



EU-MOLDOVA ASSOCIATION COMMITTEE IN TRADE CONFIGURATION BRUSSELS/CHISINAU (VIRTUAL MEETING), 20-21 OCTOBER 2020

Joint Report

Summary

The seventh meeting of the EU-Moldova Association Committee in Trade configuration (ACTC), took place virtually on 20 and 21 October 2020 and was chaired by the EU (DG Trade) and co-chaired by the Ministry of Economy and Infrastructure of Moldova. From the Moldovan side, representatives of all relevant line ministries and other relevant bodies participated. Also, the main line DGs of the EU Commission as well as EEAS took part in the meeting.

The meeting took place in a difficult international context due to the ongoing pandemic and its subsequent impact on trade and on the overall economy. Both sides agreed on the important role of trade in the bilateral relations – the EU being by far Moldova’s first trade partner – and praised the conclusion earlier in 2020 of the third-year review of mutual concessions on trade of agricultural goods. Both sides also referred to the ongoing exercise to update the Association Agenda as an opportunity to focus on reforms in priority areas. More generally, the meeting allowed for a useful exchange of views and information on the state of play of implementation of the different chapters of the DCFTA.

Detail

1. Opening statements

The EU side recalled the good results achieved so far as regards implementation of the Association Agreement and its Deep and Comprehensive Free Trade Area (DCFTA), particularly in terms of regulatory approximation, while also recalling the necessity of having strong and independent institutions to properly enforce these new provisions, fight corruption and improve the business climate in the country. A significant concern expressed by the EU remains the potential adoption of amendments to the Law on Domestic Trade, which would erode the level-playing field between the EU and Moldovan businesses. The EU also reaffirmed its commitment to cooperate with Moldova based on the principles of democracy, rule of law and economic integration, recalling that strict conditionality of EU financial support has strengthened resilience and benefited Moldovan citizens. Finally, the EU stressed its solidarity with Moldova, particularly during the ongoing pandemic, and recalled the recent substantial emergency financial assistance provided.

The Moldovan side reaffirmed its commitment to implement the Association Agreement and showed awareness of the challenges the country currently faces in terms of business climate and rule of law, and agreed that reforms are needed to tackle them.

2. Adoption of the agenda: both sides agreed on the agenda.

3. State of play of upcoming committee decisions

The EU side emphasised the dynamic nature of regulatory approximation as one of the main elements of the DCFTA, which means that the relevant annexes with EU acquis, to which Moldova has committed to approximate its legislation, need to be regularly updated to reflect the latest legislation in the EU internal market. The sides discussed upcoming updates of the annexes on technical barriers to trade, telecommunication services and possibly sanitary and phytosanitary measures. The Parties also agreed to undertake an assessment of the state of completion of the roadmap on public procurement. As regards the adoption of the list of arbitrators under the Dispute Settlement Chapter, the EU informed about current plans to update the EU roster of arbitrators, which should be finalised by mid-2021.

4. Trade in goods

Both sides exchanged the statistics on bilateral trade over the past year, which continued growing but slowed down compared to previous years (total trade between EU and Moldova grew by 3,9% in 2019, up to €4,7 billion, compared to 14% growth in 2018). In 2019, EU exports increased by 8,5% from €2.71 billion to €2.94 billion, while EU imports from Moldova decreased by 2,7% from €1.83 billion to €1.78 billion. This decrease needs to be seen in light of the particular strong increase of imports, by 17,6%, between 2017 and 2018. According to preliminary data from the first half of 2020, total trade has substantially decreased (ca. 12%) due to the impact of the pandemic, but it showed signs of recovery towards the second half of the year.

Both sides referred to the finalisation and entry into force earlier in 2020 of the third-year review of tariff-rate quotas (TRQs) and new thresholds under the anti-circumvention mechanism (ACM) for certain agricultural products, which were both foreseen in the Association Agreement. The EU encouraged Moldova to make full use of the increased TRQs.

The EU side noted that some TRQs remained unused in 2019 (tomatoes, garlic), or barely used (apples, grape juice) while grapes and plums were the only TRQs fully utilised. In 2020, Moldova exhausted the newly increased TRQ for plums (now 15.000 tonnes), used 38% of the increased TRQ for table grapes (now 20.000 tonnes) and made some use of the new TRQ for cherries. Regarding the ACM, in 2019 Moldova exceeded the thresholds

for wheat (441%), maize (214%) and processed cereal (598%), and provided satisfactory explanations for the respective levels. In 2020, Moldova has already exceeded the notification thresholds for maize (111%) and cereal process (263%), and also provided satisfactory explanations.

5. Technical barriers to trade (TBT)

Both sides noted good progress in this area, with Moldova reporting that adoption of EU technical standards is almost completed and most of them already being applied. It was agreed that Moldova would provide additional information on the number of EU standards applied by Moldovan companies, as well as on challenges faced by Moldovan business operators when implementing EU standards. Both sides mentioned the important role of Moldova's National Accreditation Centre (MOLDAC), which is now a signatory of the European Accreditation Bilateral Agreement (EA BLA) for several sectors, and of the Institute for Standardisation of Moldova (ISM), a Companion Standardisation Body with CEN and CENELEC. It was agreed to proceed with the formal update of Annex XVI of the Association Agreement to reflect the new EU acquis in this area, including the new EU Regulation on market surveillance.

As regards the selection of potential priority sectors to negotiate an Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA), which is foreseen in the Association Agreement, Moldova informed about the outcome of the recent expert study, which was funded by the EU (“Support to the Quality Infrastructure Framework within a DCFTA context in the Republic of Moldova”). The sides exchanged some views about the potential sectors envisaged by Moldova and agreed to follow up on these at technical level.

Regarding the EU’s concern about the incompatibilities of some provisions of the law on State control over the activity of business (Law No. 131) with the Market Surveillance legislation (Law No. 7), both sides agreed to jointly monitor regulatory alignment to the new Regulation (EU) 2019/1020 on market surveillance.

6. Intellectual property rights (IPR)

Both sides discussed the latest developments as regards IPR protection and enforcement in Moldova, particularly as regards the state of play of the revised draft law amending the Copyright Law 139/2010, which shall partially transpose the EU Collective Rights Management Directive. A representative of the State Agency on Intellectual Property of the Republic of Moldova informed that the draft had been submitted to public consultation and the final draft would be shared with the EU as soon as ready. The Moldovan representative also announced the recent establishment of a platform for the protection of intellectual property rights, which was created partly with EU funding and which aims at improving cooperation between bodies as regards enforcement of intellectual property rights. Finally, the EU side proposed to cooperate further to ensure full implementation of the IPR chapter.

7. Public procurement

Moldova (Public Procurement Agency) gave an update about the state of play of the implementation of the public procurement strategy, which embeds the roadmap included in the DCFTA (Annex XXIX-B to the Association Agreement). It informed that they had received a positive assessment of Moldova's public procurement law, which is aligned with Directive (EU) 2014/24/EU. It also informed about the recent adoption of the law on procurement in the utilities sector, which will enter into force in June 2021 and for which secondary legislation will be developed in the coming months.

Moldova informed that its current public procurement strategy will expire in 2020, and that they were already working on a new one for 2021-2023, which will be checked with consultants (Sigma). It also informed about the role of the National Complaints Settlement Agency (in 2019 they managed 1.026 complaints out of 5.179 public procurement procedures). The World Bank assessed the functioning of the Moldovan public procurement system, and the outcome will soon be circulated to stakeholders before publication. As regards the national *certification system* of public procurement officials, Moldova informed about recent collaboration with France and Romania and mentioned a recent collaboration with the World Bank to develop the certification procedure.

The EU side confirmed that Moldova could shortly start publishing tenders in the Official Journal of the EU and its Tenders Electronic Daily (TED) platform, which will contribute to enhancing transparency of public procurement procedures and ensure better competition. The EU also enquired whether the national e-procurement system (M-Tender) was now available for all procedures and asked for clarifications as its rollout had been interrupted. The Moldovan side confirmed that they had already published information notes for national authorities on the access to the TED platform and explained that there were some delays in the rollout of M-Tender as more clarifications of technical nature were needed in the process.

The EU reiterated the importance of strengthening the transparency and efficiency of centralised procurement in the health sector, which is a structural reform criterion under the current macro-financial assistance programme. Moldova informed that the centralised e-procurement system would have to be used for all such procedures as of 2021.

As regards the recently adopted Law on Concessions, the EU asked whether the utilities sector was also included. The following day, the Moldovan Public Property Agency clarified that no further changes had been introduced since the initial adoption, further clarifying that the carrying out of award procedures will be developed through a Government Decision.

8. Trade in services

The two sides exchanged information about the current state of play in the four different services sectors for which the Association Agreement provides for regulatory approximation:

- ***Financial services:*** The EU explained the importance of regulatory approximation to help Moldova reach a greater degree of financial stability, while reminding of the importance of proper enforcement and judicial proceedings to ensure a fair and predictable financial environment (e.g. need to ensure a fair investigation of the banking fraud). The Moldovan National Commission for Financial Markets (CNPF) presented the recent evolutions, particularly regarding the non-banking sector. The National Bank of Moldova (BNM) made a presentation about the recent reforms undertaken, particularly as regards the approximation to CRD IV and Basel III rules, and the recent actions taken in the banking sector. It was agreed that Moldova would inform in writing about the work of the National Bank of Moldova, National Commission on Financial Markets and the Office for Prevention and Combating of Money Laundering as regards the implementation of the anti-money laundering and counter-terrorist financing (AML/CFT) law in the current system (prior to entry into force of new sanctions law). This should include data on the supervisory activity (number of on-site/ off-site inspections, number and categories of applied sanctions, types of the breaches found etc.) and about the secondary legislation developed for the implementation of the new sanctions law for breaches of the AML/CFT requirement established for the reporting entities.
- ***Telecommunication services, e-commerce and information society:*** The EU side emphasised the close and frequent interaction with Moldova in this area, particularly within the established regional platforms under the Eastern Partnership. Notable developments are the regional EaP agreement to reduce roaming tariffs, harmonisation of the 700 MHz frequency band for wireless broadband communication, and preparation of the 2025 deliverables. The Moldovan side agreed with this assessment, and referred to the recent action plan to digitalise the economy, mentioning that a first assessment of results would be possible towards the end of the year. The EU side will share with Moldova the latest update of EU acquis in this area, with a view to updating the relevant annex of the DCFTA.
- ***Postal services:*** The EU side asked to which degree the new Postal Law (No. 41) approximates to provisions in the Second and Third EU Postal Services Directives and enquired about plans for secondary legislation. The EU also informed about the upcoming evaluation of the Postal Services Directive, and about the preparation of a report on the implementation of the Regulation on cross-border parcel delivery services, which has been in force for two years. The Moldovan side provided feedback in written form after the meeting.

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- ***International maritime transport:*** the EU side reiterated its concerns due to the blacklisting of Moldova's flag. Moldova informed about measures to fix this situation, such as the 2020 draft corrective action plan to address the deficiencies identified by EMSA, to be finalized by the end of this year. Moldova informed that it aimed at improving the capacity of the Naval Agency. Moldova agreed to provide updates in writing on the state of play of reforms and plans, including the finalization of the draft corrective action plan developed following EMSA guidance.

9. Trade-related energy chapter

The EU side emphasised cooperation with Moldova both at bilateral and regional level, which is especially important now in view of recent initiatives such as the Clean Energy Package or the European Green Deal. While there have been some steps in the right direction, the EU noted that notable progress was still lacking in the electricity market, particularly as regards competition in the sector and the auction procedures, due to the low number of competitors, as a result of the lack of interconnections. Finally, regarding renewable energies, the EU enquired about the plans for developing legislative measures and support schemes.

The Ministry of Economy and Infrastructure of the Republic of Moldova informed that Moldova had decided to proceed with the implementation of the Clean Energy Package, and is currently revising the existing legal framework to address any outstanding issues and to transpose the elements from the package. The country's authorities are closely cooperating with the Energy Community and plan to submit the first amendments to the primary legislation by the end of 2020 (including laws on electricity, on natural gas and on renewable energy). Moldova is also working on the development of the National Energy and Climate Plan (a draft document is expected by the end of the year). Difficulties due to COVID-19 crisis may induce delays.

With reference to the approximation to the Third Energy Package, the Moldovan side recognised delays in the unbundling of gas and electricity sectors. As regards gas, the timeframe was extended by four months to allow vertically-integrated Moldovagaz to finalise this process. It is expected that results will be ready by early 2021, when the certification process could start. An outstanding issue is Moldovagaz' pending debt to Russian Gazprom (work is ongoing at government level). Regarding electricity, the unbundling of transmission asset ownership is still outstanding, which should be done via an independent system operator model. Moldova plans to implement this through primary legislation, and expects to proceed with the certification of the transmission system operator (TSO) as of next year.

Moldova also informed that the interconnection pipeline Ungheni-Chisinau was ready since this summer, but infrastructure works should still be finalised on the Romanian side to ensure full capacity by October 2021. There is also progress in the electricity back-to-back high voltage substation and transmission line between Vulcanesti and Chisinau,

which will allow the connection of the electricity systems of Romania and Moldova (tendering expected to be finalised in 2021, but full operation not expected until 2024).

Finally, as regards the wholesale electricity market, it was agreed that Moldova would ensure that the next tender in 2021 would run according to the procedure for procurement of electricity as stipulated in the annex of the Power Market Rules approved by the ANRE Administration Council Resolution No. 283 on 7 August 2020. Moldova emphasised its progress on the competitiveness of the tender processes in the last two years,.

The EU side reminded Moldova of the need to ensure a level-playing for a competitive energy market, insisting on the independence and transparency of the energy regulator and on the continued application of transparency guidelines in the upcoming electricity tenders.

10. Competition

The EU side took note of the adoption by the Competition Council of the decision on the "MGH Ground Handling" case, and asked about other investigations carried out during the last year. It also reiterated the need to ensure independence and transparency of the Competition Council and enquired about initiatives taken to this end. Regarding state aid, the EU asked about the follow-up to the National Programme on Competition and State Aid 2017-2020, as well as about any activity or measures undertaken in this area.

A representative from Moldova's Competition Council informed about willingness to adopt a new law on competition to give more independence to the Competition Council, in line with Directive (EU) 2019/1, which was signalled as a top priority for next year.

As regards the National Programme on Competition and State Aid (2017-2020), which reflects Moldova's commitments in the Association Agreement, Moldova announced that the last implementation reports would be presented by CPA and LPA to Competition Council by January 2021, respectively Competition Council will present the final report to Parliament by June 2021, according to the Law 169/2017. It also informed that as of July 2020, out of 37 actions foreseen in the programme, 10 are fully achieved, 21 partially achieved, 5 are initiated and one is contingent on the completion of other ongoing actions.

The Competition Council provided a thorough presentation with statistics about its activities.

Regarding state aid, Moldova provided statistics about implementation, including opinions given on submitted requests. It also provided an update about the ongoing alignment of state aid schemes already existing before the establishment of the state aid authority, which shall be aligned within a period of eight years (10 years for Free Economic Zones) since entry into force of the Association Agreement (Art. 341). Out of 173 schemes, 128 have already been aligned.

Finally, the Competition Council informed about its initiatives to increase transparency and awareness among the population (e.g. seminars and public events).

The EU welcomed the progress made by the Competition Council in implementing the framework for competition enforcement and state aid control and reminded about the importance of ensuring follow-up to decisions, including appeal procedures. The importance of ensuring a strong and independent (both politically and financially) Competition Council was recognised by both sides. The EU took note of the Competition Council request on support of capacity building with regard to the EU new competition tool and digital platforms.

11. Reports from the Sub-Committees set-up by the DCFTA

- *6th Sanitary and phytosanitary Sub-Committee (VC, 24 July 2020)*

The EU side provided an overview of the discussions and operational conclusions of the Sanitary and Phytosanitary (SPS) Sub-Committee held virtually on 24 July 2020. The good cooperation between the Moldovan authorities and the EU was emphasised, and progress was recognised as regards regulatory approximation (Moldova has so far approximated its national legislation to more than 100 EU acts). Both sides agreed to discuss in 2021 a potential update of the SPS annex of the Agreement to reflect the latest EU acquis in this area.

As regards Moldova's request to export poultry meat and category B eggs, the EU recognised developments with respect to Moldova's laboratory infrastructure and announced its tentative plans to carry out an audit in 2021 following the recent exchanges of information (if the health situation allows it).

Concerning Moldova's request on export of composite products and dairy products, the EU considered guarantees received by the Moldovan National Food Safety Agency (ANSA) sufficient to start the process to allow exports of shelf-stable composite products containing dairy. As regards exports of non-shelf stable composite products containing dairy, the EU has submitted a questionnaire to Moldova.

Moldova's National Food Safety Agency (ANSA) reiterated its wish to be able to export more products into the EU (poultry, category B eggs, composite products and dairy, planting materials). The Moldovan side flagged improvements as regards national laboratory infrastructure, which have been accredited for animal products, and thanked for EU financial assistance. Both sides recognised the progress in the adoption of harmonised certificates.

The full joint report of the 6th SPS Sub-Committee is available here: https://trade.ec.europa.eu/doclib/docs/2020/september/tradoc_158935.pdf

- ***5th Customs Sub-Committee (Chisinau, 21 November 2019)***

The EU side (DG TAXUD) informed about the most important issues discussed in last year's Sub-committee:

- alignment of Moldovan legislation to the European Union's Custom Code (which is also a criterion under the ongoing Macro-Financial Assistance programme with Moldova);
- progress to achieve mutual recognition of Authorised Economic Operators (AEOs) – which is currently focusing on offline activities, such as IT related issues, due to restrictions to international travel;
- Moldova's accession to phase 5 of the NCTS (new computerised transit system), which will now move to the IT deployment phase.

The Moldovan side (Customs Service of the Republic of Moldova) informed about the final steps in the adoption procedure of the Customs Code, which should be voted in the Parliament in the coming weeks. Some statistics about issuance of preferential export certificates were provided, noting a stabilisation as regards previous trends (around 15.000 EUR1 certificates so far in 2020, same level as in 2019, and more than 9.000 Declarations of Origin). On accession to the Protocol to the WHO Framework Convention on Tobacco Control, the Moldovan representative informed that this would require approval by the Parliament.

The next Customs Sub-committee meeting was scheduled to take place on 25 November 2020.

The full joint report of the 5th Customs Sub-Committee is available here:
https://ec.europa.eu/taxation_customs/sites/taxation/files/21-11-2019-customs-sub-committees-joint-minutes.pdf

- ***5th Trade and Sustainable Development Sub-Committee and Forum on civil society dialogue (VC, 19 October 2020)***

The EU debriefed about the outcome of the last Sub-Committee on Trade and Sustainable Development, and on the Forum on Civil Society Dialogue, which took place virtually the day before the ACTC.

On cooperation in labour issues, both sides agreed on prevention and monitoring of child labour in Moldova as priority areas, and on increasing the institutional capacity of the State Labour Inspectorate to carry out inspections, removing existing obstacles to inspections. Moldova also presented the plans to align its Labour Code with ILO fundamental conventions.

As regards environment, both sides noted progress on the establishment of eco-labelling systems and plans for Moldova's accession to the Kigali Agreement, as well as other multilateral environmental agreements. Moldova also informed about its plans to develop a low emission strategy as part of its Paris Agreement commitments.

The list of operational conclusions from the 5th Trade and Sustainable Development Sub-Committee is available here:

https://trade.ec.europa.eu/doclib/docs/2020/october/tradoc_158995.pdf

The last Joint statement to the Civil Society Dialogue Forum is available here:

https://trade.ec.europa.eu/doclib/docs/2020/october/tradoc_158996.pdf

- 6th Sub-committee on Geographical Indications (VC, 19 October 2020)

The EU informed about discussions in the GIs Sub-committee that took place the day before the ACTC. The EU informed that it would assess the proposals introduced by Moldova to update the annex with Geographical Indications in the Association Agreement. The Moldovan side asked the EU to continue cooperation and appreciated the frankness of the discussions.

12. Territorial application of the Association Agreement

Both sides discussed the state of play in the implementation of the trade facilitation arrangements and agreed to prepare by early 2021 a joint report to the Association Council in view of its next meeting in 2021. The EU reminded that both sides (Chisinau and Tiraspol) should show commitment to the implementation of the arrangements.

13. Trade-related issues of bilateral interest

The EU side expressed serious concerns about certain provisions contained in the draft amendments to the of Domestic Trade Law, which were initially presented to the Parliament in 2018 and, after being withdrawn in November 2019, were resubmitted for discussion in February 2020 ahead of a potential second vote. The EU representative explained that the provisions would be a clear breach of DCFTA and WTO provisions as regards national treatment of goods. Both sides exchanged views on ways to support the businesses in these difficult economic times, and the EU reiterated that it is the government's responsibility to find ways to support the economy that are compliant with the existing legal commitments. The EU side also showed concerns about the lack of independence in certain judicial proceedings (particularly involving infrastructure companies), indicating that such situation sends a negative message to foreign investors. Finally, the EU enquired about the state of play of the privatisation process of State Owned Enterprises in 2019, and asked about the potential export monopoly in the metal scrap market.

The Moldovan representative made a presentation of the business climate in the country, indicating the sectoral distribution of foreign direct investments (mostly in finance and insurance, wholesale and manufacturing). An update about the ongoing privatisation process was provided, including in the metal scrap market. The Moldovan side informed that the legislation had been amended by repealing those provisions which were considered a barrier to obtaining an export license for economic operators, adding that several companies had received the license, and some of them did already export, which would prevent monopolistic situations.

14. Presentation of the upcoming ex post evaluation of the EU-Moldova DCFTA implementation

The EU side informed about the preparation of the upcoming ex-post evaluation on the DCFTAs with Georgia and Moldova¹ to be carried out by an external consultant in 2021 and 2022. This exercise will provide an evidence-based report assessing the impact of the implementation of the DCFTAs with Georgia and Moldova five years after their initial provisional application. The findings of the evaluation will be relevant in drawing lessons for the ongoing implementation of the Agreements and increasing their effectiveness.

15. Adoption of operational conclusions

Both sides agreed to exchange the operational conclusions in writing after the meeting. It was agreed to convene a mid-year intermediate meeting before the next ACTC (in spring 2021), if possible in physical format, to ensure follow-up to the operational conclusions.

16. Any other business: nothing to report.

17. Closing remarks

Both sides recognised the effectiveness and usefulness of the exchanges in the framework of the ACTC and reiterated their full support to continued implementation of the Association Agreement and its DCFTA.

¹ Dedicated website: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12086-Ex-post-evaluation-of-the-EU-Georgia-and-the-EU-Moldova-DCFTA-Agreements>