European Community Interim Agreement On Commerce and Commercial Affairs and Agreements for coal, steel and atomic energy;
- Agreement between the European Economic Community and the Republic of Moldova on Trade in Textile Products, initialed at Brussels on 14 May 1993

- **Introductory statements**

4. In an introductory statement, the representative of Moldova said that since the declaration of independence Moldova had vigorously pursued free market reforms within a democratic framework, notwithstanding political and economic difficulties. Fuller integration into the world economy and the continuing diversification of Moldova's economic relation with other countries were central objectives of the Government's reform efforts. The Government of Moldova believed that these objectives could only be attained through trade policies that emphasized specialization on the basis of international comparative advantage. It was for this reason that Moldova attached priority to its accession to WTO and wished to complete negotiations for membership at the earliest opportunity.

5. The representative of Moldova also 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 state 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 an average 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 Moldovan Leu (MDL), introduced in 1993, was approximately MDL 4.5 to the US dollar in May 1995. Following a period of stabilization in the first quarter of the 1999, the currency had again come under pressure in May/June depreciating steadily to around MDL 12 per US\$1, before recovering somewhat to around MDL 11 per US\$1 in early July 1999. The authorities were convinced of the appropriateness of a free, market-determined float exchange regime and remained committed to maintaining current international transactions free of any restrictions that could run counter to the obligations under Article VIII, sections 2, 3 and 4 of the IMF Articles of Agreement. However, this period was characterized 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 65 per cent against the US dollar. Nevertheless, the real and financial shock from the economic crisis in Russia and the region had continued to weigh heavily on the Moldovan economy as evidenced by a collapse of 45 per cent in exports in the first half of 1999.

6. 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**

7. 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 1999 over a similar period in 1998. Private agriculture was becoming increasingly important in Moldova, so was farming 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 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.

8. 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). 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.

9. 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. The economic growth had again turned negative in 1998, dropping by 8.5 per cent and stood at MDL 8,804 million, largely because of the severe impact on exports of the crisis in Russia. 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.

10. 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 drawing from 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 and Eurobonds (US\$7.45 million). The debt payment to Gazprom was missed.

11. 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 tranche 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 exchange rate of MDL 11 per 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 reserve 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 \$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 MDL against further pressure. Since reaching its low point in December 1998, the MDL 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 per US\$1. This made it evident that the MDL remained vulnerable to shocks, either due to debt crisis in Moldova or to further real depreciation in the currencies of its major trading partners.



12. 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.

- **Foreign exchange and payments systems**

13. In response to questions, the representative of Moldova informed that the national currency - the MDL - 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 authorized bank no later than 90 days from the date of the receipt of the money and no later than 180 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 authorized bank. Legal entities of any country could open accounts in Moldovan Leu without an authorization by the National Bank of Moldova.

14. 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. He said that Moldova would not impose or intensify any exchange restrictions, introduce or modify any multiple currency practices, conclude any bilateral payments agreements inconsistent with Article VIII of the IMF's Articles of Agreement, or introduce or intensify any import restrictions for balance of payments purposes.

- **Investment Regime**

**15.** 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 normative acts settling Activities of Foreign Investors are: a) Fundamental Law – Constitution of the Republic of Moldova adopted by the Parliament on July 29, 1994. According to the Article 126 of the Constitution, the state guaranties inviolability of investments from natural and juridical persons, including foreigners; b) Law No. 998-XII of 1 April 1992 “On Foreign Investment”, which settles involvement and protection of foreign investments, provides legal, structural and economic fundamentals for activities of foreign investors and enterprises in Moldova and offers tax and customs incentives precisely defined.

**16.** The representative of Moldova said that besides the legislation concerning foreign investments, companies with foreign capital and foreign investors were subject to legislation concerning relations with local natural and juridical persons and to international conventions norms of which one part is the Republic of Moldova and the other countries related to Moldova by agreements on investments mutual protection. The material values envisioned in Article 3 of the Law “On Foreign Investment”, in the form of contribution to the formation and enlargement of the public capital of the enterprise were tax exempt. If the tax exempted goods brought into the country by foreign investors as a contribution to the public capital were used for other purposes, the company had to pay entirely the customs duties within 3 years, including the appropriate interest rate, and at the expiration of this period of time, the customs duties were calculated at the residual value of goods. The right of enterprises with foreign capital to profit of custom facilities was confirmed by Articles 35-37 of the Law “On Foreign Investments”. He mentioned that actions stimulating foreign investments at the legal level provided a favorable climate: a) assets in the form of goods that are part of and are used for the increase of the company’s equity were exempted form customs duties; b) the company was exempted from customs duties for those goods (raw materials, semi-finished goods) that are imported to be used in export production; c) companies with foreign investments exceeding US\$250 thousand and with over 50 per cent of the net income generated form marketing own products enjoyed a 50 per cent of income tax for the first five years of operation; d) companies with foreign investments exceeding US\$1 million were exempted from income tax for the first three years, provided that at least 80 per cent of the calculated tax shall be invested in operation development; e) foreign investors were guaranteed repatriation of their own profits and capital. The above mentioned facilities covered the investments made prior to 1 January 2000. However, the application of these measures was hampered by the present economic crisis.

17. 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. 777 of 13 August 1998 “On Improving the Mechanism of Regulating Foreign Trade (Import Licensing)”), 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. 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 Law “On Financial Institutions”, Law “On Insurance” and Law “On Joint Stock Company”. The state body authorized by the Government of the Republic of Moldova, of their commercial and economic representations and associations carried out the registration of enterprises with foreign investments (with the exception of banks, their branches and representations). The registration of the banks with foreign investments, their branches and representations was carried out by the National Bank of Moldova. The manner and terms of registration are set up in a similar way as the one envisioned for the registration of national enterprises (Article 13 of the Law “On Foreign Investment”).

18. 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-monopoly 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.

19. 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 Article 39 of the Law “On Foreign Investment” guaranteed foreign investments form expropriation (nationalization, requisition or any other equivalent measure), except in case when such expropriation is carried out for an overriding public propose, on a non-discriminatory basis. In the event of expropriation of a foreign investment, the Law on Foreign Investment requires that a foreign investor be paid prompt, adequate and effective compensation. 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. The representative of Moldova said that the Parliament and the Government of Moldova had taken actions to attract foreign investments to the country aimed at creating a stable legal base and ensuring effective incentives, remissions and guarantees for foreign investors. The Constitution of the Republic of Moldova, the Foreign Investment Law and the bilateral agreements on promotion and protection of the investment, which Moldova had signed with other countries, designed a protective foreign investment regime. Since 9 June 1993 Moldova was a member of the Multilateral Investment Guarantee Agency (MIGA). A number of bilateral agreements on promotion and protection of investment had been signed with: Turkey, Poland, Germany, United States, China, Kuwait, Iran, Romania, Switzerland, Greece, Holland, Luxembourg, Finland, Hungary, Bulgaria, Great Britain, Czech Republic, Israel, France, Italy, Uzbekistan, Ukraine, Georgia, Russia and Belarus. These agreements intend to create and maintain favorable conditions for investments by investors in the territory of the Republic of Moldova and to intensify economic cooperation to the mutual benefit, as well as encourage investment between parties, primarily by guaranteeing national treatment, non-expropriation, and unrestricted transfers of investment funds from the investments.

- **State ownership and privatization**

20. **The representative of Moldova said that Moldova initiated its programme of on privatization in 1993 – 1994 adopted by Law no.1333 –XII from 12 March 1994. In the first two years, 577 large, medium and small size enterprises were privatized, along with about half the state buildings. Around 800 thousand citizens of the Republic of Moldova participated in this endeavor. As the programme was not completed in 1994, a further draft programme for privatization was presented for 1995-1996. This second phase contemplated a deeper privatization, including the comprehensive privatization for patrimonial shares; an increase in private property owners and importance of the private sector, restructuring of the economy, development of capital markets and infrastructure; a new system of organizing companies and other laws to protect owners rights. By 1996, this plan had achieved number objectives – circulation of the wealth accruing to privatization, creation of stock market and liberalization of real estate ownership. At the end of this period the private sector prevailed in the economy, accounting for 60 per cent of industrial production, 70 per cent of the services supplied in the retailed sales, the social services and 44 per cent of the bulk works in building and transports. Over 74 per cent of the total number of enterprises including 93 per cent of enterprises processing agricultural raw materials, 82 per cent of the light industry, 95 per cent of trade and social services have been privatized. Almost one million citizens owned private land.**

21. He further added that during the process of privatization, the citizens of the Republic of Moldova had been given free access to privatization directly or by intermediary of investment funds, fiduciary companies, created specially for this purpose (in total 53). With the contribution of these institutions there have been invested around 2/3 of patrimonial shares and a patrimony of value of more than MDL 1.2 billion had been privatized. Most recently, a system of republican bids was established with shares subscription which consisted of the Republican Center of Calculation, two centers of introduction of data, 115 points for collection of requests, placed uniformly on the territory of the Republic of Moldova. The system allowed the citizens to have free access to shares procurement ensuring the equilibrium between the request and offer of shares, a considerable saving of time and of financial resources from the part of organizers and participants at bids. In this way around 1.1 thousand enterprises, which constituted 90 per cent of all enterprises subject to privatization had been privatized.

22. The representative of Moldova said that the Law "On Privatization Programme for 1999-2000", extended the Privatization Programme for 1997-1998. The Privatization Programme 1999-2000 covered, **with limited exceptions**, all sectors and branches of the economy. Enterprises scheduled for total privatization were from the following industries: textiles and garments, electronics, machine building, chemical and furniture manufacture, leather goods, foodstuff and package producing enterprises, as well as hotels, shops, restaurants, stores, gas stations, cafeterias were. The representative of Moldova stated that there are no specific conditions for foreign investors concerning participation in privatization programme other than those applied for domestic investors. Foreign natural and legal persons were eligible to participate in the Privatization Programme. **In response to questions, the representative of Moldova noted that the Law did provide in Article 9 that certain types of firms could not be privatized, such as objects intended for keeping the State reserves values, mobilization reserves, wine factory deposits, and firms which constituted the national patrimony were not subject to privatization. Other sectors not subject to privatization included air and railway transportation, education system and health systems. He noted, however, that the Government of Moldova may at a later date decide to subject those sectors identified above to privatization.**

23. **In response to further questions concerning the distinction between "privatized firms" and "privatized objects", the representative of Moldova stated that privatized objects were assets previously attached to state owned enterprises, but unrelated to the core activity of the enterprises. Such objects - for example laundries, schools, recreation halls, bakeries, were privatized separately from the core parts of the state owned enterprise to which they had been attached. The privatized assets related to the core activities became privatized firms.**

24. **In response to questions from members of the Working Party**, the representative of Moldova stated that a special regime existed for **the privatization of** agricultural enterprises. Only employees of the former State-owned agricultural enterprises were eligible to participate in the privatization of agricultural enterprises. By 1 June 1999, 94 per cent of applicants had been issued with certificates for land ownership. Foreigners could purchase land except for agriculture land and forestry land. The Law "On normative price and procedure on sale and purchase of land covered the following: (a) sale and purchase of land, including of land associated with privatized objects or objects subject to privatization, as well as of land associated with unfinished constructions; (b) setting the state fee for sale and purchase (bequest, donation) of land; (c) exclusion of land from agricultural and forestry category, as well as from the agricultural cycle and allocation of such land to other categories; (c) forced alienation of land; (d) lease relations, (e) establishing the prices for land mortgaging.

25. **In response to further requests for information the representative of Moldova stated that another key structural measure involved the liquidation of the state farms and distribution of land to individual farmers. From a pilot project in 1997, the project nationwide had been expanded to almost 900 former state farms and aimed at completing the process by mid-2000. By end-June 1999, some 400 collective farms had entered into the privatization procedures and around 8 per cent of land titled. By end-1999 Moldova would process 600 farms, with at least 400 liquidated and individual titles issued representing 40 per cent of agricultural land.**

26. 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. The representative of Moldova said that Moldova was also taking steps to complete the privatization on telecommunication and major wineries.

27. **In response to further questions, the representative of Moldova stated that the status of privatization in the Republic of Moldova was set out in Tables 1 and 2 below.**

**Table 1**  
**Sectoral Privatisation Data Profile for 1993-1999**

Sector	Number of Objects approved for privatization	Number of Objects of State Property as of 01.08.1999	Percentage of Privatized Objects
Industry	1,521	1,431	94.08
Agriculture	3,085	2,761	89.50
Construction	441	403	91.38
Transport	419	402	95.94
Trade and Public Catering	180	164	91.11
Consumer Services	402	362	90.00
Other sectors	467	410	87.89
<b>TOTAL</b>	<b>6,515</b>	<b>5,933</b>	<b>91.06</b>

**Table 2**  
**Sectoral Privatisation Data Profile by Privatisation Modes for 1993-1999**

Sector	Privatisation Mode	Number of Privatized Objects
Industry	- Sale through patrimonial shares;	315
	- open outcry auctions with lowering or raising the initial price;	1,068
	- Privatized through individual projects;	3
	- Sale through investment tenders;	8
	- Combination of many methods.	37
Agriculture	- Sale through patrimonial shares;	644
	- open outcry auctions with lowering or raising the initial price;	2,038
	- Privatized through individual projects;	18
	- Sale through investment tenders;	3
	- Combination of many methods.	58
Construction	- Sale through patrimonial shares;	90
	- open outcry auctions with lowering or raising the initial price;	294
	- Privatized through individual projects;	0
	- Sale through investment tenders;	2
	- Combination of many methods.	17
Transport	- Sale through patrimonial shares;	94
	- open outcry auctions with lowering or raising the initial price;	288
	- Privatized through individual projects;	7
	- Sale through investment tenders;	0
	- Combination of many methods.	13

Sector	Privatisation Mode	Number of Privatized Objects
Trade and Public Catering	- Sale through patrimonial shares;	44
	- open outcry auctions with lowering or raising the initial price;	116
	- Privatized through individual projects;	0
	- Sale through investment tenders;	0
	- Combination of many methods.	4
Consumer Services	- Sale through patrimonial shares;	78
	- open outcry auctions with lowering or raising the initial price;	272
	- Privatized through individual projects;	0
	- Sale through investment tenders;	0
	- Combination of many methods.	12
Other sectors	- Sale through patrimonial shares;	78
	- open outcry auctions with lowering or raising the initial price;	321
	- Privatized through individual projects;	2
	- Sale through investment tenders;	2
	- Combination of many methods.	7
<b>TOTAL</b>		<b>5,933</b>

**Note: Subject to privatization:** property of enterprises, institutions, entities, associations, their structural subdivisions complex production units, objects from the Fund of uninhabitable buildings, unfinished constructions, dwellings, state-owned shares in companies privatized and to be privatized, as well as adjacent land of privatized and to be privatized companies, land plots of the garden cooperatives.

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

- **Pricing policy**

29. In response to further questions the representative of Moldova stated that before January 1998 the Government has established the prices and tariffs of energy. Starting with January 1998, tariff police on energy is promoted by the National Energy Regulatory Agency (NERA), which was created according to Governmental Decision No. 767 of 11 August 1997. NERA is a non-governmental, independent regulatory body, which activate in accordance with legislation of the Republic of



Moldova. The prerogatives, obligations and rights of the NERA are stipulated in the laws and governmental decision on electric power and gas. According to paragraph 6 of Governmental Decision No.767 of 11 August 1997, NERA had the following functions; issuance of licenses for activities related to producing, transportation, dispatching services, distribution, supplying, import and export of electric, thermal energy and natural gas; regulation of tariffs for the energy products and services; ensuring protection of energy consumers rights; promotion of competition on the energy market. NERA had the right to establish a methodology for calculation of costs and tariffs of energy by electroenergetic enterprises. The methodology was fixed for a three years period. The methodology is based on establishment of the basic tariffs as “ceiling price” with further adjustment of these tariffs, taking into account the imported prices of fuel, energy and natural gas, inflation, depreciation of national currency, modification of the supplied energy, as well as other factors, which directly influences the tariffs. The NERA made last adjustment of the energy tariff in June 1999. These tariffs completely covers the real cost of energy, which as approved by NERA had entered into force on 1 July 1999. 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. 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 3**  
**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

<b>Description of goods and services</b>	<b>Regulating public body</b>
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 4**  
**Nomenclature of goods and services for which a limited profitability was established**

	<b>Description of product</b>	<b>HS code</b>
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 4), 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 5**

	<b>Description of product</b>	<b>HS code</b>
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

30. The representative of Moldova confirmed that the price for goods and services in Moldova other than for the items listed in Tables 3-5 were not subject to State control, **and that Moldova was planning to reduce the number of price controls in the future.**

31. 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 "Monitorul Oficial" of the Republic of Moldova, including any changes in existing measures. **He also stated that his Government would review the current legislation and would reduce the incidence of price controls in its economy.** The Working Party took note of these commitments.

- **Competition Policy**

32. The representative of Moldova stated that the legal framework for anti-monopoly regulation was the Law No.906-XII of 29 February 1992 "On Monopoly Activities Limitation and the Development of Competition". This Law established the fundamental principles for regulating the activity of enterprises having a *de facto* monopoly and for supporting the development of competition.

33. The representative of Moldova added that as part of the implementation of the Law, a package of prudential requirements approved on 5 October 1993 (Governmental Decision 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.

34. 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 Ministry of Economy and

Reforms, Department of Antimonopoly and Competition. Businesses, regulatory authorities, consumers associations, trade unions or the Department of Antimonopoly and Competition could initiate proceedings 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 a unit in the Ministry of Economy to which foreign firms had access monitored competition. Moldovan Law allowed exclusive dealerships 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

35. 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. **The President of the Republic of Moldova was the guarantor of national sovereignty, independence, the unity and the territorial integrity of the nation. The President of the Republic was elected by freely-expressed, universal, equal, direct and secret ballot, with universal suffrage. His term of office was four years. Following consultation with the parliamentary majority, the President designated a candidate for the office of Prime Minister and makes use of the vote of confidence given him by Parliament to nominate the Government.** 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. The Government consists of a Prime Minister, a First vice-prime-minister, of ministers and other members, as determined by organic law. **A specific programme of activities approved by Parliament sets the guidelines which the Government uses in the exercise of its powers.** 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. **Parliament was the supreme representative body of the people and the sole legislative authority of the State in the Republic of Moldova. Parliament consisted of 101 members. The members of parliament were elected by freely-expressed, universal, equal, direct and secret ballot, with universal suffrage.** 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. The Supreme Court of Justice, the Court of Appeal, Tribunals (High Courts) and Courts of Law (Magistrates and County Courts) administered Justice. Except for the Supreme Court, the President on the basis of a proposition from a special Commission appointed judges. The members of the Supreme Court were appointed by Parliament.

36. 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 coordinated foreign economic policy and international co-operation. Responsibility for economic policy as a whole rested with the Ministry of Economy and Reforms included the implementation of the economic reforms undertaken in the framework of the transition to a market economy. 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.

37. 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 licenses 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 standardization 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 Copyrights.

38. The representative of Moldova said that the Law No.853-XIII of 29 May 1996 "On Reorganization of the judicial system", 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 No.970-XIII of 24 July 1996 "On Economic Courts" 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 hearing 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.

39. 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 No. 190-XIII of 19 July 1994 "On Petitioning" 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.

40. 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 economic courts examined the issue. 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.

41. In response to questions concerning the ratification of the WTO Agreement and Moldova's Protocol of Accession thereto, the representative of Moldova 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.

42. In response to requests for information on the status of draft and implementing legislation concerning the various WTO Agreements, the representative of Moldova presented in document WT/ACC/MOL/22 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. He confirmed that after ratification of the Protocol of Accession of Moldova to the WTO by the Moldovan Parliament and Moldova's accession to the WTO, the provisions of the WTO and Moldova's Protocol would supersede any domestic laws and regulations found to contradict them. According to the Article 8 of the Constitution, the Republic of Moldova pledged to respect the Charter of the United Nations and the treaties to which it is a party, to observe in her relations with other states the unanimously recognized principles and norms of international law. The coming into force of an international treaty containing provisions contrary to the Constitution shall be preceded by a

revision of the latter. In case those international agreements of which the Republic of Moldova is a part contain provisions in conflict with those listed in the this Law and normative acts adopted on this basis, the provisions of the international agreements are to be applied.

- **Authority of sub-central governments**

43. 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.

44. 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. The representative of Moldova confirmed that legal bases for settling the conflict represents the Memorandum, as well as the Agreement on the Organizational Basis of Social-Economic Collaboration, signed on 10 November 1997. Based on this Moldova was making every effort together with other interested countries to liquidate the consequences of the conflict. The activity displayed so far proved to ensure economic stability and compliance with Moldova's external obligations. In economic issues related to foreign trade commitments Moldova succeeded in finding common interest with the Transnistrian authorities. The representative of Moldova stated that Moldova had signed a special protocol on customs cooperation with the Transnistria region that foresees mutual elaboration of customs policy, exchange of statistics and facilitation of border measures.

45. In response to further questions, the representative of Moldova stated that the Law No. 344 of 23 December 1994 "On Special Judicial Statute of the Gagauz-Yeri" 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.

46. 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**

47. The representative of Moldova stated that the draft Law "On Foreign Trade Activity" would recognize formally the right to trade. Nevertheless pursuant to the Governmental Decision No. 777 of 13 August 1998 "On Improving the Mechanism of Regulating Foreign Trade (Import Licensing)", 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 difficulties.

48. 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. 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.

49. 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 only the Law No.332 of 26 March 1999 "On Licensing of Certain Types of Activities" establishes licensing system for some 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 Law "On Licensing of Certain Types of Activities" governed the procedures for issue and granting of licenses. Article 13 of the Law "On Licensing Certain Types of Activities" provides for detailed procedure in cases when an application for licence was refused. The applicant is informed within 3 days about the refusal to issue a licence following the date of adoption of such decision, indicating the reasons of rejection. The reasons to refuse the issue of a licence under the Article 13(2) are: (a) inauthentic or changed data, contained in the submitted documents; (b) irrelevant conditions or lack of conditions (technical, technological, sanitary-hygienic and ecological security of technological processes) necessary for performing concerned type of activity, listed in application; (c) previous withdrawn of licence for the same type of activity in cases of violations listed in the art.16 (c), (d) and (e) and (d) other conditions according to the legislation. In the case of liquidation of causes, for which had been refused the application for issue of the licence, the applicant may submit a new request. The decision of the Commission may be brought to courts in accordance with the established way.

50. 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 the table below, according to the Annex 2 of Law "On Licensing of Certain Types of Activities". The importation or exportation of products covered by activity licenses was subject only to requirements consistent with the WTO Agreement. The activity licenses enumerated in Annex 2 of Law "On Licensing of Certain Types of Activities" 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 "Monitorul Oficial" of the Republic of Moldova. The criteria for engaging in import and export trade in the restricted sectors were consistent with generally applicable restrictions placed on trade in similar domestically produced goods. The availability of activity licenses was not restricted nor was the licensing applied to restrict imports, the production, wholesale or retail trade in any product. The representative of Moldova stated that the list provided in Annex 2 to the Law "On Licensing of Certain Types of Activities" was exhaustive and its expansion to other activities would require additional legislation as stipulated in Article 2 (2) of that Law. **The list appears as Annex I to this Draft Report.**

**51. Some members of the Working Party noted that Annex 17 of the 1999 Budget Law provided for the collection of discriminatory fees in relation to the licensing of the activity storage or wholesale of imported alcoholic beverages. The fee was five times the level of the fee for the storage of domestically produced alcohol. Those members requested that this be brought into conformity with the requirements of Article III:4 of the GATT 1994. In response, the representative of Moldova acknowledged that the fees in relation to the licensing of the activity of storage or wholesale of imported alcoholic beverages were inconsistent with the requirements of Article III:4 of the GATT 1994. He noted that the current draft of the 2000 Budget Law had deleted references to "imported" or "domestic" when describing the fees for licensing the activity of storage or wholesale. Accordingly, the discriminatory fees would be eliminated from the Budget 2000 (which was expected to be enacted before the end of December 1999).**

52. 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 III:2 and 4 of the GATT 1994 and that it would also implement such laws and regulations in full conformity with these obligations. **He further confirmed that the 2000 Budget Law of the Republic of Moldova would bring all internal taxes or other internal charges, in particular those applied in relation to the licensing of the activity of storage or wholesale of**

**imported alcoholic beverages, into conformity with the requirements of the WTO Agreement.**

The Working Party took note of these commitments.

- **Customs Tariff**

a) **Ordinary customs duties**

53. The representative of Moldova said that the present import customs tariff of Moldova 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.

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

**Table 6**

**Specific Duties**

<b>Code</b>	<b>Description</b>	<b>Bound Rate of Duty</b>
2203	Malt beer	0.25 euro/l
2204	Natural wine, including strong wines; must of grapes other than in item 2009	0.5 euro/l
220510	Vermouths and other wines flavored with herb or other aromatic substances in containers holding 2litters or less	0.5 euro/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	0.15 euro/l
2207	Essential alcohol of 80 per cent or more; ethyl alcohol and other alcoholic drinks, of any concentrations	0, 5 euro/l
2208	Ethyl alcohol of up to 80 per cent:	0, 5 euro/l
2402	Leaf cigarettes, cigars made of tobacco or its substitutes	3euro/1000 pcs

**The representative of Moldova noted that specific duties were administered according to the the normal rules of customs procedures.**

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

**Table 7**

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.

56. 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**

**57. The representative of Moldova stated that in Moldova, at present, there were no tariff quotas. The Regulations with regard to the application of the customs tariff (Governmental Decision No. 689 of 8 November 1993 "On Customs Tariff") provided for complete exemption from duties for imports from members of the CIS and from Romania, as result of the free trade agreements signed with these countries, and for imports from countries classified by the United Nations as least developed.**

58. 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 "cooperation 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 a 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

59. The representative of the Republic of Moldova confirmed that the Republic of Moldova levied no duties and charges on imports other than ordinary customs duties. He further confirmed that the Moldova had bound other duties and charges within the meaning of Article II:1(b) of the GATT 1994 at zero in its Schedule of Concessions on Goods which is reproduced in Part I of the Annex to the Protocol of Accession.

60. The representative of Moldova confirmed that the “consular charges” applied by the foreign representatives and embassies of Moldova for performing consular actions and certifying or issuing documents with judicial importance were only applied to legal and natural persons of the Republic of Moldova. These consular charges were not required for the authentication of documents necessary to import goods into Moldova.

61. 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 this commitment.

- Fees and charges for services rendered

62. Some members of the Working Party asked whether Moldova levied other duties and charges, in particular any *ad valorem* customs fees. In response, the representative of Moldova said that Moldova stated that Moldova did apply an *ad valorem* customs user fee. Moldova would modify its customs system to remove the 0.25 per cent customs user fee and would introduce a flat fee reflecting the approximate cost of processing a customs declaration. The change to a flat fee was being included in the draft Law on Budget 2000. The customs user fee would be applied both to import and export operations and would reflect the approximate costs of the services rendered. In addition to basic administrative expenses related to the processing of imported or exported goods, other related costs such as statistical services would be taken into consideration, as well as the apportionment of the general costs related to improve basic customs infrastructure in order to facilitate movements of merchandise. Starting from 1 January 2000 the fee for customs procedures would be applied according to the methodology established by the Government of the Republic of Moldova. The revenues from the fee would be used to finance the Department of Customs Control activities on the basis of a expenditure-sheet approved by the Government.

**Table 8**

**Payment Rate for Customs Procedures**

Types of custom services	Rate in Euro
1. For the customs authorisation of goods with a customs value - Less than 50 - Between 50 and 1000 - More than 1000	3 5 0.25% of customs value but not more than 600 Euro
2. For the customs authorisation of imported or exported goods that must be returned to the country of origin - For each customs declaration - For each additional customs declaration sheet	30 15
3. For the authorisation of goods in the case of transit - For each customs declaration - for each additional customs declaration sheet	10 15
4. For the authorisation of goods to be transferred to/or from the bounded customs warehouse - for each customs declaration - for each additional customs declaration sheet	30 15
5. For the authorisation of goods, that are outside of zones of customs control (companies 'premises' ), or outside of established working hours (per hour of one customs officer 's time) -outside of customs control zones -outside of office hours, Saturday, Sunday - public holiday's	20 40 50
6. For the cancellation of ordered services, stipulated in point 5, which was not motivated in due time and written form	20
7. For the customs inspection of transport of individual use , if this transport is used for transportation of goods in under taxation quantities	10
8. To submit the certificate of transport registration of chassis and engine toc, introduced on the territory of the Republic, as well as temporary, that must be registered in the Ministry of Internal Affairs	5
9. For storage goods at customs warehouse, for one kilo per each day - For the first 10 days - For each of the following days	0.1 0.5
10. For the obligatory retention of goods to be left at custom, as mortgaged goods for each day of storage - For the first 10 days - for each of the following days	0.5% of the total price of goods 0.1% of the total price of goods
11. To submit the customs declarant certificate to each person with a right to fill in custom declaration for a year	150
12. To extend the valid period of the customs declarant certificate	100
13. Additional payment for issue of duplicate certificates by the declarant during the year	10

Types of custom services	Rate in Euro
14. To change the terms in custom declaration	0.1% of the customs value, but not more than 200 Euro
15. For the re-evaluation of the customs value, indicated in the Custom declaration at the request of the company in the cases stipulated in the legislation	1% in the customs value but not more than 500 Euro
16. For the escort of goods transported under the customs control	0.5 for 1 km within stipulated time and 1 Euro for exceeding the stipulated time
17. For applying of customs sealing devices and customs stamps	3 per piece
18. For presenting evidence that confirm export and import operation did by companies	10
19. For the customs authorisation of international mail sent by public at designated offices	0.4

63. The representative of Moldova confirmed that, from the date of accession, Moldova would not apply or reintroduce an *ad valorem* customs fee. Moldova confirmed that for import processing, fees would be applied in conformity with WTO obligations, especially 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.

- **Import surcharge**

64. 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 5 per cent *ad valorem* which applied to 700 tariff lines at four digit level. **The surcharge was applied only to those items to which Moldova applied a “zero” rate of customs duty. When the MFN duty rate was zero, the surcharge was applied on an MFN basis. When the duty rate was not zero, but a zero tariff was applied to imports from some countries under free trade agreements, the surcharge was applied only to imports originating in the countries participating in the free trade agreements. He confirmed that on 1 January 2000 Moldova would eliminate the import surcharge to ensure full application of the provisions of the WTO Agreement.**

65. The representative of Moldova said that Moldova did not apply at this time any other charges on goods than the above mentioned. He also said that after accession all duties and charges applied on imports other than ordinary customs duties and charges for services rendered would be in accordance with the WTO provisions. 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 these commitments.

- **Application of internal taxes on imports**

- **Value Added Tax**

66. 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 had brought the application of excise tax and VAT into conformity with the relevant WTO provisions. The only exception (Article 26) 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 1998 No. 216-XIV enacted on 12 December 1998 had brought the application of 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.

67. The representative of Moldova said that according to 1999 Budget Law, VAT exemptions were the following: billings for the energy sold to the public. Value added tax paid on purchased and sold energy to be consumed by the public was not included in its cost value and was assigned to settlements with the budget in the established manner; natural and liquefied gas both imported and sold in the territory of the Republic. Value added tax on the sales costs for this product was assigned to its cost value; precious metals and precious stones in any form and condition, including scrap and waste with precious metals and precious stones, and other related tangible assets purchased and sold by the State Repository of Valuables; works related to validation of land ownership; importation and sale of the plant-growing products in kind and stock-raising products in live weight or carcass weight by producers regardless of their ownership and legal form. Value added tax on production costs was



assigned to the cost value of such products; the goods manufactured in the medical labour shops under the psychiatric hospitals of the Ministry of Public Health in which disabled labour is used. Value added tax on costs for goods and services purchased for production of these goods was assigned to their cost value; 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; the raw materials, spare parts imported by the Association of Blind People, the products and the service offered by it (according to the list of enterprises and the catalogue of raw materials, spare parts, products and service offered by the Government), in case where the respective sources were not used for labour remuneration, but were directed to development of production.

68. The representative of Moldova further added that the VAT adherent to the expenditures for respective products was assigned to its value cost; the activities of drafting the texts, publishing and polygraph execution of books connected with areas of culture, education, and science (except for those with erotic character). The VAT adherent to expenditures connected with such activities was assigned to its value cost. 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 was 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.

69. The representative of Moldova confirmed that VAT application would be brought into full WTO conformity. The exemption from VAT of products from crop farming and animal husbandry in unprocessed form and on a live-weight basis did not extend to imports of similar products. The final text of the Law on Budget 1999 provided the same exemption in Article 26 (e) but this practice would be discontinued with the new Budget Law starting from 1 January 2000. The Working Party took note of this commitment.

- **Excise Tax**

70. **The representative of Moldova stated that the current system of excise taxation treated some imported and domestic products differently. Some members of the Working Party stated that although they welcomed the Moldova's recognition that the current excise tax system treated some domestic and imported products differently, which was inconsistent with Article III of the GATT 1994, they asked that the system be brought into conformity with that provision. In response, the representative of Moldova stated that the following excise tax rates proposed for the**

**draft Budget Law 2000 were in compliance with the WTO requirements.** He confirmed that the producers of the goods on a monthly basis paid the excise tax on domestically produced goods. 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 paying 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.

**Table 9****List of Excisable Products included in draft Budget Law 2000**

Code	Description of goods	Unit measure	Amount
0901	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion.	ton	1100 MLD
1604 20 101	other prepared or preserved fish of salmon	value in MLD	20%
1604 30	Caviar and caviar substitutes	value in MLD	30%
2203 00	Beer made from malt	litre	0.8 MLD
2204 10	Sparkling wine		
2204 10 110	Champagne	litre	1.2 MLD
2204 10 191	Classic sparkling wine	litre	1.2 MLD
2204 10 192	Natural sparkling wine	litre	1.2 MLD
2205 10 193	Carbonized sparkling wine	litre	1.0 MLD
2204 21	Other wine; grape must with fermentation prevented or arrested by the addition of alcohol in containers holding 2 l or less, other than position 2009:		
	-of an actual alcoholic strength by volume not exceeding 13%vol:	litre	0.6 MLD
	-of an actual alcoholic strength by volume exceeding 13%vol:	litre	0.7 MLD
2204 29	wine other than that referred to an subheading 2204 10, grape must with fermentation prevented or arrested by the addition of alcohol in containers exceeding 2 l other than position 2009:		
	-of an actual alcoholic strength by volume not exceeding 13%vol:	litre	0.6 MLD
	Of an actual alcoholic strength by volume exceeding 13%vol:	litre	0.7 MLD
2204 30	Musts other than positions 2204 21 and 2204 29	litre	0.6 MLD
2205	Vermouth and other wine of fresh grapes flavored with plants or aromatic substances.	litre	0.7 MLD
2206	Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included.	litre	0.5 MLD
2207 10 000	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol. or higher; except those used in pharmaceutical industry and medicine	alcohol litre absolute	0.09 MLD/% vol/litre

Code	Description of goods	Unit measure	Amount
2207 20 000	Ethyl alcohol and other spirits, denatured, of any strength	alcohol litre absolute	0,9 MLD/% vol/litre
2208 20	Spirits obtained by distilling grape wine or grape marc		
	- current consumption (not older than 6 years)	0,5 l	4 MLD
	- matured (from 6 to 10 years old)	0,5 l	10 MLD
	- old (more than 10 years)	0,5 l	30 MLD
2208 30	Whisky	alcohol litre absolute	0,9 leu% vol/litre
2208 40	Rum and tafia	alcohol litre absolute	0,9 leu% vol/litre
2208 50	Gin and Geneva	alcohol litre absolute	0,9 leu% vol/litre
2208 60	Vodka	alcohol litre absolute	0,9 leu% vol/litre
2208 70	Liqueurs	alcohol litre absolute	0,9 leu% vol/litre
2208 90	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol.; spirits, liqueurs and other spirituous beverages, except those from 220820-220870)	alcohol litre absolute	0,9 leu% vol/litre
2401	Unmanufactured tobacco; tobacco refuse.	ton	2000 MLD
2402 10 000	Cigars, cheroots and cigarillos, containing tobacco	1000 pieces	1000 MLD
2402 20	Cigarettes containing tobacco		
	- containing cloves	1000 pieces	7 MLD
	- others	1000 pieces	3 MLD
2402 90 000	Cigars, cheroots and cigarillos, containing tobacco, containing substitutes of tobacco	1000 pieces	5 MLD
2710 00 250	Petroleum oil	ton	120\$
	Gas oils		
27 100 061	For undergoing a specific process	ton	50\$
2710 00 65	For undergoing chemical transformation by a process other than those specific in respect of subheading 2710 00 61	ton	50\$
	For other purposes	ton	50\$
2710 00 66	With a sulphur content not exceeding 0,05% by weigh	ton	50\$
2710 00 67	With a sulphur content exceeding 0,05% by weigh but not exceeding 0,2% by weight	ton	50\$
2710 00 68	With a sulphur content exceeding 0,2% by weight	ton	50\$
3303 00 10	Perfumes	value in MLD	10%
3303 00 90	Toilet waters	value in MLD	5%
4303	Articles of apparel, clothing accessories and other articles of furskin	value in MLD	25%
7113 11 000	Articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal.	gram	3 MLD
7114 19 000	Articles of other precious metal, whether or not plated or clad with precious metal	gram	1,5 MLD
7114 20	Articles of base metal clad with precious metal	gram	20 MLD

Code	Description of goods	Unit measure	Amount
7116 20 110	Articles of precious or semi-precious stones natural, made wholly of natural precious or semi-precious stones	gram	40 MLD
8520	Magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device.	piece	19 Euro
8521	Video recording or reproducing apparatus, whether or not incorporating a video tuner.	piece	19 Euro
8525	Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras; still image video cameras and other video cam	piece	19 Euro
8528	Reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus; video monitors and video projectors.	piece	19 Euro
8703	Motor cars and other motor vehicles principally designed for the transport of persons, including station wagons and racing cars.		
8703 21	- of a cylinder capacity not exceeding 1,000 cc	cm <sup>3</sup>	1,5 MLD
8703 22	- of a cylinder capacity exceeding 1,000 cc but not exceeding 1,500 cc	cm <sup>3</sup>	2 MLD
8703 23	- of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc	cm <sup>3</sup>	3 MLD
8703 24	- of a cylinder capacity exceeding 3,000 cc	cm <sup>3</sup>	4 MLD
	Other vehicles, with compression-ignition internal combustible piston engine (diesel or semi-diesel)		
8703 31	- of a cylinder capacity not exceeding 1,500 cc	cm <sup>3</sup>	2 MLD
8703 32	- of a cylinder capacity exceeding 1,500 cc but not exceeding 2,500 cc	cm <sup>3</sup>	3 MLD
8703 33	- of a cylinder capacity exceeding 2,500 cm <sup>3</sup>	cm <sup>3</sup>	4 MLD
9403 10	Metal furniture of a kind used in offices	value in MLD	10%
9403 20	Other metallic furniture:	value in MLD	10%
9403 30	Wooden furniture of a kind used in offices	value in MLD	15%
9403 40	Wooden furniture of a kind used in the kitchen:	value in MLD	15%
9403 50 000	Wooden furniture of a kind used in the bedroom	value in MLD	15%
9403 60	Other wooden furniture	value in MLD	15%
9403 70	Furniture of plastics	value in MLD	7%

Notes:

- These excise tax rates were applicable to imported goods (products) and domestically manufactured goods (products) which were either exported to the CIS countries or sold at the domestic market. Excise taxes were not applicable when wine materials, wine in bulk and non-fermented tobacco were sold by a producer which possessed processing capacities and was a taxable subject of the Republic of Moldova;
- when excisable goods were sold in units other than specified for the purposes of excise tax, the volume was re-computed in the required unit and the established tax rate was applied. A similar procedure was applied to compute the excise tax on alcohol on the basis of the absolute alcohol content; and,

- paid excise taxes on procured alcohol, which was utilized in medicine, pharmacology and veterinary was offset against the Budget.

71. The representative of Moldova said that the exemption for the “Giuvaer” factory was introduced being the only producer of jewelry goods. Starting with 2000 this provision would be taken out from the Budget Law.

72. 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.

73. 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 2000 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. 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.

74. 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 take all necessary steps to bring its regime into conformity.

75. Concerning the application of the excise taxes, the representative of Moldova said that Moldova had signed bilateral agreements with Belarus, Kazakstan, Uzbekistan and Armenia that provided for the implementation of destination of excise taxes as well. Starting with the Law on Budget 2000 the application of excise taxes would be brought fully into conformity with WTO provisions with all countries.

76. The representative of Moldova confirmed that, from the date of accession, Moldova would apply its domestic taxes, including those on products listed in paragraphs **70-75** in strict compliance with Article III of the GATT 1994 **and in a non-discriminatory manner to imports regardless of country of origin**. The Working Party took note of this commitment.

- **Quantitative import restrictions**

77. 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 this Law. He added that Moldova would only apply import restrictions, quotas and restrictive import licensing in conformity with the relevant WTO provisions.

78. Some members of the Working Party noted that Article 12 of the Law "On Foreign Trade Activity" 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 is compatible with the provisions of Articles II, XI, and XIII. In response, the representative of Moldova stated that Article 10 of the Law "On Foreign Economic Activity" 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 Law “On Foreign Economic Activity” and were in compliance with Articles XX and XXI of 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 authorized body of public effected the administration and distribution of quotas and the issue of licenses. He further noted that Article 3 of the this 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 GATT 1994.

79. 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 Law “On Foreign Economic Activity” had been amended to delete all references to preferences.

80. The representative of Moldova said that at the present time Moldova had no quantitative import restrictions in place. **He confirmed that from the date of accession, the Republic of Moldova would not introduce or apply quantitative restrictions on imports and other restrictions having equivalent effect that could not be justified under the provisions of the WTO Agreements.**

- **Import licensing procedures**

81. 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.

82. Some members of the Working Party asked to whom an application for import license 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:

**Table 10****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)

**Table 11****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 reactive	3822, 38084	Protection of human, animal or plant life or health	Art. XX (b)



Product Group	HS-Code	Reason for licensing	GATT reference
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)

**Table 12**

**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)
Tools and devices for vet services	9018-9022	Protection of human, animal or plant life or health	Art. XX (b)

**Table 13**

**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)

83. 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 Governmental Decision No.777 that abolished the licence fee of 0.1 per cent.

84. The representative of Moldova noted that there were no fees related to the issuing of import licenses. Licenses were automatic. A license 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.

85. The representative of Moldova confirmed that from the date of accession, Moldova would not introduce, re-introduce or apply other non-tariff measures such as licensing, quotas, prohibitions, bans and other restrictions having equivalent effect that could not be justified under the provisions of the WTO Agreements. If balance-of-payment measures were ever necessary in the future, Moldova would impose them in a manner consistent with the relevant WTO provisions, including Article XII of the GATT 1994 and the Understanding on Balance-of-Payments Provisions of the GATT 1994. The Working Party took note of these commitments.

- **Customs valuation**

86. Some members of the Working Party noted that Governmental Decision No. 99 of 27 February 1996 "On Customs Valuation" 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..

87. 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.

88. 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 approving shortly by the Government and the Parliament.

89. 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 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 finalized new draft once it was ready.

90. 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.

91. Some members inquired 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. The representative of Moldova confirmed that upon accession to WTO the import reference prices and other minimum import valuation schemes would be eliminated. Thus, the Governmental Decision No. 1092 of 29 October 1997 "On the obligatory control of customs valuation for some imports goods" was valid until 1 January 2000. After accession Moldova assumed the obligation to respect all WTO provisions in this respect.

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

93. 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 after accession. The Working Party took note of these commitments.

- **Rules of origin**

94. Some members of the Working Party asked for confirmation that Moldova would adopt legal provisions for rules of origin that conform fully to 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.

95. 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. A valid, official certificate of origin constituted the proof. 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.

96. 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.

97. 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**

98. In response to questions from some members of the Working Party, the representative of Moldova said that, in order to implement provisions of the Law on Customs Tariff No 1380 – XIII of 20 November 1997 (Monitorul Oficial, 1998, No 40-41, page 286), and to improve the mechanism for customs valuation of goods, statistics, quality and conformity verification of the imported goods, the Government of the Republic of Moldova approved the Decision No.747 of 3 August 1999 “On introduction of the pre-shipment inspection for imported goods”. This Decision was applied to all pre-shipment inspection activities carried out on the territory of the Republic of Moldova contracted or mandated by the government or any government body. The Republic of Moldova would ensure that pre-shipment inspection activities were carried out in a non-discriminatory manner, and that the procedures and criteria employed in the conduct of these activities were objective and applied on an equal basis to all importers affected by such activities.

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

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

100. Some members of the Working Party requested that the Government of Moldova undertook 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 Law “On Foreign Trade Activity” which had been submitted to the Working Party in May 1997.

101. 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 Articles 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**

102. 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.

103. 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 modified Government Decision No. 777 of 1997 and abolished the licence fee of 0.1 per cent. The customs user fee is being replaced by a flat rate, which represented the approximate cost of the services rendered by the Customs Administration.

- **Export restrictions**

104. In response to questions, the representative of Moldova said that Moldova no longer maintained the temporary export restriction on unbolted wine intended to promote the quality image of Moldovan wine. Because the restriction had proved ineffective to achieve this objective it had been removed. The representative of Moldova said that if any of these policy instruments were introduced in the future, they would be fully consistent with the relevant WTO provisions.

- **Export licensing**

105. The representative of Moldova informed members of the Working Party that export licenses 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 licensing reproduced in paragraph [52] 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 fertilizers 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.

106. 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 licence fee had also been abolished too.

- **Export subsidies**

107. 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 be fully consistent with the relevant WTO provisions.

108. 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**

109. 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 organizations or bilateral co-operation programmes. No subsidies were granted to domestic industrial production. In 1999, Moldova had accorded the following tax exemptions:

- (i) Exemptions from payment of the income tax to the budget applied to:
  - medical labour shops under the psychiatric hospitals of the Ministry of Public Health in which disabled labour is used;
  - Republican Experimental Center for Prosthetic Appliances, Orthopedic, and Rehabilitation of the Ministry of Labour, Social Protection, and Family;
  - enterprises of penitentiary institutions provided they channel at least 70 per cent of their income on production expansion;
  - enterprises of the Association of Blind People, provided they use at least 70 per cent of the income for production expansion.
- (ii) income tax exemption applied to:
  - militaries, members of the command body, of the penitentiary system troops of the internal affairs bodies and of the Fire and Rescue Service of the Department for Civil Protection and Emergencies - on incomes received at the main job place. The personal allowance is transferable on spouses;
  - sportsmen and coaches, on financial aid provided by the International Olympic Committee;
  - individuals, on material assistance received from the President's Fund of the Republic of Moldova, reserves of the Government and local governments, and labour unions funds in conformity with provisions on such assistance.
- (iii) land tax exemptions applied to:
  - institutions funded from the state and local budgets, except for land plots used for business activity or leased;
  - enterprises of penitentiary institutions;
  - the enterprises of the Society of Blind People, Society of Deaf People, and the Society of Invalids.;
  - on land plots under housing and household plots within the set limits: a) persons who have reached the age of 60 for men and 55 for women, disabled persons of 1st and 2nd category, other persons incapable for work, disabled persons of 3rd category who



participated in the military actions to protect the territorial integrity and independence of the Republic of Moldova, actions in Afghanistan, and Chernobyl post-accident clean-up. These categories of individuals (except for the invalids of categories I and II) are exempt from tax provided there are no family members capable for work living with them. For the purposes of the above tax concessions, the category “other persons incapable for work” includes children up to 16 years old, compulsory-duty servicemen, full-time students of the educational institutions enrolled for a term of more than one year; b) families of the lost participants of military actions to protect the integrity and independence of the Republic of Moldova and persons they had supported; c) families of militaries that died during actions in Afghanistan and the persons that have been supported by them; d) families of persons that died as a result of participation in Chernobyl post-accident clean up and the persons that have been supported by them; e) families with invalid children; f) persons that suffered as a result of land gliding.

(iv) Real Estate Tax exemption applied to:

- institutions funded from the state and local budgets;
- enterprises of penitentiary institutions;
- enterprises of Associations of Blind People, Deaf People, and Invalids
- civil defense units;
- diplomatic representations - on real estate provided to them on a reciprocal basis without lease;
- religious organizations - on real estate designated for carrying out religious rites;
- Republican Experimental Center for Prosthetic Appliances, Orthopedic, and Rehabilitation of the Ministry of Labour, Social Protection, and Family;
- within the limit of the real estate cost up to MDL 20 thousand; a) persons who have reached the age of 60 for men and 55 for women, disabled persons of 1st and 2nd category, other persons incapable for work, disabled persons of 3rd category who participated in the military actions to protect the territorial integrity and independence of the Republic of Moldova, actions in Afghanistan, and Chernobyl post-accident clean-up. These categories of individuals (except for invalids of grade I and II) are exempt from tax provided there are no family members capable for work living with them. For the purposes of the above tax concessions, the category “other persons incapable for work” includes children up to 16 years old, compulsory-duty servicemen, full-time students of the institutions of learning enrolled for more than one year; b) families of the lost participants of military actions to protect the integrity and independence of the Republic of Moldova and persons they had supported; c) families of militaries that died during actions in Afghanistan and the persons that have been supported by them; d) families of persons that died as a result of participation in Chernobyl post-accident clean up and the persons that have been supported by them; e) families with invalid children; f) individuals that suffered from landslides; g) In case where the mentioned categories dispose of immovable property the cost of which exceeds MDL 20 thousand the real estate tax is paid out of the difference between the cost of the immovable property and the MDL 20 thousand.

- (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;
- (vi) Exemption from VAT, customs duties, and customs fees:
- goods (works, services) both imported and purchased in the territory of the Republic at the expense of credits and grants provided to the Government of the Republic of Moldova or under public guarantees, loans extended by the international financial organizations (including at the expense of the share of Government of the Republic of Moldova) for implementation of certain projects as set forth in the list approved by the Government. The value added tax paid by the domestic suppliers on the goods (works, services) they produce which are not subject to value added tax under this paragraph, is not assigned to settlements with the budget and is included in their cost value;
- (vii) Exemption from the VAT and custom duties:
- the imported passenger cars and at their further sale on internal market;
- (viii) Exemption from VAT, customs duties on equipment and other tangible assets imported for production purposes:
- company for development of natural resources "Redeco" Ltd (USA) under the concession agreement on prospecting and development of oil and gas resources;
- (ix) Exemption from VAT, customs duties, and customs fees:
- imported equipment and outfit received as a gift from the International Olympic Committee for preparation of the national Olympic team for participation in the Olympic Games in Sydney - the National Olympic Committee;
- (x) Exemption from custom duties, including for custom procedures on import of items necessary for statutory activities, received as donations from the Council of Europe - Center for Information and Documents of the Council of Europe in the Republic of Moldova;
- (xi) Exemption from value added tax on produced goods and services and fees for use of mineral resources:
- enterprises of penitentiary institutions. Value added tax on production costs of the goods and services is assigned to their cost value;

- (xii) Exemption from income tax on business activity payable to the budget, value added tax and fees for extraction of inert building materials:
  - joint stock company “Mina din Chisinau” provided the funds will be used to take measures against flooding of the dug wells;
- (xiii) Exemption from transfer to the budget of taxes and fees (except for the custom duties, including for custom procedures, VAT, and excises at import):
  - the enterprises of the State Association for Forestry “Moldsilva”, that would be accumulated on a special account of the State Treasury and will be used for regenerating, and protection of the forestry fund.

110. 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.

111. 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., state farms;
- (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.

112. 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 of that Law and the provisions governing such zones; (iii) agreements with the BERD, 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, 1999 Budget Law); 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.

113. The representative of Moldova stated that any subsidy programmes provided by its Government after accession would be administered in conformity 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 according to 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**

114. Some members of the Working Party asked Moldova to submit information of the measures being taken to meet the requirements of the TBT Agreement. Steps undertaken to ensure fulfillment 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. The elaboration of national standards was carried out by technical committees on standardization that consisted of specialists from interested parties. Moreover, newly developed standards are being harmonized with relevant international or European standards. All standards were revised every five years.

115. The representative of Moldova added that at present there were in force normative documents on standardization for the following products or product groups in Moldova:

**Table 13**

**The normative acts of standardization relating to Different Products/Product Areas**

Normative documents on standardization	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
Safety requirements as part of product standards	Broad range of non-food products
Norms and rules in construction	Construction and building activity
Norms and rules on labour safety	Services provided at the work place
Environmental protection norms, including radiation safety	General

From 20,000 regional standards GOST, available on the territory of the Republic of Moldova, Moldova really applied approximately 8,000 standards, and approximately only 2,000 standards are mandatory. The amendments to the Law on Standardization and draft Law on TBT stipulated that from 1 January 2002 the application of national standards would become voluntary. The application of a national standard will remain mandatory only where a reference for a Technical Regulation is provided. An authorized public authority may adopt a technical regulation, only in accordance with legitimate objectives listed by TBT Agreement. Until 1 January 2002 authorities from the Republic of Moldova will develop and make known the technical regulations, which comprise provisions from mandatory standards.

116. The representative of Moldova confirmed that Moldova would introduce voluntary standards to prepare for its accession to the WTO. Against a background of a difficult economic situation, the absence of other obligatory technical requirements, Moldova considered mandatory 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 harmonized over time through a process of periodic revisions. The following publications contained information on technical regulations, standards and procedures:

- "Buletinul Standartisarii" (published in Moldova every three months in Romania and Russian languages);
- "Monitorul Oficial" (published in Moldova monthly);
- "Buletinul Standardizarii" (published in Romania monthly in Romanian language);
- "Informaionnii Ucazateli Standartov" (published in Russian federation monthly in Russian language).

117. Some members of the Working Party requested information concerning certification procedures. In response, the representative of Moldova stated that product and service certification in the Republic of Moldova was carried out in the framework of the National Certification System, on

the base of the Law on Consumer Protection of the Republic of Moldova, Law on Standardization, Decision of the Government of the Republic of Moldova No. 414 of 13 June 1994, No. 696 of 9 October 1995 "On product certification in the Republic of Moldova", in concordance with ISO, ISO/CEI Guides, normative documents of National Certification System, harmonized with those enumerated. In conformity with General Procedure PG-01-05-92 mandatory and voluntary certification is carried out in the Republic of Moldova. Certification had mandatory character only for products or services, which can affect life, health, consumer's property and environment. These products or services were introduced in the Nomenclature of products and services subject to mandatory certification, approved by the Government of the Republic of Moldova.

118. The representative of Moldova said those certification procedures, testing methods and certification activities are the same for domestic and imported products, independent of the product's origin and property form of the applicant. Free access to all normative documents and certification procedures was guaranteed for all applicants of certification from Republic of Moldova and other countries. Single form certificates, defended with special signs were issued in National Certification System of the Republic of Moldova. Moldova recognized certificates of conformity, issued by national certification bodies with which bilateral or multilateral agreements of recognition were signed. Recently 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 each accredited body and approved by the Department of Standards, Metrology and Technical Supervision in conformity with the Moldovan Standard SM 45-2 "National Certification System of the Republic of Moldova Product certification".

119. The representative of Moldova said that currently, the certification regime in the Republic of Moldova was carried out by 22 certification bodies and 71 testing laboratories, accredited within National Certification System of the Republic of Moldova by National Accreditation Center in conformity with provisions of EN 45000 Standard. The Nomenclature of products-subject to mandatory certification include:

- Foodstuffs;
- Electronics;
- Products and technologies with high level of danger;
- Goods for children;
- Cosmetics products;
- Construction materials;
- Machines and equipment; and
- Furniture.

The services subject to mandatory certification included hotels, dry cleaning, motor-repair, audio and video repair, household electrical appliances repair services.

120. He further added that through their participation in the technical committees, domestic producers were being made aware of the contents of drafts on standards. Besides the national standards Moldova applied international standards (ISO, IEC), regional standards (GOST, EN), Romanian standards (STAS, SR). Moldova respects International Conventions requirements regulating the safety of chemical, toxic, 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 is 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 component part of certificates of conformity. The requirements related to hygienic certificates are specified in the technical regulations of the Ministry of Health. The State Inspections for Consumers' Rights Protection and products quality control performs quality control during the production process, storing and commercialization. Domestic products were subject to the same standards as foreign goods.

121. 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 are recognized currently in Moldova. Recognition by certification bodies of Moldova of the certificates issued in CIS countries and Romania are based under the bilateral agreements signed with these countries. Moldova is ready to start negotiation with other countries for recognition of certification procedures and conformity certificates. 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 harmonization of national standards with international and regional standards and with advanced national standards of other countries.

122. 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 concerned information in the document WT/ACC/MOL/16 and 19. The measures and the timeframe for taken by Moldova in order to bring national legislation into conformity with WTO provisions are described below:

**Table 14**

**Timeframe for bringing national legislation into conformity with WTO provisions**

	Measure	Description of measures	Implementation period
1.	Adoption of Draft law on standardization	<ul style="list-style-type: none"> <li>- provides rules for publication of the programme for developing standards;</li> <li>- provides for the consideration of appropriate international standards, guidelines and recommendations as a basis for technical regulations and conformity assessment procedures.</li> </ul>	December, 1999
2.	Adoption of Draft law on certification	<ul style="list-style-type: none"> <li>- provides for development and application conformity assessment procedures;</li> <li>- 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;</li> <li>- provides for non-discrimination with respect to the treatment of products and cost-based fee structure.</li> </ul>	March, 2000
3.	Adoption of Draft law on TBT	<ul style="list-style-type: none"> <li>- provides for compliance with the provisions of the Code of Good Practice for development and application of technical regulations, standards and conformity assessment procedures;</li> <li>- stipulates the avoidance of unnecessary obstacles to international trade and the consideration of less trade restrictive alternatives to fulfilling legitimate objectives;</li> <li>- provides for implementation and administration of the TBT Agreement;</li> <li>- provides for identification of the authority responsible for making notifications to WTO under TBT Agreement;</li> <li>- Provides for a reasonable period of time between the final publication of technical regulations and their entry into force so that supplier can adapt.</li> </ul>	December, 1999
4.	Adoption of the new Law on Protection of Consumers' Rights	<ul style="list-style-type: none"> <li>- insures the right of each consumer to instruction regarding his rights;</li> <li>- to be assured that goods purchased do not present a danger to his life and health or to the environment;</li> <li>- to secure compensation for quality-defective products and to compensation for any damages to his life and health resulting from such products.</li> </ul>	April, 2000
5.	Setting up and fully operation of the inquiry point	<ul style="list-style-type: none"> <li>- to be able to answer enquiries from WTO Members and interested parties as well as to provide the relevant documents regarding: technical regulations, standards and conformity assessment procedure;</li> <li>- is responsible for legal or administrative reasons for notification procedures required by the WTO Agreement.</li> </ul>	January-June, 2000



	Measure	Description of measures	Implementation period
6.	Accepting and Implementation of Code of Good Practice	<ul style="list-style-type: none"> <li>- Implementation of the terms and definitions for the purpose of TBT Agreement;</li> <li>- to ensure the ongoing compliance with provisions of the agreement concerning:               <ul style="list-style-type: none"> <li>a) Non-discrimination with respect to the treatment of products;</li> <li>b) the prohibition of unnecessary obstacles to international trade;</li> </ul> </li> <li>- the consideration of appropriate international standards, guides and recommendations as a basis for a standards;</li> <li>- non-discriminatory and cost -based fee structure.</li> </ul>	January, 2001
7.	Implementation of the Plan on development of voluntary standards	<ul style="list-style-type: none"> <li>- Provides for transformation from the mandatory standards into the Technical Regulation and Voluntary Standards, based on review that they are appropriate to achieve the desired legitimate objective;</li> <li>- development of legal documents for covering the regulated area.</li> </ul>	2000-2002
8.	Schedule of recognition of conformity assessment procedures	Schedule provides for intention of Moldova to signed bilateral agreements on mutual recognition or acceptance of the results of conformity assessment procedures.	During 2000

123. 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 Center for Standardization and Certification. The address was:

**28, Coca street,**  
**Chisinau**  
**Republic of Moldova**  
**Tel: (373-2) 74 87 92**  
**Fax: (373-2) 75-05-81**  
**E-mail: Moldovastandard@standart.mldnet.com**  
**Director: Mr. Keptene Pavel**

- **Sanitary and phytosanitary measures**

124. 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), Organization of International Epizootics, and the European Plant Protection Organization. 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 Organization of International Epizootics and was using its regulations. Moldova was not a member of the European Plant Protection Organization.

125. 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.

126. 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, in conformity with the requirements of the Republic of Moldova; (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 360 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) and the radioactivity of the livestock did not exceed 360 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.

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

**Table 15**  
**Overview of regulations, goods concerned and the competent authorities**

Rules	Goods/Objects	Competent Authority	Certificate Issued
Medico-Biological Requirements No.5061-89 1. 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	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)	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
Veterinary requirements (harmonized with International Epizootics Organization)	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:

- 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.

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

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 State Veterinary Inspectorate would inspect the lot and, if cleared, a veterinary health certificate was issued.

128. 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 hygiene certificates issued by recognized foreign bodies accompanied these.

129. 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.

130. 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. Taking samples and carrying out tests on these samples inspected imported goods.

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 taking samples and carrying out tests on these samples inspected every lot. When goods subject to veterinary requirements were unloaded (importation) or loaded (exportation) a representative of the State Veterinary Inspectorate had to be present.

131. 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, State Veterinary Inspectorate and State Sanitary-epidemiological Service should be addressed, in the first instance, to the head of the organization. In the second instance, the importer could file a lawsuit in the economic courts.

132. 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 the documents WT/ACC/MOL/17 and 20, Moldova in the following table:

**Table 16**

Measure	Description of measures	Implementation period
<p>Gov. Decision no. 967, Oct.10, 1995 establishing the Statutes of the State Phytosanitary Quarantine Service;</p> <p>Gov. Decision no. 816, Dec. 12, 1995 "On Sanitary-Epidemiological State Supervision Rules"</p> <p>Gov. Decision no. 378 establishing the Statute of the State Veterinary Service</p>	<p>Similar amendments have been introduced for implementation of SPS Agreement provisions in each of the specified in the first column.</p> <p>The amendments cover the following aspects:</p> <ul style="list-style-type: none"> <li>- Establishes the single inquiry point, which is setting up within Ministry of Health, responsible for supplying answers to all reasonable questions of WTO members, as well as to supply appropriate documents on: any phytosanitary regulation adopted or proposed on its territory; the procedures of determining the risk and the corresponding level of the phytosanitary protection;</li> <li>- Introduction of new standards, animal health regulations and food safety regulations in conformity with SPS Agreement principles;</li> <li>- measures are applied only to the extent necessary to protect human, animal or plant health;</li> <li>- identification of authority responsible for making notifications to the WTO and ensuring transparency obligations are met on an ongoing basis;</li> <li>- establish guidance or law requiring publication of proposed measures at an early stage for comment;</li> <li>- provision for a reasonable period of time for comment from Members and the public and establishment of a process to take comments into account without discrimination;</li> <li>- regulations governing animal and plant health and food safety shall based on scientific evidence;</li> <li>- follow up the international standards, guidelines, and recommendations in establishing SPS measures;</li> <li>- recognition of different measures that achieve the same level of protection;</li> <li>- developing scientific evidence and conducting risk assessments to ensure that measures are</li> </ul>	<p>January 2000</p>

Measure	Description of measures	Implementation period
	based on science and applied only to the extent necessary to protect health; - measures take into account the regional characteristics both of the areas from which products originate and the areas for which they are destined; - measures do not arbitrarily or unjustifiably discriminate between different members or between domestic and foreign suppliers; - implements the SPS provisions regarding control, inspection and approval procedures.	
Accession to the Committee on Plant Protection and	- adoption and ratification of the International Plant Protection Convention at Rome on 6 <sup>th</sup> of December 1951 which came into force on the 3 <sup>rd</sup> of April 1952; - accepting and implementation of the new revised text of the Convention, as approved by Resolution 12/97 of the Twenty-ninth Session of the FAO Conference in November 1997.	December, 2001

133. The representative of Moldova stated that Moldova would ensure the implementation both the TBT and SPS Agreements prior to accession and would apply internal legislation in conformity with the provisions of the WTO Agreements on TBT and SPS. In the elaboration of any legislation concerning such measures Moldova would ensure their full conformity with the relevant WTO provisions. The Working Party took note of this commitment.

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

134. 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. He stated that the Government of Moldova would ensure that any trade related investment measures were introduced in the future would be fully in conformity with the requirements of the WTO Agreement on TRIMs. The Working Party took note of this commitment.

- **State trading practices**

135. 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.

136. 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.

137. 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.

138. Some members of the Working Party noted that Article 14 of the Law "On Foreign Economic Activity" 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.

139. 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**

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

**Table 17**

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

141. So far, only two of these zones were operational - Expo-Business-Chisinau and "Tvardita". The Parliament and the Government of the Republic of Moldova established the "Expo-Business-Chisinau" Free Enterprise Zone (FEZ) (Law No.625-XIII of 3 November 1995). The legislation provides incentives, guarantees, and privileges for businesses established in the FEZ. The residents of FEZ may be foreign natural and legal persons as well as Moldovan legal entities established with foreign investment. The Administration of the FEZ on a competitive basis, with an account of the size and the kind of investment, type of activity and its compliance with the FEZ development directions register the residents of FEZ. The competitions were announced at the Administration's initiative as on the basis of applicant's projects. 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 ventures, foreign and foreign-owned - were allowed to operate in the free economic zones and take full advantage of the incentives available.

142. 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 licensed 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, they were exempt from customs duties for goods and items imported in the FEZ for final consumption; goods originated from FEZ and exported to the customs territory of the Moldova; goods produced in the FEZ and exported outside the territory of the Moldova. The income 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 income 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 is exported, and there were no domestic content requirements. Benefits were not conditioned on export performance or import substitution requirements.

143. **The representative of Moldova confirmed that in the administration of the free zones established within its territory, the free zones would be fully subject to the coverage of Moldova's commitments taken in its Protocol of Accession to the WTO Agreement, and that Moldova would ensure enforcement of its WTO obligations in those free zones. In addition, goods produced in the free zones under tax and tariff provisions that exempted imports and imported inputs from tariffs and certain taxes would be subject to normal customs formalities when entering the rest of Moldova, including the application of tariffs and taxes. The Working Party took note of these commitments.**

- **Government procurement**

144. 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 200 million.

145. The representative of Moldova stated that in accordance with the Moldovan procurement law (Article 5 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 of the Law on Government Procurement); restricted tendering (Article 21 of the Law on Government Procurement); specialized restricted tendering (Article 22 of the Law on Government Procurement); request for quotations (Article 23 of the Law on Government Procurement); and single-source procurement (Article 24 of the Law on Government Procurement).

146. 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 38 paragraph 6 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).

147. 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.

148. The representative of Moldova confirmed that upon accession to the WTO, Moldova would become an observer to the Agreement on Government Procurement and would initiate negotiations for membership in the Agreement by tabling an entity offer immediately after accession. He also confirmed that, if the results of the negotiations were satisfactory to the interests of Moldova and the other members of the Agreement, Moldova would complete negotiations for membership in the Agreement by 31 December 2000. The Working Party took note of these commitments.

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

149. 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**

150. Some members of the Working Party asked whether Moldova would accept the WTO Agreement on Trade in Civil Aircraft at the time of accession. In response, the representative of Moldova stated that his Government would consider the issue of joining the Plurilateral Trade Agreement on Trade in Civil Aircraft upon accession, but **confirmed that the Schedule of Concessions on Goods that is reproduced in Part I of the Annex to the Protocol of Accession establishes duty free treatment on the products used in the civil aircraft.**

151. The representative of Moldova stated that his Government would consider the issue of joining the Plurilateral Trade Agreement on Trade in Civil Aircraft upon accession. The Working Party took note of this commitment.

- **Transit**

152. 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**

153. 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.

154. 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**

155. The representative of Moldova said that Moldova granted no export credits, export credit guarantees, export credit insurance or other financial support or assistance was available for agricultural exports.

156. **The agriculture country schedule of Moldova, circulated in document WT/ACC/SPEC/MOL/1/Rev.5, has been incorporated in the corresponding section of the Goods Schedule of Moldova (WT/ACC/SPEC/MOL/4/Rev.2/Add.1).**

- **Textiles regime**

157. 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**

158. The representative of Moldova said that since the declaration of 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 owner's 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 Government in 1993 had implemented the protection of industrial property, the rights of owners of titles of protection and inventors on the basis of the Provisional Regulation No. 456 "On the Protection of Industrial Property in the Republic of Moldova" adopted. The titles of protection in Moldova are the following: patents for inventions; certificates of registration of industrial designs, trademarks and service marks, appellations of origin of goods and utility models. The Official Bulletin of Industrial Property (BOPI) provides information on inventions, designs and trademarks claimed and registered in Moldova, as well as on legal acts and regulations related to intellectual property.

159. The representative of Moldova presented to the Working Group with further information on the TRIPS regime in document WT/ACC/MOL/18.

160. The representative of Moldova stated that the Moldovan Parliament had ratified the following IPR Agreements: Strasbourg Agreement Concerning the International Patent Classification; Locarno Agreement on the Establishing of an International Classification for Industrial Designs; Vienna Agreement Establishing an International 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.

161. Some members of the Working Group 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**

162. The representative of Moldova stated that the of policy and strategy in the field of intellectual property protection are elaborated by the State Agency on Industrial Property Protection (AGEPI), established on May 25, 1992 by the Decree of the President of Moldova No. 120, and by the State Agency on Copyright and Neighboring Rights established on November 25, 1991 by Decree of the President of Moldova.

**c) Membership of international intellectual property conventions**

163. The representative of Moldova stated that the Republic of Moldova was party to the following conventions and treaties:

- Convention Establishing the World Intellectual Property Organization (WIPO);
- Paris Convention for the Protection of Industrial Property;
- Patent Cooperation Treaty (PCT);
- Madrid Agreement concerning International Registration of Marks;
- Hague Agreement concerning the International Deposit of Industrial Designs;
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure;
- Nairobi Treaty on the Protection of the Olympic Symbol;
- Trademark Law Treaty;
- Eurasian Patent Convention;
- UPOV;
- Lisbon Agreement of the Protection of Appellations of Origin and their International registration (1958);
- Protocol relating to the Madrid Agreement Concerning the International Registration of Marks (1989).

164. The representative of Moldova stated that in 1993 the Republic of Moldova had become a member of the Standing Committee on Information Technologies (SCIT) and Permanent Committee on Intellectual Property Cooperation for Development (PCIPD). The representatives of the State Agency on Industrial Property Protection actively participated in the works of WIPO Standing Committee on the Law of Patents and Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications. The Republic of Moldova was a member of the WIPO Coordination

Committee. In addition, AGEPI had concluded cooperation agreements with 35 Patent Offices throughout the world.

165. He further added that in the future, the Republic of Moldova intended to become party to the following international Agreements:

- Madrid Agreement for the Repression of False or Deceptive Indications of Sources on Goods;
- Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1958).
- New Act of the Hague Agreement concerning international registration of designs (Geneva, 1999)

Patent Law Treaty.

**c) Application of national and MFN treatment for foreign nationals**

166. The representative of Moldova stated that the principle of national treatment was applied with respect to intellectual property.

**e) Fees and taxes**

167. Fees for patents for inventions, utility models, industrial designs, trademarks, and appellations of origin of goods are liable to payment at the State Agency on Industrial Property Protection of the Republic of Moldova. General terms and amounts are regulated by the Governmental Decision No. 774 of 13 August 1997, the supplementary ones being subject to order No. 80 of August 28, 1997 of the General Director of the AGEPI. The schedules of fees for the intellectual property rights are listed in Annex I. of WT/ACC/MOL/4.

**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**

168. The representative of Moldova said that the Law on Copyright and Neighboring Rights No. 293-XII of November 23, 1994 governs copyright and neighboring rights, which entered into force on March 1, 1995. This Law provides protection for intellectual property rights related to literary, artistic and scientific works, expressed in a form that allows to be reproduced irrespectively of the form,



destination and value of each work, as well as the procedure of its reproduction. As creator, the author enjoys an exclusive copyright for his work. The copyright also includes the personal and economic rights of the author. The personal rights entitle 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 give 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 is defined as the right of the author or other copyright holder to realize, to allow or to prohibit the following activities: reproduction of the work, distribution, public demonstration of the work, translation. Copyright owners are entitled to prevent the rental of a copy of a work even after that particular copy has been sold and that sound recording producers have a similar right to prevent the rental of copies of the sound recordings, even after those copies have been sold.

169. He further added that audio-visual works, computer software, databases, phonograms and musical works and compilations of data are protected by the same Law (Articles 6 and 10). The Law entitles the holder of a copyright to the exclusive right to exploit his work in any form and by any means. The copyright on audio-visual works is conferred to: writer of scenario; director/producer; composer as the author of the music; cameraman; designer. The author of a priory created work, adapted or included without any changes within another audio-visual work, as part of this work, is considered co-author of the latter.

170. He noted that the producer of a phonogram had the exclusive right to use it in any form, including the right to obtain remuneration for its use, the right on reproduction, distribution of copies, modification or change, importation of copies of the phonogram with the purpose of broadcasting. Copyright may be transferred by means of a contract (Article 28). The performer of a phonogram had the exclusive right to allow or to prohibit the following activities: recording of an unrecorded performance, reproduction, transmission of the performance by radio-electronic means, cable or other means of communication, 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). Broadcasting organizations have the exclusive right to use phonograms in any form (Article 29). Foreign nationals enjoyed national treatment under that Law.

171. He further added that the Law of the Republic of Moldova on Copyright and Neighboring Rights No. 293-XII of November 1994 was compliant with the Provisions of the Articles 1 to 21 of the Bern Convention (1971) and the Appendix thereto as required by Article 9 of the TRIPS Agreement.

172. As to restrictions on the exclusive rights of copyright owners or owners of neighboring rights,

the representative of Moldova stated that the legislation of the Republic of Moldova contained detailed regulations on restrictions on the exclusive rights of copyright owners or owners of neighboring rights related to: reproduction of works for personal use; reprographic reproduction by libraries; free use of works; reproduction of computer programmes and computer databases (Chapter III, Articles 20-23). The Law on Copyright and Neighboring Rights provides protection of copyright and neighboring rights for a term of 50 years. Under Articles 17(9) and 33 of this Law, author's moral rights are protected without time limits.

173. In response to questions the representative of Moldova stated that under Article 8(4) of the Copyright Law, in the event of a dispute, the certificate of registration constituted a presumption of authorship for the court in the absence of proof to the contrary.

174. The representative of Moldova noted that under the legislation of the Republic of Moldova, copyright protection could not be restored for works that were in the public domain in Moldova prior to 31 December 1994. For works the period of protection of which was due to expire on 31 December 1994, the following adjustments were made: if the term of protection of the work of a foreign author used in the Republic of Moldova, is longer, under the laws of the country of the author, than the term under the present Article, the term of protection stipulated by this Law shall apply; if it is shorter, the term of protection stipulated by the laws of the country of the author shall apply (Article 17(12)).

175. He further noted that on January 28, 1998, the Republic of Moldova had ratified the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty adopted on December 20, 1996 by the Diplomatic Conference. By the Decision of the Government of the Republic of Moldova No. 524 of July 24, 1995, a four-year (1995-1998) period was established for the transition from the administrative system to a system of collective management of patrimonial rights of authors and owners of neighboring rights. According to this Decision, an Authors and Neighboring Rights Owners was set up with the State Agency on Copyrights of the Republic of Moldova 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 measures were undertaken for setting up a non-governmental organization to administer the patrimonial rights of the authors and neighboring rights owners on the basis of collective principles.

- **Trademarks, including service marks**

176. The representative of Moldova stated that under the Law on Trademarks and Appellations of Origin of Goods No. 588-XIII of September 22, 1995, a trademark was defined as a sign which served to distinguish the products or services of enterprise, legal persons or individuals from the similar products or services of other enterprises, legal or natural persons. There were two kinds of trademarks: collective marks and individual marks. A trademark could be: a) verbal, i.e. consisting of words, including forenames and surnames, of letters or of figures; b) figurative mark, in two or three dimensions; c) mixed mark, consisting of verbal and figurative elements. The trademark could be registered in black and white or in color. The certificate of registration was the title of protection for trademarks in the Republic of Moldova. The registration procedure was compliant with the provisions of international conventions. An application for the registration of a trademark and the enclosures was required to be filed with the State Agency of the Republic of Moldova. Actual use of a trademark was not be a condition for filing an application for registration or to maintain a registration. In conformity with Article 2(1) of the Law no.588/1995, the definition of trademark included product marks as well as service marks. According to the Law No. 588/1995, the enclosures of the application may be filed in any language other than the national, under the condition that a translation in the national language shall be filed within two months following the filing date. The registration of a trademark subsisted for 10 years as from the filing date of the application. The filing date of an application shall be considered the date on which the application and the bill of payment have been filed with the AGEPI. Any person may oppose the registration within 3 months following the date of publication of the notice concerning the application. Foreign legal and natural persons enjoy the same treatment as legal and natural persons resident in the Republic of Moldova, under the provisions of international conventions and treaties to which the Republic of Moldova was party.

177. He further noted that according to the legislation of the Republic of Moldova, individual colors as such as are not recognized as trademarks, but a color or a combination of colors of a word mark or a figurative mark are protected as part of a trademark (Articles 4 and 5). A color as part of a trademark is deemed identical to a color as part of another trademark if through a series of tests it was found similar to the point of confusion.

178. The representative of Moldova stated that according to Article 17 (1), any person may oppose the registration of a trademark or of an appellation of origin by the Appeals Board of the Agency on Industrial Property Protection (AGEPI), and where not satisfied by the decision of this Appeals Board, before a higher judicial authority. Cancellation of registration of a trademark may be required under Article 26 of the Law. The registration of a trademark may be cancelled at any time during its term of validity if it has been effected in infringement of this Law. Any person may submit to the Appeals Board

of the Agency a request for cancellation of a registration, for which this Law does not prescribe any time limits.

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

179. In response to questions, the representative of Moldova stated that under the Law on Trademarks and Appellation of Origin of Goods of the Republic of Moldova, an appellation of origin is defined as the designations - current or historical - of a country, a region, a locality used to designate a product whose natural properties derive essentially or exclusively from the natural or human factors specific to that geographical area. The appellation of origin may also be a word derived from the name of a country or an administrative or territorial-subdivision of such country. The certificate of registration is the title of protection of appellations of origin in Moldova. The right to receive titles of protection for the appellations of origin belongs to natural or legal persons conducting business activities in the corresponding geographical area. The application shall be filed in the national language. All parties conducting business activities in connection with the product associated with the appellation of origin shall apply separately for the certificate. The registration of an appellation of origin is valid for an unlimited term. An application for registration of an appellation of origin shall be filed with the State Agency on Industrial Property Protection of the Republic of Moldova.

180. He noted 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 are likely to mislead consumers as to the place of origin and special properties of the products shall also be prohibited (Article 22 (2)), Law on Trademarks and Appellations of Origin). Article 7 (2), (a) of this Law stipulates grounds for refusal to register a trademark or an appellation of origin in case they are deceitful or liable to mislead the consumer. The legislation of the Republic of Moldova provides additional protection for wines and spirits. However, special procedures for registering wines and spirits are established by the Governmental Decision No. 760 of 10 November 1995.

181. He also noted that under the legislation of the Republic of Moldova, geographical indications which were not literally true as to the territory, region or locality in which the goods originate, and falsely represent that goods originate in another territory shall be excluded from registration under Article 7(2), (a) of the Law on Trademarks and Appellations of Origin of the Republic of Moldova.

182. With reference to the introduction of specific provisions for the protection of geographical indications for wines and spirits, compliant with Article 23 of the TRIPS Agreement, the representative of Moldova stated that the Law on Trademarks and Appellations of Origin and the Governmental Decision No. 760 of November 10, 1995 were consistent with Article 23 of the TRIPS Agreement.

However, the Law on Trademarks would be provided with special provisions on the protection of geographical indications for wines and spirits.

- **Industrial designs**

183. In response to questions from Members of the Working Party, the representative of Moldova stated that under the Law on Protection of Industrial Designs no.991 of 1996, the novel outward appearance of an article with a utilitarian function may be registered as an industrial design. To register an industrial design an application shall be filed with the AGEPI. Foreign residents, both legal and natural persons, shall act through a patent attorney in matters related to the protection of their industrial design. The attorney's rights shall be confirmed by a power of attorney issued by the applicant. After filing, an application is subject to formal examination; publication; substantive examination, if requested. If no opposition has been filed against the decision to register the industrial design, or if any opposition filed have been rejected, an industrial design shall be subject to registration and grant of the certificate of registration. The registration of an industrial design may be effected either without substantive examination, under applicant's responsibility, or after substantive examination.

184. He added that under the Law on the Protection of Industrial Designs, the title of protection of the industrial design in the Republic of Moldova is the certificate of registration. The certificate of registration entitles the owner to the exclusive right to exploit the industrial design on the territory of Moldova as well as to the right to allow or to prohibit third parties to carry out without authorization the following activities: manufacture, use, importation, exportation, offering for sale and any other form of marketing other holding for that purpose of an article produced using the registered industrial design. Protection is valid for five years from the date of the filing of application with the AGEPI and may be renewed four times for consecutive periods of five years, against payment of the prescribed fee in the fifth year of the current period of validity.

185. The representative of Moldova further added that the criteria for protection of an industrial design include the independent creation of an industrial design as well as the condition of being new and original. In order to be protected industrial designs shall be different from known designs or combinations of known design features (Articles 4 and 6(1) of the Law on the Protection of Industrial Designs). Textile designs enjoy the same protection as industrial designs i.e., they may be registered as a design or industrial model if they possess a new appearance and a utilitarian function.

- **Patents**

186. The representative of Moldova informed members of the Working Party that according to the Law on Patents for Inventions no. 461-XII of May 18, 1995, a patent for invention may be granted for

an invention which may concern a new product or process or the use of a known product or process for new purposes. For the purpose of the Patent Law, "product" shall mean equipment, substance, and microorganisms. At present, in the Republic of Moldova new animal breeds were protected under the Law on Breed Protection no. 412-XIV/1999.

187. The representative of Moldova noted that the following could not be regarded as inventions:

- scientific theories and mathematical methods;
- conventional signs, timetables and rules ;
- methods for performing mental acts;
- organizational methods for doing business;
- algorithms and computer programmes .
- projects and plans for buildings and constructions and for territorial planning;
- projects of an aesthetic nature (designs);
- topographies of integrated circuits;
- plant or animal varieties.
- Patents shall not be issued for inventions contrary to public policy and morality.

The priority date of the inventions was determined by the filing date of the application. An application shall contain the following documents: (a) a request for the grant of a patent, including identification of the inventor or inventors, of the applicant or applicants or of the person or persons on whose behalf the patent is sought; (b) a description of the invention disclosing it in a manner sufficiently clear and complete for it to be carried out; (c) one or more claims defining the subject matter of the invention and entirely supported by the description; (d) drawing and other elements, where necessary to understand the subject matter of the invention.

188. He noted that applications were required to be accompanied by: (a) an abstract; (b) proof of payment of the prescribed fee or of circumstances justifying exemption from the fee or a reduction in the fee; (c) an authorization, if the application is filed by a professional representative; (d) any document necessary to prove the priority of the invention.

189. He further noted that the application documents were required to be filed in the national language. With the exception of the request, the application documents may be filed in one of the following international languages of communication: English, French, German and Russian. In such case, a translation into the national language shall be submitted to the Agency within two months following the filing date of the application. AGEPI is authorized to grant patents without substantive examination under the applicant's responsibility. Applicants have the possibility to request the substantive examination, provided that the respective fees are paid during the validity of the period of the patent. In Moldova the patent for invention is valid for 20 years. The owner shall pay an annual fee for maintenance of his patent in force during all period of validity of the patent. The extent of the legal protection conferred by the patent shall be determined by the terms of the claims. The description and drawings shall serve solely to interpret the claims.

190. The representative of Moldova stated that a patent owner enjoyed an exclusive right in the invention protected by the patent, including the exploit the invention, insofar as such exploitation does not prejudice the rights of other patent owners, the right to dispose of the patent and the right to prohibit others from exploiting the invention protected by the patent without his authorization (Article 22(1), Law on Patents for Invention). Under the legislation of the Republic of Moldova there are no conditions to compulsory working a patent. In civil infringement proceedings involving process patents, TRIPS Article 32 provides that judicial authorities have the authority to order the defendant to prove that the process to obtain an identical product is different from the patented process.

191. He added that in the event of failure to work an invention or to work sufficiently by the patent owner during the three years that follow the date of grant of the patent, any person wishing to exploit the invention and prepared to do so may, if the patent owner has refused to conclude with him a licensing contract, submit to a court or arbitration tribunal a request for the grant of a non-exclusive compulsory licence. In the interest of national security, the Government may authorize exploitation of an invention by another person without the consent of the patent owner against payment to the latter of an appropriate monetary compensation. In the event of disagreement as to the amount of the monetary compensation, the patent owner may institute legal proceedings (Article 33 (1), (4)). Under the legislation of the Republic of Moldova, processes enjoy the same protection as products. Necessary amendments to the Laws in the field of industrial property protection have been elaborated, in compliance with the provisions of Article 31 of the TRIPS Agreement to permit issuing of a compulsory licence in certain narrowly defined circumstances. If such a licence is issued, the Agency is required to take steps to inform the patent holder on the decision concerning the grant of a non-exclusive compulsory licence; the Agency is also required to enter 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 have been entered in the National Patent Register. If the holder of a non-exclusive compulsory licence fails to use the licence within the year following the grant of the licence, the non-exclusive compulsory licence may be cancelled. **Importation qualified as use for the purposes of determining whether the invention had been used with regard to provisions on compulsory licensing and government use.**

192. The representative of Moldova stated that the legislation of the Republic of Moldova did not contain any provisions corresponding to Article 34 of TRIPS, however, certain amendments are being prepared to adjust the legislation prior its accession to WTO. Article 23 paragraph 1(c) of the Law on Patents for Inventions from the Draft Law for amending various Laws are harmonized with the provisions of Article 34 of the TRIPS, and namely: “When assessing cases of infringement of the rights of the owner, if the subject matter of a patent is a process for obtaining a product, the judicial authority shall require the defendant to prove that the process to obtain an identical product is different form the

patented process; any identical product when produced without the consent of the patent owner shall, in the absence of proof to the contrary, be deemed to have been obtained by the patented process; if the product obtained by the patented process is new or if there is a substantial likelihood that the identical product was made by the process and the owner of the patent has been unable through reasonable efforts to determine the process actually used.”

- **Plant variety protection**

193. In response to questions from Members of the Working Party, the representative of Moldova stated that the Law on Plant Varieties, which entered into force on 28 November 1996, regulated the protection of Plant Varieties in the Republic of Moldova. Subsequently, the "Provisional Statute of Industrial Property Protection in Moldova" was abrogated. The Law provided special protection for plant varieties. Protection is granted on the basis of certificates issued by the State Commission for Variety Testing of the Republic of Moldova, and the patent granted by the State Agency on Industrial Property Protection. The term of protection is 25 years for trees, fruit trees and – grapevine and 20 years for plant varieties and other species, with the possible extension for another ten years. The Law provides the exclusive rights of exploitation to the patentee which are listed in Article 13 (Law on Plant Variety Protection). Moldova has also become a member of UPOV.

- **Topographies of integrated circuits**

194. The representative of Moldova noted that pursuant to the Draft Law for amending various Laws, protection was granted only for genuine topographies and not for ideas, processes, systems, technology or coded information which may be embodied in topographies. Registration is made without substantive examination. The certificate is valid for ten years.

195. The representative of Moldova said that presently there were no provisions governing topographies of integrated circuits. A Draft Law on Topographies of Integrated Circuits, which complies with relevant international agreements had been elaborated and was submitted to members of the Working Party.

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

196. The representative of Moldova stated that trade secrets were protected under the Law on the Protection of the Trade Secret, No. 171 adopted by Parliament on June 6 1994. Any information is considered a commercial secret if: (i) it has real or potential value to the economic agent; (ii) access to it is restricted; (iii) is marked, by stamp or otherwise as confidential; (iv) is not covered by the provisions of copyright or patents. Special provisions are applied for state secrets and matters of national interest.



Trade secrets are protected as long as they meet the above - mentioned criteria. This Law contains no limitations on the protection and no compulsory licensing provisions.

197. He further added that although the Law on Trade Secret also protects unrecorded undisclosed information, Moldovan authorities responsible for licensing intellectual property shall generally require that confidential information submitted in connection with the application for licenses, registration certificates, etc., is recorded and marked for purposes of clarity.

198. He noted that marketing of pharmaceuticals and agricultural chemical products, which utilized new chemical entities without registration of intellectual property rights, were only subject to approval by the Ministry of Health or the Ministry of Agriculture, respectively. Moldovan legislation does not require the submission of undisclosed test or other data as a condition of approving the marketing of products in question, but if the importer requires protection of undisclosed information, the Ministry of Health or the Ministry of Agriculture provide such protection according to the legislation in force. In order to import and sell agricultural chemicals in Moldova, an importer has to obtain an import licence and a hygiene or conformity certificate. For the importation of pharmaceuticals, Moldovan legislation requires an import licence. In addition, pharmaceuticals to be imported shall be registered. The National Pharmaceutical Institute of the Ministry of Health has issued an information leaflet for foreign producers describing in detail the registration procedures.

- **Other categories of intellectual property**

199. The representative of Moldova stated that Moldovan law recognized utility models if they concern the constructive execution of means of production and of consumer goods or their component parts and if they are novel and are susceptible of industrial application. The certificate of registration is the title of protection of a utility model. The utility model application shall be filed with the AGEPI and it shall contain the following documents: a request with information concerning the applicant (inventor), or his successor in title; description; claims; drawing and graphics, if necessary. These documents ensure the priority rights of the application from the date of filing of the application with the AGEPI.

200. He added that in case of refusal, a patent application could be converted into a utility model application with an initial priority date. In this case, the applicant shall, after 3 months from the decision of refusal but not later than 4 years from the filing date of the application, file a request for utility model registration for the same object with 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 is possible up to the acceptance prior to the decision for utility model registration. In this case the priority date shall be the date of the initial deposit. The certificate is valid for five years from the filing date.

### 3. **Measures to Control Abuse of Intellectual Property Rights**

201. In response to questions, the representative of Moldova stated that enforcement proceedings were stipulated under existing Moldovan laws and allow effective action against infringement on intellectual property rights. The initiative for action against infringement is up to the holder of the property right. The Customs Control Service is empowered to hold back copies of works and phonograms introduced or taken out without licence. Provisions for special measures by customs concerning the infringement of right of intellectual property rights are in the elaboration stage.

### 4. **Enforcement**

#### - **Civil judicial procedures and remedies**

202. The representative of Moldova informed members of the Working Party that legislation in force provides the possibility to pursue infringements on intellectual property rights and regulates the adduction of proof. The principles of competition and guilt are applied. The Republic of Moldova has a Court system in which the competence of tribunals depends on the type of dispute to be considered. Contesting parties have the possibility to solve disputes by recourse to the services of arbiters, one is permanently available with the AGEPI.

203. He noted that whilst civil legislation of the Republic of Moldova contains general provisions on property rights, specific provisions relating to the protection of intellectual property rights are contained in the laws in the field of intellectual property rights.

204. He further noted that intellectual Property Rights litigation and disputes are solved in the Republic of Moldova, depending on particular cases, in the following judicial authorities: (i) ordinary courts, against whose judgments appeals could be submitted to the Court of Appeals and ultimately to the Supreme Court of the Republic of Moldova; (ii) Economic Court, where appeals may be submitted to the Economic Appeals Court and ultimately to the Supreme Court of Justice of the Republic of Moldova.

205. The representative of Moldova stated that when a right-holder considers that his intellectual property rights have been injured he may initiate a civil, penal or administrative suit in the court. In cases of fraud or similar cases the public prosecutor may also initiate a separate case under the Penal Code of Moldova. The same rules on evidence governing civil litigation in Moldova apply to intellectual property right cases. The person found guilty of an infringement may be ordered to pay a fine, damages or compensation. Eventually, the injured may also request that the goods or the equipment used to

produce the goods concerned be destroyed or rendered incapable of the use which infringed his rights (see Article 25, Trademark Law).

206. He added 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 shall be prohibited from use with that purpose. Stocks of infringing signs reproducing the trademark or appellation of origin shall be destroyed and trademarks or appellations unlawfully affixed to products shall be removed, even if that led to the destruction of the products. In accordance with Article 25 (2) of the Law on Trademarks and Appellations of Origin, 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 include the seizure of infringing copies of works or phonograms or the materials and the equipment used for their manufacture and reproduction. Article 51(3) of the Code on Administrative Contravention provides fines of 10-75 times the minimum salary and confiscation of goods illegally acquired. In addition, Article 38(8) of the Copyright Law provides for confiscation of the goods involved. The present legislation establishes 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 Contravention Code and Article 141 of the Criminal Code.

- **Provisional measures**

207. The representative of Moldova informed members of the Working Party that according to present legislation, respectively Chapter 13, Articles 135-142 of the Civil Procedure Code, 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 rights 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.. Appeals may 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 is permitted.

208. He also noted that provisional measures are obtained by written application from the injured party or the public prosecutor to the court or the arbitration body requesting such measures. Provisional measures include: (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 has 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 may be used as evidence in the inquiry.

- **Any administrative procedures and remedies**

209. In response to questions from members of the Working Party, the representative of Moldova stated that Article 51(3) of the Code on Administrative Contravention provides for fines of 10-75 minimum salaries and confiscation of goods in cases of violation of an exclusive industrial right. Article 152(2) of the same Code provides fine of 15 to 25 minimum salaries and confiscation of goods in cases of false utilization of trademarks.

- **Any special border measures**

210. The representative of Moldova stated that adoption of appropriate standards was foreseen concerning the procedures allowing the right holder to request the competent customs authorities to withhold the release into circulation of materials, which infringe the intellectual property rights.

211. 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 may be made. A draft law on border enforcement measures has been submitted to Parliament in the form of an amendment of the Customs Code. Presently, a new Customs Code is being drawn up. At the moment of its adoption, the aforementioned Governmental Decision shall be abrogated.

- **Criminal procedures**

212. The representative of Moldova noted that Articles 34 and 35 of the Law on Patents for Invention define the acts that are subject to Penal and Civil Code in the form of imprisonment of up to two years (Article 34) with an alternative punishment in the form of a penalty, or the penalty only (Article 35). They also prescribe compensation for damages caused to the right holder for lost profit and for the liquidation of the goods or transfer of them to the patent owner. Other measures are provided by the Law on the Protection of Consumer Right no. 1453 of May 25, 1993 as well as by the following Articles of the Penal Code:

141	infringement of inventor's rights;
158	unlawful utilization 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 Contravention.

213. Some members of the Working Party requested information on the criminal procedures and penalties applicable to the unlawful utilization 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 offenses.

214. The representative of Moldova stated that pursuant to Article 38(12) of the Copyright Law, a person committing an intentional infringement of a copyright or neighboring rights for gain and having caused considerable prejudice to the holder of the right is liable to a term of imprisonment of one to three years or/and to a fine of 100 - 1000 times the minimum salary.

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

## **VII. POLICIES AFFECTING TRADE IN SERVICES**

216. The Government of the Republic of Moldova provided the description of the service regime in the Memorandum on the Foreign Trade circulated in document WT/ACC/MOL/2. **Moldova entered into bilateral negotiations on market access in services, on the basis of the offer circulated to Working Party in document WT/ACC/SPEC/MOL/2/Rev.2. The result of these negotiations is reproduced in the Schedule of Specific Commitments on Services contained in Part II of the Annex to the Protocol of Accession of the Republic of Moldova.**

217. 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 Law No. 332 of 26 March 1999 "On Certain Types of Activities" authorized the following bodies specified in the Annex no.1 to issue the licenses 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.

218. He said that 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).

219. In response to requests for information, the representative of Moldova explained that although initially, the open competition for the supply of insurance services was permitted, the amendment to the Law "On Insurance" of 20 June 1996, stipulated that foreign insurance companies were allowed to operate in Moldova only as a joint venture with Moldovan partners. The foreign share in such joint venture is not limited. Every company supplying insurance services had to obtain a license issued by the

Ministry of Finance. The detailed rules governing the licensing requirements for insurance companies were contained in the Regulation "On the Issue of Licenses for Insurance Services" from 17 November 1995.

220. The representative of Moldova stated that the Law "On Financial Institutions" has 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. The activity of the National Bank had been regulated by the Law "On the National Bank" No. 599-XII 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.

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

221. 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 cooperation, were based on the principles of equality and reciprocal advantage agreements and related to foreign trade in goods and/or services. **The Free Trade Agreement between the Republic of Azerbaijan, Armenia, Republic of Belarus, Georgia, Kyrgyz Republic, Republic of Kazakstan, the Russian Federation, Ukraine, Republic of Uzbekistan, Republic of Tajikistan and the Republic of Moldova was signed on 15 April 1994. From the date of signature, all Parties to the Agreement applied the Agreement on a provisional basis until the ratification procedures had been concluded. The Agreement entered into force with respect to: Moldova, Kazakstan and Uzbekistan on 30 December 1994, the Kyrgyz Republic on 28 December 1995, for the Republic of Azerbaijan on 18 December 1996, for Tajikistan on 7 May 1997. On 2 April 1999, the Parties to the Agreement signed the Protocol on Amendments and Supplements to the Agreement on the Creation of a Free-Trade Area of 15 April 1994. This Protocol was subject to ratification by the Parties and would come into force on the date on which the third notification on ratification is submitted to the Depository. For a party that completes its ratification procedures later, the Protocol would enter into force on the day when its notification is submitted. The free trade agreement contained provisions relating to trade in goods that are of relevance to the Members of the**

**WTO. The Agreement establishes a free-trade area among the Republic of Moldova and the Republic of Azerbaijan, Armenia, Republic of Belarus, Georgia, Republic of Kazakstan, Kyrgyz Republic, the Russian Federation, Ukraine, Republic of Uzbekistan, Republic of Tajikistan and Romania in accordance with Article XXIV of the GATT 1994 and the Understanding on the Interpretation of Article XXIV. Duties and other restrictive regulations of commerce had been eliminated on substantially all trade between the signatories.**

222. In response to requests for information, the representative of Moldova said that all Members States of the European Union had not yet ratified the Agreement of Partnership and Cooperation with 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 licenses 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 an m.f.n. basis (Government Decision No. 689 of 8 November 1993, amended by Government Decision No. 421 of 20 June 1995).

223. 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.

224. 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.

225. 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 it 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 requested detailed information requested was under preparation.

**226. The representative of Moldova said that Moldova would observe all WTO provisions, including those of Article XXIV of the GATT 1994 and Article V of the GATS in the trade agreements, and would ensure that the provisions of these WTO Agreements for notification, consultation and other requirements concerning free trade areas and customs unions of which Moldova was a member were met from the date of accession. He confirmed that Moldova would, within 6 months after accession, submit notifications and copies of its Free Trade Area and Customs Union Agreements to the Committee on Regional Trade Agreements (CRTA). He further confirmed that these Agreements would be consistent with the provisions of the WTO and would, in any case, be notified to the CRTA during its examination of the same. The Working Party took note of this commitment.**

## **TRANSPARENCY**

### **- Publication of Information on Trade in goods and services**

227. 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.

228. 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.

229. 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 center 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 would undertake all necessary measures to ensure full application of other transparency requirements of the GATS, including GATS Article III.

- **Notifications**

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

- **Conclusions**

231. 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 28, 31, 46, 52, 61, 63, 69, 76, 85, 93, 97, 99, 101, 108, 113, 133, 134, 139, 143, 148, 151, 215, 226 and 230 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.

232. 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 Marrakech 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 the General Council adopt these texts 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 Marrakech Agreement Establishing the WTO.

## ANNEX I

### Type of activities, needing license authorization

#### **Ministry of Economy and Reforms:**

- organization of external tourism;
- collection of technical remnants, containing non-ferrous materials;
- organization of stock exchange trade;
- the exercise of functions of administrator of contesting procedure and administrator of re-organizing procedure.

#### **The Treasury:**

- audit activity;
- activity in the field of insurance;
- Lombard functioning;
- organization and undertaking lotteries;
- maintaining casinos, exploitation of game machines with money gains, staking in sports and other types of contests;
- activity, linked to state marking of articles, made of precious metals and precious jewels and activity with precious metals and precious jewels;
- import and wholesale commercialization of spirits;
- import and wholesale commercialization of tobacco items;
- import and wholesale commercialization of fuel and petrol;
- activity of economy and citizens' loaning associations;
- activity of customs free deposits.

#### **The Ministry of Industry and Trade:**

- fabrication of chemical products, chemical articles and products of house usage.
- the wholesale trade with goods of large usage;

#### **The Ministry of Agriculture and Processing Industry:**

- production and commercialization with reproduction, planting, backiferous and vineyard materials;
- production and commercialization with vegetable seeds, pumpkin crops, potatoes and plain crops;
- projecting the fruit-growing, backiferous plantations and vineyard;
- production for the commercialization of biologic material of bovine, pork, sheep, chicken, horses and fish;
- up-bringing of reproduction bovine, destined to commercialization;
- importation and commercialization of chemical and biological substances, as well as of stimulators of plants growth;
- fabrication of biological substances, as well as of stimulators of plants growth;
- production, stocking and wholesale commercialization or just only stocking and wholesale commercialization with spirits, including ethyl drinks and beer;
- processing of tobacco, production of tobacco items, wholesale commercialization, including tobacco export.

#### **The Ministry of Transports and Communications:**

- exploitation of auto transport for passenger traffics (with the exception of routes within the city radius);
- exploitation of specialized auto transport, destined to the transportation of toxic, explosive, and flammable substances (after a coordination with the Department of

Standards, Metrology and Technical Assistance and the Department of Civil Protection and Emergency Cases, and in some cases, with the institutions on sanitary control);

- elaboration, assembly, installation, technical maintenance of television networks by a cable or posts (stations) of radio diffusion and television by a radio-electric way;
- functioning of television networks by a cable or posts (stations) of radio diffusion and television by a radio-electric way (technical licenses);
- offering express postal services regarding registered parcels;
- commercialization and exploitation of telecommunication, postal and informatics equipment (type-authorizations).

**The Ministry of Labour, Social and Family Protection:**

- organization of provisional abroad employment of citizens of the Republic of Moldova, as well as the placement in the sphere of labour of citizens within the territory of the Republic of Moldova.

**The Ministry of Health:**

- the development of pharmaceuticals activity;
- supplying technical assistance (with the exception of some activities, practiced exclusively by state enterprises, organizations and institutions);
- researches, applied in the field of genetics and microbiology;
- fabrication, commercialization, purchase and custody of radioactive substances, applied in medicine;
- fabrication, commercialization, technical assistance, repairs and verification of technical and optic medicine articles;
- usage of potentially toxic substances, of chemical and biological ones, applied in medicine.

**The Ministry of Education and Science:**

- the establishment of educational institutions, of re-qualification and improvement institutions and courses.

**The Ministry of Culture:**

- organization of archeological projecting research works;
- elaboration of projects and the execution of conserving, restoring and valuation works concerning historical monuments;
- commercialization with goods with artistic value and with antiquarian things.

**The Ministry of Justice:**

- supplying juridical assistance;
- undertaking judiciary expertise;
- Notary activity.

**The Ministry of Home Affairs:**

- the use of explosive substances, explosive and pyrotechnic means;
- repairs of sports and hunting weapons;
- private detective activity;
- instruction on different types and sorts of body-to-body wrestling, including on martial arts;
- commercialization of different types of weapons and equipment (exclusive licensing of state enterprises);
- instruction and re-cycling of drivers of auto transport means;
- security insurance and protection activity;
- seals fabrication;

- import, export and re-export of weapons and respective equipment.

**The Ministry of National Security:**

- elaboration, production and commercialization of ciphering technology, technical and prophylactic assistance of ciphering means and of other special means for the custody, processing, transmission, interception and registration of the information, for the insurance of its authenticity, and offering ciphering services;
- the cryptographic and technical-engineering protection of information, cryptoalgorithms and cryptographic analysis;
- special revisions of technical means and equipment aiming at the protection against the drain of information by technical channels;
- elaboration of ciphers;
- preparation of specialists in the field of cryptography.

**The Ministry of Environment:**

- the usage and processing of remnants (except the technical remnants, containing non-ferrous metals, the collection of which is licensed by the Ministry of Economy and Reforms);
- the usage of natural resources (the collection and commercialization of spontaneous plants, including medical plants, animal chase, except hunting fauna, acquisition of animals, not constituting hunting and fishing objects (snails, snakes, frogs etc., the industrial fishing in natural water pools);
- undertaking evaluative study of the impact upon the environment and the ecological audit undertaking;
- the practice of technologies of separating the components of the atmospheric air;
- hydro-meteorological observations.

**The Ministry of Territory, Buildings and Communal Farms Development:**

- works on projecting all categories of constructions, including reconstruction, general repairs, consolidating, modernization and restoration;
- execution of works of constructing-assembling, rebuilding, general repairs, modernization and restoration for all categories of constructions, including technical networks and those of public utility;
- activity concerning the production of materials and building items.

**The Department of Standards, Metrology and Technical Assistance:**

- construction, assembly (including regulation), exploitation and repairs of objects from mining industries, from the sectors with flammable and deflagration dangers, of objects to be deposited and the manipulation within them with substances, able to create deflagrant messes of dust and air or of steam, of gas alimentation systems, of lifting installations, of boilers, recipients, functioning under pressure as well as of steam and hot water conducts (in case of necessity, there will be a coordination with the Department of Civil Protection and Emergency Cases);
- fabrication, assembly (including regulation) and repairs of the chemical, mineral, antideflagrant and electric/thermal/energetic equipment;
- custody and usage of explosive industrial materials (in common agreement with the Minister of Home Affairs);
- exploitation of useful mineral resources (with the exception of those of large extension);
- the expertise of industrial products' (objects') security, including the underground and electric/thermal/energetic works;
- fabrication, repairs, verification, calibration, experimentation, exploitation and commercialization of measuring means;

- the usage of underground with other purposes than the extraction of useful mineral resources;
- execution of drilling works (except the technical building prospects);
- exploitation of sources and the bottling of mineral and potable waters;
- import, usage, deposit, commercialization of chemical reagents, liquid gases and of chemically toxic substances (materials) and those, dangerous of being deflagrant;
- deposit of fuel and lubricant materials (after a coordination with the Department of Civil Protection and Emergency Cases);
- exploitation of petrol and gas alimentation stations (after a coordination with the Department of Civil Protection and Emergency Cases);
- import, export, production and internal consume of substances, destroying the ozone stratum, regulated by the Montreal Protocol, as well as of products, containing the regulated substances;
- import, custody, exploitation and usage of ionized radiation sources of reagent materials.

**The Department of Civil Protection and Emergency Cases:**

- functioning of buildings, constructions, production establishments, the characteristics of which can generate fires or explosions and of other congested objectives;
- drafting, assembly, regulation and the technical assistance of automatic systems of fire prevention within the economical unites;
- certification and research of flammable and fire stimulation properties of substances, materials, articles of equipment and buildings in accordance with the rules of the national certification system;
- creation of a department service of fire brigades within enterprises of civil protection services formations (military, militarized, specialized, territorial, etc.);
- fabrication of techniques of emergency intervention in case of fire, of technical equipment for fire putting out, of fire protection means, of means and equipment for undertaking of operative works of salvation – de-blocking;
- transportation of reagent materials;
- implementation of techniques of prevention and intervention in emergency situations;
- drafting and serving the systems of prevention and intervention of emergency situations, of establishments of civil protection and of systems of vital insurance;
- instruction and briefness in the field of civil protection.

**The State Commission for the Market with Security Papers:**

- professional activity with security papers;
- activity of the Security Market;
- activity of investments funds.

**The District Executive Committees and the Municipal Mayoralties:**

- activity in the field of trade by detail and public alimentation;
- commercialization by detail with alcoholic production;
- commercialization by detail with tobacco items;
- passengers transportation in urban traffic, including taximeters;
- exploitation of useful mineral resources of large extension.

**The National Agency for Survey, Land Resources and Geodesy:**

- topogeodesic and cartographic works upon the technical prospects of different types of activities and technical complex prospects in constructions;
- activities linked to the field of the general land survey, the elaboration of organizational projects of the territory and the ground evaluation;
- undertaking of equipment and estimation works of the immobile goods.

**The Coordinating Council of the Audiovisual:**

- radio emissions;
- TV programmes.

**The National Agency for the Regulation in Energetic:**

- production transportation, dispatch, distribution and furnishing of electric energy in regulated and non-regulated tariffs;
- production, distribution and furnishing of the thermal energy;
- production, stocking, transportation, distribution and furnishing of natural gases of regulated and non-regulated tariffs.

## **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 Marrakech Agreement Establishing the World Trade Organization and having prepared a Protocol for the Accession of Moldova,

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



**Draft**

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

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 Marrakech 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 230 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 230 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 31 December 1999.

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.

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 – THE REPUBLIC OF MOLDOVA**

**Part I - Goods**

[to be completed]

**Part II - Services**

[to be completed]

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