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Additional Questions and Replies to the Memorandum on the Foreign Trade Régime (Document WT/ACC/MOL/2)

The Ministry of the Economy of the Republic of Moldova has submitted the following additional questions and replies concerning the Memorandum on the Foreign Trade Régime of Moldova (WT/ACC/MOL/2), with the request that they be circulated to Working Party members.

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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE**2. Economic Policies****(a) Main directions of the ongoing economic policies****Question 1.**

What incentives is the Government of Moldova using, pursuant to the second Programme of Privatization of State Property, to encourage local and foreign investors to invest in, help restructure and rationalize privatized enterprises?

Are foreign investors eligible to participate in the privatization of all State enterprises?

Among the main goals of the Second Programme of Privatization, the Moldovan authorities aim to encourage local and foreign investors to invest, restructure and rationalize private enterprises. What are the means proposed by the authorities to achieve those purposes?

Answer:

The Second Privatization Programme includes the following measures to encourage local and foreign investors to invest in, and help restructure, privatized enterprises:

- (i) establishment of a Foreign Investment Promotion Agency to better inform potential investors about investment opportunities in Moldova and about relevant laws and regulations;
- (ii) establishment of an Agency for Assistance to Enterprises in Restructuring (ARIA). ARIA has been set up with support from the World Bank and is providing business advisory services for privatized companies;
- (iii) increase of investment opportunities for cash in which both foreign and local investors can participate without National Patrimonial Bonds (NPB);
- (iv) improving the regulatory framework by revising the Law on Joint Stock Companies, the Law on Securities and the Stock Exchange, and by adopting the Law on Enterprise Restructuring.

Article 6 of the Law on the State Privatization Programme 1995-1996 stipulates that foreign natural and legal persons are eligible to participate in the Privatization Programme. Foreigners may not, however, receive NPBs. Equity in companies sold solely for NPBs can therefore be acquired by foreigners only after two years (see next question for details). The 1995-1996 Privatization Programme also contains a list of objects not to be privatized, such as certain public buildings, cultural objects, objects pertaining to national security etc. A complete list of these objects will be submitted.

A special regime exists for agricultural enterprises. Only employees of the formerly State-owned agricultural enterprises are eligible to participate in the privatization of their particular agricultural enterprises. The detailed regulations are set out in Article 21-28, Law on the State Privatization Programme 1995-1996, which will be submitted.

The 1997-1998 Privatization Programme has been submitted to Parliament and is now in its second reading. There are no restrictions to foreign participation in the Privatization Programme, except for companies in which a foreign State holds a share of 10 per cent or more, which are excluded. Once

approved by Parliament, Moldova will submit a copy of the Privatization Programme to the Working Party.

Question 2.

Are National Patrimonial Bonds (NPB) transferable? Are there any restrictions on the ability of foreign investors to purchase NPBs from Moldovan holders or on the ability of foreign investors to participate, with NPBs, in the privatization of State enterprises?

Answer:

In the first phase of privatization National Patrimonial Bonds (NPB) were, for reasons of social equity, issued only to Moldovan citizens and are not transferable, except to members of the immediate family. Foreigners cannot purchase NPBs from Moldovan citizens and can, therefore, not participate with NPBs in the privatization programme. Foreigners can only participate in the privatization programme with cash. Exceptions require special permission by the Ministry of Privatization. (Article 12, Law on Privatization, 4 July 1991).

Question 3.

Are foreign investors eligible to invest in all State enterprises as part of the Privatization Programme? Are there any restrictions on the ability of foreign investors to purchase shares in enterprises that have already been privatized?

Answer:

For the eligibility of foreigners to invest in State enterprises, see first question above. The only limitation for foreigners to purchase shares in companies which are already privatized concerns those companies which were privatized for NPBs. In these companies foreigners can only purchase shares two years after the privatization.

Question 4.

What is the rationale for selling solely for NPBs, certain State enterprises, including agro-industry, industry, transportation, road construction and maintenance, pharmaceutical and trade entities? What is the rationale for selling certain other State enterprises, including shops, restaurants, hotels and gas-filling stations and 105 unfinished constructions, solely for cash? What sectors are represented by the 400 enterprises to be sold for both NPBs and cash?

Answer:

The process of privatization in Moldova was guided from the outset by a concern, inter alia, for:

- social protection of the population;
- equity among citizens in receiving their share of State property;
- respect for the employees' opinion (Article 2, Law on Privatization, 4 July 1991).

An approach which combined privatization for NPBs, for cash, or both depending on the size and the type of the company seemed to be the best way to accommodate these concerns and ensure at the same time a quick implementation of the privatization programme.

The following sectors are represented by the 400 enterprises to be sold for both NPBs and cash: agriculture, trade, transport, health, culture, construction, cartography, industry.

Question 5.

Is Moldova privatizing land not used for agricultural production? Are there any restrictions on foreign participation in the privatization of land or on the purchase of land that has already been privatized? If so, please describe fully.

Answer:

Moldova is privatizing land not used for agricultural production. Foreigners can participate in the privatization of adjacent land of enterprises already privatized or to be privatized, and of land pertaining to family garden plots (Article 5, Law on the State Privatization Programme 1995-1996). Built-up land can be traded freely and also be purchased by foreigners. For other categories of land a new Law on the Sale of Land is now in preparation. Moldova will submit a copy to the Working Party as it becomes available.

Question 6.

Does Moldova have any price controls? If so, please describe them, indicating HS number of imported goods subject to the controls. Please cite the legal authority for the application of the controls and describe the conditions that require their application.

Answer:

There are no price controls for the private sector. The Government sets, however, the prices for energy supplied by State-owned utilities (which are monopoly providers), housing in State-owned buildings, and subsidizes the bread price. The prices set by the Government are lower than cost-of-service prices for social reasons. These prices are gradually being raised to cost-recovering level in the framework of an agreement with the IMF and the World Bank.

(b) Monetary and fiscal policies

Question 7.

According to the Memorandum (WT/ACC/MOL/2), budgetary discipline has been improved by better controls on the expenditure side, including the elimination of subsidies to enterprises.

According to Table 2 in Annex I of the Memorandum, State budgetary expenditure for subsidies increased from MDL 1.6 million in 1992 (about 3 per cent of expenditures) to MDL 91 million in 1994 (about 5.5 per cent of total expenditures). Please explain why the percentage of the total budget for subsidies increased during a period when subsidies to enterprises were being eliminated.

Answer:

The figures in the fifth column in Table 2 in Annex I of the Memorandum refer to 1995. The item 'subsidies' in the table refers to transfer payments from the budget of the central Government to budgets of local authorities and not to subsidies to enterprises.

Question 8.

Did the Government of Moldova terminate all direct fiscal subsidies to enterprises? Please describe the types of subsidies that were eliminated and the subsidies, if any, that remain. What was the amount of fiscal savings that resulted from the termination of the enterprise subsidies? What is the cost of any remaining subsidies?

Answer:

Whilst the total amount of direct fiscal subsidies has been reduced considerably, some direct fiscal subsidies remain.

In the early years of transition, the Government had supported State-owned enterprises with loans and guarantees. In 1992, loans given to State-owned enterprises accounted for approximately 15 per cent of all public expenditure. In 1993, these loans were brought down to approximately 1 per cent of all public expenditure. Since then, new loans were only granted to the extent that old loans were repaid, i.e. there was no new net lending. As many of the State-owned enterprises defaulted on the repayment of the loans, the reduction and eventual abolition of Government lending to these enterprises resulted in fiscal savings almost equal to the amount lent out.

Today, the Government is not granting credits to economic agents any more. Government guarantees are issued against a risk premium of at least 5 per cent of the principal amount of the loan which is paid into the Risk Fund (Article 36, Law on State Debt and State Guarantees, No. 115-P of 12 November 1995). State guarantees can only be issued up to a total value not exceeding the amount available in the Risk Fund.

Internal State guarantees for loans are granted to State enterprises and organizations, especially to those that service the institutions financed by the Budget. External State guarantees for loans may only be granted for financing priority projects, the criteria being the same as for contracting foreign loans (Article 37, Law on State Debt and State Guarantees, No. 115-P of 12 November 1995). Moldova is submitting a complete list of internal and external State guarantees to the Working Party (WT/ACC/MOL/3/Add.2).

The following is an overview of subsidies granted in 1996 with the amounts paid or the amount of foregone income to the Budget, respectively:

1. Grant payments

The 1996 Budget set up a "Fund for the Support of the Agro-Industrial Sector" which was endowed with MDL 30 million. The use of the Fund was determined in Parliamentary Decision

No. 818-XII of 26 April 1996. Of the total amount of MDL 30 million, MDL 26,9 million were paid to agricultural companies, as reported in WT/ACC/MOL/2/Add.2 (see table below).

Type of Grant Payment	1996 Amount in million MDL
Soil Conservation	3.4
Viticulture Improvement	9.5
Fruit-growing Improvement	6.0
Livestock Subsidy	8.0
Total	26.9

The two Moldovan State press agencies and the State-owned Teleradio Moldova received the following payments (this subsidy has been abolished in 1997):

Agency	Amount paid in 1996
Moldpress	MDL 890,000
Newspapers	MDL 972,000
Teleradio Moldova	MDL 19,959,000
Total	MDL 21,821,000

Enterprises in restructuring from the former military-industrial complex received a total of MDL 17,463,600 in 1996 from the Fund for Conversion and Restructuring of Enterprises.

The energy company Thermocomenergo received a grant of MDL 17,429,100 to cover its operating losses.

2. Cancellation of debts for companies suffering from the effects of natural disasters

MDL 254 million of cancellations of debts to the budget and the social fund were approved to compensate companies suffering the effects of natural disasters.

3. Exemptions from direct taxes in 1996

Type of Tax	Reason for Exemption	Description of Exemption	Beneficiary	Total Cost to the Budget in 1996
Corporate Profit Tax	Creation of additional employment posts	Up to 50% of the expenses related to the creation of new employment posts are deductible;	All enterprises	MDL 51,900
Land Tax	Upgrading of the facilities	Exemption from land tax for land used for runways	Chisinau International Airport	MDL 448,700

Type of Tax	Reason for Exemption	Description of Exemption	Beneficiary	Total Cost to the Budget in 1996
Land Tax	Facilitation of purchase of rolling stock	Exemption from land tax used for rail tracks	Moldovan Railways	MDL 3,549,000
Land Tax	Stimulation of milk production	MDL 0.20 per litre of milk are deductible	All agricultural enterprises	MDL 28,943,100
Land Tax	Stimulation of live stock production	MDL 14 per artificial insemination are deductible	All agricultural enterprises	MDL 1,314,500
Land Tax	Stimulation of agricultural production	Personal income tax paid in the previous year is deductible	All agricultural enterprises	MDL 9,380,000
Real Estate Tax	Facilitation of purchase of rolling stock	Exemption from the Real Estate Tax	Moldovan Railways	MDL 3,264,700
Total				MDL 76,334,200

4. Exemption from indirect taxes

Type of Tax	Reason for Exemption	Description of Exemption	Beneficiary	Total Cost to the Budget in 1996
VAT	Basic Agreement with the EBRD	Exemption for the construction and assembling works for building the Orhei shoe factory	Ascom-Kelme Gheso SA Constructurul 24	MDL 111,400
VAT	Facilitation of restructuring process	expenditures related to the restructuring process can be deducted from the payable VAT	companies which have signed a Memorandum with State Creditors Council	n.a.

Question 9.

Please provide a translated copy of the Law "On Foundations of the Fiscal System" to the Working Party for review.

Answer:

Moldova will submit a translated copy of the Law on the Foundations of the Fiscal System. The document is entitled "Law of the Republic of Moldova on Bases of Tax System", No. 478-XIII of 6 June 1995.

It should be noted that the Law On Foundations of the Fiscal System will shortly be replaced by the new Tax Code which is currently in its third reading in Parliament. Moldova has already submitted a translated copy of the draft submitted to Parliament to the Working Party (WT/ACC/MOL/3/Add.1).

Question 10.

Please provide the Working Party with translated copies of all corporate tax laws.

Answer:

In addition to the 1996 Budget Law which contains some corporate tax provisions (Real Estate Tax) and which has already been submitted, Moldova will submit translated copies of the following corporate tax laws:

- Law on the Basis of the Tax System No. 478-XIII of 6 June 1995;
- Law on the Profit Tax of the Enterprise (Corporate Profit Tax) No. 1214-XII of 2 December 1992;
- Resolution 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 fiscal outcomes of enterprises No. 340 of 2 June 1993;
- Law on the Road Fund No. 720-XIII of 2 February 1996 (the rates are revised annually as part of the Budget Law);
- Law on the Securities Operations Tax 1429-XII of 18 May 1993;
- Summary of the Instruction of the Ministry of Finance on the order of calculation of the Tax on Banks and the order of payment of it to the Budget No. 5-2/229 of 30 December 1993.

The provisions regarding the Land Tax are approved as part of the Budget Law. Moldova will submit a translated copy of the 1997 Budget Law as it becomes available. The draft Tax Code has already been submitted to the Working Party (WT/ACC/MOL/3/Add.1).

Question 11.

Please provide a more complete description of the corporate profit tax. What items are included and deducted to arrive at the amount of corporate profit subject to the 32 per cent tax rate? Please describe how the amount of the labour cost deduction is determined. Are there any instances when a rate other 32 per cent is applied to determine the amount of the tax? Are there any differences in the treatment of foreign-owned enterprises and domestic enterprises in the application of the corporate profit tax?

Answer:

The taxable income subject to the 32 per cent tax rate is the sum of total revenues from the sale of goods, works and services produced by a company plus all other income not resulting from the company's own production (income received as a result of operations of another company in which the former has an equity participation, income for rents, compensations, damages), minus all expenditure incurred as a result of these activities.

Calculation of Taxable Income

1		Sales of the company's own production of goods, works and services
2	+	Other income, including income received as a result of operations of another company in which the former has an equity participation, income for rents, compensations, damages
3	=	Total Gross Income
4		Material costs, including raw materials, semi-finished goods, spare parts, fuels, energy, packaging materials and all other goods and services used in the production of the goods and services produced
5	+	Personnel costs, including salaries, social insurance contributions
6	+	Depreciation of fixed assets
7	+	Other costs, including interest payments
8	=	Total Expenditure
	3-8	Taxable Income

The complete list of deductible expenditure items is contained in the "Resolution 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 fiscal outcomes of enterprises" No. 340 of 2 June 1993. A translated copy will be submitted together with these answers. The following points should be noted:

- VAT paid on inputs is deductible from the VAT on the products sold;
- expenditure for items for which the Government has established normative prices exceeding the established level are not acknowledged. At present normative prices are in force for representation (except for MOLDEXPO), advertising and training of personnel. Details are contained in Annex 3 of the "Regulation on expenditure incurred in the production and sale of goods and services, included in the cost-price, and on determining the financial results of enterprises" No. 340 of 2 June 1993;
- charity and sponsorship contributions can be deducted up to an amount of 10 per cent of the net profit (Article 11, 1997 Budget Law);
- payments for social support of up to 1 per cent of profits (Article 11, 1997 Budget Law).

In the past, labour costs could only be deducted up to an average of six minimum salaries per employee. Corporate taxes of companies were assessed on the profit thus calculated. Companies could pay higher wages and salaries but the amount exceeding six minimum salaries had to be taken out of the net profit. However, this practice has been discontinued. Now labour costs can be fully deducted and companies are assessed for corporate tax after all labour costs have been deducted.

Until 31 December 1996, there was a uniform corporate tax rate of 32 per cent except for the following types of revenues which are subject to a tax rate of 70 per cent: earnings from casinos, video halls, slot machines, fortune games. The 1997 Budget Law introduced a reduced corporate tax rate of 25 per cent for agricultural and manufacturing companies. For service companies the 32 per cent tax rate continues to apply.

Companies established under the Foreign Investment Law with a foreign equity participation of more than US\$ 250.000 enjoy a 50 per cent reduction of the profit tax for a period of five years. In all other respects foreign and domestic companies are treated in the same manner for the purposes of corporate taxation.

Question 12.

How does the Government define 'equity' for purposes of applying the 0.11 per cent Annual Company Tax? What amounts are included in equity? How does the Government of Moldova value equity for enterprises that were recently privatized solely for NPBs? Are there any differences in the treatment of foreign-owned enterprises, or foreign equity in enterprises, than for domestic enterprises in the application of the Annual Company Tax?

Answer:

The tax referred to is the Real Estate Tax. The sentence in Chapter II, section 2(b) should read: "Enterprises as legal entities are also subject to an annual tax of 0.1 per cent of their immovable assets..."

All enterprises, irrespective of their organizational form, are subject to this tax. The Real Estate Tax is approved as part of the Budget Law. The 1997 Budget Law stipulates a 0.1 per cent rate for legal persons except house and garage building cooperatives (Annex 13, 1997 Budget Law). Agricultural enterprises pay the Real Estate Tax as part of the Land Tax (Annex 11, 1997 Budget Law).

Question 13.

Please describe more fully the Road Tax. What items are included and deducted in determining the amount of 'net' turnover subject to the 1.5 per cent tax rate? Is the amount of the Road Tax affected by an enterprise's imports and exports? How does the Government of Moldova define 'trading companies' for the purposes of applying the reduced 0.06 per cent Road Tax? Are there any differences in the treatment of foreign-owned enterprises than for domestic enterprises in the application of the Road Tax?

Answer:

With adoption of the new Law on the Road Fund No. 720-XIII of 2 February 1996 the Road Tax system has been substantially modified. Moldova will submit a translated copy of the Law to the Working Party.

The Law provides for the following four types of charges:

- (i) charges for using the roads of the Republic of Moldova by vehicles not registered in Moldova;
- (ii) charges for using the roads of the Republic of Moldova by vehicles registered in Moldova;
- (iii) fees for authorizations to circulate heavy or oversize vehicles;
- (iv) fees for special permits to carry out maintenance in infrastructure works along public roads.

For items (i) and (ii) the tax consists of a specific amount per vehicle depending on the specifications. The rates are contained in Annexes 1-4 of the Law. The rates apply equally to foreign and Moldovan economic agents and citizens.

Question 14.

GATT Article I provides most-favoured-nation treatment to all matters included in paragraphs 2 and 4 of GATT Article III (which includes internal taxation). According to the Memorandum (WT/ACC/MOL/2), Moldova is currently excluding imports from CIS States from its value added tax (VAT), but is imposing VAT on imports from all other countries.

Please indicate how Moldova will amend its VAT Law to bring it into conformity with WTO requirements prior to accession.

In trade with CIS countries, the principle of origin is applied while trade with all other countries, the principle of destination is used. Does Moldova intend to harmonize those two modes?

Answer:

The principle of origin was initially applied by all CIS countries with regard to trade between them. In 1996 Ukraine has moved unilaterally to the principle of destination which has created some problems in bilateral trade relations, notably double taxation for Moldovan exports and tax exemption for Ukrainian products.

Intergovernmental talks between CIS countries were held, e.g. in Chisinau in May 1996 and in Yerevan in October 1996, to prepare a draft decision for all CIS countries to apply the principle of destination. Moldova supports this proposal and its Government approved a tax reform concept which includes the application of the principle of destination for VAT purposes in all of its foreign trade, including with CIS countries.

The Ministry of Finance is currently preparing a new draft law on VAT which will establish the principle of destination. It is expected that the principle of destination will come into effect no later than January 1998 which will bring the Moldovan system into conformity with WTO requirements.

The 1997 Budget Law introduced a number of VAT exemptions for certain goods, if these goods originate in certain countries. Moldova is aware that this measure is inconsistent with the provisions of the GATT and will amend its legislation accordingly.

Question 15.

Moldova reports that a 20 per cent ad valorem VAT rate is imposed on imports from non-CIS countries. Is the 20 per cent rate assessed on the invoice value or on the duty-paid value of the imported good?

Answer:

The 20 per cent tax rate is assessed on the customs value (Article 4, Law on VAT).

Question 16.

Please identify all goods, including HS numbers, and services that are exempt from the Value-Added Tax. It appears from the Memorandum that the list of exempt goods and services is established annually by the "Law on State Budget". Is this list published? Please describe the procedure for notifying importers of changes in the items covered by the VAT Tax.

Answer:

A basic list of exemptions from VAT is given in Article 5 of the Law on VAT which was submitted together with the Memorandum (WT/ACC/MOL/2/Add.1). Additional exemptions are approved annually as part of the Budget Law. Both the Law on VAT and the Budget Law have been published in the Monitorul Oficial, as are all laws of the Republic of Moldova. Importers can purchase copies of the Monitorul Oficial or enquire at the Tax Inspectorate at the Ministry of Finance. A consolidated list comprising both the basic list of the Law on VAT and the list of the 1997 Budget Law will be submitted (WT/ACC/MOL/3/Add.2).

Question 17.

Please describe any performance requirements for the exclusion from VAT for raw materials used in footwear and textile production.

Answer:

The only performance requirement for raw materials used in footwear and textile production, as in the production of any other good, to be exempted from VAT is that the final product is exported.

Question 18.

Please provide a translated copy of the Law on Excise Tax to the Working Party.

Answer:

Moldova will submit a copy of the Law on Excise Tax.

Question 19.

Please identify, including HS numbers, all products subject to excise taxes and the applicable tax rates. (Note: the table of goods subject to excise tax provided in the Memorandum does not include oil and oil products, jewellery made of precious metal, tobacco and tobacco products, beer and brandy.)

Please identify and describe any differences in the excise tax rates applicable to imported and domestic products. What is the taxable base for domestic and imported products?

Does Moldova respond to the criteria of Article III of GATT 1994 regarding excise by not applying different rates on domestic and imported?

Answer:

Moldova will submit a complete list of goods subject to the excise tax, including the applicable rate, the HS numbers and the taxable base (WT/ACC/MOL/3/Add.2). The rates charged for certain imported products are higher than for domestically produced goods. The list includes all imported goods for which different rates are charged, including the applicable rate, the HS number and the taxable base.

(d) Foreign and domestic investment policies

Question 20.

According to the Memorandum, all industrial sectors are open to foreign investment provided that it does not conflict with the interests of State security, the provision of the anti-trust legislation or standards in environmental protection, public health and public morals.

Can Moldova confirm that the former State monopoly in foreign trade has been abolished and that no restrictions exist on the right of foreign and domestic individuals and enterprises to import and export goods and services within its customs territory, except as provided for in WTO Agreements? Please cite the provision of Moldova's constitution or other legal provisions that address this issue.

Answer:

Moldova confirms that the former State monopoly in foreign trade has been abolished. Except for the limitation that goods the import or export of which is subject to licensing can only be imported or exported by firms, including individual firms (Government Decision No. 371 of 6 June 1995), there are no restrictions on the right of foreign and domestic individuals and enterprises to import and export goods and services within its customs territory which are incompatible with WTO Agreements. The relevant legal provision are Article 9 of the Moldovan Constitution which provides for free economic initiative and fair competition, and the Law on Fundamentals of Foreign Economic Activity in the Republic of Moldova No. 849-XII of 3 January 1992 which was submitted together with the Memorandum (WT/ACC/MOL/2/Add.1).

Question 21.

Can Moldova confirm that individuals and firms are not restricted in their ability to import or export based on their registered scope of business, and the criteria for registration of companies in Moldova are generally applicable and published in the official gazette? Please list these criteria.

Answer:

Moldova confirms that individuals and firms are not restricted in their ability to import or export based on their registered scope of business. If a company has not included import and export activities in its company statute it can add these activities without difficulty, as stated in the Memorandum (Article 10, Law on Enterprises and Entrepreneurship).

The criteria for registration of companies are set out in the Law on Enterprises and Entrepreneurship No. 845-XII of 3 January 1992 which was submitted together with the Memorandum. There are additional requirements for certain types of business, e.g. banking, insurance, or for certain types of organizational form, e.g. joint stock companies. The specific registration requirements for these cases are set out in the respective special laws. These laws, like all laws of the Republic of Moldova, are published in the Monitorul Oficial.

Registration can only be withheld if:

- (i) the provisions of the Law on Enterprises and Entrepreneurship or the special registration requirements for the cases falling into the categories referred to in the preceding paragraph are violated;

- (ii) the documents submitted for registration do not meet the requirements set out in the relevant laws;
- (iii) the documents submitted for registration are incomplete (Article 30, Law on Enterprises and Entrepreneurship).

Question 22.

Are the fees for registering foreign-invested companies with the State Registration Chamber in the Ministry of Justice the same as for the registration of domestic companies?

Answer:

The fees for registering foreign-invested companies with the State Registration Chamber in the Ministry of Justice are the same as for the registration of domestic companies (Article 13, Law on Foreign Investment).

Question 23.

Does Moldova publish a list of industrial sectors not open to foreign investment? How is this information made available to the public and foreign enterprises interested in investing in Moldova? Please describe the process and conditions for obtaining approval to establish an enterprise in these industrial sectors.

Answer:

There is a separate system for the privatization of agriculture. Apart from that the privatization programme proceeds by objects, not by sectors and no specific approval procedure exists for domestic and foreign investors. A complete list of objects to be privatized is published in the Monitorul Oficial together with the Law on the State Privatization Programme. The Law also contains a list of objects which are not privatized. A copy of the current list of objects not to be privatized will be submitted.

As for newly created enterprises with foreign equity participation, Article 4 of the Law on Foreign Investment stipulates that all branches of the economy are open to foreign investment provided the following is not violated:

- State security interests;
- anti-monopoly legislation;
- norms of environmental protection;
- public health;
- social order;
- moral norms.

Amendments to this list or regulations specifying this provision would come into force in the form of a law or a Government decision, both of which are published in the Monitorul Oficial. Until now no amendments to this list have been enacted.

In addition to the publication in the Monitorul Oficial the Moldovan Agency for the Promotion of Foreign Investment is publishing brochures to inform foreign investors about investment opportunities and conditions in Moldova and is organizing presentations in Moldova and in Western countries.

Question 24.

Moldova reserves the right to limit or prohibit activities or to establish certain fields of activity where the undertakings of foreign companies are limited or prohibited, as mentioned above. Does Moldova reserve the right to limit or prohibit activities of foreign investment for any purposes other than State security, the provisions of anti-trust legislation or standards in environmental protection, public health and public morals? How are these restrictions notified to foreign investors?

Are foreign investors compensated for investments already made in activities that subsequently limited or prohibited?

Moldova reserves the right to limit or prohibit activities or to establish certain fields of activity where undertakings of foreign companies are limited or prohibited. In which regulations are those limitations defined?

Answer:

Moldova has no intention to alter the fields of activity where the undertakings of foreign companies are restricted which are cited in the Law on Foreign Investment. Foreign investors are notified of the existing restrictions by the publication in the Monitorul Oficial of the Law on Foreign Investment (Article 4). Any amendments to the Law will also be published in the Monitorul Oficial. Foreign investors are compensated for investments already made in activities that are subsequently limited or prohibited (Article 39 et seq., Law on Foreign Investment).

Question 25.

If the share of foreign investors in the equity of a company exceeds US\$ 5 million, it is necessary to get approval from the anti-trust authorities. Is this requirement included in the Law "On Monopoly Activities Limitation and the Development of Competition" that was notified to the Secretariat, or is it found elsewhere?

Answer:

The requirement for establishing companies with a foreign equity participation exceeding US\$ 5 million to be approved by the anti-trust authorities is found in Article 11 of the Law on Foreign Investment which was submitted to the Working Party together with the Memorandum (WT/ACC/MOL/2/Add.1).

Question 26.

Are domestic investors required to obtain approval from anti-trust authorities for investments in the equity of companies in excess of US\$ 5 million? What criteria are applied in whether approval for foreign investment will be granted by the anti-trust authorities? Are there any performance requirements, such as minimum purchase of domestic materials, domestic employment, production or export requirements, applicable to the receipt of anti-trust approval?

Answer:

Domestic investors are not required to obtain approval from anti-trust authorities for investments in the equity of companies in excess of US\$ 5 million. Possible restrictions of competition by domestic companies are examined automatically whenever a merger, union or association of business is created (Article 8, Law on Monopoly Activities Limitation and the Development of Competition). Furthermore,

a possible restriction of competition by foreign, domestic or joint-venture companies is examined if a request for examination is made by businesses, the regulatory authorities, consumers' associations, unions, courts or by the Committee on Economic Reform (CER) itself which considers the applications.

The criteria for withholding approval or taking remedial action are the same irrespective of what gave rise to an examination by the CER, or whatever type of institution (governmental or private) or company (foreign, domestic or joint-venture) it concerns. These criteria are set out in Articles 3-7 of the Law on Monopoly Activities Limitation and the Development of Competition. These are:

- (i) preventing entrepreneurial entities from abusing their dominant position in the market;
- (ii) banning agreements (coordinated actions) between entrepreneurial entities that restrict or limit competition;
- (iii) non-admittance of actions undertaken by regulatory authorities aimed at restricting competition;
- (iv) banning agreements, including coordinated actions, of regulatory authorities aimed at restricting competition.

Question 27.

Please describe any differences in the approvals for foreign and domestic investors, with respect to the State Environmental Protection Agency and Medical and Epidemiological Agency, confirming the safety of the applied technology and the planned production facilities.

Answer:

There are no differences in the approvals for foreign and domestic investors, with respect to the State Environmental Protection Agency and Medical and Epidemiological Agency, confirming the safety of the applied technology and the planned production facilities. Article 10 of the Law on Foreign Investment requires production facilities planned by enterprises with foreign equity participation to comply with the relevant legislation of Moldova which does not differentiate between foreign and domestic companies.

Question 28.

Please identify, including HS number, all capital goods that are exempt from customs duty if they are used as assets in a newly formed enterprise, or which will be used for a capital increase. Please describe the process for obtaining this duty exemption.

Answer:

Article 35 of the Law on Foreign Investment exempts all goods, capital and other, from customs duties if they are used as in-kind contribution to the formation or increase of the capital of an enterprise with foreign equity participation. In order for the goods to be exempted a list of the goods to be imported under this privilege has to be presented to the State Registration Chamber where the company with foreign equity participation is registered. The list will be stamped and has to be presented upon importation of the goods.

Question 29.

Moldova's Foreign Investment Act offers tax and customs incentives for foreign investment, e.g. a 50 per cent reduction in income tax for a five year period on the condition that the foreign investment exceeds US\$ 250,000 and over 50 per cent of sales revenue is earned from its own goods and services. Please elaborate on and describe what is meant by "earned from its own goods and services".

Answer:

The sentence in the Memorandum should read: "...on the condition that the foreign investment exceeds US\$ 250,000 and that over 50 per cent of the income of the enterprise comes from the sale of its own production". The rationale of granting privileges to foreign investors is to create employment and enlarge and modernize the productive base of the economy. It was felt that companies with foreign equity participation can make a more tangible contribution to attaining this objective if they create additional productive capacity and are not mere holding companies.

Question 30.

Please provide the Working Party with a translated copy of the State Register of Enterprises which are major producers of a product in the domestic market, the products the enterprises produce, and the amount of extra tax that they are required to pay. Please identify all of these enterprises in which there is a substantial amount of foreign investment or which are controlled by the State. Have any of these enterprises been granted, formally or in effect, any exclusive or special privileges by the Government of Moldova? If so, please describe the privileges.

Answer:

At the beginning of the transition process large State enterprises were automatically considered monopolists because they were the only Moldovan supplier in their domains. With more and more foreign products being imported these enterprises quickly lost their monopoly position and were left with only a small share of the market.

Against this background the Government ceased compiling this list. The last list of this type was compiled for 1994. A copy of the list has been submitted to the Working Party (WT/ACC/MOL/3/Add.2). The tax has not been levied since 1994 and will be abolished in the context of the redrafting of the legal provisions governing competition and monopolies.

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

1. Powers of Executive, Legislative and Judicial Branches of Government

Question 31.

What authority does the Executive have to establish tariffs and taxes on imports without parliamentary approval or action?

Answer:

Tariffs and taxes on imports are established by Parliament in the annual Budget Law which is the only competent body to do this.

Question 32.

Please describe the process Moldova will undertake to accept an invitation to accede to the WTO, e.g., will parliamentary approval be necessary beyond any legal changes made to implement specific WTO Agreements?

Answer:

The accession protocol will have to be ratified by the Parliament of Moldova.

Question 33.

What will be the legal status of WTO provisions after Moldova's accession in the absence of specific conforming legislative implementation of individual agreements?

After accession, can WTO provisions be enforced in Moldova without the existence of specific legal requirements?

Answer:

Upon ratification by Parliament the accession protocol will have the status of a Moldovan law. It is expected that a provision will be inserted into the ratification law that the provisions of the WTO Agreements override existing Moldovan domestic law if the latter contains different provisions. WTO provisions can then be enforced in Moldova without further specific legislation.

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

Question 34.

Since the last presidential election of 1 December, what have been the main changes in the decision and implementation of foreign trade policies?

Answer:

The Government has submitted to Parliament a number of laws, including the Law on Foreign Economic Activity and the Law on the Customs Tariff, which are being referred to elsewhere in this document.

The draft Government Decision on External Economic Relations, which will replace Government Decision No. 371 of 6 June 1995, will reestablish the Governmental Commission for External Economic Relations with the task of coordinating external economic activity.

3. Division of Authority Between Central and Sub-Central Governments

Question 35.

GATT Article XXIV provides that each Member shall take reasonable measures to ensure observance of the provisions of the Agreement by the regional and local governments and authorities within its territory.

Please provide the Working Party with a translated copy of the statute granting autonomy to the Gagauz-Yeri region and describe all autonomous authority that the Gagauz-Yeri region has with respect to foreign trade. Does the central Government administer the borders in the Gagauz-Yeri region? Does the Gagauz-Yeri region issue and implement its own technical standards and sanitary and phytosanitary standards? Does the Gagauz-Yeri Government subsidize enterprises in the region?

Answer:

Moldova will submit a translated copy of the statute granting autonomy to the Gagauz-Yeri region to the Working Party. The Gagauz-Yeri region has no autonomous authority with respect to foreign trade. The central Government administers the borders in the Gagauz-Yeri region. The Gagauz-Yeri region does not issue or implement its own technical standards, sanitary or phyto-sanitary standards. The Gagauz-Yeri region does not subsidize enterprises in the region.

Question 36.

Does the Government of Moldova maintain effective control over imports to and exports from the territories on the left bank of the Nistru river?

Answer:

Imports to and exports from the territories on the left bank of the Nistru river are controlled by the authorities of the Transnistria region which co-operate closely with the central customs authorities of Moldova. After the signing of a memorandum, it is expected that a permanent settlement will be reached shortly. Moldova will inform the Working Party once the provisions of the agreement are known.

Question 37.

Could we obtain some specific indications on the Transnistrian tariffication system? For instance, does the Transnistrian authorities apply a different system of tariffication than the central Moldovan authorities? Is there any kind of taxes levied on goods transferred from one side of the Nistru River to the other one? Why do some statistics (e.g. GDP figures) exclude the Transnistria region?

Answer:

The same tariffication system applies equally to all of Moldova, including the Transnistria region. No taxes are levied on goods transferred from one side of the Nistru River to the other one. For certain parts of the Transnistrian economy figures compatible with the international system of national income accounting are not available.

4. Any Legislative Programmes or Plans to Change the Regulatory Régime

Question 38.

What is the legislative status of the Foreign Trade Law? Has Moldova completed the redraft of the Law? Please provide the Working Party with a translated copy of the draft amendments and the Export and Import Regulations of Goods and Services, No. 188-XII, 26 July 1990.

Answer:

The draft Law on Foreign Trade Activity is its first reading in Parliament. Drafting has been completed. A copy of the translated draft text has been submitted to the Working Party (WT/ACC/MOL/3/Add.1). Once adopted the new Law on Foreign Trade Activity will supersede both the Law on Foreign Economic Activity No. 849-XII of 3 January 1992 and the Law on Export and Import Regulations of Goods and Services, No. 188-XII, 26 July 1990.

6. Description of Judicial, Arbitral or Administrative Tribunals or Procedures, If Any

Question 39.

Please outline how administrative decisions regarding customs matters, e.g., valuation, nomenclature, fees, inspections, etc., can be appealed and to what extent there is opportunity for judicial review of the results of the administrative rulings in courts independent of the customs authorities.

Please describe how other commercial and other disputes regarding trade measures and policies are handled in Moldova's judicial system, with emphasis on the right to appeal decisions and rulings related WTO matters, e.g., appeal of anti-dumping and countervailing duty rulings, application of standards, sanitary and phytosanitary certification, and licensing.

Answer:

Administrative decisions regarding customs matters and all other matters of foreign trade can be challenged in the general courts or the economic courts, depending on the case. Both courts are independent. If the parties agree the dispute can also be submitted to an arbitration tribunal (Article 23, Law on Foreign Economic Activity No. 849-XII of 3 January 1992).

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulation

(a) Registration requirements for engaging in importing

Question 40.

According to the Memorandum there are no specific registration requirements for importers. However, the intention to import must be mentioned in the statute of the enterprise.

Please describe what is meant by the statute of the enterprise. Is the statute of the enterprise comparable to articles of incorporation for corporations and partnership agreements for partnerships? What forms of entities require statutes in Moldova? Please describe the procedures for registering the statutes of enterprises.

Answer:

The statute of the enterprise is comparable to articles of incorporation for corporations and partnership agreements for partnerships. A detailed list of the information to be provided in the statute is contained in Article 23 of the Law on Enterprises and Entrepreneurship. For certain types of organizations, e.g., banks, insurances, joint stock companies and cooperatives, special provisions exist in the relevant laws. All types of enterprises, including those without legal personality, must be registered

and require a statute. Statutes are not registered. Statutes are submitted together with the application for registration and a document confirming the payment of a registration fee.

Question 41.

May all forms of business enterprises, including corporations, partnerships and individuals, engage in the business of importing and exporting?

Answer:

All forms of business enterprises, including corporations, partnerships and individual firms, may engage in the business of importing and exporting.

Question 42.

Under what circumstances can individuals, either foreign or nationals, engage in importation and exportation activities?

Answer:

If the importation and exportation activities are of a commercial nature, the only requirement is that the individuals have to register their activities as a business. If the importation and exportation activities are for the individuals' personal consumption, there are no requirements. However, as natural persons they may not import or export goods which are subject to licensing. The same rules apply for foreigners and citizens of Moldova.

(b) Characteristics of national tariff

Question 43.

When was the current tariff amended for the last time and when does Moldova intend to submit its tariff to the Secretariat?

Answer:

The Moldovan customs tariff was last amended in early April 1997. It is part of the annual Budget Law. The 1996 customs tariff had been submitted to the WTO last year (WT/ACC/MOL/2/Add.1).

A copy of the 1997 customs tariff will be submitted to the Working Party.

Question 44.

Does Moldova's tariff system use the 8-digit United States or the European HS tariff descriptions?

Answer:

Moldova uses the European HS tariff descriptions.

Question 45.

For imported products subject to specific or compound duties, please provide the rate of the specific duty, or the specific component of compound duties, for each tariff item and a description of the measurement, such as kilogram or piece, used for the determination of the amount of the duty. With respect to agricultural products, could Moldova provide further details as to how the specific duties are administered?

Answer:

Specific duties are applied to the following products:

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

The administration of these specific duties follows the normal rules of customs procedures.

Question 46.

What is Moldova's trade-weighted average customs tariff rate?

Answer:

**Moldovan National Tariff
Average Tariff Rates**

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

* A simple average for 1996 has not been 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 have not been important import volumes in these tariff lines.

(c) Tariff quotas, tariff exemptions

Question 47.

Does Moldova intend to introduce some tariff quotas or other quantitative import restrictions? Could we obtain some further explanations on the temporary restrictions regarding the export of unbottled wine (Government Decision 23 1/1 96)? Have there been any changes since December 1996 regarding non-tariff measures in general?

Answer:

Moldova does not intend to introduce tariff quotas or quantitative restrictions. The temporary export restriction on unbottled wine, introduced as a measure to promote the image of Moldovan wine, was abolished in September 1996. There have been no changes regarding non-tariff measures since December 1996.

Question 48.

Please identify all products, including HS numbers, imported from members of the Commonwealth of Independent States and Romania which are not entitled to tariff exemptions.

Answer:

All products imported to Moldova from members of the Commonwealth of Independent States and from Romania are entitled to tariff exemptions.

Question 49.

According to the Memorandum certain types of imports are exempt from duty such as charitable donations, goods under co-operational contracts, etc. Please identify any agricultural imports, including HS numbers, that are exempted from import duty.

Answer:

The import duty exemption referred to here does not depend on the type of product but on its use. All goods declared as charitable donations offered free-of-charge to recognized charity institutions such as orphanages, churches, centres for the disabled, benefit from this exemption. Such donations may come from organizations such as Red Cross, Caritas, Kolping-Werk, Brot-für die-Welt, or from individuals.

'Cooperational contracts' refers to the GSP system of the European Union (EU) (imports of raw materials are exempt from duty if the final product is exported to the EU) and agreements of technical cooperation between Moldova and its partners. The term 'cooperational contract' is sometimes also used to refer to contracts between enterprises in the context of temporary imports. For these, refer to the answer given in Chapter II, section 2(b) in an earlier communication.

Goods imported for the use in projects of technical cooperation are exempt from customs duty and VAT in accordance with the immunities granted to foreign diplomatic missions and agencies of

technical assistance. Upon completion of technical assistance projects such goods are transferred to State-ownership for government use and the receiving government institution does not pay customs duty or VAT in accordance with the agreements signed with the donor countries.

(d) Other duties and charges

Question 50.

GATT Article VIII provides that all fees and charges imposed in connection with importation or exportation shall be limited in amount to the approximate cost of services rendered and shall not represent a taxation of imports for fiscal purposes. Moldova's application of an ad valorem customs user fee, even though modest in amount, does not satisfy this WTO requirement. A cost-based fee customs system will need to be developed and implemented prior to WTO accession.

For agricultural products, please elaborate further on the nature and scope of the customs services and operations for which the user fee is assessed. Please describe the administrative procedure used to assess the fees.

Answer:

Moldova is aware of the GATT panel decision of 1988 that the use of an ad valorem system of customs user fees is inconsistent with the provisions of Articles II.2(c) and VIII.1(a) of the GATT to the extent that it causes fees to be levied in excess of the approximate costs of customs processing for individual entries in question.

The customs user fee finances the activities of the Customs Department. At present proceeds from all import and export transaction are entered into a single operating budget of the Department. As a result expenditure for a specific transaction, be it export or import need not coincide with receipts from customs user fees charged in connection with that particular transaction.

The Government of Moldova intends to change its system so that the customs user fee will either be incorporated in the customs tariff or a flat fee reflecting the average cost of processing a customs declaration will be introduced.

(e) Quantitative import restrictions

Question 51.

Are there any provisions in Moldovan Law that authorize the Executive to apply quantitative restrictions under certain circumstances? If so, please cite the provision of law and give examples of situations where such restrictions could be applied.

Answer:

Article 13 of the Law on Foreign Economic Activity authorizes the Government to restrict the export and import of goods and services or to suspend foreign economic transactions. Temporary export and import restrictions for certain goods and services for specific countries or groups of countries can be introduced for balance-of-payments reasons or under other economic and political conditions. However, such temporary measures must respect provisions of international treaties and agreements to which Moldova is a party (Article 3, Law on Foreign Economic Activity).

(f) Import licensing procedures**Question 52.**

According to the information provided in Annex 3 of the Memorandum, the rules on import licensing in Moldova are governed by Decision No. 371 on Import Licensing, by the Government of Moldova, 6 June 1995. However, the Government was introducing a regulation on import licensing.

What is the current status of the Regulation governing import licensing? Does the Regulation supersede Decision No. 371? Please submit a translated copy of the legal provisions, either the Decision or the Regulation, which are currently governing import licensing in Moldova to the Working Party for review.

Answer:

The terms 'Government Decision' and 'Government Resolution' were used interchangeably in Annex 3 of the Memorandum. Both refer to Government Decision No. 371 of 6 June 1995. Moldova will submit a translated copy to the Working Party.

A new Government decision, replacing Decision No. 371 is currently being examined by the Government. Moldova will submit a translated copy of the draft to the Working Party.

Question 53.

Please provide a more descriptive list of all goods, including HS numbers, subject to import licensing. Annex 3A of the Memorandum, for example, does not specify exactly which chemicals, medicines, precious metals and minerals require import licences. Please identify all agricultural products subject to import licensing.

Answer:**Products for which Import Licences are Issued by the Ministry of Agriculture**

Product Group	HS-Code
Products of the chemical and allied industries	28.01 - 28.51
Organic chemicals	29.01 - 29.42
Fertilizers	31.01 - 31.05

Products for Which Import Licences are Issued by the Ministry of Economy

Product Group	HS-Code *
Weapons, ammunition, military equipment, kits to produce such equipment, works and services in the field of technical-military cooperation	93.00
Explosive substances	36.01 -36.03
Nuclear materials, technologies, equipment and installations to produce such materials	28.44, 84.01
Ionic radiation sources	-

Product Group	HS-Code *
Pharmaceutical products	30.00
Equipment and tools for general medicine, surgery, stomatology and veterinary purposes, including devices for scintigraphy and other electric medical devices; equipment for sight testing;	90.18-90.22
Diagnostic tests and chemical reactives	38.22
Medical and optical equipment	90.01-90.04
Drugs, substances with psychotropic effects; materials to produce such substances	29.21-29.26
Poisons	-
Precious metals, including gold and silver, minerals, precious stones and objects made thereof, alloys, semifabricates, wastes containing precious metals (except electronic articles containing precious metals)	71.00

* The list of HS-codes covered by the licensing provisions is in the process of being completed. Moldova will in due course submit a final list.

Question 54.

What documentation or other information must be supplied to the Ministry of Health in order to obtain authorization for an import licence for medication and medical appliances? Are there fees or charges associated with obtaining this authorization?

Answer:

Annex 3 to Government Decision No. 581 of 17 August 1995 stipulates that the following documents have to be presented in order to obtain an authorization from the Ministry of Health for activities requiring an authorization (including an import licence for medication and medical appliances):

- (i) application for the authorization, stating the type of activity for which the licence is requested and the time period for which the licence is needed. For legal persons the application must include the following additional information: name and legal status, address, bank account number and name of bank where the account is held, fiscal registration number. For individual firms: name and surname, passport details, fiscal registration papers;
- (ii) registration certificate from the State Registration Chamber and the statute which must include the activities for which the licence is requested;
- (iii) documents proving that at least one staff member of the firm or enterprise has the necessary professional qualifications and training, and evidence that the firm or enterprise has the appropriate facilities to carry out the activity (e.g. adequate storage and transport facilities);
- (iv) receipt confirming the payment of the application fee.

These documents have to be presented only for the first importation. A file for the importer is created and subsequent authorizations are issued on the basis of previously submitted documents.

Question 55.

Please identify, including HS numbers, all goods that are not permitted to be imported into Moldova.

Answer:

At present, there are no goods the import of which is not permitted.

Question 56.

According to the information provided in Annex 3 of the Memorandum, the licensing fee for a general licence is MDL 180. However, the licensing fee for products to be exported to the European Union is MDL 18, plus the Lei equivalent of one DM for the cost of the international form.

Does the general fee cover licences for the importation and exportation? Are exporters to the European Union subject to both the MDL 180 general licensing fee and the other export fees as well? Are importers from the EU subject to the general fee? Are there any export licensing fees charged on exports to countries other than the European Union?

Answer:

The licence fee structure is as follows:

Licence Type	Import/Export	Fee
General licence, valid for one year specifying a monetary equivalent	Import and Export	MDL 180
Regular licence, valid for one shipment, issued on the basis of a contract	Import and Export	0.1% of the value of the merchandise
GSP licence for export to the European Union in the GSP framework	Export	- MDL 18 for the licence - DM 1 for the licence form - 0.1% for the certificate of origin (Form A)
Textile licence for export to the European Union in the framework of the Textile Agreement	Export	- MDL 18 for the licence - DM 2 for the licence form

The last two items relate to exports to the European Union in the framework of the GSP and the Textile Agreement.

(h) Customs valuation**Question 57.**

Moldova acknowledges that its current customs valuation does not satisfy the requirements of the WTO Agreement on Customs Valuation. We seek Moldova's commitment that it will bring its regime into conformity with WTO requirements prior to the date of accession, not after

accession. In order to accomplish this, Moldova should begin now to revise its regime and institute a customs valuation and classification system compatible with international norms.

What is the current status of Moldova's efforts to update its customs valuation legislation and regime?

What is the schedule for rewriting existing law and implementing the new regime? Is Moldova receiving any technical assistance in rewriting its laws on customs valuation?

Will parliamentary approval be required to implement a new customs valuation regime?

Please provide to the Working Party a translated copy of the draft law or regulations governing customs valuation when available. Please submit a new response to the questionnaire on customs valuation to reflect the new customs valuation regime, at the earliest practical opportunity.

Answer:

Moldova is committed to bring its customs valuation regime into conformity with WTO requirements prior to the date of accession. The new legal provisions on customs valuation are part of the draft Law on the Customs Tariff. As such, they require parliamentary approval. The Law has been submitted to Parliament. Moldova expects that the Law will be adopted before 1 January 1998. Upon adoption by Parliament the implementation will begin. Moldova has submitted a copy of the draft text to the Working Party (WT/ACC/MOL/3/Add.1). Moldova has received technical assistance to prepare the new draft law. A new response to the questionnaire will be submitted to the Working Party upon adoption of the Law by Parliament when the final text is known.

Question 58.

Please provide a translated copy of Article 4 of Decision No. 99, On Customs Value, for review by the Working Party.

Answer:

Moldova has submitted a translated copy of Decision No. 99 of 27 February 1995 on Customs Valuation to the Working Party (WT/ACC/MOL/3/Add.1).

Question 59.

According to the Memorandum, importers must present copies of the contract, the invoice and other relevant documents, in order to calculate the customs value. Please describe the other relevant documents that need to be submitted and explain how they are used to calculate customs value.

Answer:

Decision No. 99 on Customs Valuation requires the person submitting the declaration to present the following documents:

- authentic documents of the person who transports the goods (while registered with the customs bodies as participant in external economic activities);
- contract and supplementary agreements (if foreseen so);
- the invoice and banking payment documents (if the invoice is paid) or the pro-forma invoice;
- other accounting documents showing costs of goods;

- insurance and transportation documents, if they are necessary in accordance with delivery conditions;
- the invoice for transportation or the calculation of the transportation expenditures, official certificate in cases the transportation expenditures were not included in the invoice;
- customs transportation declaration of the exporting country (if exists);
- the list of the packed goods;
- licence for the goods, if the import of the goods is effected on the bases of a licence, in accordance with the settled method;
- certificates of origin, quality, security and other documents, if these are necessary for the importation of the goods concerned.

In case the customs value cannot be established on the basis of these documents, the person submitting the declaration is obliged to present the following additional information:

- contracts with third persons that are involved in the business;
- payment accounts of third persons in favour of the seller;
- secondary accounts, broker services, that refer to the transaction with evaluated goods;
- accounting documents;
- licence and author agreements;
- import licences;
- delivery orders;
- registers, specifications, the price list of the manufacturing companies;
- other documents.

For the valuation of the declared goods and for customs control, other information available to customs control bodies can also be used. The calculation of the customs value is effected according to the four methods set out in the Decision.

(j) Pre-shipment inspection

Question 60.

According to the Memorandum, there are no Government regulations on pre-shipment inspection.

Does Moldova require certification of imports, e.g., for standards or sanitary purposes, where a foreign entity is authorized to provide the inspection and certification services required prior to shipment to Moldova?

Answer:

All safety and sanitary norms are mandatory, both for domestically produced and for imported goods. Imported goods are certified as part of the importation procedure. Goods accompanied by a certificate from a recognized foreign certification body receive their certificate without further examination on the basis of the foreign certificate. At present, only certificates from certification bodies of CIS countries and Rumania are recognized. Other goods are examined by one of the official 16 certification bodies. Negotiations for the recognition of foreign certificates are ongoing with a number of countries including, Poland, Germany and France.

Question 61.

Please identify any products, including HS numbers, that are currently subject to pre-shipment inspection (even in the absence of a regulation). Does Moldova currently contract with any private

entities to perform this service? If so, please identify the entity. Please identify any activities of the pre-shipment inspection entities, whether government or private, which are not consistent with the WTO Agreement on Pre-Shipment Inspection.

Answer:

Moldova does not, at present, use pre-shipment inspection and does not have any rules in this regard.

(k) Application of internal taxes on imports

Question 62.

According to the Memorandum, the excise tax is payable on all imported goods originating from Romania and the CIS countries, but that Moldova currently excludes imports from CIS States and Romania from its excise tax. In addition, imports from CIS States are exempted from its value-added tax (VAT), but that the VAT is imposed on imports from all other countries.

GATT Article I provides most-favoured-nation treatment to all matters included in paragraphs 2 and 4 of GATT Article III (which includes internal taxation).

Moldova should revise its excise tax and VAT law to bring it into conformity with WTO most-favoured-nation requirements as soon as possible and prior to accession.

Please confirm that the excise tax and the VAT are applied to domestic products at levels equal or greater than the levels applied to imports. Please describe how the taxes are applied to domestic goods, e.g., the taxable base, at what point of sale and to imports.

Answer:

The 1997 Budget Law introduced a number of VAT exemptions for certain goods, if these goods originate in certain countries. As for the excise tax, higher rates are levied for a number of products if these are imported compared to domestically produced goods. Details, including the 1997 rates charged for domestic and imported goods, and the taxable base were provided in response to the questions on Chapter II, section 2(b)(iii).

Moldova is aware that this measure is inconsistent with the provisions of the GATT and will amend its legislation accordingly.

VAT for domestically produced goods is paid together with the price of the goods. Firms and enterprises submit a monthly statement to the Ministry of Finance, not later than the 20th of the following month, and pay the VAT due together with the submission of the statement. VAT on imported goods must be paid before the goods enter the customs territory of the Republic of Moldova (Article 8, Law on VAT).

Excise on domestically produced goods is paid by producers of goods subject to the excise tax on a monthly basis for the goods sold. Producers submit a monthly statement to the Ministry of Finance, not later than the 20th of the following month, and pay the excise due together with the submission of the statement. Excise tax on imported goods must be paid before the goods enter the customs territory of the Republic of Moldova (Article 4, Law on Excises). For this purpose importers purchase excise stamps and mark the goods with these stamps.

Question 63.

Please identify all products, including HS numbers, from each CIS State, that receive VAT exemptions.

Answer:

In its trade relations with CIS countries, except Ukraine, Moldova is applying the principle of origin. Therefore, all goods originating from CIS countries, except Ukraine, are VAT exempt, on condition that the VAT has been paid in the country of origin (Article 14, 1997 Budget Law).

(l) Rules of origin

Question 64.

According to the Memorandum, Moldova applies rules of origin for imports from CIS countries and Rumania pursuant to preferential trade agreements, as well as under preferences in the framework of the Generalized System of Preferences. A law on the rules of origin is under preparation.

What is the status of the rules of origin that are being prepared?

When does Moldova expect to notify its new rules of origin?

Is Moldova receiving technical assistance in the preparation of the rules?

Please provide a translated copy of the draft rules of origin to the Working Party for review.

Has the new Law on the Rules of Origin been adopted?

Answer:

The new draft rules of origin are included in the draft Law on the Customs Tariff which has been submitted to Parliament. Moldova will notify its rules of origin once the draft Law on the Customs Tariff will have been adopted and the final text is known. Moldova has received technical assistance in the preparation of the rules. A translated copy of the draft law has been submitted to the Working Party (WT/ACC/MOL/3/Add.1).

Question 65.

In the absence of legal documents or specific regulations, please describe how the Moldovan customs authorities are currently determining rules of origin for use in non-preferential commercial policy instruments.

Answer:

Proof of origin is required only for goods imported from those countries which export to Moldova under a preferential trade agreement and from least-developed countries. The proof is constituted by a valid, official certificate of origin from the exporting country.

Question 66.

Please confirm that Moldova will adopt legal provisions for rules of origin that conform fully with the requirements of the WTO Agreement on Rules of Origin prior to accession. Please confirm that Moldova will administer the WTO-consistent rules of origin for both m.f.n. and preferential trade prior to WTO accession.

Answer:

Moldova confirms that it will adopt legal provisions for rules of origin that conform fully with the requirements of the WTO Agreement on Rules of Origin prior to accession and that it will administer the WTO-consistent rules of origin for both m.f.n. and preferential trade prior to WTO accession.

Question 67.

Does Moldova intend to adopt the rules of origin that are being developed in the WTO and the World Customs Organization?

Answer:

In the absence of a definitive text for the rules of origin developed in the WTO and the World Customs Organization Moldova has modelled its draft rules of origin on the rules of origin of the European Union. Moldova will adjust its legislation to bring it into conformity with the WTO rules of origin once the harmonized rules of origin have been agreed upon by the WTO.

(m-o) Anti-dumping, countervailing duty and safeguards régimes

Question 68.

Moldova currently has no legal provisions on anti-dumping, countervailing duty, or safeguard measures, although it is in the process of preparing an anti-dumping law.

If Moldova intends to apply any such restrictions after accession to the WTO, it should be in the context of a legal regime consistent with the provisions of WTO Agreements.

We seek a commitment from Moldova that it will not use anti-dumping, countervailing duty or safeguard measures until such legislation is in place.

Answer:

Moldova will not use anti-dumping, countervailing duty or safeguard measures until such legislation is in place.

Question 69.

Please provide a translated copy of the draft anti-dumping law to the Working Party for review. What is the current legislative status of this draft law? When does Moldova expect to notify its anti-dumping legislation to the WTO?

Answer:

The drafting process has not been completed yet. Moldova will submit a translated copy of the draft Law on Anti-Dumping, Countervailing and Safeguard Measures as soon as the draft has been completed.

2. Export Regulation

(a) Registration requirements for engaging in exporting

Question 70.

The registration requirements for exporting appear to be the same as for importing. Please describe any differences in these requirements and procedures.

Answer:

The registration requirements for exporting are the same as for importing.

(b) Customs tariff nomenclature

Question 71.

Please refer to the statement relating to customs user fee for imports provided in IV.1.(d) above.

GATT Article VIII provides that all fees and charges imposed in connection with importation or exportation shall be limited in amount to the approximate cost of services rendered and shall not represent a taxation of imports for fiscal purposes. Moldova's application of an ad valorem customs user fee, even though modest in amount, does not satisfy this WTO requirement. A cost-based fee customs system will need to be developed and implemented prior to WTO accession.

For agricultural products, please elaborate further on the nature and scope of the customs services and operations for which the user fee is assessed. Please describe the administrative procedure used to assess the fees.

Answer:

As stated in reply to the question on Moldova's customs user fee with regard to imports, Moldova is aware that its current system of levying the customs user fee is incompatible with the GATT.

The customs user fee finances the activities of the Customs Department. At present proceeds from all import and export transactions are entered into a single operating budget of the Department. As a result expenditure for a specific transaction, be it export or import, need not coincide with receipts from customs user fees charged in connection with that particular transaction.

The Government of Moldova intends to change its system so that the customs user fee will either be incorporated in the customs tariff or a flat fee reflecting the average cost of processing a customs declaration will be introduced.

(c) Quantitative export restrictions

Question 72.

Please describe the conditions that must be satisfied for the lifting of the temporary quantitative export restriction on unbottled wine. What is the GATT rationale for the use of the temporary quantitative export restriction on unbottled wine? Please describe in detail the nature and amount of the quantitative restriction on unbottled wine, and how the export restriction is administered. How long has this temporary quantitative restriction been in effect?

Answer:

The restriction, which consisted of an export ban for unbottled wine, expired on 30 September 1996.

It was introduced for two reasons. First, the Moldovan Government intended to promote the image of Moldovan wine, one of Moldova's most important export products. Domestic quality controls are one way of ensuring that bottles of Moldovan wine meet certain quality standards. Second, bottled wine has a higher value added which, in turn, yields higher corporate tax revenues. Against a background of strained public finances, tax revenues are a high priority concern of the Government. However, the measure proved ineffective and was therefore removed after six months of application.

(d) Export licensing procedures

Question 73.

Moldova indicates that licences are required for "goods with a special character", as specified in Annex 3A of the Memorandum.

Please provide more detailed descriptions, including HS numbers, of all products subject to export licensing.

Answer:

The list of products subject to export licensing is the same as for import licensing which has been provided earlier in this document.

Question 74.

What does Moldova mean by "goods with a special character"? Please identify all other goods with a special character that could be added to the list provided in Annex 3A of the Memorandum and thereby be subject to export licensing.

Answer:

The term 'goods with a special character' refers to goods covered by Articles XX and XXI of the GATT. Moldova has submitted the WTO justification for each product group subject to licensing in reply to previous questions. Moldova does not presently intend to add any further goods to the list provided in Annex 3A of the Memorandum.

Question 75.

Are administrative procedures for obtaining export licences the same as for obtaining import licences? If not, please describe the procedures and identify the agencies responsible for administering and monitoring the licensing programme.

Answer:

Administrative procedures for obtaining export licences are the same as for obtaining import licences

Question 76.

Are the fees for obtaining export licences the same as for obtaining import licences? Please describe the export licence fee structure fully. When are fees payable?

Answer:

The fees for obtaining export licences are the same as for obtaining import licences. An overview of all licence fees has been provided in reply to questions on Chapter IV, section 1(f) earlier in this document. Licence fees are payable when the licence is issued.

(e) Other measures

Question 77.

According to the Memorandum, a number of agricultural products and waste paper are subject to export registration and minimum export pricing.

GATT Article XI prohibits the use of prohibitions or restrictions other than duties, taxes or other charges, on the exportation of any product destined for the territory of another WTO Member. Unless Moldova can establish that it satisfies the conditions set out in Paragraph 2 of GATT Article XII for each product subject to minimum export pricing, the minimum export pricing requirement will have to be eliminated prior to WTO accession.

How does the Government of Moldova justify its use of minimum export pricing for each of the agricultural products and waste paper? What is the rationale for using minimum export pricing?

Have any export sales been lost or significantly delayed because the minimum export price was set higher than the international market price?

How are the minimum export prices determined? Are the minimum export prices published? Are the minimum export prices notified to the public and to exporters? Please describe the administrative procedure for appealing a minimum export price determination.

For items not covered by Paragraph 2 of GATT Article XII, how does Moldova intend to eliminate its use of minimum export pricing in order to conform with GATT Article XI?

Answer:

The export registration requirement, as it is currently applied, does not constitute an export restriction or prohibition for agricultural goods as it is no longer a system of enforcing minimum export prices. Registration of export contracts is now automatic.

The purpose of registering export contracts has been to safeguard the public interest in the field of external economic relations as well as to eliminate dumped exports. The first issue is the prevention of tax evasion. Companies' proceeds from exports are registered and later compared with these companies' tax returns.

Secondly, the registration requirement has been part of the Government's efforts to ensure that export earnings are fully repatriated. Export prices which are significantly lower than world market prices may give rise to an investigation. Initially, the Government reserved the right not to register export contracts if the stated price was significantly below world market prices but now registration can no longer be withheld for that reason. At the time, the Government published the reference prices. The Government is currently redrafting Government Decision No. 371 of 6 June 1995 which governs the registration of export contracts to reflect this liberalization. A copy of the draft Decision will be submitted to the Working Party.

Thirdly, the registration of export contracts permits easy monitoring of export prices and volumes of key Moldovan products.

Question 78.

Please describe the procedures for export registration for the items specified in Annex 3B, in the form of a response to the questionnaire on import licensing procedures.

Answer:

The main features of the system of registering export contracts, as it is currently applied, are as follows:

- (i) registration is automatic;
- (ii) applications for registration must be addressed to the Ministry of Economy and Reforms;
- (iii) the applicant has to submit:
 - an application to register the contract using the standard application form,
 - two copies of the contract,
 - a copy of the certificate of registration of the economic agent (to be presented only when the economic agent submits an application for the first time);
- (iv) a fee of 0.1 per cent of the contract value is payable when the application is submitted.

As the Decision governing the registration of export contracts is currently being redrafted Moldova will submit the replies once the new Decision has been adopted and the final wording is known.

Question 79.

Does Moldova still not apply any export subsidies, special promotion or financing policies?

Answer:

Moldova does not currently apply any export subsidies, special promotion or financing policies.

3. Internal Policies Affecting Foreign Trade in Goods

(a) Industrial policy, including subsidy policies

Question 80.

Please describe fully the priority loan, tax incentive and relief programmes for the energy, transport, road building, and telecommunications sectors. Also please describe in detail the Government aid programmes for the introduction of new technologies. In particular, please include information on eligibility and selection criteria for these programmes.

Please identify all sectors that have been selected for priority development.

Answer:

The sectors referred to in this Section are being restructured with the help of international aid agencies such as the World Bank and the EBRD which provide so-called sectoral loans. These loans finance infrastructure investments, technical assistance or credit lines which are channelled through the banking system and lent out to beneficiaries at market rates.

Such loans have been contracted to restructure the following sectors: energy, agriculture, transport, road building and telecommunications. In addition, loans for the development of the private sector have been contracted which benefit the private sector as a whole. Loans for education, water, cadastre and social development are currently in preparation.

In addition to the infrastructure investments, technical assistance and credit lines which are financed from loans provided by international aid agencies, the Government of Moldova facilitates the adjustment process through the following tax-related measures which are awarded on a case-by-case basis:

- rescheduling of tax arrears for companies in restructuring;
- forgiving of penalties for late payment of taxes;
- rescheduling of social insurance contributions;
- forgiving of penalties for late payment of social insurance contributions;
- write-off of tax liabilities of former State companies in the framework of liquidations and break-ups;
- VAT credit for those expenditures related to the restructuring process agreed between the company and the creditors represented in the State Creditors Council up to the specified limit.

In 1995, the Government had allocated MDL 180,000 to support the introduction of new technologies. In 1996, there were no allocations.

Question 81.

Please provide further detail on the mechanisms and policies used to enable the development programmes for the agricultural sector.

Please provide further detail on the mechanisms and policies used to enable the implementation of the programmes for privatization, restructuring and encouragement of efficient use of agriculture.

Answer:

The development of the agricultural sector is supported by the Government with the following measures:

- (i) privatization of land and of State-owned agricultural enterprises, e.g., kolchozes and sovchozes;
- (ii) restructuring of privatized farms supported by international aid agencies; 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; preparation of a credit line for the agriculture sector as a whole which will be financed by an international aid agency;
- (v) financial support programmes as outlined in reply to questions on Chapter II, section 2(b) earlier in this document;
- (vi) improving the legislative framework. Moldova is currently redrafting the Law on the Normative Price of Land and is preparing a Law on the Sale of Land.

Although the necessary legislation to regulate the trading of land is not yet in place (Law on the Sale of Land and the Amendment to the Law on the Normative Price of Land are in preparation), efficient allocation of land and agricultural machinery is facilitated through leasing and renting arrangements.

Question 82.

According to the Memorandum, a few investment projects launched by the private sector have received direct Government aid.

Please provide a detailed list of the investment projects, that have received, or are still receiving, direct Government aid. For each project, please provide the type and amount of aid that has been granted and describe fully any performance requirements that apply. Please describe the administrative procedures for applying and receiving this governmental assistance.

Answer:

Direct Government aid to investment projects launched by the private sector is granted in the framework of:

- (i) concessions, in accordance with Article 46, Law on Foreign Investment;
- (ii) free enterprise zones, in accordance with Article 46, Law on Foreign Investment and the provisions governing such zones described in detail later in this document;
- (iii) agreements with the EBRD, including technical assistance and exemptions from the VAT.

The following investment projects launched by the private sector have received Government aid:

- (i) concession: exemption from the VAT, customs duties on equipment and other imports for production purposes for the American company REDECO according to the terms of the concessional agreement on prospecting and exploitation of oil and gas (Article 26.6, 1996 Budget Law);
- (ii) EBRD: construction of a sports footwear factory in Orhei carried out by JSC Ascom-Kelme, Gheco and Constructurul-24;
- (iii) EBRD: Chisinau Bottle Factory;
- (iv) EBRD: modernization of Thermocomenergo carried out by ROCARO.

The Government support measures for concessions are negotiated on an individual basis and are not part of a Government investment support programme. Therefore, there are no administrative procedures for applying and receiving this governmental assistance. The tax exemptions granted to projects implemented in co-operation with the EBRD are provided for in the Basic Agreement between the EBRD and the Republic of Moldova.

Question 83.

Concerning assistance to domestic firms: does Moldova provide any services to firms at prices below the general rate charges, or exempt firms from tax payments to encourage output and investment? If so, describe these programmes and any aspects of the regime that address exports or trade.

Answer:

The only service Moldova is providing to firms at prices below the general rate charges are consultancy services offered to enterprises in restructuring in the framework of technical assistance projects.

The following measures aimed at encouraging output and investment of domestic firms have been taken:

- (i) higher rates of depreciation for fixed assets (1996);
- (ii) clarification of tax-deductible items (1996);
- (iii) VAT exemption for all agricultural products if sold by the producer (1997);
- (iv) reduced profit tax of 25 per cent instead of 32 per cent for agricultural and manufacturing enterprises (1997);
- (v) reduction of the land tax rates for enterprises (1997);
- (vi) 50 per cent bank tax reduction for long-term loans granted to enterprises (1997).

In addition a VAT exemption for certain types of pesticides originating in specific countries has been approved as part of the 1997 Budget Law. The trade implications have been referred to earlier in this document.

Question 84.

Please confirm whether or not it is Moldova's position that it does maintain subsidies which meet the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, and will therefore not invoke provisions in the Agreement that provide for the progressive elimination of such measures within a fixed period of time.

Answer:

It is Moldova's position that it does not maintain subsidies which meet the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, and will therefore not invoke provisions in the Agreement that provide for the progressive elimination of such measures within a fixed period of time.

(b) Technical regulations and standards

Question 85.

Moldova should be prepared to implement the WTO Agreement on Technical Barriers to Trade (TBT), as of the date of WTO accession.

Please provide the Working Party with a translated copy of Law of 25 May 1993 'On Consumer Security', Law No. 90-XIII from 22 September 1995 "On Standardization" and "Regulation of the Government (regarding law No. 590) "On State Supervision of Documents and Norms with Regard to Standardization".

Answer:

Copies (in English translation) of:

- the Law on Consumer Security of 25 May 1993 (WT/ACC/MOL/2/Add.1 called Law on the Protection of Consumers Rights);
- the Law on Standardization of 22 September 1995 (WT/ACC/MOL/3/Add.1);
- the Regulation of the Government on State Supervision of Documents and Norms with Regard to Standardization (WT/ACC/MOL/3/Add.1);

have already been submitted to the WTO Secretariat.

Question 86.

According to the Memorandum, Moldova has over 20,000 standards. How many of these standards are mandatory?

Answer:

Of the 20,000 standards mentioned in the Memorandum, about 5,000 are mandatory.

Question 87.

Does Moldova's standards and inspection regime conform fully with the requirements of the TBT agreement? Please describe in detail any aspects of Moldova's standards and inspection regime

that are currently deficient and the steps Moldova will take to remedy the deficiency prior to WTO accession.

Answer:

Moldova's standards and inspection regime does not yet fully comply with the requirements of the TBT Agreement; for details see replies to some of the subsequent questions (e.g. publication of, and receipt of comments on, draft standards; information of trading partners on standards). Moldova will take the necessary steps, prior to its WTO accession, to remedy the existing deficiencies.

Question 88.

Please indicate the number of cases, in the past three years, in which the Government of Moldova has denied or significantly delayed entry of foreign goods on the grounds that the goods did not satisfy regulations on standards, measurement or quality, or were not correctly documented under such regulations. Please provide a general descriptions of the most significant problems that foreign goods have encountered in satisfying standards requirements.

Answer:

In the past three years, a total of 45 cases have arisen in which entry of goods was denied or significantly delayed because the goods in question did not satisfy the regulations or standards, measurement or quality, or were not correctly documented under such regulations.

The most significant problems have arisen in the areas of food and alcoholic beverages as well as household goods where the shipments, because existing standards had not been met, were returned to the countries of exportation.

Question 89.

Please indicate how Moldova's standards are applied to imports, in particular, to what extent an import permit, certificate or licence is necessary for importation. In this regard, we would like to see information on Moldova's import standards regulatory system reflected in response to the questionnaire on import licensing procedures contained in WT/ACC/1. Please describe how these requirements are enforced for domestic product's.

Answer:

Imported goods subject to standards require a certificate from one the 16 official Moldova certification bodies (which are independent public institutions) prior to the release of the goods. Certificates of official certification bodies of other countries are at the present time accepted for imports from CIS countries and Romania only; however, negotiations for the recognition of such certificates are going on with other countries (Germany, France, Poland).

Furthermore, certification on the basis of manufacturers' declarations is permitted for a limited number of products (a list of which was submitted together with previous replies). Such certifications are preliminary and subject to random controls.

Domestic products which are subject to the same standards as foreign goods are controlled during the production process in Moldova.

Question 90.

Does the Department of Standards, Metrology and Technical Supervision (Moldova Standards) circulate draft standards for comments in advance of finalization? Please describe the procedures used by Moldova Standards to ensure that public notice of draft standards for comment is provided to all parties? How long is the period for comments on draft standards, technical regulations and conformity assessment procedures? Do the laws or regulations direct Moldova Standards or other agencies to consider the use of appropriate international standards when they are drafting standards?

Are standards and technical regulations published in an official gazette or otherwise notified to the public? Are importers notified of draft standards or changes in technical regulations? The WTO Agreement on Technical Barriers to Trade requires the publication in advance of implementation for comment by interested parties, of conformity assessment procedures and announcements of draft standards and technical regulations.

Answer:

Standards are elaborated in technical standardization committees in which the domestic producers are represented. After approval of the final drafts by Moldova Standards, the standards are published in

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

Through their participation in the technical committees, domestic producers are being made aware of the contents of draft, standards, but no public notice or possibility of comments on such drafts are provided at the present time. Importers will be made aware of new standards through the official publications, mentioned above.

Article 4.4 of the Law on Standardization expressly provides that Moldovan standards have 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 stipulates as the main objective of international co-operation between Moldova and other countries the harmonisation of national standards with international and regional standards and with advanced national standards of other countries.

Question 91.

Does Moldova Standards publish, for comment by interested parties, conformity assessment procedures and announcements of draft standards and technical regulations?

Answer:

Conformity assessment procedures and draft standards and technical regulations are not presently published for comments in Moldova.

Question 92.

How much time is allowed for comment by interested parties? How much time must elapse between the publication of a draft standard and the issuance of the final standard? Does Moldova notify

its trading partners prior to the release of final standards? Does Moldova notify those countries whose comments were rejected?

Answer:

Draft standards are not published in Moldova, nor are trading partners notified of such drafts.

Question 93.

For agricultural products, please describe in detail how the Moldovan standards and regulations compare with those of the Codex Alimentarius (Codex), Organisation of International Epizootics, and the European Plant Protection Organisation.

Answer:

Moldovan standards and regulations fully comply with the regulations of the Codex Alimentarius. Moldova is a member of the Organisation of International Epizootics and is using its regulations. As for the European Plant Protection Organisation, Moldova is not a member and has no information regarding its provisions.

Question 94.

Moldova should complete the statement of implementation required by the Agreement on Technical Barriers to Trade, and submit it in draft for review by the Working Party.

Answer:

The statement of implementation will be provided shortly.

(c) Sanitary and phytosanitary measures

Question 95.

Please provide a translated copy of 'Medico-biological requirements and sanitary rates of raw material and alimentation products quality,' No. 506 1.-89, to the Working Party for review.

Answer:

Moldova will shortly submit a translated copy of the document to the Working Party.

Question 96.

Please elaborate further as to the type, administration and scope of the hygienic examinations and quality certificate. Please explain how the examination, certificate and medico-biological requirements are consistent with the agreement on the application of sanitary and phytosanitary measures.

Answer:

Under Moldovan law, the following products require 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 is issued on the basis of relevant documentation, including the results of hygienic tests. For foreign products, the certificate is issued based on a safety certificate of the exporting country and additional tests in Moldova. Applications for the issuance of the certificates can be made by producers, vendors or buyers of the goods in question.

Certificates for domestic goods are valid for a period of three years provided no changes in the production technology take place during this period. For imported goods, a certificate is required for each shipment.

Moldova does not expect that its sanitary and phytosanitary provisions are inconsistent with the SPS Agreement.

Question 97.

Is Moldova Standard responsible for the development of standards for agricultural products imported into Moldova? Please describe how the standards are applied to the import of similar but different, products, when no specific standard exists.

Answer:

The responsibility for the development of standards for agricultural products lies with Moldova Standard in collaboration with the Ministry of Agriculture.

Similar, but different, products for which no specific standards exist are subject to the standards of the other product.

Question 98.

Are imported and domestically-produced foodstuffs subject to the same standards and inspection procedures.

Answer:

Imported and domestic foodstuffs are subject to the same standards. Inspection takes place at the border for imported products and during the production process for domestic products.

Question 99.

Please provide a list of all imported food products that Moldova Standards tests for conformity with standards.

Answer:

A list of all imported goods subject to standards was submitted together with replies to previous questions.

Question 100.

Please describe the dispute settlement procedures applicable to the resolution of issues related to the standards.

Answer:

Recourse against governmental decisions relative to food standards is available to Moldova Standard and subsequently to Moldovan economic courts.

Question 101.

Please indicate how Moldova's sanitary and phytosanitary requirements are applied to imports, in particular, to what extent an import permit, certificate or licence is necessary for importation. In this regard, we would like to see information on Moldova's import regulatory system for sanitary and phytosanitary measures reflected in response to the questionnaire on import licensing procedures contained in WT/ACC/1.

Answer:

Moldova's SPS requirements are the same as for standards (see reply to preceding question on certification requirements).

Question 102.

Please describe how these requirements are enforced for domestic products.

Answer:

SPS requirements for domestic products are enforced during the production process.

Question 103.

Do Moldova's SPS standards conform fully with internationally-accepted guidelines (Codex Alimentarius)?

Answer:

Moldova's SPS standards comply fully with the Codex Alimentarius.

Question 104.

For each product, please describe the veterinary inspection and quarantine requirements that apply to livestock, animal products, fish, veterinary drugs and animal feed.

Answer:

The Moldovan Law on Veterinary Activity obliges holders of livestock (cows, pigs and sheep) to:

- (i) respect the veterinary, sanitary and zoo-hygienic rules regarding the maintenance, feeding reproduction and exploitation of animals, as well as other requirements stipulated by veterinary authorities;
- (ii) take the necessary actions to prevent infectious diseases and, to treat sick animals, to eradicate sources of infections and prevent their spreading;
- (iii) ensure systematic medical examination of personnel, prohibiting the employment of sick persons who may transmit the disease to the animals;
- (iv) notify without delay the veterinary authorities about the existence or suspicion of existence of a disease which may require the imposition of quarantine measures, immediately isolate the sick or dead animals, and prevent the use or sale of the meat of the animals in question;
- (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 is only permitted if:

- no dangerous infectious diseases have occurred during the last three years in the country of exportation;
- an inspection has been carried out in the country of exportation by a recognized agency, at least 30 days prior to importation, that the livestock to be imported into Moldova does not have any disease; and
- the radioactivity of the livestock does not exceed bk/kg.

The importation into Moldova of livestock for slaughtering is only permitted if:

- no dangerous infectious diseases have occurred during the last 30 days prior to importation in the country of exportation;
- it is in good condition;
- it has been vaccinated against the anthrax disease; and
- the radioactivity of the livestock does not exceed bk/kg.

The conditions for the importation of fish and seafood products are determined on a case by case basis. No specific requirements exist for the importation of veterinary drugs and animal feed.

Question 105.

Please describe the administrative and judicial avenues of appeal for importers and exporters in the application of SPS requirements to imports.

Answer:

Regarding decisions relating to SPS requirements, importers and exporters can appeal to Moldova Standards and subsequently to Moldova economic courts.

Question 106.

Please use the "statement of implementation" required by the Agreement on Technical Barriers to Trade as a guide and provide the information requested concerning its sanitary and phytosanitary measures applied to imports to the Working Party for review.

Answer:

Statement of implementation will be provided shortly.

(d) Trade-related investment measures

Question 107.

Moldova stated in the Memorandum that there are at present no trade-related investment measures of the kind covered by the TRIMs Agreement.

Does authority exist in Moldovan law to apply such measures, either at the central or subcentral level? If so, please cite the authority and provide a copy of it in translation for Working Party review.

Answer:

Moldovan law does not contain an authority to apply TRIMs, either at the central or sub-central level.

(e) State-trading practices

Question 108.

Please list all large enterprises that have at least 25 per cent State equity ownership that engage in international trade and list, to the extent possible, the products in which they trade.

Answer:

Every enterprise irrespective of ownership or organizational form has the right to engage in foreign trade. Moldova will submit a complete list of enterprises that have at least 25 per cent State equity ownership that engage in international trade in due course.

Question 109.

Please confirm that Moldova has no fully or partially State-owned enterprises which receive any exclusive or special trading rights or privileges. Please indicate if any private firms or enterprises independent of Government ownership have been designated to trade in goods or services for the Government or enjoy any exclusive or special trading rights or privileges.

As mentioned in document WT/ACC/MOL/2/Add.2, there are no State-trading enterprises covered by the provisions of Article XVII. Could the Moldovan delegation confirm that all enterprises in the energy sector listed in document WT/ACC/MOL/2/Add.2 do not respond to the definition mentioned in the "Understanding on the Interpretation of Article XVII of the GATT 1994"?

Answer:

As mentioned before, Moldova's energy sector will, with the support of major international aid agencies, undergo a process of fundamental restructuring in the coming years.

Three of the five suppliers of energy in Moldova (listed on p.8 of WT/ACC/MOL/2/Add.2), i.e. Moldovagaz, Moldenergo and Thermocom, have de facto, but not de jure, positions as monopoly enterprises. They do not have any exclusive or special trading rights or privileges. In the past, the Government compensated these companies for foregone revenues resulting from below cost-of-service prices which have been fixed by the Government. In the context of an adjustment programme agreed with the IMF prices will be raised to cost-recovering level in the course of 1997. The prices will be raised in stages and the first increase has already been effected.

Consequently, Moldova does not consider these companies as State-trading enterprises responding to the definitions contained in the Understanding on the Interpretation of Article XVII of the GATT 1994.

For telecommunication services, refer to the replies provided in Chapter VI.

(g) Free economic zones

Question 110.

Please describe the tax and tariff incentives offered to firms to locate in the zones. Please indicate if there are any requirements or suggestions that output in the zones be exported. Please indicate if sales in the zones into the rest of Moldova are subject to normal taxes, tariffs and other import requirements.

Answer:

Tax incentives for firms located in free economic zones in Moldova are:

- a reduced profit tax of 15 per cent instead of 32 per cent in the rest of Moldova;
- complete exemption from the profit tax for 5 years for persons investing at least US\$ 250,000;
- a reduced capital repatriation tax of 5 per cent;
- exemption from the value added tax;
- reduction of periods of depreciation of basic assets, equipment, etc.

Goods brought into free economic zones from abroad are not subject to customs duties.

Once these goods, or goods derived from them, enter the rest of Moldova, normal customs formalities, customs duties, other import requirements and taxes apply to them. There are no requirements that output produced in the zones be exported.

(j) Government-mandated counter-trade and barter

Question 111.

According to the Memorandum, the Moldovan Government occasionally negotiates with its trading partners to pay for certain essential products, such as energy, metals, machinery and spare parts, with agricultural products.

Please elaborate further on the administrative process used for these counter-trade and barter transactions. What authority does the Government have to commit firms in Moldova to participate in such transactions?

Does the Government purchase the agricultural products at the market value? If not, how is the purchase price for the agricultural product determined?

Answer:

The administrative process used for counter-trade and barter transactions was described in document WT/ACC/MOL/2/Add.2. The Government of Moldova only concludes a framework agreement with the other governments concerned. The relative prices of the agricultural commodities to be exported from Moldova in the framework of these contracts are determined by Moldresurse and its foreign counterpart agencies, e.g. Russcontract.

Contracts are concluded, on the one hand, between Moldenergo, Moldovagaz, Tirex Petrol, Arca Moldova or Fertilitatea and their foreign suppliers, and on the other hand, between Moldenergo, Moldovagaz, Tirex Petrol, Arca Moldova or Fertilitatea and Moldovan suppliers of agricultural produce.

Agricultural enterprises are obliged to supply the commodities in question only to the extent that they have debts to the State. Commodities which cannot be obtained in this way at all or in sufficient quantities are through commercial channels. In both cases, market prices are being paid.

Question 112.

For each of the past three years, what was the total value, by product and partner country, of the agriculture products used for barter and counter-barter trade transaction?

Answer:

During the years 1994-1997, counter-trade/barter agreements were signed with Russia, Belarus, Ukraine and Uzbekistan. Moldova will submit the trade figures for these agreements shortly.

(l) Government procurement practices

Question 113.

We seek a commitment from Moldova to join the Government Procurement Agreement as part of its accession protocol commitments, and that a schedule of commitments will be submitted to the Government Procurement Committee to initiate the negotiations within 3 months after accessions.

Does Moldova intend to accede to the GPA as soon as the country will be a Member of the WTO?

Answer:

Moldova will take a decision in this respect in due course.

Question 114.

What is the current legislative status of the draft Law 'On Government Procurement'? Please provide the translated copy of this draft Law to the Working Party for review. To what extent does Government Decision No. 67, 27 January 1995, remain in effect? If it is still in effect, please provide a translated copy of this law to the Working Party.

Answer:

It is expected that the draft Law 'On Government Procurement' will be adopted by Parliament in the first half of 1997. It will supersede Government Decision No. 67 which is presently still in force. Both texts have been submitted (in English translation) in response to a previous request.

Question 115.

Please describe any major Government procurement purchases that are not open and implemented on a competitive basis. What criteria are applied in determining whether a Government Procurement contract will be tendered on an open and transparent basis?

How are the upcoming tenders notified? Do the requests for tenders specify whether or not foreign enterprises are eligible to be awarded the contracts? What deadlines are given for submission of documents? Are specifications based on performance rather than design, descriptive characteristics, or trade name?

What are the procedures for submission, receipt and opening of tenders, and for awarding of contracts? What criteria are applied to qualify and select suppliers? Please describe any preferences that are granted to domestic suppliers. Under what conditions do negotiations take place and how are they conducted? Does the Government of Moldova require offsets in any cases?

Answer:

The following answers are based on the draft Law 'On Government Procurement'.

A procuring entity must solicit tenders, or if applicable, applications for preliminary qualification, 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 National Agency for Public Procurement (NAPP). In particular situations (for further details see Article 18), the invitation

to tender or invitation for preliminary qualification shall also be published in the English language in mass media of wide international circulation (Article 26). The PPB also contains other announcements relevant to public procurement and advertisements thereof, as well as other information related to the procurement procedures (Article 45).

The invitation to tender contains, 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 (Article 27).

As to the contract award notices, the procuring entity shall publish notice of procurement contract awards within thirty calendar days after such awards are made. The notice includes at a minimum the name of the supplier, and the subject as well as the amount or the estimated amount of the contract. Procurement contract award notices shall not be published if national security or defence is concerned or if the contract price is less than twenty five hundred minimum monthly wages (Article 15).

The procuring entity may engage in prequalification proceedings with a view towards identifying qualified suppliers prior to the submission of tenders. The procuring entity shall then provide a set of prequalification documents to each supplier that requests them, including a summary of the principal required terms and conditions of the procurement contract to be entered into as a result of the procurement proceedings, any documents or other information that must be submitted by suppliers to verify their qualifications, the manner and place for the submission of applications to prequalify and the deadline for the submission, and the criteria for prequalification. Only suppliers that have been prequalified are entitled to participate further in the procurement proceedings. For further details see Article 7.

A procuring entity shall 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 may use the following methods of procurement (Article 19):

- (a) two-stage tendering;
- (b) restricted tendering;
- (c) specialised restricted tendering;
- (d) request for quotations; and
- (e) single-source procurement.

The procedures and criteria for each type of contract award procedure are as follows:

- (a) two-stage tendering (Article 20; Article 40):

A procuring entity may engage in two-stage tendering if:

- it is not feasible to formulate detailed specifications for the goods or construction, or to identify the characteristics of services;
- the procuring entity seeks to enter into a contract for the purpose of research, experiment, study or development;
- the circumstances exist to engage in specialised restrictive tendering; or

- tendering proceedings have been engaged in but no tenders were submitted or all tenders were rejected by the procuring entity and engaging in new tendering proceedings would be unlikely to result in a procurement contract.

In the first stage, the solicitation documents shall call upon suppliers to submit initial tenders containing their proposals without a tender price. In the second stage, the procuring entity shall invite suppliers which participated in the first stage and whose tenders have not been rejected, to submit final tenders with prices with respect to a single set of specifications.

(b) restricted tendering (Article 21; Article 41):

A procuring entity may engage in restricted tendering if:

- there is only a limited number of suppliers, or
- subject to approval by the NAPP, where the value of the procurement contract is estimated to be less than twelve thousand minimum monthly wages and the time and cost required to evaluate a large number of tenders would be unreasonably high in comparison with the value of the goods, construction or services to be procured.

The procuring entity shall solicit tenders from all suppliers from whom the goods, construction and services to be procured are available.

(c) specialised restricted tendering (Article 22; Article 42):

A procuring entity may engage in specialised restricted tendering if the subject of the procurement involves armament or goods, construction or services for national security or national defense of such nature as to require secrecy or confidentiality.

(d) request for quotations (Article 23; Article 43):

A procuring entity may engage in procurement by means of a request for quotations for the procurement of readily available goods or services that are not specially produced or provided to the particular specifications of the procuring entity and for which there is an established market, so long as the estimated value of the procurement contract is less than twenty-five hundred minimum monthly wages, or other amount as may be stipulated in the procurement regulations issue by the NAPP.

(e) single-source procurement (Article 24; Article 44):

A procuring entity may engage in single-source procurement if:

- there is an urgent need for the goods, construction or services, and engaging in tendering proceedings or any other method of procurement would therefore be impractical;
- there is only one particular supplier for the goods, construction or services to be procured;
- the procuring entity, having procured goods etc. from a supplier, determines that additional supplies must be procured from that supplier for reasons of standardization or compatibility;
- the procuring entity seeks to enter into a contract with the supplier for the purpose of research, experiment, study or development; or

- where procurement proceedings have been engaged in and only one tender, proposal, offer or quotation was received by the procuring entity in response to the solicitation documents, and engaging in new proceedings would be unlikely to result in a procurement contract.

The procuring entity may procure the goods etc. by soliciting a proposal or price quotation from, and engaging in negotiations with, a single supplier.

Tenders for goods and construction shall be evaluated on the basis of the following criteria (Article 37):

- the tender price;
- other criteria, including the cost of operating, maintaining and repairing the goods or construction, the time for delivery of the goods, completion of construction or provision of the services, the functional characteristics of the goods or construction, and the terms of payment and of guarantees; and
- provision of national defence and security.

The solicitation documents shall specify the evaluation criteria and their relative weight in the evaluation procedure or be expressed in monetary terms wherever practicable.

As to the evaluation of proposals for services, the evaluation criteria include (Article 48):

- the qualifications, experience, reputation, reliability and professional and managerial competence of the supplier and of the personnel to be involved in providing the services;
- the effectiveness of the proposal in meeting the needs of the procuring entity;
- the proposal price, including any ancillary or related costs; and
- national defence and security considerations.

The procuring entity shall determine the relative weight of the criteria and notify the suppliers about the manner in which they are to be applied in the evaluation of the proposals.

If approved by the NAPP, a procuring entity shall have 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 shall not exceed ten percent (Article 37).

The procuring entity has no right to establish any criterion, requirement or procedure with respect to the qualifications of suppliers that discriminates against or among suppliers or against categories thereof on the basis of nationality (Article 6). Suppliers are permitted to participate in procurement proceedings without regard to nationality, except in cases in which the procuring entity decides to limit participation in procurement proceedings on the basis of nationality (Article 8).

The draft procurement law does not make provision for any offset requirements.

Question 116.

What procedures exist for challenges to the award of contracts and dispute settlement?

Answer:

There are three levels on which suppliers that claim to have suffered, or that may suffer, loss or injury due to a breach of a duty of the procuring entity may seek redress (Article 54). Appeals can be submitted directly to the respective procuring entity and the NAPP (Article 55). Furthermore, the decisions of the NAPP are subject to review by the court (Article 59).

The NAPP may cancel in full or in part an unlawful act or decision of the procuring entity, or revise an unlawful decision by the procuring entity. The NAPP may require the payment by the procuring entity of compensation for any reasonable costs actually incurred, but not for lost profit or opportunity costs, by the supplier. Moreover, the NAPP may order that the procurement proceedings be terminated (Article 56).

Question 117.

According to the Memorandum, special provisions apply to purchases which affect national security.

Please identify the type, scope and administration of these special provisions as they apply to agricultural products. Please describe the type of purchases that are deemed to 'affect national security'.

Answer:

Special provisions on national security do not apply to the purchase of agriculture products. These provisions apply mainly to the purchase of military equipment.

4. Policies Affecting Foreign Trade in Agricultural Products
(b) Exports

Because export subsidies are the most trade-distorting form of support, we strongly encourage you to commit to binding export subsidies at zero for all products.

(c) Export prohibitions and restrictions

Question 118.

Please describe the administrative procedures that apply to the registration of export products covered in Annex 3B of the Memorandum.

Answer:

Registration of export contracts takes place in a special register by persons authorised by the Ministry of Economy and Reforms, after which the registration card of the contract authorising the delivery of goods through the border is issued. The registration of contracts is effected in 10 days from the date of receipt of the required documentation. Registration of contracts can be refused in case of incomplete presentation of documents or non-compliance with Moldovan legislation.

The text of the regulations on the procedure of registration of contracts for export of goods is contained in Annex 8 to the Governmental Decision No 371 of 6 June 1995, which will shortly be superseded by a new Decision (Annex 6 contains the Regulation on the method of registration of contract for exporting goods). The texts of both Decisions will be submitted to the Working Party.

(e) Internal policies

Question 119.

Please describe the domestic agricultural policies by submitting a response to WT/ACC/4, information to be provided on domestic support and export subsidies in agriculture, prior to the next meeting of the Working Party.

Answer:

The requested information will be circulated as document WT/ACC/MOL/5.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME (TRIPS)

1. General

Question 120.

The TRIPS Agreement is a fundamental component of the obligations undertaken by all WTO Members. We expect Moldova to implement fully the WTO TRIPS Agreement as of the date of accession, without recourse to any transitional arrangements.

(b) Responsible agencies for policy formulation and implementation

Question 121.

Please provide the address of the State Agency for Copyright, its phone and fax numbers, and the name and title of the head of the Agency. We already have such information for the State Agency for Industrial Property.

Answer:

The address is the following:

State Agency for the Protection of Copyright and Neighbouring Rights
Strada Sciusev 55
Chisinau 2012
Moldova

Telephone: 00373-2-223542 or 222653.

Telefax: 00373-2-226094

The head of the Agency is Director-General Cius.

(c) Membership of international intellectual property conventions and of regional or bilateral agreements

Question 122.

Will Moldova accede to the Berne Convention for the Protection of Literary and Artistic Works and the Geneva Convention on Phonograms prior to WTO accession?

Does Moldova intend to become a member of the Berne Convention and of the Rome Convention?

Answer:

Moldova is a member of the Berne and Rome Conventions which comprise the provisions of the Geneva Convention.

Question 123.

Does Moldova have any bilateral agreements which contain provisions on intellectual property protection? If so, please identify the agreements and describe the obligations. Are the benefits of such agreements accorded to nationals of other countries on a most-favoured-nation basis?

Answer:

Moldova has signed numerous bilateral agreements, including agreements on protection of investments, which provide for, inter alia, the protection of intellectual property rights of nationals of the agreements. Once Moldova will become WTO Member, it will apply full m.f.n. treatment to all WTO countries, although in practice such treatment is already now applied to all countries.

(d) Application of national and m.f.n. treatment to foreign nationals

Question 124.

Article 19 of the Constitution of Moldova provides national treatment for foreign nationals, subject to exceptions established by law.

Please identify (including citation) and describe any such exceptions to national treatment applicable to intellectual property protection or enforcement?

Please explain the exceptions to the national treatment.

Answer:

Moldova applies the principle of national treatment with regard to intellectual property. The exceptions stipulated in Article 19 of the Constitution refer to the rights to vote and to be elected, military service and related issues.

(e) Fees and taxes

Question 125.

Are the amount of fees payable for patents for inventions, utility models, industrial designs, trade marks, and appellations of origin the same for nationals and foreigners? Please provide the schedule of fees for each form of intellectual property.

Answer:

The schedule of fees for the intellectual property rights listed in the question is contained in annex I to this document.

2. Substantive Standards of Protection
(a) Copyright and related rights

Question 126.

Please submit a translated copy of the Law 'On copyright and neighbouring rights 'No. 293-XII' as of 23 November 1994, and any amendments.

Answer:

A copy of this law was in reply to previous questions (WT/ACC/MOL/3/Add.1).

Question 127.

What changes in the copyright law would have to be made to meet the requirements of the Berne Convention and Geneva Phonograms Convention?

Please explain how Moldova complies with Articles 1 through 21 of the Berne Convention (1971) and the Appendix thereto as required by Article 9 of the TRIPS Agreement?

Answer:

The Moldovan Copyright Law of November 1994 is in full compliance with the requirements of the two conventions mentioned in the question since Moldova is a member of these conventions.

Question 128.

Are computer programs protected as literary works under Moldova's Law 'On Copyright and Neighbouring Rights'? Are data bases protected as compilations? According to the Memorandum, "the exclusive right of use of the work is defined as the right of the author or other copyright holder to realise, to allow or to prohibit the ... distribution (sale or rental) of the work"?

Answer:

Computer programs, data bases and compilations are protected in the same way as literary works under Moldova's Copyright Law.

Question 129.

Do copyright owners have the right to prevent the rental of a copy of a work even after that particular copy has been sold? Do sound recording producers have a similar right to prevent the rental of copies of the sound recordings, even after those copies are sold? If not, when does Moldova envision including such rental rights in its regime for the protection of copyrighted works and neighbouring rights?

Answer:

Article 28.2 and 3 of the Moldovan Copyright Law gives copyright owners and sound recording producers the right outlined in the question.

Question 130.

Please describe in detail any limitations on the exclusive rights of copyright owners or owners of neighbouring rights.

Answer:

Very detailed regulations on the limitation on the exclusive rights of copyright owners or owners of neighbouring rights exist and relate to:

- reproduction of works for personal use;
- reprographic reproduction by libraries;
- free use of works;
- reproduction of computer programs and computer data bases.

For details, please refer to Chapter III, Articles 20-23 of the Moldovan Copyright Law which is based on the Berne Convention.

Question 131.

What are the terms of protection provided for copyrights and neighbouring rights? What is the term of protection provided for works that cannot be measured by the life of the author?

Answer:

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

Question 132.

According to the Memorandum, copyrights are registered with the State Agency on Copyright, but that registration is not necessary for the exercise of copyright. What advantage is obtained by the registration of a work?

Answer:

Under Article 8.4 of the Copyright Law, the certificate of registration may, in the event of the dispute, constitute a presumption of authorship for the court in the absence of proof to the contrary.

In addition, there are economic benefits for the author to register his copyright.

(b) Trademarks, including service marks

Question 133.

Please provide a translated copy of the Law "On Trademarks and Appellations of Origin of Goods" No. 588-XII 22 September 1995 and amendments to the Working Party for review.

Answer:

A copy of the Law was already provided with answers to previous questions (WT/ACC/MOL/3/Add.1).

Question 134.

Are colours recognised as trademarks if they are capable of distinguishing the product of one entity from those of other entities?

Answer:

Colours are recognised as trademarks if their spectrum has a specific connotation to a particular product.

Question 135.

Please describe the rights a trademark owner acquires by registering its mark and how these rights may be exercised, including any limitations on those rights?

Answer:

Moldovan law grants the owner of a registered trademark throughout the term of the validity of the trademark an exclusive right to dispose of and exploit it as well the right to prohibit other persons from using it on the territory of Moldova. No person shall be entitled to use a trademark protected in Moldova without the consent of its owner (Articles 6.1 and 2).

The following acts constitute an infringement of the rights of the trademark owner if carried out without his consent: the manufacture, use, import, offer for sale, sale or any form of marketing, or holding for such purposes, of a trademark or a product designated by such trademark, or the use of a similar sign liable to mislead the consumer, in relation to goods or services of the same type (Article 6.3). The exclusive trademark right shall not extend to elements of the trademark which, taken separately, cannot be registered in accordance with this law. There are no limitations to these rights.

Question 136.

If a party believes that its interests will be injured by the registration of a mark by another, is it possible for that party to oppose the registration or to seek its cancellation as provided for in Article 15.1 of the TRIPS Agreement? Please describe the procedure to be followed, and any fees involved, to oppose registration of a mark or to seek its cancellation?

Answer:

Opposition to registration of a trademark is possible under Article 17 of the Trademark Law by way of an application to the Appeals Board of the Agency for Industrial Property Protection (AGEPI) and subsequently to the courts.

Cancellation of registration of a trademark may be requested to the AGEPI Appeals Board and subsequently to the courts under Article 26 of the Law.

For details of the time limits and further details please refer to the respective provisions of the Law. For the AGEPI procedure no fees are payable.

Question 137.

Please explain whether Moldovan trademark law imposes time limitations on actions to cancel trademark registrations that have been obtained by fraudulent means.

Answer:

According to Article 26 of the Moldovan Trademark Law, the registration of a trademark may be cancelled at any time during its term of validity if it has been obtained through infringement of the Law. Any person may submit to the AGEPI Appeals Board a request for cancellation of a registration, for which the Law does not prescribe any time-limits.

Question 138.

Article 6 bis of the Paris Convention, incorporated by reference by Article 16.2 of the TRIPS Agreement requires protection for well-known marks. Please describe the protection available for well-known marks in Moldova, including the criteria considered in determining whether the mark is well-known.

Please explain how unregistered well-known trademarks are protected in Moldova, as required by TRIPS Article 16(2) and (3).

Answer:

Well-known marks are protected without a special procedure and without registration in compliance with Article 6 bis of the Paris Convention for the Protection of Industrial Property (Article 7(4) of the Moldovan Law On Trademarks and Appellations of Origin). The Law does not contain any special criteria for well-known marks, but in concrete cases the mark is considered well-known based on awareness of a great number of people about this particular mark.

Question 139.

Please describe any requirements or limitations Moldova places on the exercise of trademark rights, for example, are there any special requirements trademark owners must meet in using their marks or are there limitations of the licensing of marks?

Answer:

Moldovan Law does not place any limitations on the exercise of trademark rights. In particular the use of a trademark is not a condition for filing an application or to maintain a registration.

(c) Geographical indications

Question 140.

According to the Memorandum, the certificate of registration is a title of protection for appellations of origin in Moldova. The right to receive titles of protection for the appellations of origin belongs to individuals or legal persons who realise their activity in the geographical area indicated in the application.

Must all parties doing business in connection with the product associated with the appellation apply separately for the certificate?

Answer:

All parties doing business must apply separately for the certificate.

Question 141.

Please describe the process for applying for a certificate of registration, criteria applied in the determination to approve the application, and the nature of the rights conferred by the issuance of the certificate.

Answer:

An application for registration of an appellation of origin shall be filed with the AGEPI. As for the details of the documentation required and the criteria applicable for the approval of the registration, please refer to the provisions of Article 8 of the Trademark Law.

The appellation of origin rights are the same as the rights on trademarks.

Question 142.

The term 'Appellation of origin' is generally associated with wines and spirits. Does Moldova protect geographical indications associated with other products? Please describe the nature of the protection and the means by which it is acquired.

Answer:

The protection through appellations of origin applies to all products and is not limited to wines and spirits. Appellations of origin are the designations of a country, a region or locality used to designate a product whose natural properties derive essentially or exclusively from the natural or human factors specific to that geographical area (Article 3 of the Trademark Law).

Question 143.

Please indicate whether geographical indications for wines and spirits are given additional protection compared to geographical indications for other goods. If not, please explain how Moldovan law is consistent with TRIPS Article 23.

Answer:

The use of a registered geographical indication, even if accompanied by a statement of the true place of origin of the product or in translation or in association with words such as "kind", "type", "imitation", or other similar notices is prohibited for any person who is not the holder of the registration certificate. The use, for products of the same type, of similar designation liable to mislead consumers as to the place of origin and special properties of the products is also prohibited (Article 22.2, Law on Trademarks and Appellations of Origin).

Apart from the above, there is no additional protection of wines and spirits. However, there are special procedures for registering wines and spirits which are contained in the Governmental Decision No. 760 of 10 November 1995.

(d) Industrial designs

Question 144.

Paragraph 2 of TRIPS Article 25 requires that members ensure that the requirements for obtaining protection for textile designs do not unreasonably impair the opportunity to seek and obtain such protection

Please describe the means by which textile designers can obtain protection for the designs in Moldova.

Answer:

Textiles designs are protected in the same manner as industrial designs, i.e., they can be registered as a design or industrial model if they have a new appearance and utility function.

Question 145.

Please describe any limitations that may be placed on the protection provided to industrial designs in Moldova.

Answer:

There are no limitations provided on protection of industrial designs.

(e) Patents

Question 146.

Please provide a translated copy of the Law "On patents for inventions" No. 461-XII as of 18 May 1995 to the Working Party for review.

Answer:

A copy of the Patent Law was already submitted in reply to a previous request (WT/ACC/MOL/3/Add.1).

Question 147.

TRIPS Article 27 provides that patents shall be available for any inventions, in all fields of technology, unless specifically excepted. The Moldovan Law does not consider topographies of integrated circuits to be patentable inventions.

Answer:

Topographies of integrated circuits are subject to the patent provisions of TRIPS because they are not specifically excluded from coverage in Article 27. How does Moldova intend to amend its Patent Law to provide patent protection for integrated circuits which are novel and industrially applicable?

Moldova intends to draft a special law which will protect topographies of integrated circuits prior to its accession to WTO.

Question 148.

According to the Memorandum, the priority date of an invention is the date the application is submitted. As a member of the Paris Convention, does Moldova treat the date of filing in any Paris Convention member State as the priority date, provided that an application is also filed in Moldova within 12 months?

Answer:

As Moldova is a Paris Convention member country, it treats the date of filing in any Convention member State as the priority date (Article 12 of the Patent Law).

Question 149.

Please describe all compulsory licensing provisions and explain how the provisions comply with the requirements of TRIPS Article 31?

Answer:

If the invention has not been used for three years since the patent has been issued, or it has not been sufficiently used by the holder, the person who is ready to, and wishes to utilize the invention, in case the holder refuses to conclude a licensing contract with that person, the latter can submit a request to the court or arbitrage to be awarded a non-exclusive obligatory licence.

In the interest of national security, the Moldovan Government has the right to authorize the use of the invention by third parties without the consent of the patent holder, paying the latter an adequate financial compensation. The holder has the right to contest the amount of compensation in the court (Article 33(4), Law On Patents for Invention).

Question 150.

What rights are provided to patent holders? Please describe any limitations on the exercise of those rights.

Answer:

The holder of a patent has the exclusive right on the invention protected by the patent which consists of the right to use the invention, provided the usage does not interfere with the rights of other patent holders, to dispose of the patent and to forbid others to use the invention protected by the patent (Article 22(1), Law On Patents for Invention)

In civil infringement proceedings involving process patents, TRIPS Article 32 provides that judicial authorities shall have the authority to order the defendant to prove that the process to obtain an identical product is different from the patented process. The burden of proof is required to be shifted to the defendant 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.

Question 151.

Does Moldova's Patent Law require the defendants to prove that the process to obtain an identical product is different from the patented process, in accordance with the requirements of TRIPS

Article 34? Please describe how the Government of Moldova intends to remedy any such deficiencies prior to WTO accession?

Answer:

Moldova does not have at present a provision corresponding to Article 34 of TRIPS and will therefore adjust its legislation prior to WTO accession.

(f) Plant variety protection

Question 152.

Please provide a translated copy of the "Provisional Statute of Industrial Property Protection in Moldova" to Working Party for review.

Answer:

For the purposes of plant variety protection the Provisional Statute mentioned in the question has in the meantime been superseded by the Law 'On Plant Variety Protection'; a translated copy of which was submitted in response to previous request (WT/ACC/MOL/3/Add.1). As for animal variety protection the provisions of the Provisional Statute are still in force and Moldova will submit a copy of these provisions shortly.

Question 153.

According to the Memorandum, plant or animal varieties are considered patentable inventions under the Law 'On Patents for Inventions'.

Please describe the rights and term of protection available to holders of patented plant or animal varieties. Please describe any special rules or procedures that apply to plant and animal varieties that do not apply to other inventions under the Moldovan Patent Law.

Answer:

Moldova adopted a "Law On Plant Variety Protection" which entered into force on 28 November 1996 and provides for special protection of plant varieties. Protection is granted on the basis of certificates issued by the State Commission for the Testing of Plant Varieties. The Law grants the exclusive rights of exploitation to the patentee which are listed in Article 13 (Law on Plant Variety Protection). Moldova also became a member of UPOV.

The term of protection is 25 years for trees, fruit trees and ivy - vines and 20 years for plant varieties and other species, with the possible extension for further 10 years.

(g) Layout designs of integrated circuits

Question 154.

Please describe the rights acquired in Moldova by the holder of a certificate of the layout registration. Please describe any limitations on the ability of the holder to exercise these rights and any compulsory licensing provisions applicable to layout designs of integrated circuits. Is Moldova's Law in compliance with the requirements of paragraph 2 of TRIPS Article 37 ?

Answer:

Presently, there are no provisions governing layout-designs of integrated circuits. A Draft Law on Layout Designs of Integrated Circuits which will comply with relevant international agreements is currently in preparation and will be submitted to the Working Party in due course.

(h) Requirements on undisclosed information

Question 155.

Please provide a translated copy of the Law 'On the protection of the commercial secret, No 171, adopted by Parliament on 6 June 1994 to the Working Party for review.

Answer:

A translated copy of the Law "On the protection of the commercial secret" will be provided to the Working Party.

Question 156.

Please describe the nature of the protection provided under the Law "On the protection on commercial secret", No. 171 of 6 June 1994.

Answer:

Article 6(4) of the Law provides that the State will ensure the appropriate conditions for the economic entities to keep the information secret.

Question 157.

What kinds of information are eligible as trade secret? Must the information be documented in some form before it will receive protection and, if so, what form of documentation is required?

Answer:

Information is considered as commercial secret if:

- (i) it has real or potential value to the economic agent;
- (ii) access to it is restricted;
- (iii) it is marked, by stamp or otherwise, as confidential;
- (iv) it is not covered by the provisions on copyright or patents.

No further documentation is required.

Question 158.

What is the term of protection for commercial secrets? Are commercial secrets protected as long as they satisfy the criteria (as specified in section V.2(h) of the Memorandum) to be considered a commercial secret? Please describe any limitations on the protection provided for commercial secrets and any applicable compulsory licensing provisions.

Answer:

Commercial secrets are protected as long as they satisfy the criteria listed in the preceding reply. There are no limitations on the protection and no compulsory licensing provisions in the Law.

Question 159.

Paragraph 3 of TRIPS Article 39 requires member countries to protect undisclosed test or other data submitted as a condition of approving the marketing of pharmaceutical or agricultural chemical products which utilize new chemical entities.

Please describe how the test or other data is submitted to governmental authorities in Moldova and the methods used by the authorities to protect this information from disclosure?

Answer:

The marketing of pharmaceuticals and agricultural chemical products which utilize new chemical entities without registration of intellectual property rights is only subject to approval by the Ministry of Health or the Ministry of Agriculture, respectively.

Moldova does not require the submission of undisclosed test or other data as the condition of approving the marketing of products mentioned in the question. The marketing of such products is only subject of approval by the Ministry of Health or the Ministry of Agriculture, respectively.

4. Enforcement

(a) Civil judicial procedures and remedies

Question 160.

Please provide the translated copy of the Civil Law provisions that apply to the protection of intellectual property rights to the working party for review.

Answer:

While Moldovan Civil Law contains general provisions relating to property rights, the specific provisions relating to the protection of IPRs are contained in the respective Moldovan intellectual property rights laws.

Question 161.

Please describe the structure of the court system in the Republic of Moldova and the tribunals having jurisdiction over disputes involving intellectual property rights.

Answer:

Jurisdiction for Intellectual Property Rights (IPR) in Moldova lies, depending on the particular case, with:

- the ordinary courts, against whose judgments appeals can be lodged to the Court of Appeals and ultimately the Moldovan Supreme Court;

- the Economic Court in Chisinau (which is the only one in Moldova so far), against whose judgements appeals can be lodged to the Economic Appeals Court and ultimately to the Moldovan Supreme Court.

Question 162.

Please describe the civil remedies which are available to holders of each form of intellectual property to provide provisional and permanent relief from the infringement of their rights.

Please explain how Moldovan law complies with the Articles 42 to 49 of the TRIPS Agreement concerning civil and administrative procedures and remedies.

Answer:

A rightholder in Moldova can request from a court that an injunction be issued which would prevent further infringements of his right. This procedure is governed by the normal provisions of Moldovan law. Permanent relief can be obtained through resort to the economic courts.

The exact provisions governing legal remedies for specific intellectual property rights are included in the respective laws, copies of which Moldova has already submitted or will submit (see e.g. Article 25, Trademark Law). For administrative procedures see answer provided under Chapter V, section 4(d) below.

Question 163.

Please describe the nature of the evidence that is required to prove infringement in connection with each form of intellectual property right.

Answer:

The normal rules on evidence governing civil litigation in Moldova apply to intellectual property right cases.

(b) Provisional measures

Question 164.

Please describe the provisional measures that are available to prevent any infringement of intellectual property right from occurring, in particular to prevent the entry into the commerce of infringing goods, and to preserve relevant evidence.

Answer:

A rightholder can request from a court an injunction which will prevent further infringements of his rights and the entry into commerce of the infringing goods.

Question 165.

Please describe the procedures and evidence required by the rightholder for the application of provisional measures.

Answer:

See the reply to previous questions.

(c) Any administrative procedures and remedies

Question 166.

What is the current status of the promulgation of standards to provide special border enforcement measures to combat counterfeiting of trademarks and piracy of copyrighted goods, as required by section 4 of TRIPS? When does the Government of Moldova expect the standards to be implemented?

Please provide a translated copy of the draft standards to the Working Party for review.

When will Moldova adopt the special border measures pursuant to Articles 51 to 60 of the TRIPS Agreement?

Answer:

According to Article 38.10 of the Copyright Law, the customs authorities are entitled to seize copies of works or phonograms that have been the subject of attempted unauthorised importation or exportation.

As soon as the draft of a general border enforcement law becomes available, a copy will be submitted to the Working Party.

(d) Any special border measures

Question 167.

Please describe any administrative procedures and remedies available to holders of intellectual property rights.

Answer:

Article 51 of the Code on Administrative Infringements provides for fines of 10-75 minimum salaries and confiscation of goods in cases of violation of an exclusive industrial rights. Article 152.2 of the same Code provides for a fine of 25 minimum salaries and confiscation of goods in cases of false utilisation of trademarks.

(e) Criminal procedures

Question 168.

Please describe the criminal procedures and penalties applicable to the unlawful utilisation of trademarks, as provided by Article 158 of the Criminal Code.

Answer:

Article 158 of the Criminal Code provides for a penalty of one year of correctional work or 50 minimum salaries for the unlawful utilisation of a trademark. The procedures in these cases are the same as for ordinary criminal offences.

Question 169.

Please describe the criminal procedures and penalties applicable to copyright piracy on a commercial scale.

Answer:

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

6. Statistical data on applications for and grants of intellectual property rights

Question 170.

Please provide the statistical data required by WT/ACC/1.

Answer:

This information will be provided shortly.

VI. TRADE-RELATED SERVICES REGIME

1. General

Question 171.

We appreciate the description of the services regime provided in the Foreign Trade Memorandum. However, since the submission of the Memorandum, the Secretariat issued a technical note, WT/ACC/5, which provides a standard format for the comprehensive description of services information.

Please submit a response to the request for information contained in WT/ACC/5.

Answer:

The questionnaire WT/ACC/5 will be submitted shortly.

Question 172.

Please provide references for all existing legislation and documents relating to services, particularly relating to foreign service providers, issued by legislative agencies and where they have been published.

Answer:

The following laws and legislative documents relate to the supply of services:

- Law on Foreign Investment No. 998-XII of 1 April 1992;
- Law on Enterprises and Entrepreneurial Activity No. 846-XII of 1 April 1992;
- Law on Banks and Banking Activity No. 601-XII of 12 June 1991;
- Law on Financial Institutions No. 550-XIII of 21 July 1995;
- Law on Rent No. 861 of 14 January 1992;
- Law on Insurance No. 886-XIII of 20 June 1996;
- Law on Employment No. 878-XII 16 January 1992;
- Law on Accounting No. 321 of 25 May 1995;
- Law on Auditing No. 729-XIII of 15 February 1996;
- Law on Securities No. 491-XIII of 8 June 1995 and related documents;
- Law on Audio-Visual Services No. 603-XIII of 3 October 1995;
- Law on Public Associations No. 837-XIII of 17 May 1996;
- Law on Telecommunications No. 520-XIII of 7 July 1995;
- Law on Postal Services No. 463-XII of 18 May 1995;
- Law on the State Privatization Programme 1995-1996 No. 390-XIII of 15 March 1995;
- Government Decision on the Regulation of Certain Kinds of Activities No. 581 of 17 August 1995.

All these laws and the Government Decision are published in the Monitorul Oficial.

Question 173.

Please submit a translated copy of the Law "On Enterprises and Entrepreneurial Activity" No. 845-XII, as of 3 January 1992, with amendments, to the Working Party for review.

Answer:

A translated copy of the Law on Enterprises and Entrepreneurial Activity No. 845-XII of 3 January 1992 including amendments has been submitted to the Working Party together with the Memorandum.

Question 174.

Many services have remained largely unregulated. As mentioned in document WT/ACC/MOL/2, the Moldovan Government intends to improve the collection of specific data in this sector. Could the Moldovan delegation provide us with some more information on that issue? When does Moldova intend to present a draft schedule of specific commitments in this sector?

Answer:

Moldova is receiving technical assistance from an international aid agency to improve data collection for GDP calculation. In a first step the efforts concentrated on the agricultural and industrial sectors where data collection has been improved considerably. For some services such as construction, wholesale and retail trade, repair and maintenance works, transportation, education and health and social services data is available for 1995 and 1996.

A draft schedule of commitments will be submitted in due course.

2. Policies Affecting Trade in Services

(b) Judicial, arbitral or administrative tribunals or procedures

Question 175.

What are the main conditions for foreign insurance companies to obtain a licence if they wish to sell insurance?

Answer:

According to the Law on Insurance of 20 June 1996, foreign insurance companies can operate in Moldova only in a joint venture with Moldovan partners. The foreign share in such a joint venture must not exceed 49 per cent.

Moldovan and foreign insurance companies must, in order to carry out business in Moldova, obtain a licence from the State Insurance Service at the Ministry of Finance. The following documents have to be submitted:

- an application indicating the legal/organizational form, legal address, current settlement, account bank details, and fiscal code;
- the last reported balance sheet, equity and other financial information confirmed by auditors;
- economic background, including solvability standards valid for the last reporting date, profit and loss statement, statement of operational and management costs, the programme of protection regarding re-insurance and other guarantees of fulfilment of insurance obligations;
- models of insurance contracts (insurance certificates, insurance policies);
- payment note for application fee;
- information on the executive officers of the applicant and their deputies.

In addition, the applicant must have a minimal social fund of MDL 300,000 in cash and the necessary reserves related to the total amount of insurance policies contracted. In case of transport insurance, the social fund and the reserves must be at least MDL 1 million. A copy of the Regulation on the Issue of Licences for Insurance Services of 17 November 1995 was submitted in response to previous questions (WT/ACC/MOL/3/Add.1).

(d) Provisions governing the existence and operation of monopolies or exclusive service suppliers

Question 176.

Please describe the activities of Posta Moldovei and Moldtelecom in the form of a response to the questionnaire on State-trading. Please describe the mechanisms in place in Moldova to ensure that the operations of these two enterprises are consistent with the requirements of GATS Article VIII.

Although no entry barriers exist in the telecommunications sector there is still de facto a State monopoly for these services. Does Moldova intend to liberalize this sector?

Answer:

Posta Moldovei has exclusive rights in providing the following basic postal services:

- forwarding of letters and parcels;
- money orders;
- pension money orders.

Express parcel forwarding services are open to completion and there are foreign providers in Moldova.

Moldtelecom fully applies the m.f.n. principle in its operations.

Questionnaire on State-Trading for Moldtelecom

1. Enumeration of State-Trading Enterprises:

Moldtelecom has been granted exclusive rights for the following services:

- international telecommunications;
- telegraph;
- telex;
- domestic basic telecommunication services and leased circuit provision via the public telecommunications network.

2. Reason and Purpose for Introducing and Maintaining State-Trading Enterprises:

Historically, Moldtelecom has been the only service provider in this area since 1991. As a first step, Moldova has embarked on the privatization of Moldtelecom (see following question). As a further step, Moldova intends to deregulate the telecommunications sector no later than 2005.

3. Description of the Functioning of State-Trading Enterprises:

Regimes in the Telecommunication Sector

Telecommunication Sector	Regime
International telecommunications, telegraph and telex.	Exclusive authorization for the supply of services in this sector is held by Moldtelecom, the country's national operator of the public telecommunications network.
Domestic basic telecommunication services and leased circuit provision via the public telecommunications network.	Exclusive authorization for the provision of these services is at present also held by Moldtelecom, scheduled to last until 2005. After 2005, open competition will be introduced. Local telephone operators will be awarded operating licences on the basis of public tenders. Such licences will be issued only for those districts where there is sufficient demand.

Telecommunication Sector	Regime
Mobile telephone services and mobile radio connected to the public telecommunications network.	One company has been awarded a licence for establishing a mobile analog NMT-450 telephone system. Another four companies have been awarded licences to operate trunked type systems. One GSM licence will be awarded after tender evaluation in 1997. Further mobile radio licences shall be awarded only if justified by demand and subject to existing undertakings and availability of frequencies.
Independent local networks connected with the public telecommunications network.	There are a number of licence holders for such networks. The award of licences is without restriction of number but licences have limited scope.
Radio paging.	There are currently three local suppliers, each of them holding a licence. The award of licences is subject only to the availability of radio frequencies.
Networks requiring the use of radio frequencies but not connected to the public network, such as taxi radio, ambulance car radio etc., and independent networks not connected to the public network.	There are presently many suppliers, each of them holding a standard licence or an authorization to use certain frequencies. The award of licences is subject only to the availability of radio frequencies.
Other services, e.g. conceive, create and maintain telecommunication networks.	These services are presently provided by several suppliers, each of them holding a standard licence. The award of standard licences is without restriction of number based on open competition.
Customers premises equipment.	There are many suppliers, each of them holding a standard trading licence for the sale of approved equipment. The award of standard trading licences is without restriction of number on the basis of open competition.

Question 177.

We understand that Moldova intends to privatize Moldtelecom. What is the current status of the privatization of this enterprise? What is the timetable for completing the privatization and how will it be carried out? Will foreign investors be permitted to participate in the privatization of Moldtelecom? Please describe any ownership interest that will be retained by the Government of Moldova in Moldtelecom after privatization. Will Moldtelecom function as a monopoly provider of telecommunication services after privatization?

Answer:

The Government of Moldova has launched an international tender for the privatization of Moldtelecom, supported by the EBRD. Privatization should be completed by the end of 1997. Forty per cent of the shares are reserved for foreign investors, whereas 60 per cent will, for the time being, remain in State ownership. As for Moldtelecom as a monopoly, see reply to the preceding question.

3. Market Access and National Treatment
(a) Limitations on the number of service suppliers

Question 178.

Please describe in detail the limitation on telecommunications services. Are United States telecommunications service suppliers exempt from this limitation pursuant to the United States-Moldova bilateral investment treaty?

Answer:

Details of the limitations on telecommunications services are provided in the table on the Regimes in the Telecommunications Sector above. The United States-Moldova bilateral investment treaty does not provide for any exemptions to the limitations in the telecommunications sector.

(g) Measures providing for less than the treatment accorded to national services or service suppliers

Question 179.

Please describe the restrictions on retail banking activity by foreign banks.

Answer:

As stated in the Memorandum, foreign banks duly licensed by the National Bank of Moldova face no restrictions on retail banking. Only off-shore banks, not licensed in Moldova, are subject to some restrictions.

4. Most-Favoured-Nation Treatment

Question 180.

On 24 September 1993, Moldova signed the Agreement creating an economic union between Moldova and the other CIS countries providing for the free circulation not only of goods but also of services, capital and manpower.

Please indicate any provisions of that Agreement that would restrict Moldova's ability to make commitments in the WTO concerning m.f.n. or national treatment for trade in goods or services.

Answer:

The Agreement mentioned in the question does not contain any provision that would restrict Moldova's ability to make commitments in the WTO concerning m.f.n. or national treatment for trade in goods or services.

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

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

Question 181.

Please provide a translated copy of the Agreement of Partnership and Co-operation with the European Union to the Working Party for review. Please describe any provisions in this agreement that restrict Moldova's ability to make commitments regarding market access and national treatment in trade in goods and services.

Answer:

The Agreement of Partnership and Co-operation with the European Union has not yet entered into force as it has not yet been ratified by all member States of the European Union. In the meantime, an interim agreement has been signed. A copy of the interim agreement will be submitted to the Working Party. The agreement does not contain any provisions with restrict Moldova's ability regarding market access and national treatment for goods and services.

Question 182.

Please describe the provisions of the Agreement with the European Union on Textiles and Clothing. Does Moldova grant preferential market access to any European Union goods or services pursuant to this Agreement. If so, please describe fully.

Answer:

Under the Agreement mentioned in the question, Moldova textile and clothing products can enter the European Union (EU) market without quota limitations. In addition, Moldova shall create favourable conditions for imports of textile products originating in the EU and, where appropriate, accord to them non-discriminatory treatment as regards the application of quantitative restrictions, the granting of licences and the allocation of currency needed to pay for such imports.

Moldova permits duty-free import of raw materials for textile and clothing products from the EU, provided the finished products are subsequently exported to the EU (inward processing).

2. Economic Integration, Customs Union and Free Trade Area Agreements

Question 183.

Concerning the bilateral trade agreement with Iran:

Please submit a translated copy of the Agreement(including any annexes) to the Working Party for review. Please describe fully any provisions of this bilateral agreement that apply to any of the goods subject to licensing, as identified in Annex 3A of the Memorandum.

Answer:

A copy of the Agreement (in English) will be submitted to the Working Party. The Agreement does not refer to any of the products subject to licensing in Moldova, as identified in Annex 3A in the Memorandum.

Question 184.

Do any import or export goods currently receive preferential market access pursuant to this Agreement. If so, please identify the products, including HS numbers, and describe the preferential market access.

Answer:

The Agreement does not provide for preferential market access.

Question 185.

Please describe any provisions in this Agreement that restrict Moldova's ability to make commitments regarding market access and national treatment in trade in goods and services?

Answer:

The Agreement does not restrict Moldova's ability regarding market access and national treatment for goods and services.

Question 186.

Because Iran was omitted from table 6 of Annex I of the Memorandum, please provide the bilateral trade statistics for Iran. What was the rationale for negotiating a bilateral trade agreement with Iran?

Answer:

Year	Imports in MDL	Exports in MDL
1993	0	0
1994	234.000	0
1995	405.000	1,615,000
1996	174.800	649.800

The objective of the agreement was 'striving for future extension and development of trade relations and promotion of economic and trader co-operation based on equality, non-discrimination, reciprocal interests'.

Question 187.

Concerning the trade agreement with Bulgaria:

Please identify the marked package or bottles to be reconditioned, including HS numbers, that enjoy preferential market access pursuant to that agreement. What is the rationale for granting this preferential market access? Would Moldova be willing to extend the terms of market access for these products to all WTO Members on m.f.n. basis?

Answer:

The Agreement does not contain the precise product coverage in terms of HS numbers.

Since these marked packages or bottles do not represent a product for consumption but rather for refilling (e.g. with wine) in the context of the inward and outward processing, there is no need to impose customs duties on these items.

Moldova is prepared to consider extending the same treatment to all WTO Members under the same conditions.

Question 188.

Concerning the various preferential agreements among CIS:

Does the Republic of Moldova expect to implement the CIS customs union prior to WTO accession? What is the current status of its negotiations with other CIS for the formation of the customs union?

Answer:

At the present time no active negotiations for the formation of the CIS customs union are going on in which the Government of Moldova is involved. It is not expected that the CIS customs union will be fully achieved prior to Moldova's WTO accession.

Question 189.

Please describe the provisions, if any, of the April 1994 CIS Free Trade Agreement that are currently in effect in the Republic of Moldova.

What is the current status of the negotiation of the CIS free trade area agreement protocol which will specify the goods excluded from the free trade regime?

Please identify, including HS tariff number, those products that Moldova intends to exclude from the CIS free trade regime or to seek progressive implementation.

Moldova has signed several bilateral agreements with countries listed in Annex 8A and is at the same time party to a multilateral agreement within the framework of the CIS Treaty on Economic Union. This treaty remains essentially a general conceptual framework and did not itself operationalize so far the commitments contained therein. In 1994, Moldova and different members of this treaty intended to implement free trade as foreseen by the Treaty. What are the first results of the implementation policies listed on page 36 of document WT/ACC/MOL/2?

Answer:

Since only very few countries have ratified the 1994 Agreement, it has not yet entered into force. Instead, a number of bilateral free trade agreements were concluded (see below).

Question 190.

Please explain how Moldova and other CIS intend to promote a common customs and price policy prior to formation of a full free trade area or customs union. Please supply lists of Moldovan and CIS 'important products' that enjoy tariff free trade treatment prior to implementation of the agreements.

Answer:

The 1993 framework agreement between 9 CIS countries did not expressly provide the introduction of a common customs and price policy prior to the formation of a full free trade area or customs union.

Lists of Moldovan and other CIS 'important products' were in the past only exchanged in the context of bilateral preferential trade agreements. However at the present time no such lists are exchanged with Moldova.

Question 191.

Moldova currently has several bilateral preferential trade agreements in force as part of the CIS framework agreement. These trade agreements appear to include Turkmenistan, Ukraine, Belarus, Azerbaijan, Russia, Kazakhstan and Romania.

Please identify, including HS numbers, all items excluded from each of these bilateral trade agreements.

Please identify, including HS numbers, all items that receive preferential, but less than duty-free, access pursuant to these trade agreements. For each country for which Moldova has a bilateral preferential trade agreement, please provide the trade-weighted average tariff rate that is currently in effect.

Answer:

The bilateral agreements cover all product items which are subject to zero customs duties.

Question 192.

Please identify the products, including HS numbers, currently subject to export restrictions pursuant to the bilateral trade agreement with Romania.

Answer:

Moldova does not presently impose any export restrictions on its trade with Romania. In an annex to the agreement, Romania has reserved the right to impose export restrictions on certain goods, a list of which is submitted with these replies.

Question 193.

According to Paragraph 4 of Annex 8B of the Memorandum, Moldova concluded bilateral trade agreements only for 1995, with Kyrgyz Republic, Tadjikistan and Uzbekistan, which provide some preferences relating to the trade with most important goods for the parties concerned.

Are these bilateral trade agreements still in force? For each agreement, please identify the products covered, including HS numbers, and the preferential market access they receive.

Please identify the products, including HS numbers that are subject to export quotas pursuant to these agreements. What is the size of the export quota provided for each product? Please describe the price policy for each bilateral agreement?

Answer:

These bilateral trade agreements are not any more in force. However, the free-trade agreements with Kyrgyz Republic and Uzbekistan have in the meantime entered into force.

Annex I
to Government Decision No. 415 as of 13 June 1994

TAXES

for inventions' patenting and registration of utility models, trade marks,
designs, industrial models and names of origin for products

No. d/o	Object of payment	Terms of payment	Amount minimal wages US\$	
1	2	3	4	5
I. Inventions, utility models				
1.	Application for invention patent: for one invention for a group of inventions (for each invention exceeding one)	up to 2 months from deposition date	0.5 0.1	50 10
2.	Application for registration of the utility model	up to 2 months from deposition date	0.5	50
3.	Receipt of international application	up to 1 month from the date of international application	3	100
4.	Submitting of application and receipt of the invention patent of the Republic of Moldova on the basis of USSR patents	at the moment of application	1	100
5.	Invocation of priority in an application for invention patent, or for utility model	up to 2 months from deposition date	0.2	25
6.	Issue of the priority document (not including the cost of application's copy)	at the moment of application	0.2	25
7.	Anticipated publication of the materials of the invention patent application	at the moment of application	1	100
8.	Holding in an "non-public" regime materials regarding an application for invention patent, for every year	at the moment of application	1	100
9.	Basic examination, including documentation, regarding: an invention a group of inventions (for each invention exceeding one) a utility model	at the moment of application	4 3 2	400 300 200
10.	Basic examination in case a documentation report or examination decision, elaborated by an international body, is attached, regarding:	at the moment of application		

No. d/o	Object of payment	Terms of payment	Amount minimal wages US\$	
1	2	3	4	5
	an invention a group of inventions (for each invention exceeding one) a utility model		2 1.5 1	200 150 100
11.	Elaboration of the documentation report for an invention patent application, for registration of the utility model on the basis of solicitation, regarding: an invention a group of inventions (for each invention exceeding one) a utility model	at the moment of application	2 1.5 1	200 150 100
12.	Transformation: of the invention patent application into an application for the utility model registration	at the moment of application	0.5	50
13.	Issue of an invention patent, of registration certificate of utility model	within 3 month from the date the solicitor's decision has been received	2	200
14.	Introduction by the solicitor of modifications in the invention patent application, registration certificate of utility model after the preliminary examination	at the moment of application	0.2	40
15.	Prolongation of the time given to the solicitor to answer to the examiner's interpolation regarding the invention patent application, registration certificate of utility model, for each month	at the moment of application	0.2	40
16.	Deposition of contest appeals at the Reexamination Commission 1. Contest of the decision regarding the refuse to examine the invention patent application or a registration certificate of utility model 2. Contest of the decision regarding the refuse to issue the invention patent or to register the utility model	at the moment of deposition	0.2 2	40 200

No. d/o	Object of payment	Terms of payment	Amount minimal wages US\$	
1	2	3	4	5
	3. Contest of the decision regarding the issue of the invention patent or registration of the utility model		4	300
17.	Terms' renewal by the solicitor: for presentation of modification or missing documents, requested in the process of the preliminary examination of the invention patent application, registration of the utility model for presentation of additional documents requested in the process of basic examination of the invention patent application or application for the registration of the utility model for deposition at the Reexamination Commission of a contest regarding the decision to refuse the application for the invention patent or the registration of the utility model	at the moment of application	0.5 0.5 1	50 50 100
18.	Introduction of modifications into the National Register and in the invention patent, in the registration certificate of utility model	at the moment of application	1	100
19.	Keeping the patent valid, for each year: for the 3 rd year for the 4 th year for the 5 th year for the 6 th year for the 7 th year for the 8 th year for the 9 th year for the 10 th year for the 11 th year for the 12 th year for the 13 th year for the 14 th year for the 15 th year	within 3 months from the date of reception by the solicitor of the decision regarding patent's issue up to the first day of each protection year	2 2 2 3 3 3 3 3 3 4 4 4 4 4	80 80 80 150 150 150 150 150 150 300 300 300 300 300

No. d/o	Object of payment	Terms of payment	Amount minimal wages US\$	
1	2	3	4	5
20.	Keeping the registration certificate of utility model valid, for each year: for the 1 st year for the 2 nd year for the 3 rd year for the 4 th year for the 5 th year	within 3 months from the date of reception by the solicitor of the decision regarding registration up to the first day of each protection year	0.5 0.5 0.5 0.5 0.5	50 50 50 50 50
21.	Validity renewal of the registration certificate of utility model for each year: for the 6 th year for the 7 th year for the 8 th year for the 9 th year for the 10 th year	at the moment of application up to the first day of each protection year	1 1 1 1 1	100 100 100 100 100
22.	Revalidation of the invention patent	at the moment of application	4	400
II. Trade Marks and products' names of origin				
23.	Application for trade mark registration and examination of the solicited trade mark for a class of products and services for each class of products and services, more than one	at the moment of application	5 1	150 50
24	Application for name of origin registration and examination of solicited name	at the moment of application	5	150
25.	Application and issue of the trade mark registration certificate in the Republic of Moldova for a period of 10 years, on the basis of a USSR certificate	at the moment of solicitation	2	100
26.	Priority invocation in an application for trade mark registration, or a service mark	within 2 months from the date of application	0.2	25
27.	Priority document issue (without the cost of the application copy)	at the moment of solicitation	0.2	25

No. d/o	Object of payment	Terms of payment	Amount minimal wages US\$	
1	2	3	4	5
28.	Registration and issue of the registration certificate: of a trade mark, of a service mark of a collective mark, certification mark of a product's name of origin	within 3 months from the date of receipt by the solicitor of the registration decision	2 4 2	200 400 200
29	Prolongation of the time given to the solicitor to answer to the examiner's interpolation regarding trade mark registration application, service mark, product's name of origin, for each month		0.2	40
30.	Deposition of contest appeals at the Reexamination Commission 1. Contest of the decision regarding the refuse to examine the trade mark registration application, service mark, product's name of origin 2. Contest of the decision regarding the refuse to register the trade mark application, service mark, product's name of origin 3. Contest of the decision regarding the issue of the certificate for trade mark registration, service mark, product's name of origin	at the moment the contest is presented	0.2 2 4	40 200 300
31.	Terms' renewal by the solicitor: for presentation of modified or missing documents, requested in the process of the preliminary examination of the application for trade mark registration, service mark, product's name of origin for presentation of additional documents requested in the process of basic examination of the application for trade mark registration, service mark, product's name of origin for contest deposition at the Reexamination Commission	at the moment the solicitation is presented	0.5 0.5 1	50 50 100

No. d/o	Object of payment	Terms of payment	Amount minimal wages US\$	
1	2	3	4	5
32.	Introduction of modifications into the National Register and in the certificate of trade mark registration, service mark, product's name of origin		1	100
33.	Validity renewal of the registration certificate for a 10 years period: of trade and service marks of collective and certificate marks	within last 6 months of validity	4 6	300 400
34.	Granting of favorable conditions terms for 6 months for the validity renewal of registration certificate: of trade and service marks of collective and certificate marks	at the moment the solicitation is presented	2 3	150 200
III. Designs and industrial models				
35.	Application for designs and industrial models registration for one variant for each additional variant	at the moment the application is presented	0.5 0.2	50 20
36.	Application and issue of the registration certificate for designs and industrial models registration in the Republic of Moldova for a period of validity, on the basis of a USSR certificate/patent	at the moment the solicitation is presented	3.5	350
37.	Priority invocation in an application for designs and industrial models' registration	within 2 months from the date of application	0.2	25
38.	Priority document issue (without the cost of the application copy)	at the moment the solicitation is presented	0.2	25
39.	Basic examination of an application for designs and industrial models' registration for one variant for each additional variant	within 3 months from the date of publication	2 1	200 100
40.	Registration and issue of the registration certificate for designs and industrial models for a term of 10 years	within 3 months from the date of receipt by the solicitor of the registration decision	5	500

No. d/o	Object of payment	Terms of payment	Amount minimal wages US\$	
1	2	3	4	5
41.	Prolongation of the time given to the solicitor to answer to the examiner's interpolation regarding registration application for designs and industrial models, for each month	at the moment the solicitation is presented	0.2	40
42.	Deposition of contest appeals at the Reexamination Commission 1. Contest of the decision regarding the refuse to examine the application for designs and industrial models' registration 2. Contest of the decision regarding the refuse to register the application for designs and industrial models' registration 3. Contest of the decision regarding the issue of the certificate for designs and industrial models' registration	at the moment the contest is presented	0.2 2 4	40 200 300
43.	Terms' renewal by the solicitor: for presentation of modified or missing documents, requested in the process of the preliminary examination of the application for designs and industrial models' registration for presentation of additional documents requested in the process of basic examination of the application for designs and industrial models' registration for contest deposition at the Reexamination Commission	at the moment the solicitation is presented	0.5 0.5 1	50 50 100
44.	Introduction of modifications into the National Register and in the registration certificate of designs and industrial models	at the moment the solicitation is presented	1	100
45.	Validity renewal of the designs and industrial models registration certificate for 5 years period:	within last 6 months of validity	3	300
46.	Granting of favorable conditions terms for 6 months for the validity renewal of registration certificate for designs and industrial models	at the moment the solicitation is presented	1.5	150

No. d/o	Object of payment	Terms of payment	Amount minimal wages US\$	
1	2	3	4	5
IV. Other actions with a legal significance				
47.	Registration of the contract, agreement on cession (total or partial) regarding: one title of protection several titles of protection	at the moment of contract/agreement presentation	1 2	100 200
48.	Introduction of modifications in the contract/ cession agreement (total or partial)	at the moment the solicitation is presented	0.5	50
49.	Issue of the certificates, copies etc.		0.05	5
50.	Copying services		According to effective expenses	