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La nr. _____ din _____ 20

Ministerul Sănătății

Prin prezenta, Ministerul Economiei remite anexat, comentariile suplimentare ale părții ucrainene referitor la amendamentele la Legea Nr. 278-XVI din 14 decembrie 2007 cu privire la tutun și articole din tutun, în contextul notificării depuse la Secretariatul OMC.

În acest context, solicităm formularea și prezentarea poziției Ministerului Sănătății, vis-a-vis de cele expuse de partea ucraineană, prin prisma normelor și practicii internaționale. Informația solicitată va fi prezentată în limba engleză și ulterior remisă Secretariatului OMC.

Anexa: 3 file

Viceministru

Valeriu TRIBOI

Ex.: Dumitru Pinteau
Tel.: 250-603

transmis CPSP
nr. 01-10/1038 din 08.12.14.

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**FOLLOW-UP COMMENTS OF UKRAINE CONCERNING NOTIFICATION
G/TBT/N/MDA/22
THE LAW OF REPUBLIC OF MOLDOVA ON TOBACCO AND TOBACCO
PRODUCTS OF 14 DECEMBER 2017 No 278-XVI**

Ukraine appreciates the opportunity to comment again on notification of Republic of Moldova G/TBT/N/MDA/22 of 5 June 2014 and hopes that these comments will be favorably taken into consideration.

1. Approximation process of Moldovan tobacco legislation to EU tobacco legislation

- MD-EU Association Agreement signed on June 27, 2014 (AA) doesn't provide any obligation of approximation to the Directive 2014/40/EU of the European Parliament and of the Council as of April 3, 2014 (TPD).

Analysis of the AA¹ shows no obligation of Moldova to approximate the legislation to TPD. The subject of approximation in the field of tobacco products regulation refers to the following EU legislation:

- **DIRECTIVE 2001/37/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products, within 7 years of the entry into force of the AA.

- **Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products** within 7 years of the entry into force of the AA.

To mention that Law No.278-XVI of 14 December 2007 on tobacco and tobacco products fully complies with above mentioned Directives.

2. WHO Framework Convention on Tobacco Control requirements

- WHO Framework Convention on Tobacco Control (FCTC), ratified by Moldova on May 11, 2007 doesn't provide any of measures proposed in the amendments to Law No.278-XVI of 14 December 2007 on tobacco and tobacco products.

After its ratification Moldova has implemented the provisions of FCTC in the Law No.278-XVI of 14 December 2007 on tobacco and tobacco products (30/40% health warnings, maximum level of emissions, etc").

To mention, that FCTC doesn't provides obligations to increase health warnings, place health warnings on the top of pack, to ban slim format , certain

¹ http://eeas.europa.eu/moldova/assoagreement/pdf/md-aa-annexes-title-iv-economic-other-sector-cooperation_en.pdf

ingredients or description of emissions. Also, art.11 mentioned by Moldova refers to such terms as "low tar", "light", "ultra-light", "mild", which are already banned in Moldova by tobacco control legislation.

3. Public health objective

- Nature of products is invoked by Moldova as major reason for proposed amendments.

The intention of the Government of Moldova to ensure health of their citizens was understood from the very beginning, but also to mention that WTO Agreements do not restrict these efforts as long as positives, scientific evidences supports the proposed measures and such measures are not more trade-restrictive than necessary to achieve the stated health objective.

4. Absence of scientific and technical evidences to justify the proposed measures

Moldova's response refers to "the results of the study „Costs, health effects and cost-effectiveness of tobacco control strategies in the Republic of Moldova“, published by WHO in 2011. Examination of this document² shows no analysis of impact of health warnings size, ingredients and labelling to public health. This study refers mostly to epidemic situation and evaluation of scale of disease caused by smoking.

Also, the Study is mentioning about Law no. 278 of 14 December 2007 on tobacco and tobacco products that "the above mentioned Law establishes the basis for implementation of certain measures stipulated by the WHO FCTC, including:

- introduction of measures to limit tobacco products consumption;

With regard to the tobacco control domain, the Law stipulates requirements for:

- the content of harmful substances in tobacco products;
- the presentation and labelling of tobacco products, including application of general and secondary warnings on the hazards of smoking on health and obligatory notice on the content of harmful substances;
- compulsory annual reporting to the Ministry of Health;
- the restriction on advertising, promotion and sponsorship;
- a ban on the sale of tobacco products that cannot be smoked and also those with the content of harmful substances exceeding the maximum admitted level or without warnings regarding the hazard of smoking;
- the sale of tobacco products;
- restrictions regarding smoking in public places;
- state control in the domain of tobacco; and
- liability for legislation infringement.

Although the law introduced important measures to control tobacco, which correspond to the requirements of the Convention³.

² http://www.euro.who.int/data/assets/pdf_file/0007/157705/c96178.pdf

³ Refers to FCTC.

5. Absence of description of alternative measures

Moldova's answer didn't mention any other alternative measures that are less restrictive and were considered by Moldova during decision-making process.

Ukraine looks forward to receiving the information requested from Moldova.



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Dear Sir/Madame,

We would like to thank competent authorities of the Republic of Moldova for replying the Ukraine's comments on the amendments to the Law on Tobacco and Tobacco Products (notification G/TBT/N/MDA/22).

Additionally to the mentioned comments of Ukraine (sent by the letter # 4415-07/23727-07 of 14.07.14), we kindly ask to consider the follow-up comments.

Taking this opportunity, we would like to confirm our interest to continue the discussion on the Draft Law of the Republic of Moldova «On amendments and additions to some legislative acts» as of 02.04.2014 (in part, where it concerns requirements for the packaging of tobacco products), both, on a bilateral basis or/and in the framework of the WTO Committee on Technical Barriers to Trade.

Respectfully,

**Director of the Department
for WTO Cooperation
and Trade Remedies**

Svitlana ZAITSEVA

083497

М2 Мінекономрозвитку

Вих. № 4415-07/38166-07 від 31.10.2014

