

Committee on Anti-Dumping Practices  
Committee on Subsidies and Countervailing Measures

Original: English

## NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

### Questions Posed by CANADA Regarding the Notification of MOLDOVA<sup>1</sup>

The following communication, dated 4 April 2002, has been received from the Permanent Delegation of Canada.

1. Paragraph 4(9) of Moldova's notified anti-dumping legislation provides that "[w]here there is no export price or where the investigating authority believes in the existence of an alliance or compensatory arrangement between the exporter and the importer or a third country, or where the price actually paid for the sold exported product cannot be used as the reference price for any other reason, the export price may be constructed (...)". In that respect:

- (a) Would Moldova give examples of reasons that would justify using a constructed export price, other than the absence of an export price, an association or a compensatory arrangement?
- (b) Would Moldova indicate to what extent paragraph 4(9) is consistent with Article 2.3 of the Anti-Dumping Agreement, that only provides for the use of a constructed export price in cases where there is no export price or where the export price is unreliable because of an association or a compensatory arrangement between the exporter and the importer or a third party?

2. Paragraph 4(10) of the notified legislation enumerates a list of factors to be taken into account in performing a fair comparison of the export price and the normal value. However, paragraph 4(10) does not appear to direct the investigating authority to make due allowance to "any other differences which are also demonstrated to affect price comparability", as required by Article 2.4 of the Anti-Dumping Agreement. Would Moldova indicate whether the investigating authority shall take into account other relevant differences not enumerated in paragraph 4(10)?

3. The second sentence of paragraph 4(11) provides that: "[a]ccount shall not be taken of the requests for adjustments with negligible influence upon the price or transaction value under consideration, such as the influences not exceeding 0.5 per cent of the price or transaction value". How does Moldova reconcile this provision with Article 2.4 of the AD Agreement, which requires that due allowance be made to differences that affect price comparability, without specifying any restriction?

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<sup>1</sup> G/ADP/N/1/MDA/1, G/SCM/N/1/MDA/1, G/SG/N/1/MDA/1

4. Paragraph 7(6) of the notified legislation provides that “[proceedings] shall not be initiated against countries whose imports represent a market share of below 1 per cent in the Republic of Moldova, unless such countries collectively account for 3 per cent or more of the national consumption in Moldova”. We note that Article 5.8 of the AD Agreement provides that imports from a particular country will normally be considered negligible if they are found to “account for less than 3 per cent of imports of the like product in the importing Member, unless countries which individually account for less than 3 per cent of the imports of the like product in the importing Member collectively account for more than 7 per cent of imports of the like product”. Would Moldova clarify whether it assesses negligibility on the basis of the import value as well as on the basis of market share?

5. Paragraph 12(4) of Moldova’s legislation provides that “[if] the definitive anti-dumping duty is higher than the provisional duty paid or payable, or higher than the amount of the guarantee, the difference shall not be collected. If the definitive duty is lower than the provisional duty paid or payable, or higher than the amount of the guarantee, the duty shall be recalculated.” Would Moldova clarify the meaning of this paragraph and indicate to what extent it is consistent with the requirements of Article 10.3 of the Anti-Dumping Agreement?

6. The legislation notified by Moldova does not describe independent tribunals or procedures that Moldova maintains for the purposes of the review of administrative actions relating to final determinations and reviews of determinations. Could Moldova describe how independent reviews in accordance with Article 13 of the AD Agreement are provided for?

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