



# **EVALUATION REPORT ON THE IMPLEMENTATION *OF THE NATIONAL BUSINESS AGENDA***

**2012-2013**

**September 2013**





**THIS REPORT IS A PRODUCT OF THE NATIONAL BUSINESS AGENDA, FACILITATED BY IDIS "VIITORUL", WITH THE CIPE (CENTER FOR INTERNATIONAL PRIVATE ENTERPRISE) SUPPORT.**



The National Business Agenda represents a common platform of over 30 of the most representative business associations and chambers of commerce and industry (CCI) from Moldova aiming to influence the policies and practices of public authorities in the development of business activity through their active and transparent participation at all stages of the public-private dialogue (PPD).



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## ■ Abbreviations

NBA – National Business Agenda

CCI – Chamber of Commerce and Industry

TC – Tax Code

CC – Customs Code

WGM – Work Group for Monitoring the Implementation of NBA 2012-2013

GD – Government Decision

MSTI – Main State Tax Inspectorate

ME – Ministry of Economy

MF – Ministry of Finance

MTRI – Ministry of Transport and Road Infrastructure

GAP – Government Action Plan

RM – Republic of Moldova

AIS – Automatic Information System

SFS – State Fiscal Service

CS – Customs Service

ICT – Informational Communication Technology

EU – European Union

DCFTA – Deep and Comprehensive Free Trade Agreement

# ■ Introduction

## ABOUT THE NATIONAL BUSINESS AGENDA

Moldovan National Business Agenda (NBA) is a joint platform of 32 business associations and Chambers of Commerce and Industry, meeting within the network in order to influence the policies and practices of public authorities in the regulation of business activity through their active and transparent participation at all stages of the public-private dialogue (PPD). The purpose of these efforts is to create a fair and competitive business environment that fosters business development in Moldova. Specific objectives pursued by the NBA network members, leading to the achievement of the final goal are:

- *Strengthening the capacity of business associations to formulate development policies of entrepreneurship in the Republic of Moldova;*
- *Developing a shared vision of priorities for the development of entrepreneurship in RM;*
- *Participating in the public-private dialogue with a unic voice;*
- *Influencing the decision-making process in the regulation of the business of RM through active and transparent involvement in the dialogue with the authorities (advocacy).*

The main instruments used to achieve the objectives are: lists of business priorities released periodically (NBA 2009, NBA 2010, NBA 2012-2013), active participation in public consultations on draft laws and regulations with impact on entrepreneurship, public debates and transparent discussions with state authorities on subjects of interest for business representatives, monitoring legislative and regulatory changes through the monthly informative bulletin of the network, monitoring and evaluating the implementation of NBA priorities.

## ABOUT THE NBA 2012-2013 IMPLEMENTATION EVALUATION REPORT

The report assessing the implementation of the NBA 2012-2013 comes to draw the totals of the implementation of the Agenda priorities for 2012-2013. These priorities were launched in November 2011 and represent the result of the efforts of the working group for identifying NBA priorities, consisting of representatives of member associations. This report is based on both intermediate outcomes identified in the report of implementation and monitoring of the National Business Agenda 2012-2013, released in October 2012, and the final evaluation conducted in August and September 2013. If we return to the NBA objectives above, the evaluation report of the implementation of the NBA 2012-2013 priorities only refers to one of the objectives of the network, i.e. influencing the decision-making process in the regulation of business activity in RM through active and transparent involvement in the dialogue with the authorities. In fact, it aims to evaluate the performance of the advocacy efforts of the network measured in the number of proposals made by members of the network which have been reflected in policy documents of the state authorities and, more importantly, their impact that is felt in the business environment. Thus the evaluation report of the implementation priorities of the NBA 2012-2013 is a basic tool for measuring progress in achieving this objective of the platform, which should result in the elimination of as many as possible constraints and barriers to entrepreneurship and in the inclusion of more priorities on the public policy agenda of the authorities.

## ■ The methodology for monitoring the implementation of NBA 2012-2013

The methodology used to achieve the aims of the evaluation was based on a vast arsenal of tools used in the NBA network to assess the level of achievement of the priorities of the platform. Among these are:

**1** Meetings of the working group for monitoring the implementation of the NBA 2012-2013 priorities. The working group consists of representatives of the member associations of NBA and CCI, which are sent voluntarily by associations or CCI. On the monitoring of the implementation of NBA 2012-2013 priorities several meetings and discussions with the working group were held;

**2** The report on the implementation and monitoring of the NBA 2012-2013 priorities, which assessed the intermediate progress in implementing the priorities of the NBA as of October 2012;

**3** Interviews with representatives of business associations and bodies of state authority. The IDIS Viito-  
rural team has met with leaders and representatives of business associations as well as representatives of ministries. These were aimed at assessing the progress in implementing the NBA 2012-2013 priorities for each of the target areas as well as identifying actions / specific measures taken by the authorities that come to meet the priorities of the NBA;

**4** Questioning the NBA member associations and the members of these associations. In order to assess the degree of implementation of the 2012-2013 NBA priorities detailed questionnaires were developed and sent to all the NBA members suggesting to assess the degree of implementation of each of the solutions proposed by the National Business Agenda 2012-2013 for the priorities identified in the tax and customs fields. The questionnaire included four levels of evaluation of the progress in the implementation of the solutions proposed by the NBA („achieved“, „partially achieved / in progress“, „unchanged“ and „the situation has worsened“), and the suggestion to comment / motivate the rating given.

**5** Activity, progress and implementation reports of programs and other policy documents of the authorities relevant to the priorities of the NBA. Some examined reports are:

- Programs and action plans of the Government for 2011-2014 and 2012-2015 and the new Government Action Plan, released in late May of this year;
- Report of the Government on the implementation of the Government Action Plan „European Integration: Freedom, Democracy, Welfare“ 2011-2014, for the period January 14 2011-14 January 2012;
- The development plan of the State Tax Service for 2011-2015;
- The Activity Report of the State Tax Service for 2011 and 2012;
- Strategic Development Program of the Customs Service for 2012-2014;
- Action Plan of the Customs Service for 2013;
- The Activity Report of the Customs Service for the years 2011 and 2012;
- The reports on the activity of the Ministry of Economy in 2011 and 2012;



- The Progress Report on the priorities of the Ministry of Economy for the period June-September 2013 „The 100-day Agenda“;
- Monitoring report on the progress of the Action Plan of the Ministry of Economy for 2013
- Report on the implementation of the Activity Plan of the Ministry of Finance in 2012 and the first half of 2013
- The half-year progress report no. 1/2012 of the Action Plan on the elimination of non-tariff barriers to trade, approved by Government Decision no. 824 of 07.11.2011.

**6** The Monthly Bulletin of legislative changes through which changes in the legal framework for the areas monitored by the NBA have been tracked out.

As the priority of the NBA platform is the effective implementation of solutions raised by business representatives that lead to the removal of constraints in business, their perceptions and assessments were crucial in the granting of specific rankings for each evaluated priority / solution even if according to policy documents or reports of public authorities, certain actions for those priorities / solutions are already set on the authorities' agenda or are being implemented. Wherever the opinions / perceptions of business representatives on the progress in implementing certain solutions were divided, the information obtained from public authorities on implemented actions, corresponding to the solutions proposed by business were taken into account.

## ■ Evaluation aims and objectives

By evaluating the implementation of priorities NBA 2012-2013 we aim to achieve the following objectives:

- Assessment of the level of convergence between the NBA priorities and the authorities' agenda by the comparative evaluation of NBA 2012-2013 priorities with the public policy documents of the authorities;
- Assessment of degree of achievement of the priorities of the National Business Agenda 2012-2013 and identifying trends in their implementation;
- Identifying barriers to the implementation of business priorities as well as the proposal of recommendations and solutions to eliminate them.
- Identifying problem areas and future priorities of the network in order to achieve the objective of creating a fair and competitive business environment that fosters business development in Moldova.

## ■ Degree of implementation of the NBA 2012-2013 in the tax and customs fields

As mentioned in the methodology of the report, the reference point for assessing the progress in implementing the priorities of the 2012-2013 NBA was the time of the formulation of the respective priorities (October-November 2011). In the report of implementation and monitoring of NBA priorities, released in October 2012, we found that of the 13 general priorities, only about three had partial progress, in relation to other seven we have not identified any changes, and concerning three priorities, the situation worsened. Therefore we mention that the main cause of this situation lies in the poor quality of public-private dialogue: the frequent cases of breaches by the authorities of the law on decisional transparency, refusal or ignoring calls for public discussions with business associations and civil society, but particularly the enormous gap that exists between the two agendas: the agendas of authorities and businesses. Thus, of the 13 priorities of the NBA 2012-2013 in the areas of tax and customs administration, some actions concerning only three of them were found in the Action Plan of the Government. After nearly a year, we note a more pronounced progress in terms of approaching the 2 agendas. Thus, in the new Action Plan of the Government, we found 13 actions planned for nine priorities from the NBA 2012-2013, one priority from the NBA 2010 and two specific objectives formulated by the NBA. The NBA solutions / proposals for which we found actions planned in the Government Action Plan were formulated in the editions 2012-2013 and 2010 of the Agenda and were promoted at public debates and discussions. Also, these proposals have been part of the NBA advocacy actions and were filed on behalf of the NBA network on several occasions during the public consultations launched by the authorities (particularly, many of these priorities were included in the Government Action Plan after their submission to the authorities during the formation of the new Government and the development of the new Government program). We note that for the first time so many of the proposals from the NBA were found in public policy documents, which may indicate an improved quality of public-private dialogue, at least at the level of harmonization of the Government's priorities with those of the business. In the matrix below we made a summary of priorities and proposals from the NBA, which are included in the new Government Action Plan:

NBA priority	Specific solution/ proposal formulated by the NBA that corresponds to this priority	Actions provided in the new Government Action Plan
<b>PRIORITY 1</b> Optimization of mandatory reporting procedures and implementing effective information systems in the pursuit of taxes, including electronic governance mechanism	Ensuring functional interactions between different information systems of state bodies	Simplification of tax administration by introducing information technologies, "one stop shops", attracting more active banking and relevant financial instruments of payment and strengthening institutional capacities of customs and tax bodies.

<b>PRIORITY 1</b> Increasing the quality of the legal framework in tax administration and eliminating the possibility of their arbitrary interpretation.	Inventory of all normative and sub-normative acts in the field of tax administration and bringing them in accordance with the law.	Inventory of all normative and sub-normative acts in the field of tax administration and bringing them in accordance with the law.
<b>PRIORITY 2</b> Applying the presumption of innocence in relation to the business in its relationship with control bodies	Exclusion from the state budget policy of the article on revenues derived from fines and other penalties imposed on the business for failure to conform to tax and customs legislation, both in terms of budget forecasts and budgetary plans	Exclusion from the state budget policy of the article on revenues derived from fines and other penalties imposed on the business for failure to conform to tax and customs legislation, both in terms of budget forecasts and budgetary plans
<b>PRIORITY 2</b> Applying the presumption of innocence in relation to the business in its relationship with control bodies	Clear delineation of functions and prerogatives of the bodies responsible for fiscal control Implementation of a mechanism for personal and institutional responsibility of public servants and public institutions with responsibilities in the area of fiscal control regarding the measures taken	Ensuring adequate interventions (of tax authorities) under the regulation of business and fair and equal treatment of all businesses.
<b>PRIORITY 5</b> Stimulating the import of new technologies by reducing the tax burden	Treatment for tax purposes of the new technologies as imported goods and their tax exemption from the income tax at source of payment	Optimization and reduction of customs duties on the import of technological equipment
<b>PRIORITY 7</b> Reducing the tax burden for measures of creating appropriate working conditions for employees.	Inclusion in the Tax Code of the norm on deductibility of expenses for creating normal working conditions for employees Elimination of double taxation by excluding VAT taxation of expenses for creating appropriate conditions for employees by amending art. 99 of the Tax Code.	Defining a „social package“ (food, transportation, etc.) to be allowed for deduction for tax purposes and not considered as facility for employees.
<b>PRIORITY 8</b> Increasing transparency of the Customs Service and predictability of customs procedures and payments	Adopting provisions which stipulate the impossibility of applying internal normative acts of the customs, which are not disclosed as required by law.	Adopting provisions which stipulate the impossibility of applying internal normative acts of the customs, which are not disclosed as required by law.

<b>PRIORITY 9</b> Simplifying procedures and reducing the number of documents required for export.	Improving control procedures by simplifying and harmonizing them, as well as improving the technical basis and implementing modern technologies.	The introduction of international norms and standards in customs in order to reduce the duration and costs actually incurred by economic agents for customs clearance.
	Improving coordination between the various control services, transport, and so on, on both sides of the border	
<b>PRIORITY 10</b> Exclusion of the obligation to pay VAT on imports of manufacturing machinery and equipment.	Elimination of VAT on imports of manufacturing machinery and equipment (service delivery)	Examining ways to stimulate the retrofitting of enterprises by improving the mechanisms for applying the VAT
	Elimination of VAT and customs duties on imports of spare parts for the services provided under the warranty	
<b>PRIORITY 12</b> Ensuring transparency of procedures for calculating the customs value of goods.	The adoption of clear and transparent procedures for calculating the customs value of goods, the publication of these proceedings on the Customs Service website.	The adoption of clear and transparent procedures for calculating the customs value of goods, the publication of these proceedings on the Customs Service website.
<b>PRIORITY 13</b> Recognition of international certificates of conformity issued by countries with which Moldova has concluded mutual recognition agreements	Moldova's accession to international treaties for the recognition of certificates of conformity, as a full member, and mutual recognition of these certificates in the country	Establishing the mechanism of recognition of conformity assessment results (certificates of conformity, test reports and CE marking of conformity) issued by conformity assessment bodies in the EU
<b>THE NBA OBJECTIVE:</b> Influencing decision-making in the regulation of business by active involvement and transparent dialogue with the authorities.	Developing the feedback mechanism in public policy making, expansion and development of regulatory impact assessment mechanisms and their dissemination at the administrative level, extending the practice of independent monitoring and evaluation of implementation of laws and regulations.	Institutionalization of the practice of consulting civil society in order to identify barriers to business and establish solutions to improve the investment climate.
<b>THE NBA OBJECTIVE:</b> ensuring equal conditions of competition for all market participants	Focusing on measures to create conditions for the development of competition: the development of criteria for evaluating the results of the Competition Council regarding antitrust activities, based on the economic effects of the market and consumer welfare.	De-monopolization of the domestic market and elimination of anticompetitive practices in commercial transactions.

**PRIORITY 2.10 (THE NBA 2010)**

Simplification of compensation of debt to the budget by overpayment of other taxes, particularly regarding the administration of import / export operations, the coverage of VAT to be paid with VAT to be refunded.

Simplification of compensation of debt to the budget by overpayment of other taxes, particularly regarding the administration of import / export operations, the coverage of VAT to be paid with VAT to be refunded.

Considering, however, the limited period since the launch of the new program of the Government (May 2013), it was not possible to assess the practical impact of the actions included in the program corresponding to NBA priorities. The conclusions reached in this report are based on the assessment of the practical impact of the implementation of the actions set out in the action plans of the Government for 2011-2014 and 2012-2015, as well as other policy documents, which we made reference to in the methodology of development of this report, presented earlier.

Measured as practical impact felt at the level of the business, not only at the convergence level of the two agendas (the authorities' and the businesses') the progress in implementing the priorities of NBA 2012-2013 is slightly higher compared to the period of the launch of the monitoring report of October 2012. Thus of the 13 NBA 2012-2013 general priorities 5 were rated as „Partially achieved / in progress” on 7 of them there was no change, while only one was appreciated by „The situation has worsened” (compared to respectively 3, 7 and 3 about a year ago). Detailed on concrete solutions, the situation is as follows:

<b>ATTRIBUTED RANKING</b>	<b>% of concrete solutions proposed for the implementation of NBA priorities with the corresponding ranking</b>	
	<b>September 2013</b>	<b>October 2012</b>
<b>Partially achieved/ In progress</b>	28%	24%
<b>Unchanged</b>	64%	61%
<b>The situation has worsened</b>	8%	14%
<b>TOTAL</b>	<b>100%</b>	<b>100%</b>

While concerning the priorities in the tax area, ratings given on the priority level did not change compared to October 2012, when the monitoring report was released, there has been some progress on the priorities in the customs field. Thus, due to changes introduced in the procedures for determining the transit time and offering traders the possibility to prolong the transit time based on an application upon the occurrence of certain events, the rating for that priority was changed from „The situation has worsened” (October 2012), to „partially achieved / in progress” now. This, in spite of the fact that the automatic application of the maximum transit time provided for by the customs legislation was not introduced, as the NBA members had asked. However, compared to the period of formulating the NBA 2012-2013 priorities, the amendments made represent a progress. Also, by introducing the possibility of VAT refund to economic agents that make capital investments in vehicles for the transport of at least 22 people, the rating given to the priority nr. 10 has now been changed from „The situation

has worsened" (October 2012), to „No Change». This is because compared to the launch of 2012-2013 NBA priorities, along with these advances, there were also some setbacks (cancellation of VAT refund for fixed assets included in the statutory capital). Similarly, the rating for the priority 12 was changed from „no change" almost a year ago, to „partially achieved / in progress" due to positive changes in the determination of the customs value of goods. Also, the number of individual solutions appreciated as „partially achieved / in progress" has grown and the number of those with „the situation has worsened" diminished compared to the period of the launch of the monitoring report.

Below is a summary of the National Business Agenda 2012-2013, with the respective ratings given to each of the 13 NBA general priorities, determined as a result of the assessment of their implementation. The summary is followed by a detailed table on the specific solutions proposed by NBA 2012-2013, corresponding to the 13 general priorities. This table is followed, in turn, by detailed comments for each solution and the argumentation of the rating for the degree of implementation of that solution.

## ■ Summary of the National Business Agenda 2012–2013

FIELDS	PRIORITIES	DEGREE OF IMPLEMENTATION
Tax field	1. Optimization of procedures for mandatory reporting of business to public authorities, increasing the efficiency and timeliness of the process and implementation of effective information systems in the pursuit of taxes, including the electronic governance mechanism. Increasing the quality of the legal framework in tax administration and eliminating the possibility of its arbitrary interpretation.	<i>Partially achieved/ In progress</i>
	2. Applying the presumption of innocence of the business in relation to control bodies.	<i>Unchanged</i>
	3. Exclusion of excessive penalties for unintentional violations and lack of direct damage to the state. Entering the balance between the damage and the size of the penalty imposed.	<i>The situation has worsened</i>
	4. Allowing companies to register as VAT payers immediately after registration, without any capping conditions.	<i>Unchanged</i>
	5. Stimulating the import of new technologies (including import of software ) by reducing the tax burden.	<i>Unchanged</i>
	6. Stimulating an improvement in professional training by allowing companies to deduct expenditures of education and training of staff from the tax base.	<i>Unchanged</i>
	7. Reducing the tax burden for vital activities of stimulating sales (marketing, advertising and promotion, etc.) and creating suitable work conditions for employees.	<i>Unchanged</i>



<i>Customs field</i>	8. Increased transparency of Customs Service and predictability of customs procedures and payments.	<i>Unchanged</i>
	9. Simplifying procedures and reducing the number of documents required for export.	<i>Partially achieved/ In progress</i>
	10. Elimination of VAT on imports of manufacturing machinery and equipment (service delivery.) Elimination of VAT and customs duties on imports of spare parts for the services provided under the warranty.	<i>Unchanged</i>
	11. Automatic application of the maximum term of transit provided for by customs legislation, changes being allowed only in exceptional cases, upon presentation of a statement of reasons in written form.	<i>Partially achieved/ In progress</i>
	12. Ensuring transparency of procedures for calculating the customs value of goods. Transferring the duty to demonstrate the incorrectness of the customs value of the goods from the declarant to the customs.	<i>Partially achieved/ In progress</i>
	13. Recognition of international certificates of conformity issued by countries with which Moldova has concluded mutual recognition agreements.	<i>Partially achieved/ In progress</i>

## ■ National Business Agenda 2012-2013 details on specific solutions proposed

	<b>NBA PRIORITIES</b>	<b>SUGGESTED SOLUTIONS</b>	<b>DEGREE OF IMPLEMEN- TATION</b>
<i>Tax field</i>	1. Optimization of procedures for mandatory reporting of business to public authorities, increasing the efficiency and timeliness of the process and implementation of effective information systems in the pursuit of taxes, including the electronic governance mechanism. Increasing the quality of the legal framework in tax administration and eliminating the possibility of its arbitrary interpretation.	- Ensuring a functional interaction between different information systems of state bodies	<i>In progress</i>
		- Presentation of most reports in electronic form	<i>Partially achieved</i>
		- Development of an official comment to the Fiscal Code by the Parliament	<i>Unchanged</i>
		- Making an inventory of all normative acts on tax administration and bring them in compliance with the laws	<i>The situation has worsened</i>



<i>Tax field</i>	2. Applying the presumption of innocence of the business in relation to control bodies (Tax inspectorate)	- Abolition of plan concerning the collection of budget revenues from fines and penalties	<b>Unchanged</b>
		- Clear demarcation of functions and prerogatives of bodies empowered with fiscal control functions	<b>Unchanged</b>
		- Establishment of the mechanism of personal and institutional responsibility of public servants;	<b>Unchanged</b>
		- Establishment of the rule according to which the guilt of the economic agents is determined exclusively by the court	<b>Unchanged</b>
		- Establishment of the rule according to which the burden of providing proofs lies with the tax authority	<b>Unchanged</b>
	3. Exclusion of excessive penalties for unintentional violations and lack of direct damage to the state. Entering the balance between the damage and the size of the penalty imposed	- Reducing the number of sanctions (or penalty value)	<b>The situation has worsened</b>
		- Introduction of the law establishing the causal link between intention and penalties, and the balance between the amount of damage and the penalty imposed	<b>The situation has worsened</b>
		- Introduction of the rule on application of sanctions by the court only	<b>Unchanged</b>
	4. Allowing companies to register as VAT payers immediately after registration, without any capping conditions.	- Elimination of capping for voluntary registration as VAT payer	<b>Unchanged</b>
	5. Stimulating the import of new technologies (including import of software ) by reducing the tax burden	- Treatment for tax purposes of the new technologies as goods and tax exemption of their import from the income tax at source of payment	<b>Unchanged</b>
		- Elimination from the royalty category of the Tax Code of payment for the purchases of software designed exclusively for the operation of such software, as well as of compensations for the acquisition of the entire copyright for software	<b>Unchanged</b>

<i>Tax field</i>	6. Stimulating an improvement in professional training by allowing companies to deduct expenditures for the education and training of staff from the tax base	- Inclusion in the Tax Code of the rules on deductibility of education and training of staff	<b>Unchanged</b>
		- Elimination of current provisions on taxation of individuals for such expenditures incurred by the employer	<b>Unchanged</b>
	7. Reducing the tax burden for vital activities of stimulating sales (marketing, advertising and promotion, etc.) and creating suitable work conditions for employees	- Elimination of VAT on sales promotion costs (Article 99 and 95 (Para. (2 it. c), TC)	<b>Unchanged</b>
		- Elimination of VAT on expenditures for the creation of appropriate working conditions (art. 99, TC)	<b>Unchanged</b>
		- Granting the right to decide which expenses are necessary and ordinary exclusively to the economic agent (amendment of Art. 24 (paragraph 1), TC)	<b>Unchanged</b>
		- Including the rule on deductibility of expenses for creating normal conditions for employees in the Tax Code	<b>Unchanged</b>
<i>Customs field</i>	8. Increased transparency of Customs Service and predictability of customs procedures and payments so that economical agents have the possibility to calculate the sums that have to be paid for import/export procedures on their own, as well as be aware of the documents that they will have to present and the duration and consecutive order of procedures.	- Inventory of all documents which regulate customs procedures (implementing the Guillotine of normative and sub-normative acts that regulate customs procedures)	<b>Unchanged</b>
		- Exclusion of cases of application of internal normative acts of the Customs Service	<b>Unchanged</b>
	9. Simplifying procedures and reducing the number of documents required for export.	- Reducing the volume of documentation and maximum simplification of procedures for conducting export	<b>Partially achieved</b>
		- Improving control procedures by simplifying and harmonizing them, as well as improving technical base and implementing modern control and scan technologies	<b>Partially achieved</b>
		- Improving coordination between the various transport, control services etc., on both sides of the border	<b>Partially achieved</b>

<i>Customs field</i>		- Implementing the one stop shop and repeated use of documents and data previously submitted by companies to Customs Service and other institutions through an interconnected network	<b>Unchanged</b>
		- Adopting detailed and clear legal regulations to provide the list of goods to be subject to simplified customs procedures and regulate simplified customs procedures, to be applied clearly and in detail	<b>Unchanged</b>
		- Transfer of customs controls from the border to internal points of destination, reducing pressure on the border	<b>Unchanged</b>
	10. Elimination of VAT on imports of manufacturing machinery and equipment (service delivery.) All machinery and equipment used in the process of goods and service production should be considered technical equipment and treated accordingly and be excluded from VAT on import. Elimination of VAT and customs duties on imports of spare parts for the services provided under the warranty.	- Elimination of VAT on imports of manufacturing machinery and equipment (service delivery)	<b>Unchanged</b>
		- Elimination of VAT and customs duties on imports of spare parts for warranty services	<b>Unchanged</b>
	11. Automatic application of the maximum term of transit provided for by customs legislation, changes being allowed only in exceptional cases, upon presentation of a statement of reasons in written form	- Exclusion of the practices of unauthorized modification by Customs officers of the period of transit for the purposes of reducing it	<b>Partially achieved</b>
		- Adjusting the transit period for different categories of transport, taking into account the mode / modes of transportation and realities imposed by the state of infrastructure	<b>Partially achieved</b>
		- Amendment of art. 42 of the Code, Para. 2, which shall read as follows: „transit time is up to 8 days after crossing the border. It can be diminished by customs only in exceptional circumstances, by a reasoned decision issued to the person receiving transit.”	<b>Unchanged</b>

*Customs field*

	12. Ensuring transparency of procedures for calculating the customs value of goods. Transferring the duty to demonstrate the incorrectness of the customs value of the goods from the declarant to the customs	The way of selecting the method of determining the customs value of goods, the actual calculation procedures must be transparent, clear and available to the economic agents so that they can self-assess the customs value in advance	<b><i>Partially achieved</i></b>
		Ensuring compliance with the current provisions of the Customs Code regarding the customs value of goods: using only the „transaction value method“, based on documentary evidence. In case of disagreement of Customs Service with the documentarily confirmed value of the goods, the burden of demonstrating must be assumed by the respective authority, not the economic agents.	<b><i>Partially achieved</i></b>
	13. Recognition of international certificates of conformity issued by countries with which Moldova has concluded mutual recognition agreements	Accession of the Republic of Moldova to international treaties for recognition of certificates of conformity, as a full member, and mutual recognition of the certificates in the country	<b><i>Partially achieved</i></b>
		Establishing applicable certification mechanisms in cases where standardization organizations do not have the necessary test equipment and qualified personnel to carry out certification	<b><i>Unchanged</i></b>
		Establishing appropriate practices and time limits for passing the procedure of standardization and exclusion of sanctioning economic agents for keeping goods during the procedure of their certification	<b><i>Partially achieved</i></b>

## ■ Comments: The degree of implementation of the NBA 2012-2013 priorities

### PRIORITY 1.

**Optimization of procedures for mandatory reporting of business to public authorities, increasing the efficiency and timeliness of the process and implementation of effective information systems in the pursuit of taxes, including the electronic governance mechanism. Increasing the quality of the legal framework in tax administration and eliminating the possibility of its arbitrary interpretation.**

***SOLUTION 1: Ensuring functional interactions between different information systems of state bodies and the implementation of mechanisms of electronic reporting.***

Concerning the respective priority we have identified some actions provided for in the Government Action Plan for the years 2012-2015, which provides „*Applying the one stop shop concept widely at all levels, implementing the principle of one-stop shop for statistical and financial reporting, for the grant of authorizations and services at the levels of central and local public administration, as well as to perform import and export operations and identify new areas where one-stop shops can be created.*» Although the plan included expanding the network of local one-stop shops by the end of 2012, so far only the areas and the authorities responsible for the creation of one-stop shops have been identified and a draft Government Decision „On measures to implement the Law no. 161 of 22 July 2011 on the implementation of one-stop shops for entrepreneurial activity” was developed. And the new Program of the Government, resented in May of this year states: „*Simplification of tax administration by introducing information technologies „one stop shop”, a more active involvement of the banking system and financial instruments relevant for payments and strengthening institutional capacities of customs and tax bodies.*” However, the Ministry of Finance proposed the elimination from its plans of the action to „set a one stop shop to receive tax reports and provide services to taxpayers”, so it probably will not be found in the Action Plan of the Government. This is because after the mandatory introduction of the tax reports from 01/01/2013 through electronic reporting service, the Ministry of Finance finds that the action is no longer an actual one.

NBA representatives have also noted the lack of practical progress in implementing the one stop shop mechanism for most areas of interaction of business with the state. Thus, to obtain any permit or authorization document, the original registration certificate from the State Registration Chamber, other documents from MSTI, CNAS (salary certificates for pensioners), Customs Service, etc. are required. The situation is the same when registering a company or to changing the registration data (founders, statutory capital value, legal change of address, etc.), Although at the normative level registration is declared within the one stop shop, actually economic agents are forced to go to multiple institutions with the same documents. In addition, such operations are provided with terms of registration, penalties and fines for exceeding them.

Some progress has been reported only in establishing interconnection between the State Register of Enterprises and the Chamber of Licensing. Similarly, on October 5, 2012, the Parliament made amend-

ments to laws on entrepreneurial activity in Moldova. Through one amendment, the certificate of registration has been excluded from the list of documents necessary to start a business. Similarly, concerning progress, we can mention that in the current year two electronic systems of reporting have been entered into service at the National Health Insurance Company and the National Social Security Fund: e-NHIC and e-NSIH. They are accessible via the single portal of public services: [servicii.gov.md](http://servicii.gov.md) or through the information system „e-Report” [www.raportare.md](http://www.raportare.md). Thus, economic agents may submit reports to the NHIC and NSIH through the Internet, saving time and benefiting from a simplified presentation.

Also some progress has been registered in the implementation of the „*electronic declaration*” service. As of 01.01.2012, the tax reports of VAT- payer economic agents, in Chisinau, Balti and Comrat are compulsory presented via the AIS „*electronic declaration*”. And from 1 January 2013, all VAT- payer businesses in the country submit tax reports only through electronic tax reporting services. By the end of 2012, over 21 thousand businesses were connected to the online tax reporting service, the number of statements submitted this way amounting to 42.11% of all tax reports submitted during 2012. In mid-year, nearly 27,000 taxpayers were connected to the service, and the number of electronic statements submitted by them amounted to 48.91% of the total number of tax declarations during this period. The Government Action Plan requires 60% of tax declarations to be submitted via means of „*electronic declaration*” by the first quarter of 2014.

At the same time The Electronic Government Center (EGC) promised that the e-invoices service will be available from October 2013. This service intends that invoices be issued and registered electronically. In this respect, the SFS plans to launch a pilot service „e-invoices”. By means of „e-invoices”, businesses will be able to issue and send invoices (for VAT exempted supplies) or tax invoices without the need to order them from the State Tax Service, thus addressing the problem of endless queues. At the same time, the service „e-invoices” will perform the validation of electronic invoices’ content. Business representatives expect that the service „e-invoices” to solve another problem, widely discussed and debated in public discussions organized by NBA.

Thus, according to the art. 1181 of the Tax Code, introduced by Law No. 267 of 23.12.2011, in force since 13.01.2012, subsequently amended by Law No. 178 of 11.07.2012, effective 01/07/2012, the provider of goods / services was required to record the invoice issued in the General Electronic Register of tax invoices within 5 working days from the date of issue (for subjects of VAT taxation served by the Main State Tax Inspectorate - within 10 working days from the date of issue), if all taxable value of the VAT taxable supply exceeded the amount of 100,000 lei (as of July 1, 2012), 50,000 lei (as of 1 January 2013), 10,000 lei (as of 1 January 2014). The introduction of these provisions in the tax code has created an additional administrative burden for the business t, complicated and distorted the entire mechanism of operation and administration of VAT. Thus, because of these administrative limitations, economic agents could take into account the amount of VAT paid only after the registration of the invoice by the supplier. If for some reason the supplier failed to record the tax invoice in the Register, the purchaser was deprived of the right to take the amount of VAT paid into account, and the supplier was fined 3600 lei.

Often the financial burden that buyers bear was higher than that borne by the supplier, since in many cases the amount of VAT credited to the buyer exceeded the size of the penalty established for the supplier. Subsequently, a bill passed in July of this year (effective from 08.09.2013) allowed the transfer into the buyer’s account the amounts of VAT paid, even if the supplier does not register invoices in the electronic register or registers them with delay, as well as the thresholds of 10 thousand and 50 thousand lei for compulsory registration of deliveries in the electronic register were removed. NBA Members noted that although the new changes will rebound, in part, some of the problems faced by economic agents, in essence they will not change the situation created with the establishment of „the General electronic register of tax invoices”. The introduction of the General electronic register of tax invoices is by no means a method for fighting corruption by the state, ghost firms and shadow economy, as its reasoning seems to be, but rather affects economic agents operating legally and transparently. Moreover, these businesses actually fulfill certain functions which naturally should be the responsibility of the



state tax authorities. This situation can by no means fit the priorities of the state to eliminate administrative barriers to business.

Moreover, the period of 10 days, for recording tax invoices, left in force according to the last changes, puts deadlock on certain companies that due to objective reasons and the specifics of the business, cannot comply with these legal requirements. For example, carrier agents that perform combined international transport using different means of transportation (land, water, rail, air), sometimes are unable to meet the deadline set. At the same time, for failure to comply with the term of registration of tax invoices, businesses can pay a 3,600 lei fine for each tax invoice not registered on time. In addition, these companies risk to lose the full amount of VAT transferred to the account for each tax invoice. Another problem is the threshold of registration of tax invoices that also burdens the business with additional administrative work. In conclusion, the NBA noted that recent changes to the law no. 209 of 20.05.2013 are only a measure of the state to temporarily solve issues artificially created by the state authorities, who later come up with partial solutions as a remedy. A priority, according to the NBA, is reviewing the art.1181 of the Tax Code and eliminating the concept of the General electronic register as well as the forms of strict registration of tax invoices, following the example of European countries, and the introduction of electronic tax invoices. In this regard, we hope that the future launch of the „e-invoices” service will solve the problems mentioned.

We note also that the new Government Action Plan provides to *„Simplify the procedure of compensation of debts to the budget with the overpayment of other taxes, particularly regarding the administration of import / export operations, of covering VAT to be paid with VAT to be restored”,* which is a priority of the NBA 2010 and shall be monitored in the future to assess how it will be implemented and its results in practice.

Although regarding the efficiency of interconnection among different bodies of the state, the establishing of the one-stop shop mechanism in the process of issuing permits and authorizations, electronic reports, the NBA members have expressed strong doubts and indicated major disruptions for areas that would already have to apply such mechanisms, the implementation of this solution was appreciated as „partially achieved / in progress” because of the developments mentioned above, which constitute a breakthrough compared to the situation of two years ago.

**SOLUTION 2: Developing an official Comment (interpretation) of the Tax Code and its adoption by the Parliament. This document will describe in detail the interpretation of the Tax Code so that it does not allow arbitrary interpretation..**

Regarding this solution proposed by the NBA, there has been no progress. This is despite the fact that in December last year the Parliament discussed a draft law on the interpretation of tax legislation for taxpayers which suggested the so-called advance tax ruling. According to this solution, if a taxpayer had doubts on the interpretation of tax or customs legislation with respect to a particular situation or transaction, they would have been able to address the specific body, who, after studying the case in cooperation with the taxpayer, would later submit a letter with the legal power of a contract. As the NBA representatives have noticed several times, (including in the Agenda 2012-2013), the author of the respective project, Andrian Candu, has also noted in the substantiation note that although the legislation should be implemented for the benefit of taxpayers, this does not apply in practice. According to the deputy of the Parliament (also mentioned by us and in the grounding of the NBA 2012-2013 priorities), currently such situations are managed by letters. In 2011 alone there were about 1,400 such letters, of which almost half of the answers were but tax authorities quoting the law. Eventually, however, this project has not been adopted.

The NBA has offered its opinion on the launch of this bill and this view remains valid. According to this, such solutions are half measures that are not able to solve the problem of arbitrary interpretation of the legislation and tax rules by tax administration authorities. To definitely solve the problem, it is necessary to adopt a new Tax Code, which leaves no room for ambiguous or arbitrary interpretation. Also the implementation of the provisions of the Tax Code (e.g., Art. 11), which provides solutions for such situations, but which is ignored by state bodies in the tax administration should be respected and ensured.

**SOLUTION 3:** *Inventory of all normative acts subordinated to laws, including government decisions, orders, instructions, rules, letters, etc. on taxation and tax administration and bringing them into full compliance with the laws..*

In relation to this solution, NBA representatives noted worsening of the situation. This is because they noticed that lately the quality of legislative acts decreased and the number of sub-normative acts, which are formally developed to ensure implementation of legislative rules but actually distort and replace them, increased. A possible cause of diminishing the quality of legislative acts could be that the initiatives of the deputies of the Parliament do not pass through the „Guillotine“. Opportunities for intervention of civil society and business associations in this regard will be reduced further but if the Parliament votes on the bill endorsed by the Government on 03 July 2013, which states that government meetings will not be broadcast live. Also, as we mentioned in the previous report, the adoption of many normative acts is still in violation of legislation on transparency in decision making process, they are not subject to public consultation and impact analysis. Even in cases where consultations take place, most of them have a merely formal character.

At the same time we mention that the new Government Activity Program intends for in compartment II d „**Budgetary and fiscal policy and public financial management**“ „*The inventory of all normative and sub-normative acts in tax administration and bringing them into conformity with the law*“ as inspired, apparently, by the NBA Agenda. As, in result of monitoring to date we have not identified any practical action on this priority, with its inclusion in the new Program of activity of the Government, the attention of the network should be directed to monitoring the practical implementation of this provision of the Program.

## **PRIORITY 2.**

**Applying the presumption of innocence of the business in relation to control bodies**

**SOLUTION 1:** *Clear delimitation of functions and prerogatives of the control bodies and eliminating legislative gaps that allow public officials to arbitrarily interpret the normative act. Determination of guilt or innocence of the economic agent exclusively by the court. Transferring the burden of proofing from the economic to public institutions.*

Business representatives from the NBA note the lack of any progress on this solution. We find, as in the previous report, that although the Law no. 131 of 08.06.2012 on the control of business activity (Official Monitor no. 181-184 of 31.08.2012) according to which the powers of controllers, their right to perform controls, to establish an infringement of legislative rules and to apply a penalty can only



be recognized under a normative act published in the Official Monitor of the Republic of Moldova and entered into force accordingly, the provisions of this Law do not apply to controls in tax and customs fields. However, in these two areas we see the most objections to state controls. The law does nothing to solve the problem regarding controls formulated by the representatives of the NBA. Moreover, neither the authors of the law nor the Parliament have ultimately taken into account the objections and recommendations of civil society, including the NBA, and this can ultimately lead to reduced effectiveness of the law even in areas where it is applied.

Although the new Program of the Government requires the action of „*Insurance of appropriate interventions (of tax authorities) in the regulatory framework of the business and fair and equal treatment of all firms*” the business expresses doubts about the practical realization of this goal, because so far despite the existing legal norms (e.g., art. 11 of the Tax Code) they are not applied, a fact recognized even by the public authorities (see example of the background note to the draft law on „anticipated individual tax solution „above).

Moreover, new provisions were adopted on the transmission of the case to court only through the lawyer, which virtually deprived many businesses of the opportunity to defend themselves in court, in the case when their lawyer has no barrister status. That is because, especially for small businesses, law services are too expensive for many of these companies to afford.

### ***SOLUTION 2: Implementing a mechanism for personal and institutional responsibility of civil servants and public institutions for their actions.***

Neither on this solution has there been any progress. NBA representatives noted that state officials still do not bear any responsibility for abusive actions, or actions inconsistent with the legislation in respect to businesses. However, given the fact that laws are often undermined by sub-normative acts (instructions, internal regulations) aimed at increasing budget revenues from fines and penalties, civil servants are encouraged to interpret the law in accordance with such acts and not in favor of the taxpayer, as provided by the tax law. The situation is aggravated by the fact that judicial institutions do not function effectively. As some members of the NBA mentioned, „the unique cases of gain in court by economic agents are evidence of an exception confirming that Femida is not with closed eyes, but her scales are tipped „. Some progress has been made only in terms of tax controls, but this refers mostly to planned checks while regarding operational controls the situation has not changed significantly. According to the Ministry of Finance, in 2012 the number of tax controls decreased by 11.6% and those scheduled and carried out by the method of total verification – by 45%. This is while in previous years the number of checks steadily increased (by 5.7% in 2010 and 7.5% in 2011). We note that the GAP 2012-2015 provided for a decrease of planned and conducted inspections by 2-3% annually.

### ***SOLUTION 3: Excluding the practice of planning the state budget revenues from fines and other financial penalties.***

As in the previous report regarding this proposal we have not found any practical progress, revenues from fines and penalties imposed on economic agents are still part of the budget plans. The plan concerning collecting budget revenues from fines and penalties not only has not been removed, but there are consistent reports on its over-fulfillment. Thus, while total revenues to the national bud-

get in 2012 were collected at a rate of 98.0%, the plan concerning collecting revenue from fines and administrative sanctions was achieved at a rate of 114.8%, or 131.2% compared to 2011. In the first six months of 2013 revenues from fines and administrative sanctions were collected at the level of 128.0% compared to the prescribed level or 119.6% versus the same period of 2012. In this way, we see further distortions of fines' function – from their role of education in the direction of fiscal discipline, fines have become an important tool for completing budget revenues, despite the fact that this leads to increased distrust in tax administration bodies and stimulates the creation of an unfriendly and unattractive business climate, the exact opposite of the declared objectives of policies of public authorities in the field.

However, at least regarding intentions we find some improvements with this solution. The new Program of the Government requires the action of „*Exclusion from the budgetary policy of the state of the article on budgetary income resulting from fines and other sanctions applied to business for failure to comply with tax and customs legislation, both in terms of budget forecasts and budgetary plans*“. This action apparently was also inspired by the priorities of the NBA. However, as progress in achieving the priorities of the NBA was assessed on the basis of practical impact on the business environment, the rating given to this suggested solution is „Unchanged“. Further, this action of the new Program of the Government is to be monitored to establish progress in its implementation..

### PRIORITY 3.

**Exclusion of exaggerated sanctions when the intention of breaking the law and the existence of direct damage to the state are not confirmed and the introduction of balance between the size of the damage and the penalty imposed.**

**SOLUTION 1:** *The exemption from fines and penalties in the case when the violations found were made unintentionally and did not result in direct damage to the state. Determining the size of the penalty depending on the seriousness of the infringement and the direct loss caused to the budget. The imposition of sanctions by the court only.*

Just as in the previous report of monitoring the implementation of the NBA priorities in October 2012, the rating given regarding the respective priority is „The situation has worsened“ due to increase of penalties for not using cash registers and control devices and failure to issue travel tickets, with up to 10 000 lei for the first violation, 25 000 lei for the second violation and 50 000 lei for subsequent violations (art. 254 TC), as mentioned also in the previous report. Similarly, the situation of complete lack of balance between the seriousness of the infringement and the size of sanctions and direct damage caused to the state still persists. Also the tendency of increasing the number and amount of penalties imposed by tax authorities persists. Thus, the value of sanctions calculated by SFS increased from 256.4 million lei in 2011 to 344.7 million in 2012, or 34.4% more. This leads to the already mentioned conclusion that the fines are now used more as a tool to collect additional revenues to the budget rather than a measure to prevent future tax violations. Although at the level of public policies in force we have not found any progress on the priority concerned, we have identified some declared intentions to change the situation at least for small business. Thus, according to head of MSTI Ion Prisăcaru, a bill was drafted that is to be passed by the Government and Parliament, which provides for reduction of fines for infringement of tax law applied to the economic agents representatives from the small business segment. At the same time, according to the head of MSTI, there should be a balance between the size of the penalty and tax law violations detected and damage to the budget, which corresponds to the solution proposed by the NBA. For future monitoring of the NBA priorities, we will track the fate of this draft law to ensure the approval and actual implementation of the intentions declared.

**PRIORITY 4.**

**Allowing companies to register as VAT payers immediately after registration, without capping conditions.**

***SOLUTION 1: Economic subjects should have the opportunity to register as VAT payers voluntarily at any time without additional conditions and upon request made to the territorial tax inspectorates only.***

As we saw in October 2012, regarding this priority there has been no-progress. Article 112 of the TC further provides the threshold of 100 thousand lei in taxable supplies of goods and services in a period of 12 months for voluntary registration as VAT payer. As in the previous report, the NBA members reiterate on this occasion that the threshold of 100 thousand lei for voluntary registration does not constitute a barrier to taxpayers operating illegally, contrary to the arguments for keeping the threshold, but is an obstacle for new businesses or small and micro businesses because they are less competitive on the wholesale market. In addition, this artificial barrier breaks the principle of tax equity. Such fiscal policy is directed towards the de-stimulation of small and micro businesses, towards protecting the interests of large companies, including monopolistic enterprises. Also, this provision discourages the initiative of the population and investors to open new businesses.

Along with this, we observed an increase in the number of cases of depriving companies of the VAT payer status. Thus, starting January 2013 the MSTI often apply this measure against companies that within 12 consecutive months have not registered sales of 100 thousand lei, in the case when MSTI find that the legal address of the company does not correspond to the actual one or in the case of other „violations“. Often depriving companies of this status is not justified (there have been cases where businesses have been denied the status of VAT payers because the tax inspector could not find the address indicated, or at the legal address of the company there was nobody in office at the time of the visit of the inspector). To remove such constraints in the tax administration, but also to ensure the application of the principle of tax equity, the NBA reiterates the need to remove the threshold for voluntary registration as VAT payer.

**PRIORITY 5.**

**Stimulating the import of new technology, including software, by treating them as commodities for tax purposes and exempting their import from income tax at the source of payment.**

***SOLUTION 1: Treating new technology as commodities for tax purposes and exempting their import from income tax at the source of payment.***

There has been no practical progress regarding this solution. However, the new Government Activity Plan provides for a number of actions that could lead to the achievement of this priority. These actions include the „optimization and reduction of customs duties on the import of technological equipment“, „examination of the possibilities of stimulating retooling of enterprises by improving the mechanisms of applying VAT“, which also seem to be inspired by the NBA priorities, and the „optimization and reduction of customs duties on imports of raw materials, auxiliary materials and technological equipment and increasing them for finished products imported, directly competitive with domestic ones.“ These will continue to be monitored by the NBA platform to track the degree of their implementation.

**SOLUTION 2:** *Excluding from the category of royalty in the Tax Code of the remuneration in cash or in kind paid for purchases of software intended for the exclusive operation of that software without changes other than those caused by the installation, deployment, stockpiling, improvement or use, as well as remuneration in cash or in kind paid for the acquisition of the entire copyright of software.*

No progress has been made. Payments for purchases of software are still treated as royalty in the Tax Code and are taxed at the source of payment by 12%, according to art. 91 of the TC.

## **PRIORITY 6.**

**Allowing the deduction from the tax base of expenses for staff training and education**

**SOLUTION 1:** *Inclusion in the Tax Code of the rule on deductibility for tax purposes of staff education and training costs and exempting individuals from tax for expenses incurred by the employer for these purposes.*

As we saw with the launch of the monitoring report, regarding these priorities there has been no progress. According to the TC (Article 24), the costs for training and professional formation of employees still are not deductible, although the Labor Code requires employers to create the conditions necessary to foster professional and technical formation of employees. Moreover, in accordance with art. 99 of the TC, expenditures incurred by the employer for training employees are also taxed with VAT. Neither in the new Government Action Plan, nor in other public policy documents did we find any actions planned in this area.

## **PRIORITY 7.**

**Reducing the tax burden on vital activities for stimulating sales (marketing, advertising, sales promotion, etc.) and creating suitable work conditions for employees.**

**SOLUTION 1:** *Exempting VAT taxation of expenses for sales promotion, marketing, advertising, etc. by amending art. 99 of the Tax Code and canceling art. 95 Para. (2). c).*

There was no evidence of an improvement. The costs of sales promotion, marketing and advertising are still charged with VAT according to art. 99 and art. 95 Para. (2). c) of the Tax Code. Thus, the costs shall be further taxed two times: once at the time of delivery of goods or services, which are already included in the sale price, and again in accordance with art. 99 and art. 95 Para. (2). c) of the Tax Code.

***SOLUTION 2: Exempting VAT taxation of expenditures for creating appropriate working conditions for employees by amending art. 99 of the Tax Code.***

Expenses for the creation of suitable work conditions for employees are still taxed with VAT (art. 99 of the Tax Code), which also means double taxation and discourages companies to invest in the creation of normal working conditions for their employees.

***SOLUTION 3: Changing art. 24 (paragraph 1) of the Tax Code, introducing the rule according to which the company has the exclusive right to decide which expenses are necessary and ordinary for its entrepreneurial activity***

There was no evidence of a breakthrough. Companies are still deprived of the right to decide by themselves which expenses are necessary and usual for their business activity (Article 24 (paragraph 1) of the Tax Code).

***SOLUTION 4: Allowing the deduction of expenditure for creating normal working conditions from the point of view of the company and in compliance with the labor legislation.***

Also, economic agents are still not entitled of deducting expenses for creating normal conditions in accordance with their needs and labor laws. However, the new Government Activity Program proposes „to define a „social package” (food, transportation, etc.) that would be permitted for deduction for tax purposes and not considered as facility for employees.” Until now, however, it is unclear what will be allowed as deduction expenses in this „social package”. Seemingly, this action of the Government Activity Program comes to solve the problem. However, the NBA representatives point out that this solution, on the contrary, could worsen the situation. That is because the current provisions of the TC do not limit expenses allowed for deduction qualified as „ordinary and necessary” for the company’s activity. Limitation of the allowance for deduction of such expenses occurs in the process of tax administration, through letters of the MSTI and the usages of the imposition, unacceptable from the point of view of the business. Defining a „social package” should legislate in fact, the current situation, when not companies, but the state determines which expenses are necessary for them to create normal working conditions for their employees.

## **PRIORITY 8.**

**Increased transparency of Customs Service and the predictability of customs procedures so that economic agents can independently assess the amounts to be paid for the import-export procedures and documentation that will be required to submit, as well as the duration and sequence of procedures**

***SOLUTION 1: Inventory of all internal regulations of the Customs Service related to procedures of import-export and displaying them on the Customs Service website.***

The NBA members reported no breakthrough regarding this solution proposed. Although in August 2012 the Ministry of Economy has prepared and submitted for public consultation a draft Government Decision on the review of regulations of Customs Service, with the declared purpose of no longer allowing the practice of issuing orders governing the business activity without consulting the Work Group of the State Commission for the regulation of business activity, the Ministry of Economy and Ministry of Justice, and without the publication of these orders in accordance with the law; ultimately the project was withdrawn.

Instead, on October 18, 2012, the Customs Service adopted the Order on internal procedures for ensuring transparency in decision making. It states that the draft normative acts of the CS that may have an economic impact, concern the rights and obligations of persons and / or which are binding for other authorities, businesses and organizations, are approved in compliance with internal procedures to ensure transparency in decision making process. The order specified attributions of the Head of Strategic Management that is designated as the coordinator of the public consultation process on draft legislation of the Customs Service, as well as powers of subdivisions leaders related to compliance with the provisions ensuring transparency in decision making process.

Also, the website of the Customs Service, provides an on-line database of TARIM (Integrated Customs Tariff of the Republic of Moldova), which contains information on import rights, as well as tariff and non-tariff measures applicable to imports of goods. The database is updated according to the amendments made to the legal framework and the [www.servicii.gov.md](http://www.servicii.gov.md) website publishes information on public services, including customs procedures provided by the CS, which include references to documents to be submitted to customs authorities.

As a measure that meets the NBA priority can be considered the provision in the new Government Activity Program of „Adoption of provisions that stipulate the impossibility of applying internal customs normative acts that were not disclosed as required by law” inspired, it seems, also by the NBA priorities. It remains to be seen, however, what concrete steps will be taken in this regard and how they will be achieved, in the future monitoring of the implementation of NBA priorities.

**SOLUTION 2: Bringing these acts to a quality that would allow economic agents to plan the size of customs payments, the time required for import and export procedures, the set of documents required, etc. on their own and in advance.**

According to Order No. 80-A of 28.02.2012 of the CS, companies can obtain the decision of the customs body on the correct classification of goods that has to be mandatorily applied by the customs for a period of six years from the date of issue of the decision of the customs body. The website of the CS published and made accessible a list of preliminary tariff decisions on the classification of goods. According to the information of the CS, so far over 100 such decisions have been issued: <http://www.customs.gov.md/index.php?id=3485>. Also, the website of CS publishes CS orders on the classification of certain goods, which allow determining the correct code and customs duty rate respectively: <http://www.customs.gov.md/index.php?id=3673>

A similar procedure for decisions concerning the origin of goods was introduced by Order of the CS nr.525-O of 12.07.2012 regarding the approval of the Instruction on the procedure for requesting and issuing mandatory information on the origin of goods. Similarly, in order to improve the procedures for determining the customs value, CS has developed a draft Government Decision on amending and supplementing the Regulation on the declaration of the customs value of goods introduced in the



Republic of Moldova, approved by Government Decision no. 600 of 14.05.2002, which will determine the list of documents needed to apply the methods of valuation of goods for customs purposes. Until the approval and entry into force, however, we cannot know its exact final content, more so at the moment we cannot talk about any of its practical effects.

## **PRIORITY 9.**

### **Simplifying procedures and reducing the number of documents required for export.**

#### ***SOLUTION 1: Reducing the volume of documentation and the simplification of procedures for conducting export.***

NBA members have rated this priority as „partially achieved / in progress“. According to the information of the CS the share of customs declarations processed under simplified customs procedures reached 14% of all processed declarations mid-year. In total, 60 companies benefit from simplified customs procedures. Also, according to the information of the Customs Service, the correlation among the selection criteria of the customs controls in 2012 has been:

- Import: red corridor - 10%, yellow corridor - 10%, green corridor - 80%.
- Export: red corridor - 5%, yellow corridor - 5%, green corridor - 90%.

Also, CS reported that the average time of passage of goods across the border in 2012 was 21 minutes at entry and 19 minutes at exit, 3 times less than in 2008. Business representatives, however, denounced the irrelevance of these figures given that these indicators do not include the time that means of transport spend before entering the customs track.

With reference to the simplification of customs procedures, the new Government Activity Program provides for: „*The introduction of international norms and standards in customs to reduce the duration and costs actually incurred by economic agents for the clearance of goods.*“ Such an action was contained also in the GAP 2012-2015 and provided two measures: 1) The development of the program „Authorized Economic Operator“ (AEO) and 2) implementation of the New Computerized Transit System (NCTS). With reference to the first measure, a working group was formed in the CS to elaborate the concept of AEO according to EU standards. It has developed a regulation on simplified customs procedures designed to align the national legislation with the provisions of the Community Customs Code relating to AEO. Concerning the second position, it is at the initial stage of implementation and provides the adjustment of the national transit system to the Community one.

#### ***SOLUTION 2: Improve the control procedures by simplifying and harmonizing them, as well as improving the technical basis and implementing modern technologies of scanning and control***

In June this year, the Customs Service has realized the data migration to the new server of the Customs Information System, which provides increased speed and performance capacities of processing customs declarations. Also in June, the Customs Service developed the concept of implementing the electronic customs clearance. The implementation of electronic customs clearance comes in support of efforts to facilitate international goods traffic by exploiting information technologies and promoting a paperless environment for customs (electronic customs), which is recognized at the European level (paperless customs environment / E-customs) and internationally by the World Customs Organization,

according to the Framework Standards to Secure and Facilitate Global Trade (SAFE), of which the Republic of Moldova is part. The electronic customs procedure will help to streamline customs administration, in particular by reducing the cost of customs compliance and improving clearance times. These targets are proposed to be achieved by processing the customs declarations electronically (paperless and using electronic / digital signature) as well as the redesign of customs procedures in order to provide a wide range of transparent and accessible electronic customs services. Along with the electronic clearance procedure, businesses should enjoy many benefits, including: disposal of goods directly from the border (without the need to travel to domestic customs post); reduction of administrative costs, diminishing of the time for customs clearance of goods (for the green corridor clearance duration could be reduced to 7-10 minutes from the time of placing the customs declarations on the server of IS „ASYCUDA World”), exclusion of the time for travelling from the corporate headquarters to the customs authority, exclusion of direct contact with customs officers, which will eliminate the risk of corruption. Switching to electronic clearance is expected to be carried out gradually and will include several stages that will culminate with the launch of electronic customs clearance in all customs posts.

***SOLUTION 3: Improving coordination between the various transport, control services, etc., on both sides of the border***

As mentioned in the previous report, starting with January 2012, an online monitoring system for the traffic of vehicles at border crossing points is implemented on the SV website. The service provides information on the number of means of transport at the border crossing point and, in the case of four customs stations, this data is supplemented with video online. The Customs Service jointly with the International Association of Road Haulers of Moldova / AITA / and International Road Transport Union / IRU / plans to launch a pilot project at the Moldovan-Romanian border (in Leuseni-Albita), regarding the creation of a green corridor for trusted carriers and the TIR-EPD system (TIR Electronic Pre-Declaration). The new system will ease traffic in the customs post, will reduce waiting times in customs and will also optimize the customs control based on selectivity and risk analysis. Currently, at that customs point only, on the side of the Republic of Moldova a special line for crossing the border in priority regime for trusted operators and carriers is equipped.

***SOLUTION 4: Applying the principle of one stop shop and repeated use of documents and data previously submitted by operators to the Customs Service and other institutions through an interconnected network***

With the launch of the new Customs Information System ASYCUDA World Server, the Customs Service launched the promotion module „Multi Agency” which will facilitate interaction of public agencies in the course of customs clearance. The implementation of this module became possible due to the expansion of technical capabilities of the Customs Information System, conducted in June this year. In this regard, the development of tender documentation with each institution has begun.

The same has been started to create a common database of the Customs Service and SFS (ensuring information systems interaction of the CS and SFS) following practices of the EU Member States, which will include „the profile of the economic agent” with information about the operations, the situation with budget revenues, controls carried out, facilities granted to each economic agent. The same database will ensure the access of the SFS to information managed by the CS on export operations in order to refund the VAT (currently the confirmation of export for each transaction apart is issued in paper



documents). Also, this database provides access of the CS to information managed by the SFS on the use of imported goods with tax and customs facilities as intended and provide the mechanism for transmission from the SFS to CS of information relevant for risk analysis. However, given that these actions have just been initiated, their impact on the business environment is not still felt. These actions will be monitored to reflect any practical results in future editions of the monitoring reports on the implementation of the NBA priorities.

***SOLUTION 5: Adopting certain detailed and clear normative regulations to provide the list of goods subject to simplified customs procedures and to clearly and in detail regulate simplified customs procedures that are to be applied.***

According to the CS Order approving the Regulation on simplified customs procedures no. 521-A of 10/12/2012, in force since January 2013, several categories of economic agents can benefit from simplified customs procedures. These categories include:

1. Low risk economic operator - has customs declarations distributed mainly on the green corridor control, which results in reduced waiting time in customs and, thus, reduced company costs.
2. Economic agents with customs clearance at residence - are entitled to customs clearance at their headquarters, or in other places approved by the customs authorities without the presentation of goods in customs terminals.
3. Trusted economic operator - enjoys the largest range of facilities, with the reliable carrier in the international logistics supply chain as a business partner.
4. Reliable carrier - chooses the route for transit independently, shall be exempt from the weighing procedure of the transportation and receives a certificate of origin on a priority basis during one business day.

The website of the CS: <http://www.customs.gov.md/index.php?id=3621> publishes conditions for economic agents in order to benefit from one of the simplified customs procedures above, as well as the steps to follow. Regulation provides for maximum 60 days for granting the status that allows benefiting from simplified customs procedures.

Also since 01 July this year, the Customs Service offers new solutions to simplify customs clearance procedures. The package of solutions for liberalized customs procedures includes the following (<http://www.customs.gov.md/index.php?id=3658>):

### **I. Liberalization of export, namely:**

- 1) The possibility of declaring export directly at the customs border, without the need to submit the goods and complete the customs declaration at the internal customs post. The provision of these facilities is not conditioned by any permissive act or the prior consent of customs authorities.
- 2) Maintaining the procedure on processing export at internal customs posts, the transit of goods to the border. In this case, the procedure is simplified by reducing the number of documents required for processing. Thus, to facilitate export, the need to complete a customs declaration of transit is excluded.
- 3) The extension of the business hours of customs posts. In this regard, the new schedule of the business customs posts has been approved.

### **II. Expanding facilities for holders of simplified procedures.**

- 1) Extending the scope of simplification for several customs regimes, namely for 5 customs destinations: Import, Export, Inward processing, re-export, temporary admission. This, according to the CS will help create more favorable conditions for economic activity with a high degree of credibility and simplified procedures that increase the attractiveness of simplified procedures.

2) To reduce financial expenses related to presenting a financial guarantee to the customs authority, holders of simplified procedures are exempt from presenting a guarantee of rights for import for the transit procedure.

3) Carriers, applying for simplified procedures have been exempted from the need to documentarily confirm the weight of the means of transport.

4) More accurate and detailed criteria for determining the degree of credibility of economic agents have been exposed. Thus, it was established that applications for simplified procedures will also be examined for trustworthy operators, even if they have minor infringements. Minor customs offenses will be considered based on the following factors: frequency of violations to determine whether there are systemic problems, whether the operator has notified the customs authority on its own initiative, information about errors or irregularities detected, whether the operator has taken remedial actions to prevent irregularities or mistakes in the future.

### III. Simplifying pre-clearance operations

The latest liberalization package aims to simplify pre-clearance operations. The declarant shall be entitled to exercise the right to verify the goods before the customs declaration is lodged under simplified procedures. For this, the operator must submit an application to the customs checkpoint, which shall be tacitly accepted.

However the number of companies that benefit from the simplification of customs procedures is far too small to talk about significant progress in this regard. According to the NBA representatives, if the progress on simplifying customs procedures occurs, improvements are slow, and often the benefits from obtaining the status of beneficiary of simplified customs procedures are too small to justify the effort to achieve this status.

***SOLUTION 6: Transfer of customs controls from the border to internal points of destination, to reduce the pressure on the border.***

The implementation of clearance procedure at the headquarters of companies is provided by the Customs Service under the CS Order no. 93-O of 12.03.2012, which provides for the submission of the customs declaration with digital signature by businesses benefiting from this service, through the Integrated Information Customs System ASYCUDA World. According to the latest information available as of September 3, 2012 only six businesses benefited from this service. Obviously, the effect of this measure is so far felt by too small a number of companies to change the general perception about the lack of notable progress on this priority.

### PRIORITY 10.

**The exclusion of the obligation to pay VAT on imports of machinery and equipment for production and service provision and the exemption from customs duties and VAT on imported spare parts for warranty services.**

***SOLUTION 1: Excluding the need to pay VAT on the import of machinery and equipment for production and service provision.***

Regarding this solution there has been progress only regarding VAT refund to operators who are not registered as VAT payers and who from 1 January 2013 perform capital investments (expenditures) in

vehicles to carry minimum 22 people. However, given that the facility of introducing the equipment in the authorized (social) capital without paying VAT and the customs duty exemption for capital goods (Article 28 (q) of the Law on Customs Tariff) intended for inclusion in statutory capital have been excluded, the rating given to this priority is „unchanged“. Although some facilities in this respect are kept only in accordance with art. 101<sup>1</sup> of the TC, which provides for VAT refund for capital investments (expenses), excluding capital investments (expenditures) in buildings and transport means; they are much smaller than those from which companies could benefit previously. Similarly, we find frequent cases when in the outcome of tax controls on this occasion not all the VAT associated with the investment was returned.

As we have already mentioned in the commentary for the priority no. 5, the new Government Activity Program provides for certain actions in this regard, including the *„optimization and reduction of customs duties on the import of technological equipment“, „examination of the possibilities of stimulating retooling of enterprises by improving the mechanisms for applying VAT“ and the „optimization and reduction of customs duties on imports of raw materials, auxiliary materials and technological equipment and increasing them for imported finished products, directly competitive with the domestic ones“*. To date, however, we do not know which the actual content of these actions will be; they will continue to be monitored.

#### ***SOLUTION 2: Exemption from taxes and VAT on imported spare parts intended for warranty services.***

No progress has been noted regarding this solution.

### **PRIORITY 11.**

**Automatic application of the maximum transit term provided for by the customs legislation, making changes only in exceptional circumstances with reasons provided in writing.**

#### ***SOLUTION 1: Exclusion of the practices of unmotivated modifications by Customs officers of the period of transit, by lowering it.***

NBA representatives appreciated that this proposal was achieved in part. On 12.04.2013 in the Official Monitor the CS order No. 131 of 18.02.2013 on certain aspects of the transit procedure was published. This Order provides for a transit time of up to 24 hours, or up to 72 hours providing physical control - for international transit. For national transit the period shall be determined according to the methodology provided. The Order also provides for the possibility of extension of transit time in the case of some events or irregularities, in the case of subsequent loading / unloading and stationing of transport with goods in specific areas of customs control, as well as instructions for customs officers on how to determine events and irregularities in the transit procedure. Although the Order does not provide automatic application of the maximum period of transit or its cancellation as proposed by business in the priority list of the NBA, with its launch, the carriers were entitled to request by an application, an extension of transit in cases stipulated by the approved methodology. Thus, although it does not completely solve the problems mentioned by carrier economic agents while giving arguments for this proposal of the NBA, the Order no. 131-O of the CS is a step forward compared to the situation before launching of the NBA priorities.

**SOLUTION 2:** *Adjusting the transit period for different categories of transport, taking into account the mode / modes of transportation and realities imposed by the state of infrastructure.*

The Customs Service Order No. 131-O of 18.02.2013 provides that for goods placed under the customs regime of national transit for their re-export, import and re-import, the transit time will be given based on the peculiarities of the means of transport, weather conditions and specific requirements of the load. Also, as described above, in certain cases provided (occurrence of events or irregularities, successive loading / unloading, stationary of transport with freight in specific areas of customs control); carriers have obtained the right to request an extension of transit through an application. Based on these considerations, a „partially achieved / in process of realization” ranking was given.

**SOLUTION 3:** *Changing art. 42 of the Customs Code, Para. 2, which shall read as follows: „Transit time is up to 8 days after crossing the customs border. It can be reduced by the customs body only in exceptional circumstances, by a decision reasoned in writing, issued to the person receiving transit.*

There has been no progress on this solution proposed by NBA to regulate the transit period. The only developments are related to the changes introduced by the Order no. 131-O of 18.02.2013, to which we referred above.

## **PRIORITY 12.**

**Ensuring transparency of procedures for calculating the customs value of goods and transferring the burden of demonstrating the incorrectness of the customs value of goods from the declarant to customs authorities.**

**SOLUTION 1:** *The way of choosing the method of determining the customs value, the actual calculation procedures must be transparent, clear and available to the operator, so that it can calculate the customs value independently and in advance.*

The CS is in the process of developing a guide on the application of the system of determining the customs value. In this regard, a questionnaire was developed for the analysis on the application of the system of determining the customs value of goods, which was submitted to operators and members of the Advisory Committee. The results of the survey will help identify topics for the detailed guide on the application of the system of determining the customs value. Similarly, with the aim of adopting clear and transparent procedures for calculating the customs value of goods, the CS drafted the Government Decision on amending and supplementing the Regulation on the declaration of customs value of goods entering the Republic of Moldova, approved by Government Decision No 600 of 14 May 2002. This was supplemented with a new item „provisions for implementing the backup method.” This GD is however only at the design stage, so that at the time of this report of evaluation, we cannot attest any practical changes at the business level.

Similarly, the new Government Activity Program provides for the „*adoption of clear and transparent procedures for calculating the customs value of goods, publication of these procedures on the Customs Service website*”, in accordance with the proposals made by the NBA.

**SOLUTION 2:** *Ensuring compliance with the current provisions of the Customs Code regarding the customs value of goods: applying only the method of „transaction value”, based on documentary evidence. In case of disagreement of the Customs Service with the documentarily confirmed value of the goods, the burden of demonstrating must be assumed by the respective authority, not by the operator.*

Business representatives have notes a partial progress on this solution. And according to the information of the CS, of all import transactions, 87% are determined by the declarant according to the method I (according to the value of the transaction). However, that rating was given based on the average grade of the questionnaires. In some sectors, NBA representatives even reported worsening of the situation (as, for example, in the case of intermodal transport). Thus, a few customs warehouses of some economic agents have been closed and technical regulations for the implementation of international agreements to which Moldova has adhered (Incoterms, FIATA) have still not been developed. Therefore, the transit of goods by rail avoids Moldova.

### **PRIORITY 13.**

**Recognition of international certificates of conformity issued by countries with which Moldova has concluded mutual recognition agreements, and improving procedures for certification of conformity.**

**SOLUTION 1:** *Moldova’s accession to international treaties for the recognition of certificates of conformity, as a full member, and mutual recognition of the certificates in the country.*

To develop the system of national standards consistent with the European standardization system and the international system of standardization throughout 2012 986 national standards identical to international ones (ISO / IEC) and 1867 national standards identical to European ones (EN) were adopted. 296 national standards conflicting with European standards have also been canceled and lists of standards related to 3 Technical Regulations have been revised. The national standardization program for 2013, provides for the adoption of 2609 European and international standards. During April-June 2013 43 national standards identical to international ones (ISO / IEC) and 101 national standards identical to European ones (EN) were adopted.

Also GAP 2012-2015 provides by the end of 2015 the simplification of the industrial certification regime of imported industrial equipment which meets international and European standards of industrial security. By the end of 2012 the List of related standards which was endorsed by the National Institute for Standards and Metrology was drafted, and 4 other lists have been approved by other institutions. This action has been transcribed in the new Government Activity Program, which provides for the „*Implementation of a scheme of industrial certification beneficial for importing technologically advanced industrial equipment and according to international and European standards of industrial security*”.

***SOLUTION 2: Establishing applicable mechanisms of certification in cases when organizations of standardization do not have the needed testing equipment or qualified personnel for conducting the procedure of certification.***

No progress was achieved. Regarding the solution concerned we found activities planned in the GAP 2012-2015, providing equipping the laboratories with facilities and technical means, until the fourth quarter of 2014. The way of implementation of these provisions is to be monitored.

***SOLUTION 3: Setting appropriate practices and deadlines for conducting the process of standardization and excluding sanctions for economic agents for keeping goods during their certification process.***

Progress has been registered only regarding the exclusion of sanctions for economic agents for keeping goods during the certification process.



## ■ The degree of implementation of NBA 2012-2013 sector priorities

Concerning sector priorities, the progress in their implementation was evaluated depending on the extent to which these are found in public policy documents as a consequence of advocacy measures undertaken by the NBA. Taking into consideration that sector priorities concern first of all the functions of these associations members of the NBA and in order not to substitute or undermine their competencies, the respective priorities have received a complementary role compared to the general priorities from the tax and customs fields, established as fields of common interest for all member associations and the main target of the efforts of the NBA advocacy events. Sector priorities were rather chosen as a topic of discussion in the ad-hoc meetings within the NBA, related to specific issues of concern for those sectors. Also, specific sector proposals were included in the list of proposals from the NBA for the new Government Activity Program, along with those of the tax and customs areas, but they were not the target of monitoring or broader advocacy. Hence the differences in the method of assessing the degree of their implementation compared to the general priorities.

For information technology and communications sector, agribusiness and wine industry as well as the transport sector, in the new Government Action Plan we found 3 actions corresponding to each priorities / solutions proposed by the respective sector agendas. For the construction sector, only one of the solutions proposed by the Sector Agenda is reflected in the new Government Activity Program. The actions in the Government Activity Program, corresponding to suggested NBA sector agenda solutions are:

- *for the ICT sector: ensuring free competition on the ICT market; reforming “Moldtelecom” and ensuring equitable access to communications infrastructure for all market players, the modernization of the educational system for training specialists for the ICT sector.*
- *for the agribusiness sector and wine industry they are: increasing investments in the modernization of agro-food businesses and marketing of food, facilitating access to finance for agribusiness companies, increasing access to water resources for irrigation.*
- *for the transport sector: approving the Strategy for transport and logistics; modernization of State Enterprise “Calea Ferata din Moldova» (Moldova Railways); promotion of intermodal transport.*
- *for the construction sector: Reforming the system of technical regulation of construction and implementation of performance standards in construction.*

The matrix of solutions proposed by sector NBA agendas and appropriate actions contained in the Government Activity Program is presented below:

PRIORITY FIELDS	SOLUTIONS SUGGESTED BY SECTOR BUSINESS AGENDAS 2012-2013	ACTIONS IN THE NEW GOVERNMENT ACTIVITY PROGRAM
<b>Sector of Information and Communication Technologies</b>		
<i>The competitive environment</i>	Eliminating unfair competition and barriers to ICT sector growth	Ensuring fair competition on the market of electronic communications, postal and ICT industry



<i><b>The competitive environment</b></i>	Approving the procedure of creation, access and use of common infrastructure for electronic communications	Reforming SC „Moldtelecom” ensuring equitable and transparent access to the infrastructure for all market players
	Elimination of cross-subsidization of Moldtelecom services	
<i><b>Human resources and training</b></i>	Creating centers of excellence in universities in partnership with established international academic structures and ICT companies and establishing strategic alliances with leading global players in the ICT sector with the purpose of transferring the best practices and the most advanced knowledge.	Modernizing the educational system in the ICT field by improving educational standards, creating partnerships with private companies, centers of excellence and innovation labs
<b>The sector of agribusinesses and wine industry</b>		
<i><b>Production and marketing of agricultural products</b></i>	Stimulation by the state of the sector of high value agriculture (HVA); encouraging the planting of orchards and vineyards (especially table varieties), the cultivation of vegetables, sugar beet, the creation of the infrastructure for the storage, freezing, packaging and marketing of HVA .	Increasing investment in upgrading food processing enterprises and marketing of food
<i><b>Production and marketing of agricultural products</b></i>	Facilitating access to finance for agribusiness companies	Facilitating access to capital, markets and inputs for farmers by subsidizing interest rates for agricultural loans, establishing a guarantee fund for agricultural loans, providing assistance in the process of land consolidation.
<i><b>Tax and customs procedures</b></i>	Eliminating taxes for water used for irrigation in order to revitalize the process of irrigation and the return of the excise for fuel used in agriculture.	Increasing the access to water resources for irrigation, including ensuring access to quality water for irrigation
<b>Transport sector</b>		
<i><b>Transport policy framework</b></i>	Developing and adopting a Policy (Strategy) on the development of transport in the Republic of Moldova for 10 years	Approval of Transport and Logistics Strategy 2013-2022

<i>Normative-regulatory framework for transport</i>	Reorganization of State Enterprise CFM into CFM joint stock company and privatization of its assets that are not related to the activity profile of this enterprise and of those unused for a long time in its economic cycle	Adopting a strategic plan for the modernization of the SE "Calea Ferata din Moldova" (CFM) through restructuring and separation on types of activity (goods, passengers, infrastructure)
	Implementing the single transport invoice for all types of transports FIATA in Moldova, in order to stimulate the development of combined transport for goods	Promoting intermodal transport by increasing interconnections between different types of transport.
<b>Constructions sector</b>		
<i>Quality of construction</i>	Introducing professional certification of construction companies to ensure proper construction works of national standards, harmonized with EU requirements	Reform of technical regulation of construction and implementation of performance standards in construction

## ■ Conclusions

Compared to the period of the launch of the report of implementation and monitoring of NBA priorities (October 2012), when we noted there was a large discrepancy between the authorities' agenda and priorities of the business, the situation has changed for the better. But this refers only to the proximity of the two agendas. If almost a year ago, we found in the Government Action Plan appropriate actions only for 3 of the NBA general priorities, in the new Government Activity Program released in late May of this year, we have already found actions for nine NBA 2012 -2013 priorities, one of the NBA priorities from 2010 and two corresponding to the NBA specific objectives (ensuring equal conditions of competition and improving public-private dialogue through institutionalizing consultations with civil society to create an attractive environment for investments). While this can be attributed to the „activism“ of the platform and insistence in promoting the NBA priorities (thus, a large part of NBA priorities came to be included in the Government Activity Program as a result of sending to authorities a list of proposals on the occasion of the formation of the new government and development of a new activity program), we could also note a greater openness of the authorities to documents released by the civil society. Thus, although the list of proposals sent when formulating the new Government Activity Program did not include proposals of Business agendas of previous years, we found a priority of the Agenda 2010 in the Program, which keeps even the exact wording used in the NBA 2010. This can only be welcomed, as during almost 3 years we have not seen many cases of such careful reading of priority documents released by the civil society and especially the proposals for solutions from the NBA to remove constraints to business and build an attractive business environment. Also on the occasion of launching the report of implementation and monitoring of NBA priorities in October last year we concluded that the lack of an effective public-private dialogue is the main cause of the fact that most of the priorities set by business through the 2012-2013 NBA were not found in policy documents of the authorities. The inclusion of so many priorities inspired by the agenda of business in the government agenda for the next two years may signal greater openness of authorities to civil society and the beginning of a more effective public-private dialogue.

However, at the level of practical conditions of doing business, the progress is experienced much less. Like almost a year ago, on 7 priorities of the NBA we did not note any progress against the NBA priorities launch period (October-November 2011). This covers: application of the presumption of innocence of the business in relation to control bodies, enabling companies to register as VAT payers without any capping conditions, stimulating the import of new technologies by reducing the tax burden, stimulating the training of staff by allowing the deduction from the tax base of expenses for education and staff training, reducing the tax burden for vital activities of stimulating sales (marketing, advertising and promotion, etc.) and the creation of appropriate conditions for employees, increasing transparency of the Customs Service procedures and predictability of customs payments, excluding the obligation to pay VAT on imports of machinery and manufacturing equipment.

Regarding five priorities we reported partial progress (3 in October 2012): the optimization of procedures for mandatory reporting of the business to public authorities; simplifying procedures and reducing the number of documents required for export; ensuring transparency of the way of calculating the customs value of the goods, the automatic application of the maximum period provided for under the customs legislation of transit; recognition of international certificates of conformity issued by countries with which Moldova has concluded mutual recognition agreements. However, we note that although many of the proposed solutions to these priorities are being implemented in practice, their impact is quite limited, and the number of companies that can benefit from them is quite small (as, for example in the case of simplification of customs procedures). In other cases, we found some progress even if the

proposed NBA solutions were not adopted (automatic application of the maximum period of transit provided by the customs legislation). This is because changes made to the procedure for determining the transit period made it possible to extend the period of transit at the request of carrier economic agents, albeit under certain conditions.

In terms of one priority (excluding excessive sanctions against business), like almost a year ago, we found a worsening situation (compared to the period of the issue of priorities), given that fines are disproportionate to the seriousness of the deed, that the lack of causal link between the intent of the tax infringement, the existence of a direct damage brought to the state budget and the sanction imposed, was preserved. In October 2012 we gave this rating to 3 priorities. However, given the great complexity of many priorities, we can make a more objective conclusion on the extent of their implementation based on the assessment of the implementation of concrete solutions proposed for each of the 13 general priorities. The qualifier „partially achieved / in progress” was given to 28% of individual solutions formulated by the NBA, compared to 24% attested in the monitoring report in October, 2012. Instead, the solutions denoted by the qualifier „Unchanged” increased slightly - 64% compared to 61% about a year ago. Finally, the number of solutions appreciated as „The situation has worsened” reduced to 8% from 14% in October 2012. Thus, although we found some progress in the implementation of actions that actually meet the proposed NBA solutions, their number and amplitude are still quite limited, to talk about fully discernible effect on the business environment and qualitative progress in creating favorable conditions for business development in Moldova.

The NBA sector priorities were assessed primarily on the extent to which these can be found on the government agenda as a result of advocacy measures undertaken on the basis of the NBA platform. In total, 10 sector priorities are found in the Government Activity Program: by 3 for the information technology and communications sector; agribusiness and wine industry, the transport sector and one for the construction sector.

## ■ Recommendations

As the discrepancy between the provisions of public policies and their effects felt by businesses is still quite large (either because most of the priorities of the NBA reached the government agenda only in late May, after the formation of the new Government and launch of a new activity Program, either - as mentioned in the report of the implementation and monitoring of the NBA priorities in October last year - because of the low quality of public-private dialogue), **it is important that the advocacy efforts in their regard should be continued.** This is more so because, even if priorities on which we have documented, in this report, partial progress (e.g. simplification of customs procedures, automatic application of the term of transit provided by customs legislation, optimization of procedures for mandatory reporting, etc..) actions taken so far do not exactly correspond to the business expectations, even if they represent a progress compared to the situation presented a few years ago.

Similarly, regarding priorities that finally reached the authorities' agenda **it will be important to monitor their practical realization**, in order to ensure their proper implementation and come up with possible suggestions or proposals for „correction“ to the way these translate into practice. That is, both for the reasons we mentioned above and to remove suspicions (or on the contrary, to come up with evidence) about the existence of the double government agenda „- one official, for the general public and another „hidden“, but that largely determines the actions of the government. This sensation persisted, particularly in the period 2011-May 2013 before the formation of the new government. Obviously, too little time has passed since the creation of the new Government and the implementation of its new activity Program to make any conclusions about its overall transparency, so it is important that civil society and business associations track how the Government fulfills its commitments to create the public pressure that would keep the government accountable, especially since, as we noted in this report, many provisions of governing program have been (after many efforts in this regard) inspired by the proposals of the civil society and especially of the platform of business associations NBA.

Finally, business representatives **should continue efforts to identify constraints to business and to build a common vision on development priorities of the business.** This is apparent both from the fact that business is constantly evolving, and from previous findings on the still quite unsatisfactory quality of the public-private dialogue and the discrepancy reported in many instances between the declared intentions of the authorities, on the one hand, and specific actions and / or effect felt in the business environment on the other hand.

For authorities, it is important to **intensify consultations and communication with business representatives to identify the real problems and effective solutions to improve the business climate.** Also, just as important, if not more important **is achieving real progress in implementing economic reforms, including actions inspired by consultations and the proposals of business representatives.** That's because, as we noted above, there is a very large discrepancy between official and declared agenda of reforms and their practical effect felt by all companies. Specifically, this effect corresponds to a very limited extent to the intentions declared by the authorities and the expectations of the business community.



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