

UKRAINE – TAXES ON DISTILLED SPIRITS

Request for Consultations by Moldova

The following communication, dated 2 March 2011, from the delegation of Moldova to the delegation of Ukraine and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Government of the Republic of Ukraine ("Ukraine") pursuant to Articles 1 and 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") and Article XXII of the General Agreement on Tariffs and Trade 1994 ("GATT 1994") with respect to discriminatory taxation applied on imported alcoholic beverages by the Ukraine. This discrimination adversely affects exports of spirits (code 22.08 of the Harmonised System) from the Republic of Moldova to the Ukraine.

In particular, the amendments made to the Law No. 178 from 07.05.1996 "On rates of excise duty on ethyl alcohol and alcoholic beverages" in 2008, appear to impose a lower tax rate on domestic products than on certain other like distilled spirits, imported from the Republic of Moldova, thereby infringing GATT Article III:2, first sentence. Those modifications also appear to impose a lower tax rate on domestic products than on certain other directly competitive or substitutable distilled spirits imported from the Republic of Moldova, so as to afford protection to the domestic production, thus violating GATT Article III:2, second sentence.

To mention that, since 2009 consultations with Ukraine on a bilateral basis failed to resolve the issue, so the Republic of Moldova has therefore decided to request WTO consultations, since the Ukrainian Excise Tax regime on distilled spirits appears to be inconsistent with the Ukrainian obligations under GATT 1994.

The Republic of Moldova reserves the right to address additional measures and claims under other provisions of the WTO Agreement regarding the above matters during the course of the consultations.

The Republic of Moldova looks forward to receiving in due course a reply from the Ukraine to this request. The Republic of Moldova is ready to consider with the Ukraine mutually convenient dates and place to hold consultations.
