

# **NATIONAL BUSINESS AGENDA 2012 - 2013**



**National Business Agenda  
of Moldova**

*Priorities for the creation of a competitive and attractive  
business environment in the Republic of Moldova*

# The Republic of Moldova private business common platform

Dear friends,



I have a special pleasure to welcome the 3<sup>rd</sup> Edition of the National Business Agenda (NBA 2012 - 2013), which marks a new step in the consolidation and maturity of the private sector of Moldova, aware of its value, as well as of the challenges, which it will meet soon. These challenges, along with the ideas for some of the solutions to be followed are well known to the Moldovan business environment, and in this purpose, the authors of the current edition elaborated for the final recipients a collective product of vigorous debate and thematic consultations, with policy recommendations and decisions, based on a rich collection of experience and personal commitment.

I would like to remark the authors' decision to focus the National Business Agenda on a single reference area – fiscal and customs administration – which is fundamental for the current situation of private sector. In my opinion, this approach reflects the qualitative changes within the local business associations, the establishment of realistic objectives and their prioritization developing thus the existence of increased expectations for solving the identified problems.

I will notice also the important relevance of this 3<sup>rd</sup> Edition for the public – private dialogue, following international practices of resonance and assigning to the Moldova's business environment a real tool of monitoring governmental policies and regulations. Let us hope that the objectives of this strategic document will give answers to the business and private consulting environment concerns.

The Republic of Moldova needs competitiveness, new ideas and optimal conditions for the activity of small and medium enterprises, as well as for the private local and foreign investors. Thinking about the welfare of Moldova, I invite you to read with attention the thoughts, proposals and concerns of the business environment – which is perhaps the most suitable actor to have its say on the strategies for the economic and social development of our country. The National Business Agenda emerged as a form of sectoral dialogue, from bottom up, aimed to sustain a rigorous, concrete and articulate dialogue between the local business and the state authorities. The importance of this dialogue is difficult to undervalue, considering Moldova's conditions and its efforts for economic recovery and strengthening of modern institutions of the free market.

Also, I would like that the effort of our colleagues, the authors of the NBA, to be treated with much more attention in 2012-2013 by the final recipients - governmental officials and parliamentarians, entrepreneurs and mass-media, serving thus to the initial purpose of this annual effort – creating a national platform for the integration of the business community.

I wish a lot of success to this initiative and best wishes, welfare to all those who generated it.



Igor Munteanu,  
RM Ambassador in the USA, Canada and Mexico

07.11.2011

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## Abbreviations

NBA – National Business Agenda

ACAP - The Association of Professional Accountants and Auditors of the Republic of Moldova

AETR - The European Agreement concerning the work of Crews of Vehicles engaged in International Road Transport

AITA - International Association of Road Hauliers of Moldova

AMPV- Association of Small Wine Producers

AMB – Association of Small Business ANAT - National Association of Travel Agencies

ANPC - National Authority for Consumers' Protection

ANPM - National Association of Producers of Moldova

ANRCETI - National Regulatory Agency for Electronic Communications and Information Technology

BNM – National Bank of Moldova

CEMT - European Conference of Ministers of Transport

CFM – The railway of Moldova

CIPE - Center for International Private Entrepreneurship

CNPM - National Confederation of Employers of Moldova

CSI – Commonwealth of Independent States

FIATA - International Federation of Freight Forwarders Associations

FNFM – National Farmers Federation of Moldova

FPCPMC – The Employers Federation of Construction and Building Materials Production

GLM - Working group for the monitoring of the NBA 2010

HG - Governmental Decision

INCOTERMS - International Commercial TERMS

ME – Ministry of Economy

MF – Ministry of Finance

MTID - Ministry of Transport and Road Infrastructure

UNO - United Nations Organization

RM – Republic of Moldova

IT – Information Technology

ITC – Information Technology and Communications

VAT – Value Added Tax

EU – European Union

UOM - Oenologists Union of Moldova

UPZ - Union of Sugar Producers

UTD - Transport and Road Workers Union

# The role and the Mission of NBA in Moldova

The initiative of the business associations and Chambers of Commerce from all over the country to elaborate a general list of priorities in the development of business in Moldova, to participate thus in the dialog with the public authorities with a common voice, was launched for the first time in December 2007, when six of the most influential business associations met at a roundtable with the IDSI “Viitorul” experts and representatives of the Center for International Private Entrepreneurship (CIPE).

During the years, the initiative became a common platform for the support of the National Business Agenda, which currently combines representatives of more than 30 of the most influential and active national business associations, as well as regional Chambers of Commerce, which together with the experts community want to influence the economic policy, through their active and transparent participation in the regulatory decision-making process of the business activity in Moldova.

The NBA platform is built on clear and democratic principles, strengthening thus the business common position in relationship with the public authorities, which allows to unite the efforts and to join other public-private dialogue platforms and well-known and influential business working groups in Moldova.

We support the activity of our partners from the National Confederation of Employers of Moldova, in the tripartite social dialogue; we collaborate successfully with the Chambers of Commerce and Industry, especially through their local branches for the regional business development; we appreciate the working groups contribution in Guillotine + regulatory reform, in the frame of USAID BizPro project, and the activity of Doing Business working group, sustained by the World Bank, as well as the White Book of Foreign Investors Association in Moldova. Most business associations that are members of the NBA network are part of these platforms too, and they participate in Advisory Councils created to assure the transparency of decision-making in the activity of ministries.

But perhaps the greatest value of the business associations in the NBA platform is that this platform is an apolitical movement, unaffiliated with the power of government, an initiative of business community from the bottom up, uniting different associations-members: large and small, various professional organizations, and the small business, also. These associations represent the interests of businessmen and companies and became part of this platform by respecting the principles of the activity of the NBA.

The experience of developing a common list of priorities in different phases of the economic cycle, has contributed to increasing the associations expertise capacity through the NBA elaboration, in the period of continuous economic growth (NBA 2008) as well as in the period of deep economic crisis (NBA 2010). In addition, this experience contributed to the promotion of the necessary measures in order to eliminate the administrative and sectoral barriers in the post-crisis period (NBA 2012- 13). At this stage, the associations have focused consciously only on the necessary measures in the area of tax and customs administration, in order to implement in the country's legislative agenda the NBA 2012–13 priorities. But, we are far from identifying the single “gold barrier”, which once removed, solves all the problems. Nevertheless, we are prepared for a complex and effective dialogue with public authorities.

Moldova’s business associations are a part of civil society, and maybe one of the most active part, but in the same time – the most unknown one. In order to raise the image of the NBA members, as well as of the local entrepreneurship, the business associations will pay a greater attention to the dialogue with the government, with other representatives of the business environment, and to the dialogue with the entire society, by following certain rules and criteria characteristic for the NBA platform.

The communication strategy of the NBA platform “**Influence through pressure**” is based on:

- Public pressure, which makes us different from the lobbying activity;
- Competitive pressure, which makes us different from protectionism and unfair competition;
- Pressure by cooperation, which is directed on the horizontal consolidation of business relations;
- Pressure by combination of the human, organizational and material resources, able to compensate for the state and market failures.

Our mission is not only to obtain a consensus among the NBA’s members concerning our national priorities and solidarity in promoting the business on the regional level, but also to better implement these priorities by intensifying the public-private dialogue in Moldova. We are open for new members, for those who share the same principles, among the expert community and business community as well.

# The Summary of the Monitoring of the NBA 2010 Implementation

Monitoring is an important element for a successful realization of any activity, that's why the NBA team has dedicated a considerable part of its efforts and resources to monitoring the NBA 2010 implementation, analyzing the progress of each recommendation, during the decision making and elaboration of regulations processes: beginning with the preliminary discussions with the public authorities, public consultations on initiated legal acts, legislative proposals or amendments, and finalizing with the adoption and promulgation of legislative modifications. For this purpose, a working group for the monitoring of the NBA 2010 implementation was created, in the frame of the NBA network. The members of this working group are important representatives of business associations, participants in the NBA network, with a rich professional experience. The activity of this working group was facilitated by legal and economic experts of the NBA team. This organization form of the monitoring process allowed not only to monitor the legislative modifications, but also the impact of these modifications on the business environment, as well as to monitor the level of practical implementation of the legislation. In addition, the monitoring process helped us to improve communication and to increase both NBA's capacity as a single entity and the capacity of each association in particular, and for sure will allow in the future a better advocacy for the NBA priorities.

Generally speaking, the monitoring process of the NBA 2010 implementation shows that the obtained results in achieving each of the priorities are very uneven. For example, there had been quite positive results and evolutions in relation to the simplification of the procedure for the clearing the debt to the budget with other tax overpayment, especially regarding the administration of import/export operations, the VAT refund to exporters within the prescribed period, through a simplified procedure, as well as in respect to the cancellation of local taxes for international transporters.

Concerning other priorities, only partial progress has been achieved, which however, did not significantly improve the situation (for example, in offering companies the possibility to register as a VAT payer immediately after their registration, without any capping conditions). On the other hand, in some areas there were no changes registered (as the establishment of a clear procedure regarding the international road freight traffic in the Transnistria region, providing safety conditions to the business), in other areas negative evolutions have been registered. For example, in excluding the state bureaucracy discretion to impose excessive sanctions to the private business, when there are no damages to state's budget. Although some legislative amendments have been introduced here, the members of the monitoring working group estimated that, generally, the situation has not changed, but even worsened and exaggerated sanctions continue to be applied. Moreover, a series of policy documents and draft legislation, as the Objectives of the tax and customs policy for the 2012 – 2014 years have a tendency of swelling the sanctions for the business.

A summary of the monitoring of the solutions included in the NBA 2010 is presented in the table below, and the detailed monitoring report is included in the annex to this publication. We would like to mention that the qualifications for the degree of achievements from the table below are based on the assessments given by representatives of the business, and they illustrate the practical impact and real progress in the areas analyzed in the NBA 2010, rather than a simple monitoring of the implementation of these priorities at the legislative level or at the level of projects of law, which, very often, are not applied in life through a correct interpretation and implementation, according to the purposes declared in these normative acts.

Priority areas	Necessary Solutions proposed by the NBA	Degree of achievement
<i>Tax policies</i>	<b>1.1</b> Improve the interaction between agencies or state institutions and private business, through the elimination of the dual certification, reduction of licensing procedures, and regulation of economic activity, so that the economic agents may be served efficiently and not exploited by the state bureaucracy;	Partly achieved
	<b>1.2</b> Application of the presumption of innocence of the business in the relations with the control bodies (the Customs authorities, the Tax Inspectorate) and private business;	Unaccomplished. The situation worsened.
	<b>1.3</b> The existing legislation has to stimulate the advertising and promotion of sales, and the creation of adequate working conditions	Unaccomplished.
	<b>1.4</b> Enable companies to register as VAT payers, immediately after registration, without capping conditions;	Unaccomplished.
	<b>1.5</b> Exclusion of the state bureaucracy discretion to impose excessive sanctions to private business, renunciation to apply sanctions when there are no damages to state budget confirmed;	Unaccomplished. The situation worsened.
	<b>1.6</b> Continuous optimization of procedures of business reporting to public and state authorities, assuring the transparency, efficiency, and rapidity to this process;	Partly achieved
	<b>1.7</b> Exclusion of the obligation to pay the social and pension taxes monthly, regardless of the moment of actual payment of salaries.	Unaccomplished.
<i>Facilitation of import, export and customs procedure</i>	<b>2.1</b> Exclusion of the obligation to pay the VAT for the import of production equipment and outfit;	Without practical results. In draft.
	<b>2.2</b> VAT refund to exporters within the prescribed period, through a simplified procedure;	Practically achieved
	<b>2.3</b> Maintenance of transit period by the customs authorities for the transporters, applying changes only in exceptional, written motivated cases ;	Without practical results. The situation did not change.
	<b>2.4</b> Establishment of a clear procedure concerning the international road freight traffic in Transnistria region, providing safety conditions to the business;	Without practical results.
	<b>2.5</b> Exclusion of local taxes for the international carriers, at the crossing of border between Moldova and Ukraine;	Practically achieved. In draft.
	<b>2.6</b> Adjust and improve the regulatory framework for the services provided by customs brokers that would permit a normal functioning of this institution, with maximum efficiency for the economic agents from Moldova;	Without practical results.
	<b>2.7</b> Drastic reduction of customs authorities bureaucracy that would reduce corruption and increase revenues to the public budget;	Without practical results.
	<b>2.8</b> Cancellation of the application of the term “indicative prices” by the customs inspectors, contrary to the Customs Code norms;	Unaccomplished.
	<b>2.9</b> Elimination of double taxation for the certification of economic agents, for this practice is contrary to the international agreements and practice.	Unaccomplished.
	<b>2.10</b> Simplification of the procedure of compensation of the debts to the state budget with other tax overpayment, especially with respect to the administration of import and export operations, compensation of VAT due with VAT to be refunded.	Partly achieved

## How the NBA 2012 – 2013 was elaborated

Immediately after the launching of the NBA 2010, in may 2011, a working group for the monitoring of the legislative changes, following the Agenda proposals, was created. Simultaneously, the working group for the NBA elaboration began the process of updating and drafting the proposals and solutions in the area of tax and customs administration. The decision to focus more only on one priority – tax and customs administration, and to extend the NBA development period, from 1 to 2 years, was dictated by the changes in the Government's configuration (the tax and customs services became the competence of the Ministry of Finance), as well as by the intention of a better correlation with the Government's agendas and the budgetary process in the Parliament.

In comparison with the previous years, when the associations together with the experts pioneered in formulating the problems they were facing in their activity, in the terms and categories of the Government Actions Plans, the elaboration of the third edition of the Agenda for the next two years has mostly been influenced by the discussions of the monitoring working group. In the frame of this process, the associations were very interested “not to become experts, writers or statist”, but to continue to work in order to improve their businesses, in an environment more friendly and favorable, so they could benefit of consultations, and not repressions from the customs and tax inspectors. The associations showed ready and willing to work more insistently in order to achieve all the NBA 2010 proposals.

After the first 6 months of monitoring, the member associations of the NBA platform organized a round table, in the frame of which, they had a direct and public dialogue with the Minister of Finances Veaceslav Negruta, the Chairman of the Parliamentary commission for the economy, budget and finance Veaceslav Ionita, the representative of the Ministry of Economy – Alexandru Guzun and with other members of the Cabinet of Ministers. Discussions at the roundtable concentrated mainly on the common efforts in order to “obtain a new balance between the desires of business community and the possibilities of the government”. The speeches of both sides were very positive, evolving more around opportunities for overcoming the problems, rather than the limitations and disclaimers. This time, the associations preferred to discuss solutions, and not only to complain about their problems and needs. Also, the Minister drew attention to the opportunities created by the Advisory Councils, where the participants have to come prepared and to respect certain conditions in order to propose their own agenda for the meetings in the frame of these Councils.

After these debates, the monitoring working group continued its activity, elaborating at the same time, opinions on the drafts law regarding the state controls of the business activity and the small and medium enterprises.

The elaboration of a list of administrative constraints in the activity of associations at the sectoral level has contributed to a better understanding of institutional problems, as well as has identified the low capacity and limited cooperation of the associations, because of the absence of horizontal connections in the key sectors of the national economy. Mrs. Tatiana Grinic coordinated the activity of both groups, creating a synergy between the young experts in economy and law, and the practical experience of the active members of the associations.

This year, the associations and our experts, which are working on the NBA platform, have created a network for the support of the National Business Agenda, setting up the first Coordinating Council aimed at elaborating the NBA promotion strategy and searching for “those points of entry in the relations with the authorities, which will permit to identify the “gold” solution triggering which will solve the problems irreversible and not make them more difficult.”



## The priority directions of the NBA 2012 – 2013

Priority areas	Necessary solutions
<b>Tax regime</b>	Continuous optimization of the procedures of mandatory reporting of the business to the public authorities, ensuring more efficiency and rapidity to the process and implementing effective informative systems in the area of tax collection, including the electronic governance mechanism.
	Application of the presumption of innocence of the business in relations with the state control authorities (the Customs Service, the Tax Inspectorate);
	Exclusion of excessive sanctions when there is no intention of infringement and direct damages to the state budget confirmed. Introduction of a balance between the size of the damage caused and the size of the sanctions applied;
	Offering companies the possibility to register as VAT payers immediately after registration, without capping conditions;
	Stimulation of the import of new technologies, including that of soft products, by reducing the fiscal burden;
	Uphold the growth of the professional qualification of companies' personnel by allowing the deduction from the taxable base of the expenditures for the education and training;
	Reduce the tax burden on the vital measures for the stimulation of sales (marketing, advertising, promotion of sales, etc.) and for the creation of adequate working conditions companies' employees.
<b>Customs regime</b>	Increase the transparency of the Customs Service activity and the predictability of customs procedures, so that the economic agents may know beforehand the costs of import – export procedures, what documents they have to submit, how long customs procedures will take, and their sequence;
	Simplify the procedures and reduce the number of necessary documents for the export;
	Exclusion of the VAT for the import of production equipment and outfit. All the technique used in the production of goods and provision of services has to be considered as technical equipment, and exempted from VAT at import. Exclusion of the VAT and other customs duties for the import of spare parts for the warranty service;
	Automatic application of the maximum period of transit envisaged by the customs legislation, applying changes only in exceptional, written motivated cases;
	Ensure transparency of the method of calculation of the customs value of goods. Transfer the burden of proving the incorrectness of the customs value of goods from the declarant to the customs authorities.
	Recognition of the international certificates of conformity, emitted by the countries with which the Republic of Moldova has concluded mutual recognition agreements.

# The tax regime

*Continuous optimization of the procedures for mandatory reporting of business to public authorities, ensuring more efficiency and rapidity to the process and implementing effective informative systems in the process of tax collection, including the electronic governance mechanism.*

## ***The Problem***

Too many regulatory acts and unclear, vaguely described in normative documents procedures favor their misinterpretation or abusive interpretation by officials. This situation creates an unfavorable framework for business' interaction with the state. Under such conditions, the cost of business administration is increasing, both relating to the time spent to solve these problems, and to the informal payments involved. Inefficient interaction of the main state bodies with attributions in this area (Tax Inspectorate, National Social Insurance Fund, National Health Insurance Company, etc.) results in additional costs (time, money, human resources, etc.) both for the economic agents and for the respective state bodies.

## ***Solutions:***

- Provide the interconnection of information systems of various governmental bodies;
- Elaborate an official commentary (interpretation) of the Tax Code and adopt it by the Parliament. This document will thoroughly describe the interpretations of the Tax Code, so that not to allow the arbitrary interpretation of the Code;
- Take stock of all subordinated normative acts concerning taxation and tax administration, including government decisions, orders, instructions, regulations, letters, etc. and bring them in complete conformity with laws; Publish on the official sites of state bodies all internal normative acts which regulate taxation and tax administration;

*Application of presumption of innocence of business in relations with state control authorities (the Customs Service, the Tax Inspectorate).*

## ***The Problem***

The relations between business and control bodies are governed by the practice which requires from the economic agents to demonstrate the lack of any violations of law, while this task should be assumed by the state authorities, assuming that the economic agent is not guilty as long as this is not proven.

This situation contributes to the creation of a repressive environment, which undermines business' activity. The legislation applies, de facto, "the presumption of guilty", providing and applying sanctions even for a potential or virtual damage, that didn't even affect the state budget yet. The practice used by state control bodies to apply extrajudicial economic sanctions violates the principle of separation of powers and adversely affects investment and business climate. The situation when the state budget provides a plan for the collection of revenues from fines and penalties, and control bodies are obliged to perform that plan, causes groundless checks and the harassment of economic agents by the state authorities enabled to execute control functions.

## ***Solutions***

- It is necessary to differentiate clearly the functions and prerogatives of state bodies that are enabled to perform control functions and to remove legislative gaps that allow the arbitrary interpretation of normative acts by public functionaries. Any decision concerning the guiltiness or innocence of an economic agent has to be established exclusively by the court. The burden of proofing must be transferred from the economic agent to the public institutions;
- It is necessary to implement a mechanism of personal and institutional responsibility of public functionaries and public institutions for their actions;
- Exclude the practice of planning in the state budget of public revenues from fines and other pecuniary sanctions.

*Exclude excessive sanctions when there is no intention of infringement and direct damages to the state budget confirmed. Introduce a balance between the size of the damage caused and of the sanctions applied.*

## ***The Problem***

The practice according to which state control authorities apply sanctions, even for a potential or virtual damage, even when no damage that would affect in one way or another the public budget was confirmed, is widespread. Also, they apply also sanctions in cases when is clear that the economic agent did not have the intention of fraud, but made a mistake caused by the human or technical factor. Because of the application of sanctions in such situations, the resources that could be invested in the business development are removed from the business circuit that consequently leads to the reduction of future collections in the state budget. In addition, this situation creates a climate of nervousness and distrust of business in the state authorities, which in turn stimulates the shadow economy.

## ***Solutions:***

The economic agent needs to be set free of the obligations of paying fines and penalties, if only the detected violations were committed without any intention and direct damages to the state budget. Also, the severity of sanctions must be proportional to the level of guiltiness and the size of the damage directly inflicted to the public budget of the country, excluding the arbitrary sanctions. All sanctions must be applied only by the court.

*Offering companies the possibility to register as VAT payers immediately after registration, without any capping conditions.*

## ***The Problem***

The actual threshold for the voluntary registration as VAT payer puts start-up companies and small and medium enterprises in unfair conditions. If these companies were able to register as VAT payers immediately after their registration, that would stimulate the development of these companies and their integration in the country's economy. The impossibility to become VAT payer immediately after registration represents an impediment to attracting foreign investment in the economy also. We believe that the existing threshold for the voluntary registration and the threshold for the mandatory registration do not represent

obstacles for the “ghost” companies practicing fraudulent schemes with VAT. But, the threshold for the voluntary registration is an obstacle for most companies working in the legal field.

### ***Solutions:***

- Economic agents ought to have the possibility to register as VAT payers voluntarily and at any time, without additional conditions, only upon a request made to local tax inspectorates. Mandatory registration as VAT payers has to be regulated by the Tax Code, according to the threshold envisaged in it;
- Identify other mechanisms to combat “ghost” companies and those that use fraudulent schemes with VAT. These mechanisms should not affect other economic agents, as should not the mechanism for the voluntarily registration and the document control procedure before registration, which should be eliminated. The registration as VAT payer has to take place upon the notification submitted by the economic agent at the local tax inspectorate.

*Stimulate the import of new technologies, including that of soft produces by reducing the tax burden.*

### ***The Problem***

Using of new technologies represents a vital necessity so that companies may remain competitive nationally and internationally. Currently, for example, the income from the use of software is considered as royalty, being taxed according to the art. 91 of the Tax Code at the rate of 15 %, which is contrary to economic meaning of these products.

### ***Solutions:***

- Treat new technologies as goods, for tax purposes, and exempt their import from the income tax retained at the source of payment.
- In particular, we propose to eliminate the remuneration in cash or in kind paid for the purchases of the software designed exclusively for the operation of the respective software, without any other changes except those caused by installation, implementation, storage, improving or its usage, as well as the remuneration in money or in kind paid for the acquisition of full copyright on the software, from the category of royalty, as envisaged by the Tax Code.

*Stimulate the growing of professional qualification of companies’ staff by allowing the deduction from the taxable base of the expenditures for the education and training of personnel.*

### ***The Problem***

Companies face the problem of non-recognition, for tax purposes, of expenses for the education and training of staff. The cited reason behind this is that on the labor market there is sufficient qualified workforce. The practice however shows that companies confront with a deficit of sufficiently qualified staff and are forced to and interested in bearing expenses for staff training. The development of technologies and the continuing competition determines as well the necessity for a permanent training. Labor laws also require employers to invest in raising the qualification of their employees. Expenses for staff training are indispensable to

obtaining profit and are included in the selling price. In such a way, given the non-deduction of these expenses, for tax purposes, these amounts are taxed twice. Besides this, for these expenses the tax is imposed even the third time – upon the employee, as a tax on a benefit rendered by the employer to the employee.

## ***Solutions:***

To include in the Tax Code a legal norm concerning the deductibility of expenses for staff education and training, for tax purposes, and non-taxation of employees for the expenses incurred by the employer for such purposes.

*Reduce the tax burden in respect to vital measures for the stimulation of sales (marketing, advertising, promotion of sales, etc.) and for the creation of adequate working conditions for companies' employees.*

## ***The Problem***

Currently, companies bear double taxation with VAT for some expenses incurred for the promotion of sales, marketing or advertising. These expenses are included in the selling price and are taxed with VAT when the good and services are delivered. Also, the same expenses are taxed once more with VAT according to art. 99 of the Tax Code as a taxable supply, for the free of charge transmission of advertising materials (cards, flyers, leaflets, pens, calendars and other promotional materials) from the economic agent to the consumer. The norm of article 95 removes from the double of taxation a tiny part of these expenses and creates to economic agents additional problems in managing these processes. Both articles 99 and 95 create additional and artificial barriers for the normal course of the business, by withdrawing companies' resources from its economic circuit. These resources could be invested in the development of the business and as result would lead to the increasing of tax collection in the public budget.

Also, nowadays the business works in conditions of the state interference in its activity. So, state functionaries, and not companies decide which expenses are necessary for the business in carrying out its activity. As result, not all the expenses incurred by the companies for the creation of appropriate and normal working conditions for their employees are allowed to be deducted for tax purposes. As these expenses are included in the selling price, these expenses are taxed twice – when the goods are sold and by the non-deduction of these expenses for tax purposes. Besides this, there are cases when the tax on these expenses is imposed for the third time – as a tax on the employee for the benefit rendered by the employer.

## ***Solutions:***

- Exclude VAT on the expenses for the promotion of sales, marketing, advertising, etc., by amending art. 99 of the Tax Code and removing art. 95 paragraph (2) c);
- Exclude VAT on the expenses for the creation of adequate working conditions for employees by amending art. 99 of the Tax Code;
- Amend art. 24 (Paragraph 1) of the Tax Code, introducing the norm according to which the company has the exclusive right to decide which expenses are necessary and ordinary for its entrepreneurial activity;
- Allow the deduction of the expenses, from the companies' point of view and according to the labor legislation, incurred for the creation of normal working conditions for the employees.

# The Customs regime

*Increase transparency of the activity of Customs Service and the predictability of customs procedures, so that economic agents may know beforehand the costs of import-export procedures, what documents they have to submit, how long customs procedures would take and their sequence.*

## ***The Problem***

The Customs Service remains a closed and non-transparent institution. The methods of determining the amounts of customs payments are not transparent and clear, and as a result economic agents don't know exactly and cannot plan the necessary amounts for customs payments, they cannot predict the necessary time and effort. Within the Customs Service there are internal normative acts (regulations, instructions, letters, etc.), which are not available for the economic agents. That causes companies to incur unforeseen expenses in form of money (for additional payments, penalties and fines), time and effort.

## ***Solutions:***

- Inventory all internal normative acts of the Customs Service, related to import-export procedures and post them on the web site of the Customs Service;
- Bring these documents to quality that would allow economic agents to estimate beforehand the amount of customs payments, the time needed and the necessary documents for the import-export procedures, etc.

*Simplify the procedures and reduce the number of necessary documents for the export.*

## ***The Problem***

Administrative procedures are poorly implemented and/or inefficient. That includes lengthy and cumbersome customs procedures, an excessive volume of documentation required for export operations, which hinders the export of products, first of all that of easily alterable products, and stimulates corruption among employees of the customs system. As a result, economic agents incur losses and additional expenses, which lead to diminished profitability of export operations, loss of external partners and external markets. This has a negative impact on the economy and leads to smaller flows of money into the country and budget revenues.

## ***Solutions:***

- Reduce the volume of documentation and simplify as much as possible customs procedures for the export operations, through the elaboration and adoption of amendments to the Customs Code, to other normative acts and regulations, by joining international agreements in transport, in order to reduce the number of bureaucratic procedures;
- Improve control procedures through their simplification and harmonization, technical improvement and implementation of modern technologies of scanning and control;
- Streamline coordination of different control, transport and other services, on both sides of the border;
- Apply the "One Window" principle use repeatedly the documents and information submitted to the Customs Service and to other state institutions by the economic agents, using an interconnection network;

- Adopt detailed and clear regulations that would establish, on the one hand, the list of goods that can be subject to simplified customs procedures, and on the other hand, regulate clearly and detailed the simplified customs procedures, that would be applied (for example, in case of perishable and easy alterable products, reduce the time of export procedures from 3 days to 12 hours, and from 10 days to 3 days - for agricultural goods);
- Transfer customs controls from the border to the internal or destination points, in order to reduce the pressure on borders.

*Exclude the obligation of VAT payment for the import of production equipment and outfit. All the technique used in the production of goods and in providing of services has to be considered as technical equipment and treated as such in terms of exclusion from VAT on imports. Remove custom duties and VAT for the import of spare parts for warranty service.*

## ***The Problem***

For the implementation of new technologies and to increasing of competitiveness, companies need to import machinery and equipment both for the production of goods and for provision of services. Exemption from VAT payment on import of these machinery and equipment would release companies' resources for a more efficient use of those for the production of goods and services that would lead to the increased budget revenues in the future, including revenues from VAT. The application of VAT on the imported spare parts for the warrantee service of previously imported goods represents in fact a double taxation with VAT on import, because the cost of the spare parts has already been included in the import price of the goods, and these are delivered free of charge by the external supplier.

## ***Solutions:***

- Stipulate in the law that the exemption from VAT on the import of machinery and equipment refers also to the equipment and machinery intended for production and provision of services;
- The legislation must stipulate the exemption from customs duties and VAT on the import of spare parts for the warrantee service.

*Automatic application of the maximum period of transit as envisaged by the customs legislation, applying changes only in exceptional, written motivated cases.*

## ***The Problem***

Despite the fact that the maximum transit period is established by the legislation, in practice it is determined arbitrarily by the customs officers and often is too small to allow a normal transit through the territory of the country. Also, during the transit period through the territory of the Republic of Moldova, the carrier needs time for the rest, hygiene, fixing of vehicle. Providing a sufficient time for transit would stimulate growth in other related industries, such as hotel industry, auto parts and auto repair services. In addition, the bad state of the roads in Moldova condition a limited speed, which in turn requires a longer period for the transit. Also, customs officers don't take into account the particularities of the multimodal transport, which requires more time, in comparison to the conventional transit.

## ***Solutions:***

- Exclude the practice of reducing the period of transit by the customs officers without motivation;
- Adjust the transit time for different categories of transport, taking into account the mode or modes of transportation and the state of the infrastructure;

- Amend art. 42 of the Customs Code, giving to the second paragraph the next content: “Transit time is up to 8 days from the crossing of the customs border. This time can be reduced by customs bodies only in exceptional cases, motivated in decisions made available to the beneficiary of the transit.”

*Ensure transparency of the method of calculation of the customs value of goods. Transfer the burden of proving the incorrectness of the customs value of goods from the declarant to the customs authority.*

## ***The Problem***

The practice of applying the current method of assessing the customs value of goods often has an arbitrary character and is not clear for the economic agent, which has to agree automatically with the amount of customs value of goods, without having the possibility to control its size. Because of that, the economic agent cannot plan his costs. Also, this situation creates premises for corruption in the process of establishing the customs value of goods.

### ***Solutions:***

- The selection of the method for determining the customs value of goods, and the calculation procedures have to be transparent (for example, by placing them on the Customs Service website), clear and available for the economic agent, so that the economic agent may be able to calculate for himself and beforehand the customs value of goods;
- Ensure compliance with the actual regulations of the Customs Code concerning the determination of the customs value of goods: apply only the method “the value of transaction” when there are probative documents. If the customs officer disagrees with the value of goods confirmed by the invoice, the burden of proving must be assumed by the customs authority, and not by the economic agent.

*Recognition of the international certificates of conformity, issued by countries with which the Republic of Moldova has signed mutual recognition agreements.*

## ***The Problem***

Economic agents are forced to certify the production for which they have certificates issued by other states, losing time and money groundless. This practice represents a barrier to business development, especially in cases when it comes to very special technical equipment. The certification process in Moldova is hindered by the fact that, very often, there is a lack of the necessary testing equipment or of qualified staff to perform the certification.

### ***Solutions:***

- Moldova’s adherence, as a full member, to international treaties concerning the recognition of certifications of conformity, and mutual recognition of these certificates in the country;
- Establish applicable mechanisms for the certification in cases when the standardization bodies do not have the necessary testing equipment or qualified staff to perform certification;;
- Establish appropriate practices and timeframe for the standardization procedures and exclude sanctions for storing the goods during their certification.