



Moldova's Convergence with the *acquis* A Pro-Growth and Pro-Integration Strategy

Oxana Gutu

Abstract

The enlargement of the EU and the European Neighbourhood Policy (ENP) have revived the debate in the 'neighbourhood countries' around the need to converge legislation with EU internal rules and regulations, known as the *acquis communautaire*. The political incentive of accession to the EU, which has driven legal approximation in new EU member states, is missing for ENP countries. Yet, in the case of countries like Moldova, the cost of non-compliance is significant and translates into loss of existing export markets (e.g. in Romania) and the inability to expand into new markets (SEE countries and the EU). The situation is made still worse by a poor level of economic governance. As convergence with the *acquis* is a huge task, the key challenge for ENP countries is to determine the priorities, sequence and degree of legal approximation. This paper argues that the optimum degree and appropriate pace of convergence need to be driven by economic rationale and the development of the trade potential of the country. Thus, to secure benefits and avoid high costs for the economy, the legal approximation agenda will be moving along clearly identified economic integration scenarios, i.e. achieving a functioning market economy; taking full advantage of EU trade preferences (GSP and APTs), preparing for an FTA with the EU and, over a considerable number of years, gradually achieving a stake in the EU's Internal Market.

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MOLDOVA'S CONVERGENCE WITH THE *ACQUIS* A PRO-GROWTH AND PRO-INTEGRATION STRATEGY

OXANA GUTU

Executive Summary

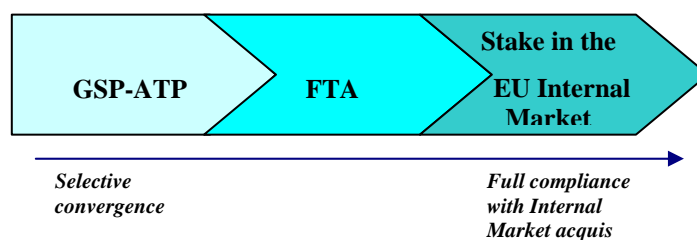
The enlargement of the EU has revived the debate about the need for Moldova to bring its legislation into line with the EU's internal rules and regulations (the *acquis communautaire*).¹ As demonstrated by the experience of new EU member states, adopting the *acquis* improves a country's policy framework, lowers risk, and makes a country more stable, and consequently, more likely to attract investment and enjoy private sector growth. Furthermore, convergence with the *acquis* facilitates trade with the EU, and with Central and South Eastern European countries.

Legal approximation, being a soft obligation for Moldova at this stage, has been delayed and approached with a certain 'institutional laziness'. The cost of non-compliance with the *acquis* was first felt when Romania put a ban on food imports from Moldova for non-compliance with EU product standards. This action and other similar consequences of non-compliance should encourage the Government in Chisinau to make convergence with the *acquis* an intrinsic part of internal policy and decision-making without further delay.

Compliance with the *acquis* is an enormous task. It requires considerable investment and a healthy economy that is prepared to accept it. There is no question at this stage of Moldova taking on board the entire *acquis* at the expense of economic growth. The key question in this context relates to the optimum degree of convergence with the *acquis* to mitigate certain consequences of EU enlargement, to reap the economic benefits of the EU Neighbourhood Policy, to prepare the Moldovan economy for free trade with the EU and to gradually obtain a stake in the EU's Internal Market.

In the case of Moldova, convergence with the *acquis* requires careful consideration determined *prima facie* by the needs of the Moldovan economy. Taking on EU competition and state aid rules, EC law on companies, accounting and auditing, banking and insurance has, in general, a positive effect on growth.

Trade with South-Eastern European (SEE) neighbours and the EU is adding to the pressure for immediate compliance with trade-related *acquis*. Adopting EU product standards and EU food safety legislation is becoming urgent. Convergence with other trade-related parts of the *acquis* will follow the scenarios of economic integration of Moldova into the EU and SEE markets, as illustrated by the diagramme below.



¹ 'Convergence with *acquis* and 'legal approximation' are used interchangeably in this paper.

This paper aims to provide distinct road maps for convergence with the *acquis* under different scenarios of economic integration with the EU. The introduction makes the case for legal approximation in the context of social and economic transformations in Moldova and highlights the benefits that convergence brings to the investment climate and external trade. Part 2 suggests a practical approach to the EU *acquis* and analyses the Moldovan Government's response to legal approximation to date. A number of lessons on the challenges of legal approximation, valid for Moldova at this stage, are drawn from the experience of new EU member states and accession countries. Part 3 concerns Moldova's trade relations: from EU trade preferences (GSP and ATPs), intraregional trade with SEE countries and Romania in particular, to free trade with the EU. Under each scenario issues requiring convergence with the *acquis*, and the costs and benefits of convergence are considered in turn. Whether there is sufficient public administration capacity to take on new tasks to ensure convergence with the *acquis* is also discussed. Each part closes with key conclusions and recommendations. Detailed recommendations are also included in a proposed Action Plan (see annex I).

Paper methodology: The available literature and data sources, including trade statistics, were reviewed. A number of meetings and discussions with decision-makers, donors and think tanks have been held. In addition, a mini-survey of Moldovan exporters, complemented by meetings with selected exporters, has been carried out with the aim of bringing a business perspective to bear on the paper (for the questionnaire see annex III). A bibliography of relevant references is included at the end of the report.

1. Introduction

Convergence, Transformation, Integration

Despite the many remarkable achievements, Moldova's transformation from being a command economy to a market economy is ongoing. A functioning market economy is to a large extent dependent on the creation of a sound business environment. A series of recent studies suggest that there have been improvements in the Moldovan business environment,² but much remains to be done before Moldova can meet the standards of advanced market economies.

A good business environment is multifaceted. Among other things, it is connected with the quality of a country's public and private institutions, government policies and legal and regulatory frameworks. Although all of these ingredients are undoubtedly important, there is a growing consensus that the quality of business regulation and the institutions that enforce it are a major factor in creating the conditions for prosperity. A sound business environment needs a legal and regulatory framework that protects property rights, enforces contracts and provides other public goods and services that are necessary in a market economy. Furthermore, it needs to ensure a level playing field among market agents, a universally applied tax system and a functioning financial sector.

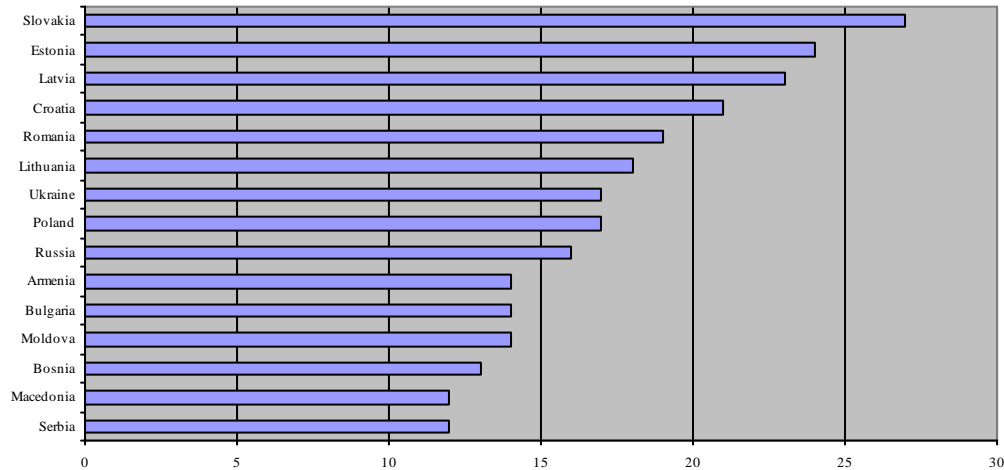
The experience of the new Central and Eastern European member states shows that the progressive adoption of the *acquis communautaire* fosters investment. In these countries investors find a familiar, more stable and consistent set of regulations that mirror those in the rest of the EU. As a consequence, the volume of investment increases, which is especially true of foreign direct investment (FDI).³ Other factors affecting the volume of investment flows between countries, as suggested by a number of studies, are levels of corruption, the quality of

² The World Bank, *Business Environment and Enterprise Performance Survey* (1999–2000) and The World Bank, IFC and Oxford University Press, *Doing Business* studies, 2004 and 2005.

³ UNCTAD, *Annual World Investment Report*, September 2005.

governance, and the regulatory environment.⁴ Moldova compares unfavourably to other countries in the region in terms of private investment (figure 1).

Figure 1. Private investment in transition economies (average 2000–2004, percent of GDP)



Note: Investment as measured by Gross Fixed Capital Formation.

Source: World Bank Development Indicators.

Moldova is also behind other countries of the region in FDI (Foreign Direct Investment), which has been historically low by regional standards. Between 1999 and 2003, cumulative FDI per capita in Moldova was among the lowest in the region, averaging only \$22 per capita. In contrast, during the same period, Romania received \$56 per capita while the Czech and Slovak republics attracted inflows 14 to 22 times as large.⁵

There is little doubt that foreign direct investment is critically important to the Moldovan economy because of the modernising effects brought by the know-how, new management practices and quality standards. Approximation with EU market economy regulations will help Moldova ‘borrow’ credibility from the EU, resulting in a more favourable investment climate.

Convergence, trade, integration

The relationship between export growth and economic growth appears to be positive and strong across the transition economies. Export growth has been closely linked to Central European countries focussing more on the EU market. Trade is now considered the most important element of the relationship between the associated and/or accession countries and the EU, due, among other things, to product upgrading and investment commonly undertaken by foreign investors.

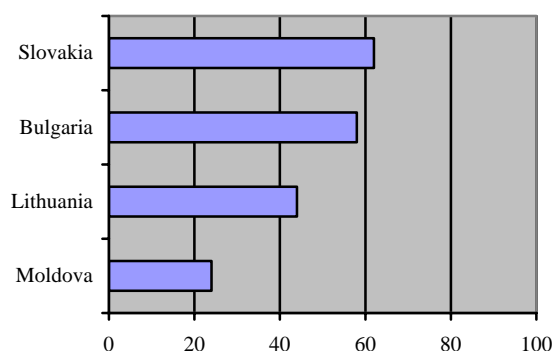
⁴ The World Bank, *Transition—The First Ten Years: Analysis and Lessons for Eastern Europe and the Former Soviet Union*, 2005, and Harry G. Broadman et al, *Building Market Institutions in South Eastern Europe: Comparative Prospects for Investment and Private Sector Development*, 2004.

⁵ The World Bank, *World Development Indicators*.

Moldova's exports to the EU remain relatively limited in spite of its geographical proximity (Figure 2).⁶ Given the size and proximity of the EU, exports to this region should account for over 50 percent of Moldova's trade.

The slow and disappointing shift in external trade has a number of complex explanations. A recent World Bank study suggests that barriers to trade stem from domestic policies and laws rather than EU barriers.⁷

Figure 2. Exports to the EU - cross-country comparison (percentage of total exports)



Source: World Bank Trade Study 2005

The 2004 enlargement of the EU and the prospective accession of Romania, the third largest market for Moldovan goods after Russia and Italy, add to the challenges.

Moldova benefits from the most favourable preferences available to developing countries under the EU's Generalised System of Preferences scheme (GSP), which, as of May 2004, has been expanded to include the ten new EU member states. On the other hand, Moldovan agricultural exports face competition with suppliers from the new EU member states in terms of customs duties, increased subsidies to farmers in the new EU member states and higher quality standards.

Certain consequences of EU enlargement could have been prevented with a policy and regulatory framework more conducive to trade and investment. Only a concerted effort that addresses domestic trade barriers can clear the way for talks on a free trade agreement (FTA) with the EU, and make further economic integration possible, including possible access to the Internal Market under the European Neighbourhood Policy (ENP).⁸ According to expert opinions, Moldova's greatest potential for economic growth lies in integration into regional

⁶ Moldova's exports are still concentrated in a few commodities and are primarily intended for the CIS market, mainly Russia. Textiles, sunflower seeds and walnuts are the main exports to the EU. *Statistics Yearbooks*, Moldovan National Statistics Office. See annex II for more statistical data on EU-Moldova trade.

⁷ The World Bank, *Moldova Trade Diagnostic Study*, 2005. To stimulate trade, domestic constraints on trade and investments need to be addressed. Lack of trade finance; relative lack of information for exporters and services to exporters; corruption; poor infrastructure; time-consuming and costly customs clearance procedures; and lack of a modern and transparent standards and conformity assessment system, to list but a few, require decision-makers' immediate attention.

⁸ European Commission Communication to the Council and the European Parliament, *Wider Europe—Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours*, Brussels, 113.2003, COM (2003) 104 final.

(SEE and EU) economic structures and a rapid growth of net exports.⁹ In this context, convergence with the *acquis* will be the main vehicle in identifying and addressing many of the internal constraints to trade as part of a comprehensive reform strategy.

2. Why Convergence with the *acquis* is Important for Moldova

While convergence with the EU regulatory framework should not be regarded as a panacea for Moldova's economic and trade shortcomings, it is certainly the key to an improved business and investment climate, an increase in trade and, finally, a successful rapprochement with the EU.¹⁰

An effective legal and institutional framework is a prerequisite for a modern and developing market economy. A regulatory framework conducive to trade with the EU is a prerequisite for access to the EU Internal Market. With the right priorities, the right order of actions and the right institutional set-up in place, convergence with the EU regulatory framework will bring the expected results, clearing the path towards an FTA and, ultimately, a stake in the EU's Internal Market.

Unlike other Central and Eastern European countries that have to or had to fully comply with the *acquis* before accession, with the exception of a few negotiated transitional periods or derogations, Moldova can be selective and adopt a gradual approach at this stage.¹¹ This is a considerable advantage that needs to be exploited as fully as possible. The tens of thousands of pages of the *acquis* require clear priorities and a proper way of ordering what to do first.

Two main criteria are essential for determining priorities, the order in which things are done and the optimum degree of approximation of Moldovan legislation with the *acquis*. First, legal approximation should be driven by the needs of the economy and not by the *acquis*. In other words, analysis of the causes of Moldova's economic difficulties needs to come before legal approximation. Secondly, compliance with the *acquis* should follow the phases in which EU-Moldova relations are developing, i.e. what is currently on the table. Yet it should not preclude a more strategic view on further rapprochement and integration.

2.1 How to Approach the *acquis*: A Quick Inventory

The Internal Market *acquis* can be divided into two main categories - economic governance and market access. The economic governance *acquis* includes regulations that are fundamental for the functioning of a market economy and therefore essential to the operation of the EU Internal Market. These comprise competition policy and control of state aid, company law, accountancy, public procurement and the protection of intellectual property.

The market access *acquis* comprises regulations that are essential for access of goods and services to the EU Internal Market and include mainly 'product-related' regulations. Product-related legislation determines the characteristics of products and services that are sold on the Internal Market and, in some cases, the way they are marketed (e.g. labelling and packaging).

Within the market access *acquis*, apart from regulations relating to products, one can also distinguish 'process-related' *acquis*.¹² Typical examples of process-related *acquis* include, in

⁹ The World Bank, *Moldova Trade Diagnostic Study*, 2005.

¹⁰ Minutes of PCA Subcommittee on Trade and Investment, 2004.

¹¹ Partnership and Cooperation Agreement between the European Communities and its Member States, on the one hand, and Republic of Moldova, on the other hand, PCA, Art. 50.

¹² Based on Alan Mayhew, *Recreating Europe: The EU Policy towards Central and Eastern Europe* 1998, Cambridge University Press.

particular, labour and social standards, and in part, environmental regulations. The EU labour and working conditions *acquis* has no impact either on the physical characteristics of goods or on the quality of goods and services available on the Internal Market. Although important, they are not fundamental to the operation of the market, and it may be that it is enough to respect a minimum of standards given the flexibility required by emerging economies such as Moldova's. The environment area is even more complex. Certain parts of the environmental *acquis* are product-related standards, the implementation of which was essential for new EU member states to join the Internal Market.¹³ The cost of implementing the environmental *acquis* is significant. For example, the cost of Poland's full compliance with EU environmental legislation has been estimated to account for between 1.2 and 2 percent of Poland's GDP per year over a period of 15 years.¹⁴ In the context of the much smaller Moldovan economy, this amount represents twice the country's GDP for 2002!¹⁵

Based on the above, in the short to medium term, the Moldovan Government should give priority to the economic governance and product-related *acquis*. Compliance with the environment, social, and labour parts of the *acquis*, given the high costs of their implementation for both the state and the private sector, needs to be postponed to a later date.

As far as the economic governance *acquis* is concerned, even if joining the EU is only a long-term prospect, sound legislation for the market economy is critical for the national economy, development of the private sector and continued investment.

Assessment of the level of compliance of the Moldovan legal and institutional framework with the framework of a functioning market economy is based on the following basic characteristics: (i) low entry barriers into the market, including barriers to foreign investment; (ii) clearly defined and protected property rights; (iii) functioning enterprise governance structures; (iv) functioning competition, including enforcement of competitive practices through anti-monopoly legislation and prohibition of unfair competition; (v) development of capital markets and banking and insurance systems with supervision and regulation in the hands of independent institutions; (vi) insolvency procedures enabling efficient market exit; and (vii) efficient resolution of disputes.¹⁶ It is an opportune time to initiate approximation with the economic governance *acquis* given the so-called regulatory reform¹⁷ under way in the country (see further section 3.1).

The market access *acquis* calls for immediate compliance. The product-related directives are of particular importance, for if they are not implemented the frontiers between the Moldovan and EU markets will be maintained indefinitely. The prospect of an FTA with Romania - the third largest export market for Moldova and the only western market for certain Moldovan food

¹³ Three main areas deserve particular attention: the management of dangerous chemicals; the disposal of wastes, including packaging materials; and the composition and distribution of fuels, especially for motor vehicles. European Commission, White Paper on the Internal Market, Brussels, 1995, COM (95) 163 final.

¹⁴ The World Bank, *Poland Country Economic Memorandum: Reform and Growth on the Road of the EU*, 1997.

¹⁵ World Bank country data.

¹⁶ For areas that are not included yet in the *acquis*, e.g. bankruptcy, property rights, civil and commercial judicial procedures, EU member states' legislation and international standards (e.g. OECD) will be used as benchmarks.

¹⁷ In 2004 the Government launched a regulatory reform aimed at improving the business climate and reducing administrative red tape.

exports¹⁸ - should serve as a catalyst for immediate action. The costs of non-compliance with EU standards are high, as was discovered in 2002–2003 when a temporary ban on Moldovan food exports to Romania resulted in losses of \$30 million.¹⁹

In addition, the EU's trade offer²⁰ will determine which market access *acquis* are selected for compliance. The starting point for compliance will include product standards, safety regulations and certification procedures of goods to be exported to the EU market.

2.2 Government Response to the Need for Convergence

The approach taken by the Moldovan Government towards legal approximation is neither systematic nor coordinated. To date, the Government's efforts on legal approximation have been sporadic largely because, given the limited resources at the Government's disposal, approximation has been driven by donors. Occasional attempts to harmonise legislation undertaken by certain ministries and institutions deserve credit, but such an approach towards legal approximation is neither sufficient nor satisfactory for the purposes of European integration.

The lack of a coherent policy and of a champion of the legal approximation cause²¹ have considerably impaired Moldova's progress with convergence. Furthermore, Moldovan experts initiated and trained in the legal approximation technique and EU law and policies are scarce, if not almost non-existent.

Box 1. Overview of Legal Approximation Efforts in Moldova

EU:

- Legal approximation began in 1999 in Moldova through an EU technical assistance project supporting the implementation of the Partnership and Cooperation Agreement (PCA) (1999–2004). The legal approximation carried out under the PCA project has been limited to new laws in the areas specified by Article 50 of the PCA. The PCA project established an internal mechanism for the purposes of legal approximation, comprising a legal monitoring system, a legal clearance system and a legal advice system. The Ministry of Justice established a working group of approximately ten civil servants to pursue the task of approximation. The PCA project and Ministry of Justice team issued (250) common opinions assessing the compliance of draft laws with the *acquis*. For purposes of public awareness, the PCA project financed about 20 comparative studies in different EU policy and law areas (www.pca.md).
- The EU also finances other technical assistance projects, which, among other activities, focus on legal approximation in certain areas (e.g. standardisation; industrial property).²²

¹⁸ Eighty-five percent of exported eggs, meat and dairy go to Romania. Moldovan Statistics Office, www.statistica.md.

¹⁹ The ban was justified by non-compliance of Moldovan goods exported to Romania with EU sanitary and veterinary standards.

²⁰ The EU's trade offer consisting of the General System of Preferences evolving into Autonomous Trade Preferences by the beginning of 2005, eventually followed by an FTA and a stake in the Internal Market.

²¹ The debate around the division of responsibilities on legal approximation between line ministries and the appointment of an authority with ultimate responsibility for the compliance of legislation with the *acquis* (Ministry of Justice and/or Ministry of Foreign Affairs and European Integration) has not produced a solution to date.

²² EU PCA implementation project, 2000–2004, Euro 2.5 million; Harmonisation of Moldova's System of Standardisation, 2003–2005, Euro 1.8 million; Intellectual Property Project, 2004–2005, Euro 200,000.

Government:

- According to the European Integration Concept Paper, approved in 2002, legal approximation with the *acquis* has been recognised as a central pillar of efforts to join the EU.
- In 2003 the Government established a National Commission for Legal Approximation. An attempt to assess the national legal framework according to Copenhagen criteria has been made, although the results of this undertaking have not been made public to date.
- After the approval of the EU-Moldova Action Plan, amendments to the legislative framework making compulsory legal approximation with the *acquis* began in April 2005.

- The EU-Moldova Action Plan has been translated into sectoral action plans, which are expected to include legal approximation programmes by sector.
- Medium-term Parliament legislative programme for 2005–2009 is to include convergence with the *acquis*, approved in June 2005.

2.3 Lessons Learned from new EU Member States

The experience of countries acceding to the EU suggests that the adoption of the *acquis* requires an effective institutional response, excellent coordination and substantial investment.

To respond to the challenge of adopting the *acquis*, all new EU member states introduced measures to ensure that their legislation was gradually aligned before actual accession. They approved their own national work programmes for the implementation of the *acquis* with clear timetables and division of responsibilities. In fact, the process of legal approximation has been institutionalised and procedures have been put in place for checking compliance with the *acquis*, before legislation is approved. Many countries have computerised the process and made it available online.

A programme for the adoption of the *acquis* is a mammoth operation, imposing a significant burden. Moldova should not yet fully replicate the CEE countries' experience, although at this stage, a number of preliminary lessons learned from the 2004 accession are valid for Moldovan policymakers in approaching legal approximation:

- Moldova should take an economy-driven approach to approximation. A blind legalistic approach will lead to a reduction of flexibility and options for economic policy and will thus create additional constraints on economic growth. Therefore, economic impact assessments should be carried out prior to the process of approximation. An economic consideration of convergence with the *acquis* will determine which measures can be delayed. A Regulatory Impact Analysis (RIA) mechanism is needed to streamline the process of an economy-driven convergence with the *acquis*.²³ It would also be wise to consult with, and involve in the process of approximation, representatives of the business community, investors' associations and other interested parties.²⁴

²³ The regulatory impact analysis (RIA) needs to be integrated into the development, review and revision of significant regulations. RIA will be used to assess impacts on market openness and competition objectives. RIA has to be supported with training programmes and with *ex post* evaluation to monitor quality and compliance (OECD Guiding Principles for Regulatory Quality and Performance, 2005).

²⁴ One avenue worth considering is the European Round Table of Industrialists (ERT) channels opened through Business Enlargement Councils in a number of new and potential future EU member states and Business Advisory Councils in some other countries (Croatia, Serbia-Montenegro), which give business advice to respective governments with a view to highlighting priority areas for the improvement of the business climate and, where appropriate, the implementation of relevant parts of the *acquis*. Drawing on this experience, the Government and/or the foreign investors in Moldova could invite the ERT to support

- A procedure must be established for screening the regulatory framework and ensuring that it corresponds to the *acquis*. The screening of regulations should be tackled internally, but also requires the external eye of the Commission. It would be useful in this context if the Commission would score the progress Moldova is making with legal approximation, possibly in comparison to that made by other countries involved in the ENP and aiming for a stake in the Internal Market. The Commission scorecard would place the efforts of the Moldovan Government in a comparative perspective and provide additional incentive for further progress on convergence with the *acquis*.
- While the adoption of the *acquis* is per se a considerable task, implementation of harmonised legislation is even more daunting. Implementation requires an institutional setup and an effective means of enforcement. To take the example of competition or market surveillance policies: First, legislation needs to be passed by the Parliament, and secondly, an institution (an agency independent of the government) needs to be established to take charge of the policy through subsidiary implementation rules and decisions interpreting the law. Finally, access to court and out-of-court legal remedies has to be secured.
- The implementation of harmonised legislation may sometimes disrupt traditions and affect the way certain institutions ‘do business’. Bringing changes to existing institutions often proves more difficult than creating new institutions, and a great deal of resistance needs to be overcome. The standardisation bodies, with a long history of issuing mandatory standards, are a good example. They have encountered difficulties in moving to the EU voluntary standards approach, as illustrated by repeated postponement of the introduction of voluntary standards since 2001 in Moldova.
- The dynamism of the *acquis* needs to be taken into account. Although the PCA and EU-Moldova Action Plan are static by nature, a procedure for regular inclusion of new *acquis* into the Moldovan national programme for the adoption of the *acquis* needs to be put in place within the envisaged scope of convergence. This would be a type of evolutionary clause—similar to the one found in the EEA Agreement—that could be agreed on part of the monitoring process. Alternatively, such a commitment could be adopted unilaterally by the Moldovan Government.
- Human capital is a major stumbling block in the process of convergence with the *acquis*. New EU member states have been able to overcome it with assistance from a number of EU technical assistance programmes (e.g. Technical Assistance Information Exchange Office (TAIEX), PHARE programmes, twinning). In theory, TAIEX services have been opened to Moldova, but as the mechanism has not been put in place, it will take some time before TAIEX services are accessible to ENP countries. Given the scarcity of technical assistance at this time, Moldova stands to benefit from bilateral assistance. Poland, Lithuania and Romania, in particular, have already expressed their readiness to share their experience and expertise bilaterally.
- Convergence with the *acquis* requires substantial investments from both the Government and the private sector. The Government needs to be ready to commit additional funds to make legal approximation happen (e.g. in the Medium-Term Expenditure Framework). Financial commitments vary from sector to sector and require *ex ante* assessment.
- Steady progress with convergence can be had only with sufficient political will. The last parliamentary elections in Moldova demonstrated that the political will for a rapid

the creation of a Business Advisory Council in Moldova (ERT’s vision of a bigger Internal Market, Brussels, 2004).

convergence with the EU *acquis* exists; however, political will must still be translated into action.

Key Conclusions

The slow pace of legal approximation and lack of a strategic vision have had significant negative effects on the business environment in Moldova and on trade with the EU and accession countries.

Although technical assistance plays an important role, a donor driven process will not bring expected results. Convergence with the *acquis* needs to become an inherent part of the internal decision-making and legislative agenda. Donors should aim to assist the Government in building ownership over the process of legal approximation.

The new member states' experience with convergence with the *acquis* cannot be fully replicated, although some lessons can be applied to Moldova at this stage. The sequence of approximation is important given the scarce resources, both financial and human. A cost-benefit analysis will help determine parts of the *acquis* to comply with in the short, medium and long term. The optimal degree of convergence and priorities need to be driven by economic rationale and the development of the trade potential of the country.

3. Policy Scenarios: A Step-by-Step Approach

3.1 Achieving a Functioning Market Economy

The first and immediate priority of the implementation of the EU-Moldova Action Plan should be the achievement of a predictable and stable business investment climate paving the way for a functioning market economy. A market economy is functioning when the legal system, including the regulation of property rights, is in place and can be enforced.

Over the last decade, there has been enormous progress in drafting and enacting market-oriented legislation in Moldova. Despite impressive progress, Moldova still has a long way to go in many areas before its laws, regulations and institutions can measure up to EU standards. A functioning market economy relies on two key pillars: a fully operational legal and regulatory framework interacting with a strong and growing private sector. Well-designed laws and regulations and efficient institutions help to lower legal and regulatory uncertainty and are crucial aspects of the enabling environment for investment.

Economic laws in functioning market economies serve a number of purposes, among which at least four are basic. To enable the economy to function efficiently, the legal framework has to define and protect property rights; set rules for exchanging those rights; establish rules for entry and exit out of economic operators; and promote competition.²⁵ Many of these aspects, due to their intrinsic nature to the operation of the EU Internal Market, have been embodied in the *acquis*. Typically these include competition policy and control of state aid, company law, audit and accountancy, public procurement and the protection of intellectual property.

The Moldovan regulatory framework has been subject to improvements through a trial-and-error process. One of the lessons learned from this process is that convergence with EU standards and regulations brings a more systemic and strategic view on the reform agenda. The

²⁵ Cheryl W. Gray, "Evolving Legal Frameworks for Private Sector Development in Central and Eastern Europe", in *World Bank Discussion Paper*, 209, 1993.

analysis below focuses on selected gaps with the EU that need to be closed, along with those legal aspects that are needed for the private sector to develop.

Entry barriers. Recent changes to the regulatory framework regarding company registration and licensing highlight Government efforts to simplify business entry.²⁶ There is room however for further simplification as signalled by comparison with OECD countries: in OECD countries the number of procedures for business start-up is 6; in Moldova, 10.²⁷

New legislation has paved the way for more foreign investment, including in the national treatment for foreign and domestic investors.²⁸ However, the Moldovan Government still limits and/or conditions foreign participation in, for instance, purchase of agricultural land; certain wine producing entities; banking; railway transportation; and concessions on exploration, extraction and development of natural resources.

Property rights. The new Civil Code has considerably upgraded the status of property rights and brought them into line with Western standards in many respects. Yet, implementation remains a major stumbling block. A track record of reversals of a number of important privatisation deals, enabled by arbitrary use of regulatory power, has been exacerbated by the infringement of fair compensation for loss of property through expropriation. Such practices go against basic market economy principles and worsen the investment climate.

Security of property exchange is another issue where several caveats relate to implementation. The Civil Code provisions on real estate transactions need to be revisited to ensure security of transactions.²⁹ The enforcement of the law on collateral is also prone to unsecured property transfers and requires immediate action.³⁰

Competition. A recent survey identifies competitive pressure as the most critical factor in the investment climate.³¹ A legacy of the command economy is the acute awareness of state intervention in company affairs. The priority was to adopt a rule-based system restricting state support as a means to achieve free interplay of market forces in Moldova. Approximation of competition rules with EU policy, however, called for broader anti-trust measures, aiming also to regulate company behaviour in the market. Matching provisions to EC antitrust laws as well as state aid are laid down in the 2000 Law on Competition.

Judging by the letter of the law, the process of approximation may appear to have been completed, with a couple of exceptions. First, there is no clear understanding of the criteria behind the distinction of what is prohibited and what may be allowed with respect to state aid. Further capacity-building, as well as implementation of regulations, are needed to clarify these issues and provide a workable environment for effective anti-monopoly control.

²⁶ Main reforms in business registration: a centralised business registration system has been put in place; the number of documents has been reduced. Main reforms in licensing: the number of licensed activities has been halved; the power to issue licenses has been removed from ministries and given to a central authority.

²⁷ The World Bank, IFC and Oxford University Press, *Doing Business in 2005*, 2005.

²⁸ Law on investment, 2004. E.g. restrictions on foreigners' access to the insurance market have been removed; same registration fees apply to both foreign and local business.

²⁹ Currently, the Civil Code allows parties to bypass notarial authentication before registering real estate transactions. Such an arrangement is prone to generating disputes, unless an alternative mechanism is put in place.

³⁰ Currently, courts and a third of notaries do not have access to the Collateral Register.

³¹ Fabiano Bastos and John Nasit, *Productivity and the Investment Climate: What Matters Most?*, World Bank Policy Research Working Paper 3335, June 2004. The paper is based on a survey of 500 firms from five countries: Moldova, Poland, Uzbekistan, Tajikistan and Kyrgyz Republic.

Secondly, and more importantly, implementation is a major stumbling block. A role identical to that of EU agencies and the European Commission for interstate competition issues, has devolved to the National Agency for Competition Protection. However, the agency has not been budgeted for to date. Moreover, there is growing concern about the independence of this institution. Market economy requirements and the *acquis* stand firm on the independence of a competition agency.³²

Dispute Resolution. In the absence of efficient dispute resolutions, less investment and fewer business transactions take place. Reliable and efficient courts encourage new business relationships, facilitate more complex business transactions to be undertaken by encouraging specific investments. It is for these reasons, *inter alia*, that the EU-Moldova Action Plan underlines the importance of an efficient and impartial judiciary.

A series of surveys of the private sector has indicated that Moldovan firms are increasingly frustrated with the inefficiencies associated with the judiciary, as well as with corruption and the high cost of litigation. Compared to SEE countries, court users in Moldova have the least confidence in the legal system, despite marginal recent improvements in perceptions. Moldovan courts are seen as unfair, corrupt and ill-equipped to execute their decisions.³³ Such an image does not help attract investment or promote trade.

Corruption and political intervention are key reasons for the low credibility of the judicial system. The efficiency of the judiciary is further undermined by inadequate compensation for judges and staff; the absence of accountability mechanisms; non-transparent judicial appointments and dismissals; insufficient resources that translate into the poor state of buildings and office equipment; internal court rules on case assignment; inaccessible commercial jurisdiction; and poor training of judges, in particular in commercial matters. Furthermore, the procedural complexity in Moldovan courts (e.g. it takes 37 procedural steps and 280 days to enforce a simple debt in courts in Moldova compared to 20 procedural steps and 230 days in OECD countries)³⁴ leads to additional costs to business, in terms of both fees and time.

A comprehensive judicial reform strategy is therefore needed. This should include strengthening the capacity of courts to enhance their efficiency in processing cases and raising professional standards of judicial staff. Court administration needs to be entrusted to professional managers. The continuing education of judges could be improved through: (a) providing more training courses in judicial reasoning, organisational and administrative skills and technology use; and (b) plan and organise study tours to best practice locations, to exchange legal and judicial experts with other countries. For progress in convergence to occur, judges need to be made familiar with the *acquis* so that the principles of the market economy inspired by EU law and the essence of free trade and the Internal Market can be implemented on the ground. This requires training of judges in laws relating to economic matters and EU directives and regulations, and skills upgrading, in particular in the areas of regulation (and their complex interrelationships with economic policy) and competition, as well as in judicial reasoning and case management.

³² The optimal design of independence safeguards for a fully-fledged Moldovan competition authority require additional research, based on new EU member states and EEA countries experience.

³³ A recent study indicated that 86 percent of small firms, 62 percent of medium-sized firms, and 56 percent of large firms do not use the services of the courts. *Study on Institutional Impediments to Investment and Growth in SEE*, 2004, based on the World Bank's *Business Environment and Enterprise Performance Survey*.

³⁴ The World Bank, IFC and Oxford University Press, *Doing Business in 2005*, 2005.

Institutional Set-up

Convergence with the economic governance *acquis* does not require a specific institutional setup. It can be successfully implemented by institutions currently involved in law and decision making: line ministries, the Ministry of Justice, the Cabinet and, finally, the Parliament.

The regulatory reform currently underway in the country is favourable to convergence with the economic governance *acquis*. The Inter-ministerial Commission for Regulation of Economic Activities, in charge of the above-mentioned reform, provides a forum for consultations, discussion and consensus, if need be. One of the weakness of such an arrangement however is that members of the above mentioned bodies, although highly knowledgeable in their respective areas, are ill-trained in the legal approximation technique, a gap that can be plugged with donors' assistance. The Ministry of Economy and Trade, jointly with the Ministry of Justice, are best equipped to play a coordination role at this stage, given their leading role in the regulatory reform.

Key Conclusions and Recommendations

For a functioning market economy to materialise, a sound legal and institutional environment needs to be in place. In Moldova, a number of entry barriers for businesses still need to be overcome; the enforcement of property rights is often uncertain and ineffective; the competition framework still needs to address state aid and establish a mechanism for monitoring subsidies; a competition agency needs to be established and its independence secured and courts are highly inefficient for a market economy. Convergence with the *acquis* will require moving rapidly on all these fronts. Addressing the identified weaknesses should contribute to higher investment in key sectors and economic growth, thereby enhancing Moldova's competitiveness.

The existing legislative process accommodates the process of convergence with the economic governance *acquis*. Nevertheless, additional capacity building and training of the relevant institutions is necessary, in particular as far as the legal approximation technique is concerned.

3.2 Gaining Access to the EU Market

Once all the legal and institutional fundamentals of a functioning market economy are in place, convergence should move to the next stage and embrace the access to market *acquis*.

"Today, EU tariffs are hardly an obstacle for Moldovan exports. EU product standards and quality requirements are our primary concern now," acknowledged the Moldovan minister of economy in a recent interview.³⁵ The need to meet quality standards and certification requirements in new markets is putting increasing pressure on the country's quality assurance infrastructure, which shows some signs of responding, albeit hesitantly.

3.2.1 Taking Full Advantage of EU Trade Preferences

Generalised System of Preferences

As at the end of 2005, while the Generalised System of Preferences (GSP) is in place, trade relations between the EU and Moldova had not witnessed dramatic changes. GSP offers tariff reduction or duty-free access to the EU market for manufactured products and certain

³⁵ Infotag News Agency, 13 June 2005 (www.infotag.md).

agricultural products exported by developing countries.³⁶ Goods produced in Moldova included in the GSP are divided into four categories, according to degrees of protection claimed by the EU Internal Market and EU producers, from most to least sensitive, allowing for tariff reduction up to 35 percent. Certain non-sensitive products enter the market at 0 percent duty. In addition, since 2000 Moldova benefits from additional preferences that are available to countries applying certain International Labour Organisation (ILO) conventions.³⁷ In sum, Moldova is considered one of the most preferred partners under the EU's GSP scheme. Nevertheless, only about 40 to 60 percent (depending on the source of information) of GSP opportunities are utilised. Exporters cite a number of reasons, with Moldovan standards, conformity assessment and quality standards predominating.³⁸ The products standards, testing and certification infrastructure is in place for doing business with the CIS countries, and not for the EU or South Eastern European markets.

Furthermore, the GSP's attractiveness pales due to the exclusion of one of Moldova's major industries and key exports - wine, as well as many of the processed agricultural products.

Autonomous Trade Preferences

The GSP will be replaced in 2006 by Autonomous Trade Preferences (ATPs). ATPs will most likely be applicable for three years, an arrangement regarded by the Government as a transitory measure, which can buy time to prepare for free trade talks with the EU. The model the Commission intends to apply to Moldova follows more or less the ATPs offered to countries participating in the EU's Stabilisation and Association Process.³⁹

In addition to the 'customary' conditionality - commitment to market economy reforms and democracy - the European Commission will submit Moldova to three additional criteria.⁴⁰ The EU is concerned primarily with: (a) control over certificates of origin for Moldovan products; (b) protection of intellectual property rights, in particular appellations of origin and geographical indications;⁴¹ and (c) accession to the WTO Procurement Agreement.⁴²

³⁶ GSP is an autonomous tariff instrument that is complementary to WTO multilateral liberalisation. It supports exports from least developed countries to the developed countries, ensuring a level playing field for producers. In return, the EU expects countries to adhere to certain social and labour standards that it promotes. The GSP allows for lower duties than the MFN (Most Favoured Nation) rates subject to the products meeting the requirements provided by the EU, such as the rules of origin, which define the nature or degree of processing that must be undertaken in the beneficiary country for the product to qualify for preferential access to the EU market.

³⁷ The ILO Conventions require a country to effectively demonstrate its adherence and protection of basic labour rights such as the freedom of association (Convention No 87), and the abolition of child labour (Convention No. 138). Moldova ratified all the above and benefits now from further tariff reduction up to 10–35 percent. This is the case of e.g. walnuts; dried fruits can now enter the EU at zero tariffs.

³⁸ In the order of significance: standards, quality and conformity assessment; low awareness of EU preferences; supply; lack of a partner in overseas market.

³⁹ Council Regulation (EC) No 2007/2000 of 18 September 2000 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association Process.

⁴⁰ Letter from Mr. Pascal Lamy, Commissioner, DG Trade, to Mr. Vasile Tarlev, Prime Minister, June 2004.

⁴¹ In particular, compliance with Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, OJ L 208, 24.07.1992.

⁴² Moldova's accession to the WTO Government Procurement Agreement is being currently negotiated.

The issue of origin of products coming from Moldova to the EU market has been a contentious topic on the EU-Moldova agenda for a number of years.⁴³ The EU requires certificates of origin to be issued by a government agency, whereas in Moldova it has been long done by the Chamber of Commerce. Only recently, the Government has initiated the transfer of authority to issue certificates of origin from the Chamber of Commerce to Customs. EU trust and confidence, given the past history of forgeries, is the core issue. Therefore continuous efforts to secure adequate capacity and training, and constant monitoring of practices are needed.

The Moldovan Government and the European Commission have initiated discussions on a list of products that would benefit from the ATPs. It is expected that ATPs will cover a wider range of products compared to the GSP.⁴⁴ The final word on the type of products to be included in the ATPs for Moldova belongs to the European Commission, which will almost certainly object to a wider coverage of agricultural products. The Moldovan Government's bargaining power in this context is rather limited. There is little room for compromise and no room for negotiations, due to unfinished homework in the area of food safety, in particular, and the standards and conformity assessment infrastructure as a whole (for a more detailed discussion, see section 3.2.2).

The inclusion of wine, a key Moldovan export product, is another hot topic on the ATP agenda. The European Commission is extremely reluctant to offer further tariff concessions, as it is believed that the current seven per cent tariff is not an obstacle to Moldovan wines and conquering the EU market is a matter of marketing strategies.

The analysis of the export trends of wine to the EU market shows a quantitative and qualitative improvement.⁴⁵ To sustain the positive trend, significant improvements in the quality and reliability of supply, combined with considerable marketing efforts, are necessary in order to compete in a segment of the market dominated by Romanian and Bulgarian wines, which have the advantage of duty-free access to the EU market. Furthermore, national GOST standards applicable to wine have to be harmonised with the EU VI 1 standard for wine,⁴⁶ and the capacity of the national accredited laboratory to issue type VI 1 certificates needs to be upgraded.⁴⁷

⁴³ There have been precedents of Ukrainian goods (steel products); sugar and textile products of foreign origin exported to the EU with Moldovan certificates of origin. An EU experts visit to Moldova on the subject of rules of origin, expected at the beginning of July 2005, will carry out checks in a number of Moldovan institutions involved in the certification of origin (Chamber of Commerce, Customs, including customs check points on the 'Transnistrian border') and will issue its findings by the end of 2005; Ministry of Economy press release, 17 June 2005.

⁴⁴ It is quite likely that for a number of 'more sensitive' products, certain tariffs quotas will apply, following the model of ATPs offered to Western Balkan countries; e.g. 20 percent of the ad valorem duty and 20 percent of the specific duty as laid down in the Common Customs Tariff, within the limit of an annual tariff quota of 10,900 tons of 'baby beef'.

⁴⁵ Exports of bottled wine overtook bulk exports in 2004. Overall, the export of wine to the EU, although modest yet, has doubled in 2004 (\$6 million) compared to 2002 (\$3 million), National Statistics Office.

⁴⁶ Wineries exporting into the EU market are required to provide a VI 1 certificate from an accredited institution. It applies mainly to commonly traded wine and wine products. The main requirement of the EU standard relates to the 'tolerance' thresholds (the amount by which the actual alcohol content can vary from the stated alcohol content). For table wines the tolerance is 0.5 percent while sparkling, effervescent and liqueur wines have a tolerance of 0.8 percent.

⁴⁷ The laboratory of the MoldovaVin Government Wine Department accredited to issue EU IV 1 certificates has been unable to secure re-accreditation in 2002 for not having all the equipment necessary to test for all parameters for VI 1. Consequently, exporters had to obtain certificates from accredited laboratories in the final destination markets, which significantly added to costs.

Key Conclusions and Recommendations

The Government needs to transform the current cumbersome, expensive and mandatory standards into a modern and voluntary system, which is the trigger to unleash the potential of the EU trade preferences. The rules of origin issue should be solved without further delay and the capacity of Customs strengthened to build trust in Moldovan rules of origin.

Despite the sensitivity of the export of wine to the EU market, the Government should approach the EU and try to ‘negotiate’ a deal favourable to the Moldovan wine industry (e.g. reduced duties for an annual quota).

3.2.2 Towards Free Trade with the EU

Intraregional Trade: A Prelude to an FTA with the EU

Moldova is a party to a number of FTAs: the bilateral Romania-Moldova free trade area; most recently, bilateral free trade arrangements with the signatories to the Stability Pact for South Eastern Europe (SPSEE); and the multilateral CIS free trade area, consisting of the former Soviet republics (with Russia and Ukraine as the most important trade partners of Moldova). The CIS free trade area plays an extremely important role in Moldova’s external trade, absorbing over half of the country’s exports. Nevertheless, the other regional initiative Moldova is part of - the SPSEE - is gaining momentum.

Although at the moment exports to SEE countries account for only ten percent of total Moldovan exports,⁴⁸ intraregional trade liberalisation found new momentum as the eight SEE countries signed the Memorandum of Understanding on Trade Liberalisation and Facilitation.⁴⁹ To date, initiatives within the SPSEE countries present some of the most important policy instruments for advancing the institutional environment for business and investment in the region and to strengthen intraregional cooperation. Moldova has signed bilateral free trade area agreements with all eight SEE countries.⁵⁰

The SEE countries agreed during the last ministerial summit in Sofia (June 2005) to proceed to a multilateral FTA. The EU has always put considerable emphasis on the need to stimulate regional cooperation and trade.⁵¹ For primarily political reasons, the EU needs to see that countries at its border are able to cooperate with each other. Successful implementation of the SEE FTAs will boost Moldova’s chances and credibility in future free trade area talks with the EU, fulfilling thus one of the EU requirements listed in the EU-Moldova Action Plan. The first step towards that has already been undertaken by the Government, with more actions to follow.⁵²

Romania is Moldova’s most significant trade partner among SEE countries. The 1995 FTA with Romania covers all agricultural and industrial products. According to different estimates, from the last pre-agreement year until 2002 overall trade turnover increased by 5 to 12 percent. The

⁴⁸ Source: Ministry of Economy and Trade.

⁴⁹ Signed at Brussels, June 2002, by Albania, Bosnia and Herzegovina, Bulgaria, Croatia, FYR Macedonia, Moldova, Serbia and Montenegro and Romania.

⁵⁰ In 2003, a FTA with Bosnia and Herzegovina was signed; in 2004 with Serbia and Montenegro, FYR Macedonia, Albania, Croatia and Bulgaria. The FTA with Romania is effective since 1995.

⁵¹ E.g. CEFTA; Baltic FTA.

⁵² The Moldovan Government approved detailed rules on imports from SEE countries in June 2005.

export performance of certain key food products (e.g. dairy, juice, honey), however, has been worsening over the last couple of years.⁵³

The Romania-Moldova FTA contains a mutual recognition of conformity assessment clause. In practice, however, reconfirmation of certificates is sought in 80 percent of cases, according to exporters interviewed. The issue has become even more contentious as Romania has been making considerable progress in the harmonisation of its technical regulations and product conformity assessment procedures with those of the EU.

Furthermore, while the current European agreement in force between Romania and the EU does not preclude free trade with third countries, with effect from the date of accession, Romania will withdraw from the FTAs it is a party to, including from the one concluded with Moldova.⁵⁴ Consequently, the Moldovan Government has a year and a half to bring trade regulations in line with the EU requirements and effectively upgrade its standards and conformity assessment infrastructure. In addition, trade with the SEE countries, some of which are fairly advanced in terms of convergence with the trade-related *acquis* (e.g. Croatia), will also demand immediate attention.

With chances to initiate discussions on a free trade area with the EU in the short to medium term fading away, the only practical solution to declining Moldovan exports to the EU and SEE countries would be to get on the *EU List of third countries authorised to export products of animal origin to the EU Market*. The process is lengthy and involves an intensive dialogue with the European Commission's services (DG Health and Consumer Protection, DG Agriculture, DG Trade); EU experts' visits and assessment of Moldova's food safety framework.⁵⁵

As follows from the above, to mitigate the effects of Romania's withdrawal from the FTA with Moldova and promote intraregional trade with SEE countries, priority number one of internal policy becomes convergence with technical regulations and standards, as well as conformity assessment procedures, all of which are inherent to the free movement of goods *acquis*. Food safety in particular emerges as a cross-cutting theme.

The application of EU legislation on goods is a formidable challenge and there is little doubt that full compliance with this part of the *acquis* is not feasible and too costly for Moldova at this stage. Therefore, the convergence process should be driven by exports potential, meaning that it should be preceded by the identification of priority sectors and/or products the export of which has to be brought back from low levels and/or boosted. The food industry can become such a priority, given Moldova's competitive advantages for developing food exports: favourable climate, high quality soil, land suitable for irrigation and proximity to major foreign markets.

⁵³ The World Bank, *Moldova Trade Diagnostic Study*, 2005.

⁵⁴ Treaty concerning the Accession of Romania and Bulgaria to the EU, signed 25 April 2005.

⁵⁵ To include a third country on the list the EU takes particular account of: (a) the existing national legislation; the organisation and powers of the competent authority and the inspection services; (b) the general animal health situation in the country, together with the hygiene conditions in the production, manufacture, handling, storage and dispatch of products of animal origin; (c) experience gained in relation to marketing vis-à-vis the third country and its collaboration in exchanging information, particularly on animal health risks; (d) the results of EU inspections/audits carried out in the country concerned; (e) the existence of legislation on animal nutrition and programmes for monitoring zoonoses and residues. The last European Commission experts' field visit to Moldova was carried out in May 2005.

The analysis of trade statistics indicates the growing export potential of certain vegetal products (walnuts, vegetable oil, juice, wine, sunflower seeds, dry fruits and honey ⁵⁶); and decreasing trends for animal products. Apart from the supply side, to enhance the former and redress the latter, the Government should immediately initiate the convergence of the national legal and institutional framework with EU product standards and food safety infrastructure.

Food safety is spread over two areas of the *acquis*, namely free movement of goods, which covers food legislation, and agriculture, which includes veterinary and phytosanitary issues and animal nutrition.⁵⁷

To meet EU food safety requirements, the Government should go through the following initial checklist:

Box 2. Food Safety checklist

EU food safety requirements	Moldovan Government response ⁵⁸
1. National legislation in place, including laws and by-laws on food safety and veterinary.	⇐ 2004 Law on food safety in force, largely inspired by EC Regulation 178/2002 on food safety. ⁵⁹ ⇒ Old Soviet veterinary legislation still applies. By-laws pending preparation and approval.
2. National food control authorities established and equipped with power to assess and secure food safety.	⇒ Currently, the authority is divided between the Ministry of Agriculture, Ministry of Health and Moldova Standards Department. The establishment of an independent National Food Agency could be considered, by bringing related services under one roof on the basis of the existing services in different ministries and agencies.
3. Control procedures in place.	⇒ The current system is <i>ex ante</i> instead of <i>ex post</i> control, as required by the EU. Control bodies are overlapping and lacking efficiency. Producers' responsibility along with proportionate and dissuasive penalties should be emphasised.

⁵⁶ *Moldova High Value Agriculture Export Competitiveness Study* (USAID, CNFA, 2004) identifies four potential export sectors, namely fresh, frozen, dried and pickled fruits and vegetables. For more trade related statistics, see Annex II.

⁵⁷ EU food legislation includes general rules for hygiene and control, food labelling, food additives, food packaging and genetically modified goods. Veterinary legislation includes animal health, animal welfare, animal identification and registration, Internal Market control systems, external border controls and public health requirements for establishments in relation to animal products. Phytosanitary legislation includes plant health (harmful organisms, pesticides), seeds and propagating material, and plant hygiene. Animal feed legislation includes the safety of feed materials and additives, labelling, contaminants in feed, controls and inspections (drawn from DG Health and Consumer Protection, Memo/03/88, EU enlargement: key questions on food safety issues).

⁵⁸ ⇐ in compliance with EU requirements; ⇒ gaps between Moldovan and EU system and/or regulations.

⁵⁹ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety; OJ L 031 01.02.2002. Regulation (EC) No 853/2004 of the European Parliament and of the Council, of 29 April 2004, laying down specific hygiene rules for food of animal origin for example.

4. Laboratory network in place.	<p>⇐ Current facilities accredited according to the new requirements partly based on EU New Approach.</p> <p>⇒ Poor and old equipment; under-staffing and under-financing affect the quality of laboratories' activity and EU trust.</p>
5. Compliance of food processing enterprises with the EU structural and hygiene requirements. Enterprises authorised to export to the EU market.	<p>⇒ Currently, no Moldovan enterprise qualifies for authorisation to export to the EU. Only two out of five poultry farms qualify to export eggs to Romania.</p>

In addition to horizontal requirements combined with labelling requirements⁶⁰, convergence of national legislation in a number of vertical EU regulations, consistent with the products/sectors the export of which is sought, applies (e.g. EC Directive on honey; EC Directive on fruit juice; EC Directive on preserved milk).⁶¹

To secure compliance with EU food safety standards, a key factor needs to be taken into account, namely the rapidly escalating technical barriers to trade in food products arising from a progressive tightening up in areas such as phytosanitary controls⁶², requirements for environmentally friendly packaging and demands for good agricultural practice (EUREPGAP⁶³), but also consumers' expectations.

Exporters express certain concerns in relation to convergence of old GOST standards with the EU food safety standards, since an important percentage of exports still go to the CIS where GOST standards continue to be applied. The concern over the two differing systems of standards can be mitigated by a solution drawn from the Polish experience by temporarily combining and maintaining the two collections - old GOST standards and new EU standards. It

⁶⁰ Council Directive 79/112/EEC on the labelling, presentation and advertising of foodstuffs.

⁶¹ Council Directive 2001/110/EEC, OJ L 010 of 12.01.2002 on honey; Council Directive 2001/112/EEC, OJ L 010 of 12.01.2002 on fruit juice; Council Directive 2001/114/EC of 20 December 2001 relating to certain partly or wholly dehydrated preserved milk for human consumption OJ L 15 of 17 January 2002; Council Directive 90/539/EEC of 15 October 1990 on animal health conditions governing intra-Community trade in and imports from third countries of poultry and hatching eggs, O.J.L 303 of 31.10.1990.

⁶² Notably maximum residue levels, according to Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in products of plant and animal origin.

⁶³ To enter the EU fresh vegetable and fruit market, retailers often demand that exports meet Euro Retailer Produce Working Group adopting standards of Good Agricultural Practices (EUREPGAP) requirements. EUREPGAP's food safety requirements include: the product must be traceable to the registered farm where it was grown; purchased nursery stock must be accompanied by an officially recognized plant health certification, and quality guarantees must be documented; a recording system must be established for each field, orchard, or greenhouse; chemicals banned in the European Union must not be used on crops destined for sale in the EU; each certified producer must complete one internal audit year, which tests for compliance with EUREPGAP standards, and corrective action must be taken where required. To obtain the certificate enterprises have to meet the requirements of the EUREPGAP Control Points and Compliance Criteria, and need to obtain certification from an accredited firm. Producers are also required to undertake analysis of their main crop at the moment of harvest, soil analysis, and possibly analysis of irrigation and/or washing water. The accreditation process requires internationally recognised inspectors to visit producers, which is extremely expensive, given the limited amount of produce destined for the export market. It is estimated that this process would cost each producer about Euro 2,000.

will be certainly helpful if Russia and other traditional CIS trade partners would proceed with harmonisation of product standards with the EU as soon as possible.

EU food safety requirements require substantial investment both from the Government and the private sector. The expenditure on convergence with the EU food safety regulation distinguishes between (a) expenditure for legal approximation; (b) expenditure for supervision of control systems; and (c) expenditure for implementation, i.e. compliance of food companies. From the experience of, for example, Hungary and Estonia, implementation of the food safety *acquis* involves the greatest investments. In Hungary, legal approximation of food safety legislation required 100m Hungarian florints (HUF), whereas the cost of its implementation was 25,250m Hungarian florints; in Estonia, legal approximation required 40m kroons, approximation of supervision, 100m kroons, and implementation, 2,000m kroons.⁶⁴

Private sector investments in compliance with the EU food safety requirements will be cost-effective only if the Government undertakes the initial investment in the food safety infrastructure (legislation and control). Exports to the EU will be authorised only if the legislative and institutional set-up provides sufficient guarantees to the European consumer. The compliance of enterprises alone is not sufficient to be allowed to enter the EU market. Businesses will undertake a careful analysis of costs of compliance and production (or processing) capacity versus export potential beforehand. In other words, companies will not invest in production if the Government does not succeed in complying with the EU food safety requirements to satisfy criteria for getting Moldova on the EU list of third countries authorised to export to the EU market. Failing that, the consequences are serious: Moldovan producers move businesses to Romania.

Key Conclusions and Recommendations

Driven by intraregional trade and gloomy trade prospects with Romania, the Government should step up its efforts to converge with the *acquis*. An immediate solution to declining exports to the EU is for the Government to succeed in getting Moldova on the list of third countries authorised to export to the EU market. The success will, however, very much depend on its progress in upgrading its food safety infrastructure.

To benefit from intraregional trade, the Moldovan Government should enhance the domestic food safety infrastructure; complete the legal framework; restructure the institutional set-up; ensure coordination and prevent duplication among different control bodies and upgrade the laboratory network. The designation of a coordinating authority (if financial constraints do not allow the establishment of an independent Food Authority) would contribute to speeding up the process.

Given the significant expenditure involved, the Government should proceed with including these expenditures in the Medium-term Expenditure Framework. Donors' involvement is a good short-term strategy to cover these expenses. Investments in the private sector will take place only if the Government honours its part of the deal.

FTA with the EU

Back in 1994, the parties to the PCA agreed to work towards the establishment of a free trade area. However, ten years later, in 2004, the European Commission's verdict was adamant: "Moldova does not possess the competitive strength and administrative capacity to take on free

⁶⁴ Calculations drawn from Estonia's and Hungary's National Programmes for Adoption of Acquis.

trade area obligations.”⁶⁵ It is regrettable that the Commission’s position, based as it is on a feasibility study conducted in 1999, does not take into account more recent data on the Moldovan economy. For its part, however, the Moldovan Government should have taken the conclusions from the feasibility study more seriously.

To return to the EU’s main concerns, at the time the feasibility study was drafted, a thorough review showed that in many respects Moldova had made significant progress. As a follow-up to the feasibility study, in May 2001, the PCA Cooperation Committee set a number of priorities for Moldova to fulfil prior to initiating talks on an FTA with the EU. The priority areas and measures include the approval of the Civil Code; protection of intellectual property; rules of origin; indirect taxation; standardisation and judiciary. Progress has been made in a number of areas, including the enactment of a new Civil Code in 2002, which has been praised by international financial institutions for its market economy orientation. The protection of intellectual property has been strengthened through tougher penalties for piracy and infringement of other intellectual property rights, and border control has been increased. Although much remains to be done, changes are becoming visible in areas like standardisation, rules of origin and the judiciary.

The different degree of progress across areas with potential impact on free trade with the EU reflects the lack of a strategic approach and vision of previous and current governments. It was only in 2004 that the Government acknowledged that “prospects for cooperation with the EU, including a possibility to enter into an FTA, will depend on Moldova’s success in the development of the legal, economic, social and other systems according to the EU principles and standards.”⁶⁶ The implementation of the EU-Moldova Action Plan is the opportunity for the Government to show commitment to EU standards and, finally, proceed with convergence.

As stated above, intraregional trade and the ATPs leave room for a selective approach in convergence with the *acquis*. For the purposes of initiating talks on a free trade area, convergence will become more of a priority on the internal agenda, increase in scope and demand more resources. The sequence and priorities are therefore important.

Although the EU-Moldova Action Plan does not aim at the establishment of a free trade area between the EU and Moldova, it does contain a number of actions that would help the Government start building its case for an (asymmetric to start with) FTA with the EU. The Government needs to demonstrate ownership of the process of implementation of the action plan. The analysis below focuses selectively on key areas for legal approximation and lists several additional areas where convergence is necessary in preparation for talks on free trade with the EU.

Products acquis: A Starting Point

Compliance with the free movement of goods *acquis* is an immediate priority and will help to promote Moldovan exports to the EU and regional markets. Parts of the *acquis* will have presumably been dealt with for the purposes of benefiting from the ATPs and for enhancing intraregional trade, as illustrated above. For an FTA with the EU, however, a more comprehensive and systematic approach needs to be adopted to deal with the technical barriers to trade. Without basic technical standards, product certification and measurement definitions according to rules established at the European level, Moldovan goods will not be able to enter the EU market.

⁶⁵ European Commission Staff Working Paper, European Neighbourhood Policy, Country Report, Moldova, COM (204) 373 final.

⁶⁶ Economic Growth and Poverty Reduction Strategy Paper, approved by the Government in May 2004.

Transition to voluntary standards. Despite WTO commitments, Moldova has not succeeded to date to move from mandatory - a legacy of the Soviet system - to voluntary standards. Businesses are faced with more than 20,000 standards that are of mandatory use today in Moldova. The majority of these are former Soviet GOST standards. The philosophy behind the EU technical regulations and GOST standards is very different. While GOST standards are explicit and rigid, EU technical regulations perform a public function without restricting the producers' choice and flexibility in satisfying the requirements. The transition to voluntary standards shall be carried out without further delay. The cost of Moldovan products non-compliance is significant and translates into loss of existing export markets (e.g. Romania) and the inability to expand into new markets (SEE countries and the EU). As Ukraine, another traditional market for Moldovan goods, gradually approximates its technical regulations and conformity assessment procedures with those of the EU, Moldovan exports to the EU will also be affected.⁶⁷

The Moldovan standardisation authority cites two main reasons for the delay in transition to voluntary standardisation - the high costs and limited expertise in EU technical regulations. EU standards can be adapted in Moldova in several ways, each with its pros and cons, as well as costs attached.

An immediate and more feasible solution could be the acquisition of standards from Romania, given the shared common language and Romania's progress in adopting EU standards. Given Romania's readiness to provide assistance to Moldova in European integration matters, a bilateral government agreement can solve the issue and negotiate the costs of buying standards.

A second option, apparently preferred by the Moldovan Government, could include translation and adoption of key EU standards (about 1,800) and acceptance of the remaining EU standards (about 20,000) in their original language, by approving a law or amending the existing law on standardisation. This second option is not without difficulty because in many cases authorities would require translations of a document written in a foreign language; and translation requires a combination of technical expertise and foreign language skills. A comparative analysis of the process of adoption of EU standards indicates that the costs of key EU standards adoption vary between Euro 1,500,000 and 2,000,000 (e.g. Lithuania, Estonia, Hungary).⁶⁸ The time frame for adoption of key standards shall not exceed three years, although the experience of some new EU member states (e.g. Hungary) shows that key standards can be adapted within a year. Translation and adoption of all EU standards, a third option, will have to be postponed for later when the Moldovan economy is able to bear the costs.

The first option is recommended on the grounds of cost and speed, driven by the need to prevent further losses in Western market share.

To finance the adoption of key EU standards external financing will have to be secured (EU or World Bank), as the Medium-Term Expenditure Framework does not accommodate such expenditures and the national implementation action plan of the EU-Moldova Action Plan is also silent on such costs.

Finally, the membership of international and European bodies for standards and conformity assessment (European Cooperation for Accreditation; CEN, CENELEC and ETSI) is beneficial

⁶⁷ Ukraine has set forth a plan of harmonisation with international and European standards. In 2003, Ukraine adopted about 1,500 international standards out of about 9,000 that it has set as a goal (Source: Ukrainian-European Policy and Legal Advice Centre). For comparison, Moldova adopted 22 European and international standards in the same year (Source: Moldova Standard Service).

⁶⁸ Estimates drawn from the National Programmes of the Adoption of Acquis of the specified countries.

not only for reputation-building but also for acquiring first-hand information and experience of partners from overseas markets.

Conformity assessment. The current system of prior authorisation needs to change to self-certification and the presumption of conformity with harmonised standards, as required by European practices. Legal approximation of EU horizontal requirements needs to be complemented by an adequate institutional set-up that will guarantee the free movement of goods while providing a flexible framework for economic agents. To meet these requirements the institutional setup should include testing and certification bodies, accreditation and market surveillance authorities. The approval of the Law on conformity assessment is an important step forward, yet its implementation needs to be advanced and conflict of interest avoided by allocating different functions to different independent agencies.

Except for accreditation and standardisation, the private supply of services related to inspection, sampling, testing and certification needs to be encouraged. This would partly solve the issue of financing the reorganisation of conformity assessment infrastructure.

Market surveillance and consumer protection. The horizontal directives need to be complemented by strong consumer protection legislation, aligned with EU producers' liability requirements.⁶⁹ Although the basic principles of the EU producers' liability are contained in the Moldovan Civil Code, further efforts on continuing alignment of legislation are necessary; for example, the time limit for lodging complaints needs to be changed (from the current one month in Moldovan law to three years in the EU Directive).

Consumer protection needs to be improved through legislation approved in the field of sales of consumer goods and associated guarantees, actions for the protection of consumer interests, statute of limitation (timeframe in which consumers can file complaints), consumer credit, distance contracts, comparative advertising, and general product safety. More important is an effective implementation of legislation, in particular through an efficient market surveillance mechanism and consumers' access to court and out-of-court dispute settlement.

A cost-effective solution to accommodate market surveillance functions would be to entrust the future Competition Agency with consumer protection functions (e.g. Poland - National Office for Competition and Consumer Protection).

Customs and Border Procedures

The movement and clearance of goods is dealt with under a streamlined Customs Code that is compatible, on paper, with the EU customs requirements. Moldova is a member of the World Customs Organisation and a party to the Kyoto Convention on the Harmonisation of Customs Procedures.

However, delays in clearing customs, corruption, ineffectiveness in combating fraud, excessive documentation and repetitive verifications, and a risk analysis in its infancy, all clearly indicate a long road before customs and border procedures will come into line with EU standards and practices.

Overall modernisation of Customs is necessary. Training of staff and upgrading of information technologies, including the implementation of the ASYCUDA (Automated SYstem for CUstoms DAta) system, requires investment. The transfer of authority to issue certificates of origin from the Chamber of Commerce to Customs needs to be accompanied by capacity-building, mechanisms to ensure accountability and transparency.

⁶⁹ EC Directive 85/374/EEC on liability for defective products.

Taxation

Indirect taxation. On overall, Tax Code provisions on VAT and excises are aligned to a great extent with the EU requirements. Further convergence is necessary, in particular, in relation to VAT refund conditions and the structure of excise duties. Yet, convergence with VAT⁷⁰ and excise exemptions and exceptions, as well as VAT and excise levels established in the EU legislation, shall be left for the final stage of convergence, if at all necessary.⁷¹

Direct taxation. The focus is on legal and regulatory mechanisms that can distort trade. Therefore three specific objectives are: (a) elimination of double taxation; (b) prevention of tax evasion and money laundering; and (c) avoiding harmful tax competition.

To date, Moldova has signed about 20 bilateral treaties to avoid double taxation, half of which are with EU member states. The Government needs to step up its efforts directed towards the conclusion of double taxation treaties with all EU member states and facilitate administrative cooperation between national tax authorities.

Tax evasion and money laundering efforts have stepped up recently. Further efforts towards increased multilateral cooperation and mutual legal assistance in investigations, prosecutions and extradition in tax evasion and money laundering cases should be undertaken. Effective control at external borders, especially at the Moldova-Ukraine border, should be assured, including the installation of a computerised customs information and documentation system. Programmes to intensify the exchange of relevant information concerning transactions in tax havens and preferential tax regimes should be undertaken.

Additional Areas

Establishment of companies. A detailed comparison of EC Company Law Directives with Moldova legislation reveals overall consistency. Additional legislation, however, needs to be adopted in order to improve further on the regulatory framework. In particular, steps need to be taken to ensure thorough disclosure of a company's legal and financial status.⁷² The law should also provide a clear distinction between branch, representative and subsidiary,⁷³ as well as settle the status of public limited companies in the event of a merger or division.⁷⁴

Financial services. The EU takes its cue on major issues from the Capital Accord of the Basel Committee on Banking Regulations and Supervisory Practices. Common rules are adopted at EU level through a series of EC Directives ensuring consistency in national laws with regard to freedom of establishment (core licensing standards); capital adequacy; own funds (constituents

⁷⁰ EC Directive 77/388/EEC harmonising member states legislation on VAT.

⁷¹ Council Directive 92/79/EEC of 19 October 1992 on the approximation of taxes on *cigarettes*, Council Directive 92/80/EEC of 19 October 1992 on the approximation of taxes on *manufactured tobacco* other than cigarettes; Council Directive 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on *alcohol and alcoholic beverages*.

⁷² Second Council Directive 77/91/EEC of 13 December 1976 on Coordination of Safeguards, which, for the protection of interests of members and others, required by Member States of Companies in respect of the information of public limited liability companies and the maintenance and alteration of their capital, with the view to make such safeguards equivalent.

⁷³ Eleventh Council Directive 89/666/EEC of 21 December 1989 concerning disclosure requirements in respect of branches opened in a member state by certain types of company governed by the law of another state.

⁷⁴ First Council Directive 68/151/EEC of 9 March 1968 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies, with a view to making such safeguards equivalent throughout the Community.

of capital); prudential measures (large exposures); deposit guarantee schemes; payment systems (code of conduct relating to electronic payments); supervision (consolidated supervision by home regulator); money laundering; competition rules in the banking sector; national treatment of third country credit and financial institutions (licensing according to the reciprocity principle).

The Moldovan financial market legislation, in the banking sector in particular, lays down requirements and safeguards almost identical to that of the EU. The two most important differences arise in respect of minimum capital requirements (three-type banking licence with a different capital requirements system in Moldova⁷⁵ vs. a uniform capital requirement in the EU) and private deposit guarantees (although recently introduced in Moldova, the guaranteed amount is considerably less than in the EU).⁷⁶ Compliance with these, however, needs to be postponed until the banking sector is further consolidated and more efficient.

Intellectual property. So far, only partial harmonisation has been achieved between the EU member states on issues with intellectual property content. A comparison of EU laws with Moldova rules must therefore take into account the existing EU Directives relating to industrial and commercial property issues, as well as the leading case law of the European Court of Justice, but also the main trends in intellectual property protection in the various EU member states.

Moldova's legislation on Patents for Inventions and the Law on Copyright and Neighbouring Rights is a perfect match. Both the EU member states and Moldova are members of the international regulatory framework. As a result, analogous protection may be claimed by either party with respect to patent protection, copyright (closer to author's rights afforded in Latin countries, fitted as it is with moral as well as economic prerogatives) provided with extensions into databases and software, and trademark rights. A draft law on Utility Models is awaiting prior adoption by the European Parliament of the EU Directive on Utility Models.

Institutional Set-up

To converge with those parts of the *acquis* needed to prepare the country for an FTA with the EU, an organisational structure and a legal basis needs to be put in place to support the achievement of the objective. A central coordinating authority will have to be appointed. The Ministry of External Affairs and European Integration (MEAEI) is the best solution by comparison with, for example, the Ministry of Justice. It needs to become the central management authority where all European integration matters come together. It will act as a filtering mechanism for legislation approximated with the *acquis* and give the final stamp of compliance before legislation is sent to the Parliament.

There needs to be an increase in the number of staff at MEAEI (a group of seven to nine EU-trained lawyers is required to deal specifically with legal approximation) and should benefit from additional capacity-building (with EU and other donors' funding).

Key Conclusions and Recommendations

To improve its dialogue and communication with the Commission, the Government should start working on a *Strategy for an FTA with the EU*, accompanied by a road map. Such a strategy would include a comprehensive survey of existing Moldovan legislation in the light of requirements emanating from the *acquis*. It would also give a timetable for the process of

⁷⁵ Second EC Banking Directive.

⁷⁶ Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes.

legislative approximation and define the government bodies responsible. Although it is to be dealt with in a medium-term perspective (three years), the basis for such a strategy should be built without further delay.

Legal approximation for purposes of a FTA with the EU will be more demanding in terms of resources and strategic thinking compared to legal convergence for ATPs. The scope for convergence is broader and encompasses the entire products *acquis*, customs and border controls; and in part, the establishment of companies, taxation, financial services, and intellectual property (for detailed recommendations and author's proposal for an Action Plan, see Annex I).

3.2.3 Preparing the Public Administration for Convergence with the Acquis

As underlined above, one of the stumbling blocks in the legal approximation process is the preparedness of the public administration to take over and effectively implement the harmonised legislation. The key questions in this context are whether Moldova has the right institutions in place and how well organised they are to oversee the process of convergence with the *acquis*.

The process of preparing for, legislating and implementing EU law requires far-reaching adjustments affecting all government institutions. As shown above, the initial stages of economic integration (GSP, ATPs) do not impose a burden on the entire state administration. A number of selected line ministries and institutions will be mostly concerned. However, obligations under a FTA and future participation in the Internal Market require that the state apparatus is transformed into a competent, professionally managed administration operating on a par with institutions in other EU member states.

The exposure of Moldovan officials to EU philosophy, policy and practice has been extremely limited. Exposure has happened mostly among high-level staff, whose turnover is high due to a constantly changing political environment. Technical/sectoral staff who will be expected to provide substantive inputs, in turn, are unaware even of the basics of how the EU works. Remuneration in the public sector is below minimum living standards and results in difficulties in staff recruitment and retention. Moreover, the knowledge of EU languages is limited, which considerably restricts further understanding and access to EU laws and policies. Training is ad-hoc and often driven by donors.

The planned public administration reform is both an opportunity and risk in the endeavour to prepare the civil service for EU-related tasks. Main concerns arise around the design of the proposed reform lacking a coherent vision. In particular, the targeted staff cuts—by 30 to 50 percent—will only be efficient if a prior functional review is undertaken. Moreover, the experience of other Central European countries suggests, on the contrary, that convergence with the *acquis* requires staff increase. If the Government is serious about its EU aspirations, the public administration reform will have to take on board additional EU-related tasks. The World Bank's engagement in public administration reform is particularly encouraging given its extensive experience gained in the Central European countries, whose accession it has successfully supported over the last decade.

In the more immediate term, the legal framework on civil service needs to stress merit and quality in recruitment, promotion and decision-making to ensure a critical number of high calibre civil servants who are trained, hired and retained to carry on rapprochement with the EU, negotiate a FTA and prepare Moldova for a stake in the EU Internal Market. To facilitate contact with the EU, knowledge of one Western European language (more specifically English and/or French) should be a requirement for the entire civil service. Performance management combined with a coherent merit-based pay and promotion policy will help mitigate the problems and eliminate inefficiencies.

It is unclear at this stage how the operational side of the New Neighbourhood instrument would be organised. If arrangements similar to the PHARE instrument were to be foreseen, the Moldovan civil service may need specific training for the management and supervision of use of EU funds.

Key Conclusions and Recommendations

Strengthening institutional capacity is not only a prerequisite for a well-functioning market economy, but it is indispensable to the EU rapprochement process. Concerted action is needed to build a modern and efficient public administration and create a fully professional civil service able to adopt and implement public policies aligned with the *acquis* requirements, part of the ‘European Administrative Space’.

To upgrade the capacity of the public administration, considerable investment in human capital and infrastructure (e.g. *e-government* initiative) is needed. To achieve an efficient civil service, revised remuneration and promotion schemes need to be urgently put in place. Specifically for European integration initiatives, EU advisors should be appointed in each ministry to coordinate, among other things, legal approximation efforts.

3.2.4 Integration into the EU Internal Market: A Preliminary Agenda for a Distant Future

The basis on which the EU is built is its internal market. It is inconceivable that the other elements of the EU could function if the operation of the internal market were to be jeopardised. Currently, the EU Internal Market faces two challenges: deepening and widening. Despite major achievements over the past ten years, there are still several obstacles to the development of a genuinely integrated EU Internal Market, as reflected in the European Commission Internal Market Strategy 2003–2006.⁷⁷

The EU15 + EFTA3 internal market became the EU25 + EFTA3 market, with 450 million consumers as of 2004. The Commission’s ENP strategy, which offers neighbouring countries the prospect of a stake in the EU Internal Market, adds to the growing challenge.

It should be underlined from the very beginning that the idea of a bigger Internal Market expanding to non-member neighbouring countries is in the making. The EU has still to decide on the terms and conditions for neighbouring countries’ participation in the Internal Market.

The precedents of non-EU states participating in the EU Internal Market,⁷⁸ given among other things significant economic and social disparities, cannot be simply replicated in the case of Moldova (nor other neighbouring countries). The scope of the enlarged EEA - now comprising 28 states⁷⁹ - is determined by the EU *acquis* (in force at the time of the EEA Treaty and subsequently approved), which, at the end of 2004, consisted of 4,909 pieces of Internal Market

⁷⁷ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of Regions, Internal Market strategy. Priorities 2003–2006, Brussels, 7.5.2003, COM (2003) 238 final.

⁷⁸ 3 EFTA-EEA member states: Norway, Iceland, Liechtenstein. The EEA Agreement entered into force on 1 January 2004. The EEA Agreement is concerned principally with the four fundamental pillars of the Internal Market, ‘the four freedoms’, i.e. freedom of movement of goods (excluding agriculture and fisheries, which are included in the Agreement only to a very limited extent), persons, services and capital. Horizontal provisions relevant to these four freedoms in the areas of social policy, consumer protection, environment, company law and statistics complete the extended Internal Market.

⁷⁹ 25 EU-EEA states and 3 EFTA-EEA states.

legislation.⁸⁰ The institutional structures in place in EFTA countries would be equally onerous for Moldova in the new future.

By the same token, the process of absorption of the EU Internal Market *acquis* by the new EU member states (Hungary and Estonia, e.g. completed their alignment with the Internal Market *acquis* within three years) is not feasible for the Moldovan economy, at least in the following three to five years. Moldova starts from an even lower base of market economy legislation than new EU member states in the mid-1990s.

To have a clear idea of the enormous effort required and achieved by the new EU member states in taking over and implementing the entire Internal Market *acquis*, it suffices to look at the table of contents of the Annex to the Commissions' 1995 White Paper on the Internal Market (COM (95) 163 final).

There are 23 separate chapters of a selective list of the *acquis*. Some of these chapters present today totally new challenges for Moldova, such as the area of mutual recognition of professional qualifications. Other areas are relatively recent innovations to Moldovan statute books, such as regulations on data protection, the protection of intellectual property, and competition and consumer protection legislation. Other chapters of the *acquis* deal with existing areas of regulation in Moldova, but where approximation to Community law will require considerable adjustment of the national law, such as food safety and conformity assessment of products, to list but a few.

If the legal approximation agenda follows a step-by-step approach (first, market economy, secondly, access to selected markets *acquis*) many of the areas will be covered in full. Other areas where initially a partial convergence approach has been chosen (e.g. taxation, company law, public procurement, consumer protection) will require an upgrade. The process of convergence will move to sectoral areas (e.g. environment, social policy, energy) only when the Moldovan economy is ready to accommodate it.

The above are only tips of the iceberg. The prospect of a stake in the Internal Market requires commitment from both sides - clear conditionalities and road maps on the EU side and hard work, organisation and coordination on the Moldovan Government side. The new EU member states have been guided in the adoption of the Internal Market *acquis* by the Commission's White Paper of 1995 and supported by PHARE and TAIEX mechanisms. It is still an open question if the future New Neighbourhood instrument will mirror PHARE's examples of assistance for capacity building necessary for the convergence with the Internal Market *acquis*.

Despite the hurdles, the Moldovan Government should adopt a more strategic vision, going beyond the 2004–2006 EU-Moldova Action Plan and its EGPRSP (Economic Growth and Poverty Reduction Strategy Paper), and start building the basis for a 'Gaining Access to a Stake in the EU Internal Market' national programme instead of wasting time and resources on a fully-fledged accession strategy, since a stake in the Internal Market is the only tangible offer on the table for the next ten years or so.

4. Conclusions and Recommendations

The latest round of EU enlargement has legitimately brought legal approximation onto the Moldovan policymaking agenda. The poor performance of Moldovan exports; market share losses in the EU and SEE markets due to, among other things, a regulatory framework at odds with European standards and requirements and foreign investments circumventing Moldova and

⁸⁰ European Free Trade Association, *44th Annual Report 2004*, April 2005.

going to neighbouring countries where they meet a familiar and stable legal environment, clearly point to a delayed convergence with the *acquis*.

The long-term fundamental objective of Moldova is gradual alignment with the Internal Market legislation through legal and institutional convergence between Moldova and the EU.

A functioning market economy is the pillar of the EU Internal Market. Convergence of Moldovan legislation with EU rules of doing business, as a first stage, will reduce the negative effects of the latest wave of enlargement and attract foreign investment into the economy. The issues to deal with here relate *prima facie* to the basic ingredients of a functioning market economy: low barriers to entry and exit for businesses; a functioning corporate governance structure; effective enforcement of competition; security of property rights and efficient resolution of disputes.

A subsequent set of requirements for convergence include access to market *acquis*, which consists of customs law, rules of origin, technical rules and standards (including sanitary and phytosanitary measures) and consumer protection. Complementary to that, freedom of activity in the market, including company law; company accounts and audit; taxation; public procurement; and intellectual property need to be approximated to legitimise claims for a free trade area and ultimately a stake in the Internal Market.

The public administration and the judiciary will play a crucial role in convergence with the *acquis*. Effective implementation of approximated legislation will ultimately depend on the ability of the public administration and judiciary to apply this legislation. Traditional approaches will have to change in many cases (e.g. standardisation and conformity assessment) to provide credible commitment on administrative capacity.

Bibliography

- Bastos, Fabiano and John Nasit, *Productivity and the Investment Climate: What Matters Most?*, World Bank Policy Research Working Paper 3335, June 2004.
- BIZPRO, *Assessing Competitiveness in Moldova's Economy*, a study conducted for USAID, 2004.
- Brenton, Paul, *The Economic Impact of Regional Trade Arrangements: An Overview with Implications for a Free Trade Agreement between the EU and Moldova*, for European Policy Studies, 1999.
- Broadman, Harry G. (ed.), James Anderson, Constantijn A. Claessens, and Randi Ryterman, *Building Market Institutions in South Eastern Europe: Comparative Prospects for Investment and Private Sector Development*, World Bank Publications, 2004.
- Economic Growth and Poverty Reduction Strategy Paper, approved by the Government in May 2004.
- Emerson, Michael, *The Wider Europe Matrix*, CEPS, 2004.
- Emerson, Michael and Gergana Noutcheva, "Europeanisation as a Gravity Model of Democratisation", paper presented to the CEPS-Stanford conference on Democracy and the Rule of Law, October 2004, and published as CEPS Working Document No. 214, November 2004.
- European Commission, Staff Working Paper, European Neighbourhood Policy, Country Report, Moldova, COM (204) 373 final.
- European Commission, Communication to the Council and the European Parliament, Wider Europe—Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours, Brussels, 11.03.2003, COM (2003) 104 final.
- European Commission, Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market of the Union (White Paper on the Internal Market), COM (95) 163 final.
- European Commission, Integration of developing countries in the international trading system: Role of the GSP 1995–2004, COM (94) 212 final.
- EU-Moldova Action Plan, endorsed by the European Council in December 2004.
- European Free Trade Association, *44th Annual Report 2004*, 2005.
- Gray, Cheryl W., Joel Hellman, and Randi Ryterman, *Anticorruption in Transition 2: Corruption in Enterprise-State Interactions in Europe and Central Asia 1999–2002*, World Bank Publications, 2004.
- Gray, C. "Evolving Legal Frameworks for Private Sector Development in Central and Eastern Europe", in *World Bank Discussion Paper*, 209, 1993.
- Lewis, Ann (ed.), *The EU and Moldova: On a Fault-line of Europe*, Federal Trust, London, 2004.
- Mayhew, Alan, *Recreating Europe: The EU Policy towards Central and Eastern Europe*, Cambridge University Publications, 1998.
- Moldova and Europe: Bridging the Gap*, Conference report and discussion paper, Chisinau, 26–27 April 2005.

- Moldovan Government, Economic Growth and Poverty Reduction Strategy Paper, approved May 2004.
- OECD Guiding Principles for Regulatory Quality and Performance, Paris, 2005
- Ukrainian-European Policy and Legal Advice Centre, *Ukrainian Law Review* 10, available in English at www.ueplac.kiev.ua/publications/review/.
- United Nations Conference on Trade and Development (UNCTAD), *Annual World Investment Report*, September 2005.
- USAID, *Moldovan High Value Agricultural Export Competitiveness Study*, USAID, 2004.
- World Bank, *Economic Growth in the 1990s: Learning from a Decade of Reform*, World Bank Publications, 2005.
- World Bank, *Judicial Sector Assessment*, 2005.
- World Bank, *Moldova Trade Diagnostic Study*, World Bank Publications, 2005.
- World Bank, *Recovery and Poverty in Moldova*, 2005.
- World Bank, *Transition—The First Ten Years: Analysis and Lessons for Eastern Europe and the Former Soviet Union*, World Bank Publications, 2005.
- World Bank, IFC and Oxford University Press, *Doing Business* studies (2004 and 2005), World Bank Publications.
- World Bank, *Business Environment and Enterprise Performance Survey 1999–2000*, data set available at <http://info.worldbank.org/governance/beeps/>.
- World Bank, *Poland Country Economic Memorandum: Reform and Growth on the Road of the EU*, World Bank economic report, 1997.

Annex I. Recommendations and Action Plan – Author’s Proposal

Recommendations and Action Plan					
GENERAL					
Government	<ul style="list-style-type: none"> ▪ Economic growth and intraregional trade relations: trade relations with the EU should drive the process of convergence with the <i>acquis</i>. ▪ Start with market economy regulatory framework; screen company entry and exit legislation; corporate governance framework; competition; property rights; resolution of disputes to ensure a level playing field for all economic operators, including foreign ones; strengthen competitiveness and create a stable and favourable investment climate. ▪ Move on to legislation critical for enhanced intraregional trade and trade with the EU. EU and international product norms are crucial and urgent. ▪ Strengthen the public administration for effective implementation of the revised regulatory framework. ▪ Secure funding, from the state budget and donors, for legal approximation efforts. 				
EU	<ul style="list-style-type: none"> ▪ Expedite TAIEX opening for ENP countries. ▪ Intensify dialogue with the Moldovan Government on legal approximation efforts. ▪ Allocate more technical assistance for legal approximation. ▪ Prepare a handbook, i.e. a White Paper on the Internal Market for ENP countries. ▪ Work with Moldova on a Road Map for convergence with <i>acquis</i> and obtaining a stake in the Internal Market. ▪ Facilitate twinning and exchange of best practices from new EU member states to Moldova. 				
IN DETAILS	<u>Recommended action</u>	<u>Priority</u>	<u>Proposed Timeframe</u>		
			<i>Short term (up to 1 year)</i>	<i>Medium term (1-3 years)</i>	<i>Long term (over 3 years)</i>
Achieving a functioning market economy	<ul style="list-style-type: none"> ▪ Increase competition in the market by reducing the regulatory barriers to entry and exit of firms, including foreign ones. 	High	X		
	<ul style="list-style-type: none"> ▪ Create a National Competition Agency to increase the coherence and coordination of policy against market power abuse. 	High	X		
	<ul style="list-style-type: none"> ▪ Address state aid issues and establish a mechanism for monitoring subsidies. 	High	X		
	<ul style="list-style-type: none"> ▪ Secure effective enforcement of property rights, including through improving the access of concerned parties (notaries and banks) to the mortgage register by upgrading the technical parameters of the central register. 	High	X		
	<ul style="list-style-type: none"> ▪ Modernise the judiciary; introduce reforms with gains in efficiency. 	High		X	

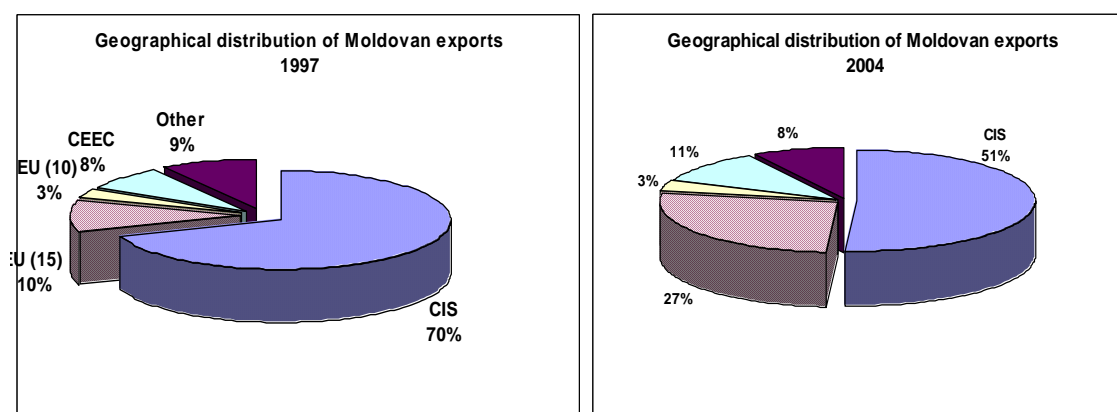
	<ul style="list-style-type: none"> ▪ Strengthen the capacity of key ministries (Ministry of Economy; Ministry of Justice) involved in the regulatory reform to take on legal approximation. 	High	X		
Taking full advantage of EU trade preferences: GSP-ATPs	<ul style="list-style-type: none"> ▪ Improve access to overseas markets by addressing costly and time-consuming domestic constraints on trade and investment. 	High		X	
	<ul style="list-style-type: none"> ▪ Streamline customs procedures, increasing the sophistication of risk management at the border. 	High		X	
	<ul style="list-style-type: none"> ▪ Accelerate the adoption of the EU voluntary system of standards and conformity assessment. 	High		X	X
	<ul style="list-style-type: none"> ▪ Identify, based on trade statistics analysis, products and/or industries with the greatest export potential. Start the adoption of EU standards and regulations with these. 	High	X		
	<ul style="list-style-type: none"> ▪ Comply with EU rules of origin; transfer authority for GSP exports certificates from Chamber of Commerce to Customs. 	High	X		
	<ul style="list-style-type: none"> ▪ Negotiate the inclusion of wine (reduced duties for an annual quota) and a wider coverage of agricultural products in the ATPs. 	High	X		
SEE FTA	<ul style="list-style-type: none"> ▪ Improve access to overseas markets by addressing costly and time-consuming domestic constraints on trade and investment. 	High		X	
	<ul style="list-style-type: none"> ▪ Streamline customs procedures, increasing the sophistication of risk management at the border. 	Medium		X	
	<ul style="list-style-type: none"> ▪ Accelerate the adoption of the EU voluntary system of standards and conformity assessment. 	High		X	X
	<ul style="list-style-type: none"> ▪ Address the Food Safety infrastructure: <ul style="list-style-type: none"> ○ Ensure full compliance with the EC Food Safety Regulation; ○ Prepare and approve by-laws; ○ Centralise authority for food safety through the establishment of a National Food Agency; ○ Switch from <i>ex ante</i> to <i>ex post</i> control; ○ Upgrade the laboratory infrastructure; ○ Facilitate businesses' authorisations to export to the EU. 	Medium		X	X

FTA with EU	<ul style="list-style-type: none"> ▪ Draft an FTA strategy, with priorities, responsible bodies and deadlines. 	Medium		X	
	<ul style="list-style-type: none"> ▪ Align Moldovan standards with EU standards: <ul style="list-style-type: none"> ○ Complete transition to voluntary standardisation; ○ Complete transition to EU conformity assessment procedures; ○ Foster mutual recognition agreements with major markets for Moldovan exports; ○ Establish modern market surveillance structures; ○ Selectively align legislation with EU consumer protection <i>acquis</i>. 	High	X	X	
	<ul style="list-style-type: none"> ▪ Modernise customs procedures in line with EU practices; invest in training and infrastructure. 	Medium		X	
	<ul style="list-style-type: none"> ▪ Selectively align legislation on indirect taxation; eliminate trade distorting taxation practices (double taxation; tax evasion, money laundering). 	Medium		X	
	<ul style="list-style-type: none"> ▪ Create minimum convergence with the <i>acquis</i> in the establishment of companies; banking; intellectual property and other trade-related areas. 	Low		X	
Preparing the public administration for the <i>acquis</i>	<ul style="list-style-type: none"> ▪ Prepare and implement public administration reform. ▪ Strengthen performance-based accountability for public services delivery by providing incentives (rewards and sanctions). 	Medium		X	
	<ul style="list-style-type: none"> ▪ Promote knowledge of foreign languages. 	Medium		X	
	<ul style="list-style-type: none"> ▪ Undertake a comprehensive assessment of staff preparedness for the <i>acquis</i>. 	High	X		
	<ul style="list-style-type: none"> ▪ Introduce EU advisers in line ministries. 	Medium		X	X

Annex II. Moldovan Trade Statistics

Moldova-EU trade relationships have evolved quite slowly. From 1997 to 2004, the EU share of total Moldovan exports rose from 10% to almost 30%, of which some 3% was contributed by the accession of Central and East European Countries and Baltic states in 2004.⁸¹ The rest of trade in 1997 went predominantly to CIS (70%), other CEECs (8%) and the rest of the world (9%). Redistribution occurred mostly at the expense of a decreased share of CIS (from 70% in 1997 to 51% in 2004). The GSP scheme has also had a positive effect on redirecting some of the commercial flows to the EU-15 member states.

Total Moldovan Exports 1997–2004



Source: National Bureau of Statistics.

During this same period, the share of CEECs in exports increased slightly to 11%, and of these, Romania alone accounts for 10%.

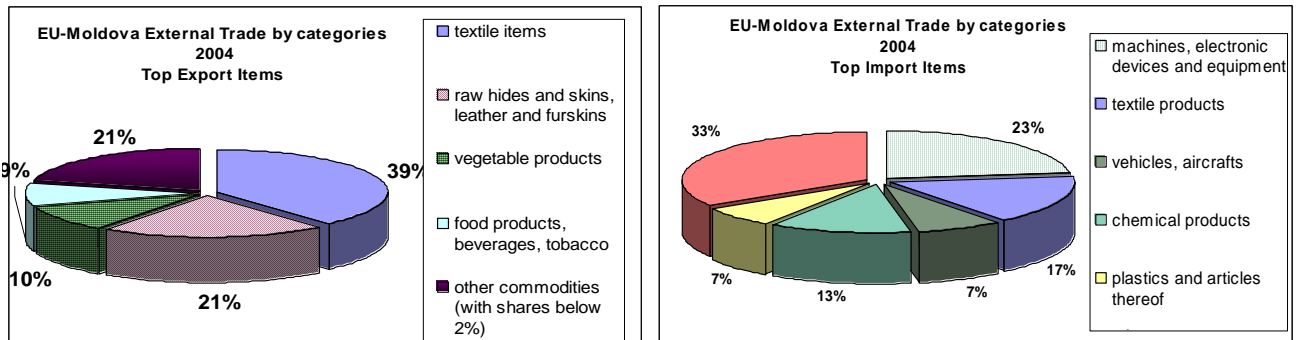
On the EU side, the share of both exports and imports to/from Moldova was fairly small (below 1%). Over the last five years Moldova's average share of global imports to the EU was 0.03%, and EU exports to Moldova accounted for only 0.06% of total EU exports (the data includes trade with Transnistria).⁸²

Moldovan exports are highly concentrated in a few commodities that account for more than ½ of its total exports to the EU. As of 2004, the main Moldovan products exported to the EU consist of 4 major groups: (i) textile items (39%); (ii) raw hides and skins, leather and skins (21%); (iii) vegetable products (10%); and (iv) food products, beverages, tobacco (9%).

⁸¹ The official data does not include Transnistrian trade with the EU.

⁸² "EU Bilateral Trade and Trade with the World" (DG Trade: www.europa.eu.int/comm/trade/issues/bilateral/index_en.htm)

Bilateral Trade with EU per Product Group 1997–2004



Source: National Bureau of Statistics.

Total Moldovan Exports 1997–2004, in millions of US dollars.

	Food, beverages & tobacco	Live animals & animal products	Vegetable products	Machines, electronic devices & equipment	Textiles	Metals & metal products	Mineral products	Other	Total
1997	479.0	75.4	75.3	45.7	58.2	8.6	3.2	128.7	874.1
1998	350.2	34.1	71.6	40.9	61.7	9.2	2.7	61.5	631.9
1999	196.9	29.3	68.0	27.3	64.7	16.5	2.0	59.5	464.2
2000	197.6	22.9	66.1	24.4	83.9	11.8	3.2	61.7	471.5
2001	254.1	18.3	79.1	33.2	105.9	3.7	6.6	67.2	568.1
2002	267.8	15.3	105.8	26.4	110.5	7.1	11.4	99.7	643.9
2003	314.3	28.6	91.3	30.3	129.7	19.4	20.6	156.1	790.3
2004	345.9	20.2	120.0	39.3	171.0	29.9	30.4	229.7	986.3

Source: National Bureau of Statistics

Geographical Distribution of Moldovan Exports 1997–2004, in millions of US dollars.

	<i>CIS Countries</i>				<i>CEE Countries</i>				<i>EU Countries</i>				<i>Other Countries</i>	TOTAL	
	Russia	Ukraine	Belarus	Other Countries	Romania	Bulgaria	Other Countries	Germany	Italy	Other EU Countries	Other Countries				
1997	608.3	508.8	49.4	35.4	14.7	95.7	58.8	10.0	25.2	89.9	32.4	23.9	33.6	80.2	874.1
1998	428.9	336.8	48.7	31.9	11.5	80.5	60.8	2.8	13.4	82.9	23.9	22.3	36.7	39.6	631.9
1999	253.7	191.2	32.9	21.7	7.9	82.8	42.1	5.4	18.9	98.4	36.9	25.9	35.6	29.3	464.2
2000	276.1	212.5	36.5	21.8	5.3	63.3	39.1	3.2	18.1	102.2	36.3	36.6	30.4	25.9	471.5
2001	346.3	249.9	62.0	30.2	4.2	61.9	40.2	3.8	10.7	121.0	41.1	47.7	33.6	37.8	568.1
2002	350.5	250.2	63.4	39.5	-2.6	88.9	59.0	3.4	17.3	143.8	51.2	61.4	31.2	60.7	643.9
2003	423.7	308.5	56.2	41.1	17.9	123.7	90.2	6.2	27.3	184.6	56.2	82.4	46.0	62.9	790.3
2004	502.6	353.4	64.8	58.7	25.7	105.7	98.9	5.5	1.2	297.1	71.9	136.7	88.5	64.1	986.3

Source: National Bureau of Statistics

Annex III. Questionnaire for interview with exporters

A group of exporters has been identified based on the following main criteria:

- currently engaged in exports to Romania, SEE and the EU;
- engaged in trade at least for the last five years; and
- food and non-food industry exporters.

1. *What is your primary export market:*

- Romania and Central European Countries
 Romania and South Eastern European Countries
 EU

2. *For how long has your company been involved in external trade?*

3. *The impact of the 2004 EU Enlargement on your exports has been:*

- significant insignificant not relevant

4. *To what degree do you agree that the domestic legal system supports and promotes external trade:*

- fully agree tend to agree tend to disagree disagree

5. *The Government policy is trade supportive:*

- fully agree tend to agree tend to disagree disagree

6. *Which of the following is the most important internal obstacle to your export operations:*

- | | |
|--|---|
| <input type="checkbox"/> customs and foreign trade regulations | <input type="checkbox"/> foreign currency regulations |
| <input type="checkbox"/> VAT refunds | <input type="checkbox"/> certification of goods |
| <input type="checkbox"/> tax administration | <input type="checkbox"/> labour regulations |
| <input type="checkbox"/> corruption | <input type="checkbox"/> licensing |

7. *To what extent do you agree that certification of goods in Moldova is timely and cost-efficient:*

- fully agree tend to agree tend to disagree disagree

8. *Which of the following is the most important obstacle in overseas markets:*

- tariffs technical barriers to trade subsidies

9. *Which of the following non-tariff barriers is the most significant obstacle in overseas markets for the goods you are exporting:*

- | | | | |
|--|--------------------------------------|---|--|
| <input type="checkbox"/> product regulations and conformity assessment | <input type="checkbox"/> food safety | <input type="checkbox"/> veterinary and phytosanitary regulations | <input type="checkbox"/> labelling and packaging |
|--|--------------------------------------|---|--|

10. *Standards and conformity assessment procedures in overseas markets are an important obstacle you are facing:*

- fully agree tend to agree tend to disagree disagree

11. *Reconfirmation of product certification in countries of export is necessary:*

- in all cases in selected cases never

12. *Is your enterprise authorised to export to the EU?*

- yes no

13. *The transition to voluntary standards and EU conformity assessment requirements would facilitate your exports:*

- fully agree tend to agree tend to disagree disagree

14. *Has your company benefited from EU GSP?*

- yes no

15. *If yes, how did you learn about EU trade preferences:*

- Government information campaign partners in overseas markets EU websites

16. *Expanded EU trade preferences will be beneficial to your exports:*

- fully agree tend to agree tend to disagree disagree

17. *A FTA with the EU will increase your exports potential:*

- fully agree tend to agree tend to disagree disagree

Annex IV. List of people interviewed

Mr. Manuel Catalan Rodriguez, Directorate General for Agriculture, European Commission

Ms. Elizabeth Franey, trade analyst, Directorate General for Trade, European Commission

Ms. Fiona McLean, head of the TACIS Branch office in Moldova

Ms. Mariana Puntea, consultant, Tacis support to National Coordination Unit

Mr. Jo Declercq, consultant for the Commission drafting TOR for TA projects in Moldova (implementation of the EU-Moldova Action Plan and PCA)

Mr. Adrian Calmac, head of the trade and WTO division, in the Ministry of Economy

Mr. Ruslan Codreanu, head of the European Integration Division in the Ministry of Economy

Ms. Lidia Lozovanu, head of legal clearance unit, Ministry of Justice

Mr. Veceaslav Pituscan, head of Economic Relations with the EU, Ministry of Foreign Affairs and European Integration

Mr. Dorian Chiroasca, deputy director, State Agency for Intellectual Property Protection

Mr. Valeriu Gheorghiu, head of EU programmes division, IPP

Mr. Sergiu Harea, head of marketing department, Moldovan Chamber of Commerce

Ms. Veronica Ardeleanu, director, European legislation department, Romanian Ministry of European Integration

Ms. Tamara Obradovic, assistant Minister, Croatian Ministry of European Integration

Mr. Viorel Ursu, policy fellow, OSI-Brussels

Mr. Scott H. Jacobs, Jacobs & Associates, International consultants in Regulatory Reform

Ms. Elena Nikulina, Sr. Economist, Moldova CO, World Bank

Mr. Burunsus Victor, private sector development officer, Moldova CO, World Bank

Annex V. Advocacy Plan

Primary target: Government of Moldova

Avenues:

A. One-to-one meetings with policymakers in key institutions and ministries:

Ministry of Economy; Ministry of Foreign Affairs; Moldovan Export Promotion Organisation; Moldpro Committee. Meetings will include, but will not be limited to:

➤ **Parliament:**

- Mr. Sergiu Stati, chairman of the EU Integration Parliament Committee.
- Ms. Mariana Zolotco, advisor on EU affairs to the Speaker.

➤ **Ministry of Economy:**

- Mr. Ruslan Codreanu, head of the European Integration division.
- Mr. Adrian Calmac, head of the Trade Policy and WTO division.

➤ **Ministry of Foreign Affairs and European Integration:**

- Ms. Eugenia Kistruga, deputy minister.
- Mr. Veceaslav Pituscan, head of economic cooperation division.
- Ms. Daniela Cujba, head of political cooperation division.

➤ **Ministry of Justice:**

- Ms. Victoria Iftodi, Minister of Justice.
- Mr. Nicolae Esanu, deputy minister.
- Ms. Lidia Lozovanu, head of legal clearance unit.

➤ **Moldovan Export Promotion Organization (MEPO):**

MEPO is a quasi-government organisation providing advice, training, research and information services to local and foreign businesses on international trade and on Moldova's business climate. It supports importers and helps foreign investors to enter the Moldovan market.

- Mr. Veceslav Sterbet, executive director, MEPO.
- Mr. Sergiu Ghetu, deputy director, MEPO.

B. Centre of European Documentation, <http://ced.pca.md>

CED, the first of its kind in the region, was set up in 2000. CED targets primarily civil servants in the Moldovan Government, members of the Parliament, and officials of other state bodies, but also researchers and individuals.

- publications on the CED website;
- conferences and events.

Secondary Targets:

A. Business Community

1. Business community/associations targeted through the Chamber of Commerce

- Articles in the newspaper "ECO", Business Newspaper.

2. Foreign Investors Association

- Articles in the Foreign Investors Association newsletter.

B. European Union:

1. EU projects in Moldova:

- Use opportunities provided by consultations on new technical assistance projects aimed at implementing the EU-Moldova Action Plan to channel policy recommendations.
- Meetings with European Commission missions to Moldova.

2. EU Delegation to Moldova

List of Acronyms

ATP	Autonomous Trade Preferences
CEN	Comité européen de normalisation
CENELEC	Comité européen de normalisation électrotechnique
EEA	European Economic Area
EFTA	European Free Trade Association
EGPRSP	Economic Growth and Poverty Reduction Strategy
ENP	European Neighbourhood Policy
EUREPGAP	Euro Retailer Produce Working Group adopting standards of Good Agricultural Practices
ETSI	Institut Européen de normalisation des télécommunications
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GSP	Generalised System of Preferences
MEAEI	Ministry of External Affairs and European Integration
PCA	Partnership and Cooperation Agreement
RIA	Regulatory Impact Analysis
TAIEX	Technical Assistance Information Exchange Office

About the LGI Policy Fellowship Programme

The Local Government and Public Service Reform Initiative (LGI) Policy Fellowship Programme supports practical policy reform in the region, builds the capacities of talented individuals who are well placed to influence policy, creates networks of multinational experts, and supports the mission of LGI. Each year, LGI selects talented professionals from Central, East, and South-East Europe and the Newly Independent States to participate in the one-year program. Fellows work in small teams under the guidance of a well-respected mentor to produce policy-oriented studies on a given topic. The completed studies are impact-oriented; each contains an advocacy or implementation strategy and concrete policy recommendations. Fellows are generally policy researchers, policy advisors, civil servants and members of NGOs, advocacy groups, or professional associations.

- For more information about LGI's Policy Fellowship Program, visit:
http://lgi.osi.hu/documents.php?m_id=81
- To learn more about the Local Government and Public Service Reform Initiative, see:
<http://lgi.osi.hu/index.php>

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Founded in 1983, the Centre for European Policy Studies is an independent policy research institute dedicated to producing sound policy research leading to constructive solutions to the challenges facing Europe today. Funding is obtained from membership fees, contributions from official institutions (European Commission, other international and multilateral institutions, and national bodies), foundation grants, project research, conferences fees and publication sales.

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- To provide a forum for discussion among all stakeholders in the European policy process.
- To build collaborative networks of researchers, policy-makers and business across the whole of Europe.
- To disseminate our findings and views through a regular flow of publications and public events.

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- Formation of seven different research networks, comprising some 140 research institutes from throughout Europe and beyond, to complement and consolidate our research expertise and to greatly extend our reach in a wide range of areas from agricultural and security policy to climate change, JHA and economic analysis.
- An extensive network of external collaborators, including some 35 senior associates with extensive working experience in EU affairs.

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 Financial Markets, Company Law & Taxation
 European Credit Research Institute (ECRI)
 Trade Developments & Policy
 Energy, Environment & Climate Change
 Agricultural Policy

Politics, Institutions and Security

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 CEPS-IISS European Security Forum

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