



## ***ADEPT and EXPERT-GRUP***

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**Implementation of reforms initiated accordingly to the EU-Moldova Plan,  
Assessment of progress in January-March 2011**

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**Note:** *The authors have drafted this report with goodwill and good intentions. The authors are solely responsible for their opinions and conclusions, which are not necessarily shared by the Soros-Moldova Foundation, Moldovan Government or other institutions mentioned in this report.*

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## **Introduction (The Plan is dead. Long live the Plan!)**

Republic of Moldova is a partner of the European Union within the framework of the European Neighbourhood Policy (ENP). In the ENP framework the European Union – Republic of Moldova Action Plan (EUMAP) was signed in 2005, a signally political document designing strategic objectives of cooperation between the two parties, with the No.1 purpose being to bring Moldova closer to the European Union. EUMAP was signed for a three-year term and was based on the Partnership and Cooperation Agreement (PCA). The EUMAP term is formally over, but the plan is relevant so far, as EU will assist Moldova under the EUMAP until 2013.

On January 12, 2010, the Republic of Moldova and the European Union pledged to negotiate an ambitious document, an Association Agreement to replace the PCA. In parallel, EU authorities negotiated and completed in late 2010 with the Moldovan Government the Visa Liberalisation Action Plan,<sup>1</sup> which contains 4 important blocs: security of documents; illegal immigration; rule of law and security; foreign relations and fundamental rights. Before the signing of the new legal document on EU-Moldova relations, following priorities and reform commitments needed to meet political criteria of implementation of EU standards and principles are in force: human rights; democratic standards; independent and efficient justice; probity of governance, administrative capacities and anti-corruption fight etc.

One part of the Association Agreement will address an eventual Deep and Comprehensive Free Trade Area (DCFTA), which will enter into force “when relevant conditions will be respected,” according to European diplomatic statements. However, before meeting these obscure requirements, the parties must negotiate the DCFTA, and negotiations will start “only when Moldova will be ready,” according to a statement by European institutions. In order to prepare Moldova for negotiations on DCFTA, the European Union submitted a set of recommendations to the Moldovan executive, which were transposed into Government Decision No. 1125 of 14 December 2010 concerning the approval of Moldova’s Action Plan concerning the Fulfilment of the EU Recommendations for the establishment of the Deep and Comprehensive Free Trade Agreement between the Republic of Moldova and the European Union.”<sup>2</sup> In fact, most of EU recommendations are major arrears of Moldova in implementing the economic compartment of EUMAP. Indeed, the plan died, but long live plan!

The Action Plan concerning the Fulfilment of the EU Recommendations is structured into 13 areas, with the last actions being planned to be implemented in 2015. Some of these areas include actions which are in direct connection with the access of Moldovan products to European markets. Other planned actions such as right of commercial societies, investment climate, intellectual property right, public procurements, competition, and sustainable development will not have a direct influence on competitiveness of Moldovan products, while Moldova pledged to build a deep and comprehensive, not ordinary free trade area. Literally, it means that the sides bid for an economic integration to overcome the trade area, with the EU being interested to find in Moldova a clear and friendly business climate for its companies.

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<sup>1</sup> Moldovan Government approved a national programme concerning the implementation of the Visa Liberalisation Action Plan (GD 122/04.03.2011)

<sup>2</sup> Hereinafter Action Plan concerning the Fulfilment of the EU Recommendations.

The plan will guide Moldovan authorities, who plead to implement it in an efficient and operative manner. It is hard so far to estimate how efficiently and operatively it will be implemented, but the experience of “implementation” of EUMAP tells that a serious approach of reforms stipulated in the Action Plan concerning the Fulfilment of the EU Recommendations does not give too much time to Moldova to relax. Some delays observed in the 1<sup>st</sup> quarter of 2011 indicate so far a risk of inefficiency and delays in implementing this plan. Developers of the report Euromonitor, ADEPT and Expert-Grup, pledge to monitor the following fields, starting with this issue of the quarterly report Euromonitor:

- 1. Implementation by Moldovan authorities of reforms in priority areas conventionally described as “political”: human rights; democratic standards; justice; probity of governance.<sup>3</sup>**
- 2. Implementation of the Action Plan on the implementation of the EU recommendations, consider opportunities and barriers on way to preparation of Moldova to negotiate a DCFTA and progresses made by Moldova.**

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<sup>3</sup> In default of a new ordinate document, developers decided to focus the monitoring on priorities of the Governance Programme for 2011-2014, and the first report covers among others the priorities set in accordance with the matrix of the Action Plan „Priority reform actions of the Republic of Moldova – Key measures until June 2011”, <http://www.mfa.gov.md/img/docs/implementation-tool-matrix-en.pdf> .

## **Section 1. MONITORING IMPLEMENTATION OF REFORMS IN KEY (POLITICAL) AREAS**

### **Area 1: Increase the efficiency and fairness of the electoral process**

#### **Analysis of current situation**

The 2010 amendments to the Electoral Code have considerably improved the electoral framework and have solved deficiencies and problems previously highlighted in the opinions and recommendations of international institutions, national and international election monitoring reports, and field research reports. Nevertheless, due to frequency of elections in the last two years, the amendments to Electoral Code have not been followed by the modification and review of related legislation – Law on political parties, Criminal Code, Contravention Code, Code of Civil and Criminal Procedures, Broadcasting Code, Tax Code, Law on local public administration, Law on administrative court – that finally led to confusions and interpretations in implementation of respective judicial norms.

A number of aspects remain problematic, particularly those related to: ensuring transparency of election campaign financing and party funding, adequate sanctioning (penal and civil liability) for infringing election law by various actions or inactions, ensuring enhanced possibilities of voting for citizens residing Transnistrian region, applying the gender equality principle when drawing up party lists.

In the 1<sup>st</sup> quarter of 2011 the deficient practice to adopt legislative acts by violating the provisions of the law on transparency of the decision-making has continued. On March 31, the Parliament set the date for the June 5, 2011 local elections. Draft law on setting the date of local elections was examined in a priority-based manner, at the insistence of Liberal Party faction. Moreover, the election date was set before the problematic provisions of the Electoral Code on the term of office of local elected representatives had been clarified. According to the Electoral Code the mandate of mayors and local councillors expire four years after its validation, but in many localities due to high level of elected officials' turnover, their mandates have been validated in-between elections. The Parliament had to make these amendments in April, in election campaign, which is contrary to the Code of good practice in electoral matters of the Venice Commission that recommends states before Election Day.

#### **Recommendations to improve the election framework:**

General recommendations to improve the election framework have not changed from the previous reports, the most important remain:

- Adjust the legislation related to the Electoral Code for eliminating current contradictions;
- Increase the transparency of election campaign and party financing by introducing clear control and accounting procedures, penalties for not filling the financial reports on time and in the prescribed format, monitoring of individual donations to political parties along with personal income taxes paid by donors;

- Improve the provisions on criminal and administrative liability for violation of electoral legislation, through various actions or inactions<sup>4</sup>;
- Streamline the monitoring of broadcasters' conduct by the Broadcasting Coordinating Council and to apply prompt and proper sanctions for evident abuses;
- Regulate the courts' provisions for examination of appeals lodged on Election Day and after Election Day: urgent examination; correlated procedural rules; avoiding procrastination, clear enforceable decisions;
- Respect transparency of the decision-making during the amendment process of thru election framework.

## Area 2: Protection of human rights

### Analysis of current situation

Despite an increasing and continuous attention by international bodies, the situation of human rights in the Republic of Moldova has not significantly changed compared to last year. The main improvements have been achieved in the harmonisation of the legal framework and the improvement of the institutional framework in the field of human rights. Nevertheless, limited progress was made in law enforcement; the law provisions are either ignored by responsible bodies, or deficiently implemented. Among the most violated rights are the right to security and dignity, the right to a fair trial, right to social security, right to information, and right to private property.

### Monitoring specific actions

The following activities have been undertaken in the 1<sup>st</sup> quarter of 2011:

- The Government adopted the draft anti-discrimination law on February 17, 2011. The draft law was submitted to Parliament, but due to negative reactions and protests from religious organizations, lack of support in Parliament and for electoral reasons, the Government decided to withdraw the anti-discrimination law from Parliament on March 30, justifying its decision by the wishes to avoid further split of society and to continue public debates on the draft law;
- The Parliamentary Commission for human rights and interethnic relations held public consultations with civil society on the National Human Rights Action Plan for 2011-2014 throughout March;
- In March, the Ministry of Justice registered the first Muslim religious organization – Islamic League of the Republic of Moldova.

**Monitoring table 1. Progress in implementing actions in the area of „respect of human rights and freedoms”<sup>5</sup> planned for the 1<sup>st</sup> quarter of 2011.**

Planned action	Progress/Comments
<b>Ensuring accountability for all reported human rights violations in</b>	Only 2 policemen have been convicted and got a suspended sentence for the “abuse of power” (Article 328

<sup>4</sup> The findings of analytical research „Compliance of the Moldovan legislation with provisions of Electoral Code and the need to amend the related legislation” developed with the support of the OSCE Mission to Moldova, 2010 are of great relevance as regard the inconsistencies between sanctions and provisions of the Electoral Code.

<sup>5</sup> The table is drawn according to the Action Plan „Moldova’s Priority Reform Action – Key measures until June 2011”, <http://www.mfa.gov.md/img/docs/implementation-tool-matrix-en.pdf>

<b>relation to the events of April 2009</b>	(2) of the Penal Code) during the April 2009 events by the end of March 2011 <sup>6</sup> .
<b>Adopting and starting to implement the revised National Human Rights Action Plan, by ensuring appropriate enforcement, funding and monitoring mechanisms involving civil society</b>	The National Human Rights Action Plan was not adopted by the Parliament so far.
<b>Completing or amending existing legislation to adopt a comprehensive anti-discrimination framework in line with international standards</b>	Anti-discrimination law was not adopted.
<b>Developing a new Action Plan on Roma in close consultation with civil society</b>	Drafting and public consultation of a new Action Plan for supporting Roma for 2011-2015 is underway.
<b>Enhancing significantly public access to draft legislation via relevant government and parliament websites</b>	Although some ministries have made a progress on posting the draft legislation on their websites, the law on transparency in decision-making process is far from being fully implemented. There are numerous cases when the draft legislation is posted with delay or not posted at all on websites. The access to Parliament's website and draft legislation placed on it remains problematic.

## Assessment of progress

Modest progress has been made in the human rights field, with delayed implementation of planned activities. The Government should speed up the implementation of activities in this component, if wants to respect its commitments to the EU as regards the implementation of the Visa Liberalization Action Plan in the proposed term, as one component of the Action Plan refers to the respect for human rights and protection of minorities.

## Recommendations

- Speed up the adoption of an anti-discrimination law. Public debates and an information campaign about the need of this law should be conducted in order to prevent tensions in the society;
- Eliminate the overlap between articles 309/1 and 328 (2) c) of the Criminal Code and the prescription for crimes of torture in order to avoid the spread of police immunity for torture cases;
- Eliminate the inconsistencies between the provisions of Law no. 239-XVI as of 13.11.2008 and the Regulation adopted by Government decision no.96 as of 16.02.2010 in order to prevent confusions and improve transparency of the decision-making process.

<sup>6</sup> Information provided by Prosecutor General's Office, <http://procuratura.md/md/newslist/1211/1/3918/>.

### Area 3: Reform of the judiciary

The reformation of justice with the purpose to make it independent, efficient and fair and to enhance the trust in quality of the rule of law are special priorities for authorities of the Republic of Moldova and an obligation assumed in front of society, as well as of international institutions and foreign partners. Reforms announced or launched in 2009-2010 brought some progresses,<sup>7</sup> as some drafts are being worked out to amend the legislation with the purpose to implement the so-called “small justice reform,”<sup>8</sup> legislative policies aimed to guarantee the justice making in reasonable terms were promoted,<sup>9</sup> foreign partners are intensively consulted, and experts funded from funds of partners advise actions aimed to work out and promote reforms in the area, etc. The Action Programme of the Government for 2011-2014 says that a special importance will be granted to building a state based on the rule of law, by promoting structural and procedural reforms in the area of justice.

At the same time, some important regulations addressing directly the juridical system,<sup>10</sup> are late or implemented inappropriately, while their action and implementation were not formally suspended. Major problems relating to the functioning of the juridical system are observed so far: intervention of political interests with the purpose to control the system; duration of examination term of litigations; fair, full, (enhanced) motivation of decisions in the due time; legality of adopted decisions; transparency of justice making; probity of the judiciary; appropriate functioning of the Superior Council of Magistracy; promotion and nomination of judges; measures aimed to enhance the responsibility of the judiciary; independence of the Prosecutor’s Office; quality of procedural materials; use of modern information technologies; endowment of courts; auxiliary personnel, etc. So far, reforms in the justice area are promoted on the basis of fragmented approaches, under several draft laws, and no single, plenary strategy on reformation of the justice is available. Planned reforms are not sustained by an estimation and concomitant allocation of financial, human and technical resources.

#### Monitoring specific actions

Out of 81 measures included in the chapter “Judicial reform” of the Government Activity Program “European Integration: Freedom, Democracy and Welfare” planned to be fulfilled by May 2011, in practice, no one has been fully implemented.

#### **Monitoring table 2. Progress in implementing actions in the area of “Reinforcing judicial capacity”<sup>11</sup> planned for the 1<sup>st</sup> quarter of 2011.**

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<sup>7</sup> The number of ECHR judgements establishing violation of the European Convention by Moldovan authorities is on the decline; the transparency of the justice making (public litigations, publication of definitive decisions, release of information on websites of law courts) has increased; the execution system is being reformed, a system based on private, independent executors was introduced; the bar is being reformed; the law concerning the prosecution is being enforced and a prosecution self-management system (Superior Council of Prosecutors) was built, etc.;

<sup>8</sup> The Ministry of Justice set up working groups to work out legislative and normative modifications concerning reforms of juridical organisation; civil procedures; criminal procedures; Prosecutor’s Office. Regulations concerning the providing of social and material guarantees to employees of the juridical system (indemnities, salaries) are being drafted.

<sup>9</sup> The draft law concerning the state reparation of damages related to violation of reasonable terms to make justice or execute decisions of law courts was adopted.

<sup>10</sup> The judiciary strengthening strategy and the action plan on implementation of the strategy (PD No.174/19.07.2007); the justice funding concept (PD No.39/18.03.2010); the action plan concerning the implementation of the justice funding concept (GD No.803/07.09.2010); the declaration concerning the condition of the justice in the Republic of Moldova (PD No.53/30.10.2009).

<sup>11</sup> Grila este întocmită conform Planului de Acțiuni „Prioritățile acțiunilor de reformă ale Republicii Moldova – Măsuri-cheie până în luna iunie 2011”, <http://www.mfa.gov.md/img/docs/implementation-tool-matrix-ro.pdf> .



Planned action	Progress/Comments
<p><b>Strengthen institutional capacity of judicial self-administration, with a particular focus on streamlined legal regulation and guaranteed independence, improved financial, human and technical resources, institutional visibility and transparency.</b></p> <p><b>Based on a gap analysis, continue harmonisation with EU standards and best practices. Ensure proper institutional capacity to implement and enforce these changes.</b></p>	<p>A number of draft laws to amend the existing legislation and normative acts have been elaborated, but no amendment have been approved and put in practice yet.</p> <p>According to the Government Activity Program , more than 40 actions are to be implemented in the following areas: reform of the judicial organisation system; reform of the system of administration of funds and resources of the judiciary; review the criminal, civil and administrative procedures; enhance the role of the Constitutional Court; guarantee execution of judgements etc.</p>
<p><b>Clarify the situation as regards the Public Prosecution Service's role and functioning (the Venice Commission Opinion of June 2008).</b></p>	<p>Draft laws are elaborated, but the opinions of MoJ, judges, Prosecutor's office and NGOs are divergent, while policy makers have not clearly expressed their opinion.</p> <p>According to the Government Activity Program, the following actions should be carried out:</p> <ul style="list-style-type: none"> <li>- Cause gradual granting of the magistrate status to prosecutors;</li> <li>- Revise the duties of the prosecution and focus all efforts on criminal justice;</li> <li>- Revise the procedure of appointment and dismissal of the prosecutor general, and thus leave no room for appointment on political grounds;</li> <li>- Appoint the prosecutor general for long term without the possibility of being appointed for a new term;</li> <li>- Introduce the obligation of the prosecutor general to report to Parliament on a yearly basis;</li> <li>- Put in place a mechanism to prevent senior prosecutors from giving illegal instructions;</li> <li>- Put in place the mechanism for appealing to the Superior Council of Prosecutors in order to prevent non-compliant prosecutors from being disposed of in sensitive cases;</li> <li>- Review the liability rules for prosecutors and abolish their general immunity.</li> </ul>
<p><b>Consolidate the new system of training and further modernise the procedure of appointment of judges and prosecutors.</b></p> <p><b>Increase the training capacity of the National Institute of Justice (NIJ) to meet the required quota of 80% of newly appointed judges and prosecutors initially trained at the NIJ, rather than remove this legal requirement</b></p>	<p>The legal framework in the field has not been amended, no draft law has developed and presented.</p> <p>NIJ's activity has not been reformed and streamlined.</p> <p>The quota for training/appointment of judges is not respected.</p>
<p><b>Ensure that the Superior Council of Magistrates (SCM) becomes a real institution for the self-management of the judiciary by adopting the</b></p>	<p>Problems in the SCMs have continued, the competitions for promoting/appointing of judges were deficient as objectivity and transparency.</p> <p>The SCM activity was severely criticised at the General</p>

<p><b>necessary legislative amendments (composition currently less than 50% judges elected by their peers) and ensuring the effective transfer of the administration of courts of justice from the Ministry of Justice (MoJ) to the SCM</b></p>	<p>Assembly of Judges.</p> <p>The SCM leadership was changed suddenly without prior evaluation and discussions.</p> <p>According to the Government Activity Program, the following actions in the field have been planned:</p> <ul style="list-style-type: none"> <li>- Increase transparency in the work of the Superior Council of Magistrates, including in the decision making, and ensure public access to all materials underlying the decision;</li> <li>- Revise the regulatory acts to make sure the decisions of the Superior Council of Magistrates are based on objective criteria and oblige the Superior Council of Magistrates to justify for such decisions;</li> <li>- Introduce the obligation of the Superior Council of Magistrates to enforce a procedural norm for all cases, where the procedure of ruling decisions is not regulated in any law or regulatory act;</li> <li>- Restrict the jurisdiction of the Superior Council of Magistrates over judicial inspection, in order to enhance the independence of the latter.</li> </ul>
<p><b>Ensuring effective implementation of the law on legal aid.</b></p>	<p>A viable system of guaranteed legal aid provided to disadvantaged people in all types of cases, including administrative and civil ones should be established.</p> <p>According to the Government Activity Program, the following actions in the field should be carried out:</p> <ul style="list-style-type: none"> <li>- Proceed with enhancing the bar institute and the state-guaranteed legal assistance system</li> <li>- Ensure institutional development of the state-guaranteed legal assistance system and its interaction with the bar entities;</li> <li>- Strengthen the system of lawyers specialized in juvenile justice;</li> <li>- Revise the rules on lawyer's liability for the damage caused to the client;</li> <li>- Create a network of paralegal community services along with integrated social assistance services to provide primary legal assistance.</li> </ul>

### Assessment of progress

The reform of the judiciary has made no major progress and is reduced to the level of ad-hoc approaches and drafting normative and legislative acts which are waiting to be approved. The deficiencies are caused by the lack of political consensus and consensus between the experts' approaches in the field, lack of a clear judicial reform strategy and action plan that would be adopted by an enforcement act for all state's institutions.

Statements of some representatives of political power, personnel changes in the system (SCM and MoJ) and the statements that followed, problems in selecting the Chairperson of the SCJ have led to the conclusions about the maintenance of political control over the judicial system and about the political interest showed in the field, which may affect the implementation of judiciary reform.

## Recommendations

Main recommendations on judicial reforms and approaches in the field remain the same as in previous report, among the most important and immediate are:

- Judicial reform should be implemented under a complex Strategy that will be grounded on realistic and pragmatic assessment of the current situation, contain objective, quantitative and qualitative estimates, with impact analysis and goal-achievement methods, implementation and monitoring mechanisms etc., as require international policy documents and best practices in the field. The planned measures should be fully and unconditionally supported by providing financial, human and technical resources;
- Coordination of judicial reform implementation should be carried out at a national level, by a Council (Committee) established on a parity formula and consisting of political decision-makers (Parliament, Government), representatives of judicial system (judges, prosecutors), representatives of the civil society and legal professions (NGOs, lawyers, professional associations – notaries, bailiffs), so that political component would not prevail in the Council;
- Previously adopted policy documents should be fully executed and included in the new reform strategy to ensure a unified and focused approach, with a maximum efficiency and monitoring and prompt intervention possibilities.

## Area 4: Transnistrian settlement

### Main developments

In the period January-March 2011 a number of events aimed to resume the negotiation process in the official “5+2” format have happened. The attempts to resume the negotiation process have been accompanied by a number of measures of the Moldovan authorities aimed at giving a new approach to the Transnistrian problem settlement. Moldovan authorities adopted two documents that comprise consistent references to the Transnistrian problem settlement. On January 14, 2011, Moldovan Parliament adopted the Government Program for 2011-2014 entitled "European Integration: Freedom, Democracy and Welfare", including the **country's reintegration** as one of seven governing priorities. In the same context, on March 4, 2011 the Government adopted the Decision no. 132 on setting up a **Governmental Commission for country's Reintegration** that will coordinate and ensure a unique policy in the field of country's reintegration for all national institutions of the Republic of Moldova. Externally, a number of measures for re-launching official “5+2” negotiation process have been undertaken. In particular, consultations in the “5+2” were held to prepare the resumption of official negotiations. Among the notable events should be mentioned the US joining the new approach in the Transnistrian problem settlement, discussed within the EU-Russia political dialogue in 2010. Strategically, it stood out the opposite approaches of the EU and Russia on the sequence of steps in the Transnistrian problem settlement and the creation of a regional security. Finally, despite the efforts of Moldovan Government and international partners, the position and approach of Transnistrian administration remained intransigent.

### Efforts of the Government of the Republic of Moldova

The Government activity program "European integration: Freedom, Democracy and Welfare" provides that the country's reintegration is one of the fundamental objectives of the government. In this regard, the government intended to take the following actions:

- Intensify efforts to identify a viable and sustainable solution to the Transnistrian conflict, governed by the principles of sovereignty and territorial integrity of the Republic of Moldova;
- Maintain the neutrality status of the Republic of Moldova and country's Europeanization, by creating favourable premises for reintegration;
- Pleads for conflict settlement in the "5+2" format, on the basis of principles accepted by main Moldovan political forces, including the withdrawal of Russian military troops from the territory of the Republic of Moldova and the replacement of the current peacekeeping operation into an international multinational mission of civil observers;
- Develop ample social and infrastructure projects in the Eastern region of the country and create conditions for real reintegration of Transnistrian region in the economical, political, social and information space of the Republic of Moldova.

On 28 March 2011, under the chairmanship of Prime Minister Vlad Filat, took place the first meeting of the Governmental Commission for Reintegration. During the meeting it was decided to develop a strategy for reintegration of the country. According to the Deputy Prime Minister for Reintegration, Eugen Carпов, reintegration of the country shall be accomplished on the basis and within the current legal framework and international standards. Basic settlement principles are as follows:

- Transnistrian conflict settlement may take place exclusively by peaceful means, through an open, transparent negotiation process, within the existing "5+2" format;
- Moldovan Government will continue to implement the confidence building measures between the two banks of Nistru River, accomplished with political and financial support from international partners. Within the reintegration process the central authorities should provide to implement effective sectorial policies. The implemented projects will be designed to get the population from both banks closer, to open the society in Transnistrian region towards cooperation with institutions on the right bank of Nistru;
- To make use of the favourable international conjuncture, characterized by increased interest and commitment of external partners involved.

The Governmental Commission decided that within each ministry and central public authority a deputy minister, deputy director should be appointed and a working group set up to ensure the achievement of objectives for the settlement of Transnistrian conflict set down in their area of activity, continuity of actions and keep the proper archive folder. These groups shall also examine the documents signed earlier in the Transnistrian settlement process and, according to their competences, to submit their views on their up-to-datedness, as well as sectorial proposals for the draft Reintegration Strategy, in the areas for which they are responsible

### **Efforts to resume negotiations in "5+2" format**

In January 2011, at the special meeting of the OSCE Permanent Council in Vienna, the incumbent OSCE Chairman, Audronius Azubalis, minister of foreign affairs of Lithuania that took over the OSCE Presidency declared that one of priorities will be to contribute through negotiations to the peaceful settlement of "frozen" conflicts. In this regard, the Lithuania's OSCE Presidency will insist on resuming the official "5+2" negotiations in the Transnistrian conflict settlement. The permanent delegation of the Republic of Moldova welcomed the OSCE presidency' priorities, underlying some aspects of major importance:

- need for an immediate resumption of official "5+2" negotiations;

- respect for human rights in Transnistrian region, while continuing the release of Ernest Vardanian and Ilie Cazac, illegally detained by Tiraspol regime;
- Withdrawal of foreign military forces from Moldova and the transformation of current peacekeeping operation into a civil observation mission under a relevant international mandate.

The first test of the Lithuania's OSCE presidency approach took place in the period of February 14–15, 2011, in Vienna, where a next round of the "5+2" consultations on the Transnistrian conflict settlement was held. The meeting tackled mainly the issues on confidence building between the conflicting parties and the resumption of official negotiations in the "5+2" format. Moldovan delegation drew attention of the representatives of mediators and observers to the problems related to free movement of persons and goods between the two banks of Nistru river; the difficulties faced by pupils of Moldovan schools in Transnistrian region teaching based on Latin alphabet; the situation in Security Zone etc. In this context, Moldovan delegation called for unconditional resumption of negotiations in "5+2" format. Transnistrian representatives noted that only the settlement of practical problems faced by the region, and not the political statements, can pave the way for resuming negotiations. From this point of view were examined the ways to enhance the activity of working groups to strengthen mutual trust. In particular, the attention has focused on launching the activity of working group on education and on intensifying actions to facilitate economic activity of enterprises in Transnistria. A special discussion was devoted to cases of conviction by Transnistrian bodies to long periods of detention of Moldovan citizens. In this context, Moldovan delegation requested the release of Ernest Vardanean sentenced to 15 years of imprisonment, and Ilie Cazac, sentenced to 14 years, both for "espionage in favour of Moldova". At the end of the meeting, participants agreed on the program of activities for the coming year. Despite the fact that the mediators and observers have noted the existence of necessary conditions for the resumption of official "5+2" negotiations, this subject will be discussed at a future meeting.

On March 1, 2011, Transnistrian region was visited by the Envoy of the German Ministry of Foreign Affairs in charge for the Eastern Europe, Caucasus and Central Asia, Patricia Flor, in order to assess the possibility to resume negotiations for the settlement of Transnistrian conflict. German official mentioned that Germany is ready, along with the EU, to provide assistance, including by participation in implementation of various projects. To find some functional approach, Patricia Flor proposed to study the experience of German unification, which would allow getting acquainted with the stages of the process. At the meeting of Patricia Flor with Transnistrian leader, Igor Smirnov, the latter said that the shares offered by the EU to Moldova for preferential export of goods are used as a tool of economic blackmail against Transnistrian. According to Smirnov there are no premises for unification of Transnistrian region with Moldova, because these are two incompatible entities which have no common interest.

In the same vein, on March 4, 2011, the Head of OSCE Mission to Moldova, Philip Remler, had a meeting with Transnistrian leader, Igor Smirnov, which tackled the same issue - the resumption of official negotiations in the "5+2" format. In the same way, Transnistrian leader replied that negotiations may be resumed only on the basis of the principle of equality of parties and only after the removal of barriers for Transnistrian exports, introduced after the interruption of negotiations by Moldovan side on 28 February 2006. However, the Head of OSCE Mission Philip Remler mentioned that during recent consultations in Vienna a number of participating delegations concluded that negotiations must have an official status so that any eventual signed commitments would have the same status. According to Remler it would be great if already in the current year the

progress would be made as far as the free movement of citizens is concerned, so that they would enjoy the protection of officially signed documents.

### **U.S. supports the European initiatives on Transnistrian conflict settlement**

Republican Senator, Richard Lugar, member of the Foreign Policy Committee of the Senate, published on 8 February 2011 a report entitled "*Will Russia and Eastern Europe's last frozen conflict*", where he recommends the Washington administration to support the Republic of Moldova in the settlement of Transnistrian problem. According to recommendations of the report, the recent developments in Moldova and the attention paid to the situation in Transnistria by European leaders offer an opportunity for the U.S. to act similarly in order to resume negotiations on Transnistria and support Moldova's pro-Western aspirations. In particular, the U.S. must:

- Pay attention at the highest diplomatic level to the resumption of negotiations on Transnistrian conflict settlement based on efforts launched by governments of Germany and France. Experience suggests that the U.S. positions as leader in European security issues remain indispensable. A lasting settlement would strengthen political stability and economic growth in entire Moldova, would encourage rapprochement with Western institutions, would undermine the illegal trafficking of goods and people, ensure individual rights and freedoms in Transnistria;
- support the replacement of Russian peacekeeping mission with an international civil mission;
- convince Russia that its assistance in the settlement of Transnistrian conflict and other frozen conflicts could serve as an evidence that the development of NATO-Russia relations can provide security in Eastern Europe and that relations in post-Soviet area are not a "zero sum" game;
- support the withdrawal of military presence and weapons from Moldova;
- further continue discussions on conventional arms control in Europe;
- Hold regular briefings for the Senate Foreign Relations Committee on the state of negotiations in the settlement of Transnistrian and other conflicts.

The appeal of Richard Lugar found an echo in the statements made by US Vice-President, Joe Biden during its visit in Chisinau, on March 11, 2011. Namely, he mentioned that the U.S. supports the Transnistrian conflict settlement, and not any one, but one that would ensure the sovereignty and territorial integrity of the Republic of Moldova. In response, on March 12, 2011 the Transnistrian leadership issued a press release casting doubts on the impartiality of U.S. as observer in the process of normalization of relations between the Republic of Moldova and "Transnistrian republic". The press release cites the Protocol of 27 September 2005 which established the "5+2" format, which refers specifically to the rights and obligations of observers in the negotiation process. According to Transnistrian administration, the US official statements ignore the realities that were established in the region during the last 20 years and this makes the conflicting parties short of manoeuvring room that is needed for the settlement. On this occasion, Tiraspol reminded to Joe Biden about the bad role the US position has played in the region in November 2003, when the Kozak memorandum was rejected.

## **Conditioning the settlement of strategic problems by Transnistrian conflict settlement**

Russian foreign minister, Sergei Lavrov, declared on January 14, 2011 that Russia is willing to take all appropriate measures in settling the Transnistrian conflict. Russia's point of view is that the "5+2" official negotiations should be resumed first. But, minister Lavrov disagrees with the opinion of some members of the EU that Transnistria would be a test of honesty for Russia, which by helping to settle the Transnistrian problem would demonstrate that it is interested in European security. In this context, the Russian foreign minister tried to change the angle on the Transnistrian conflict settlement – "not the Transnistrian settlement problem should be the test of Russia's interest in the European security, but the creation of a common NATO-Russia anti-missile shield. If to speak about the European security test, I am convinced that creating a common missile shield is the real and more important test for the sincerity of statements that security is indivisible." The views expressed highlight the differences in approach. The EU stands out for the settlement of a regional conflict totally dependent on Russia's will as a test of sincerity, and then to embark upon creation of a common defence structure. Russia insists on an opposite approach – creation of a common missile shield with NATO, and then to decide how the things could be changed and if they should be changed ever.

In the same vein, on January 28, 2011, Ukrainian foreign minister, Konstantin Grishchenko declared that peaceful settlement of Transnistrian problem corresponds to his country's national interests. This position is clear, firm and balanced. The conflict shall be resolved respecting the territorial integrity and sovereignty of the Republic of Moldova and Transnistria will have to get a special legal status within the Republic of Moldova. Statement of the Ukrainian foreign minister was made after the special representatives of Russia and Ukraine in Transnistrian conflict settlement, Sergey Gubarev and Igor Harchenko, accompanied by Transnistrian leader Igor Smirnov, visited weapon depot in Colbasna, situated on left Nistru bank. During the visit, Igor Smirnov stressed that deployment of munitions on Transnistrian territory is a guarantee against Moldova's aggression, because the "attitude of Chisinau towards Transnistrian citizens, who never lived in Moldova and have no plans to do so, did not improve".

## **Intransigent position of Transnistrian administration**

On March 28, 2011 the Minister of Foreign Affairs and European Integration of Moldova, Iurie Leanca, had a meeting in Moscow with Russian Foreign Minister, Sergey Lavrov. During the meeting, Sergey Lavrov reiterated that Russia stands for solving the Transnistrian problem by providing a special status to this region, the resumption of official negotiations in the "5+2" format, reformatting the peacekeeping operation in the region, evacuation and destruction of expired Russian ammunition. According to Sergey Lavrov, it has to be thought on possible ways to adapt a possible international presence to the tasks to be derived from specific settlement plans, because they will provide for more complex tasks and not only for maintaining peace between the parties in this region. On the other hand, Transnistrian leader Igor Smirnov said that Russia's position remains unchanged and "is based on the Declaration of 18 March 2009 made by Presidents Dmitry Medvedev, Vladimir Voronin and Igor Smirnov." According to Smirnov, none of the more than 80 documents signed during the Transnistrian settlement process does contain references to the settlement of the problem based on territorial integrity of Moldova.

In the same vein, the head of Tiraspol diplomacy, Vladimir Yastrebnik, mentioned that:

- Transnistrian administration does not refuse the negotiations in the "5+2" or other format, but their resumption should be preceded by preliminary meticulous preparation.
- The "5+2" format provides an important framework for maintaining the interaction between the political representatives of the parties in conflict, of the guarantor countries and mediators;
- It is important that the re-launched negotiations will take into account the previous agreements reached by leaders of Russia, Transnistria, Moldova and Ukraine;
- The attempts to predetermine the model of conflict resolution before the two sides reach common ground in this regard undermines the principle of equal parties;
- The position of Transnistria is unequivocal - independence from Moldova, the position that was confirmed by the referendum in September 2006;
- As regards the transformation of the peacekeeping operation, the order of events must be different - first the final settlement and only then the modification of operation. The evacuation of Russian ammunition from depot in Colbasna must be carried out within the context of the settlement.



## **Section 2. Monitoring the ACTION PLAN on the implementation of recommendations of the European Commission on establishing a Deep and Comprehensive Free Trade Area between the Republic of Moldova and the European Union**

### **Area 1. General coordination and strengthening of administrative skills**

#### **Analysis of current situation**

Normally, efficient general coordination and strengthening of administrative skills are key preconditions to efficiently implement a complex and comprehensive plan aimed to prepare Moldova for negotiations on DCFTA. Previous experience of such documents revealed that the lack of a clear leadership, inter-institutional rivalries and communication-related deficiencies between institutional players were essential obstacles on way of some actions which required horizontal, inter-institutional efforts.

At the same time, the Action Plan on fulfilment of the EU Recommendations addresses many technical aspects which should be elucidated before and during negotiations. These aspects concern both public institutions in charge with the implementation, and touch vital interests of Moldovan businesses and population. Therefore, Moldova shall train negotiation teams in the due time and inform and prepare them for a long negotiation process. In this respect, the implementation of actions stipulated by Area 1 is a basement on which all preparations for negotiating the DCFTA and proper talks shall be built.

The key institution in charge with implementing the Action Plan is the Ministry of Economy (ME) which along with the Ministry of Foreign Affairs and European Integration (MFAEI) is a general coordinator of this process. At the same time, Ministry of Economy (ME) is in charge with monitoring and reporting progress in implementing the Plan. The role of other public institutions and private and associative sector has an advisory and participatory nature. On the other hand, the key result of actions in this area is to strengthen the administrative and institutional skills of the Government needed to formulate clear positions and priorities in the light of future negotiations, to communicate at a horizontal level (not only at level of more “advanced” ministries such as ME and MFAEI) with European interlocutors and to negotiate the formulated stances efficiently, to involve the private and associative sector in this process by getting qualified contributions and support to the expressed positions. In this regard, a formalist approach of these actions would reduce the capacity of negotiators to promote the interests of the Republic of Moldova and institutions in charge with honouring the assumed commitments, as well as would carry off the private and associative sector and reduce public support for building a free trade area with EU.

#### **Monitoring of specific actions**

The Government implemented the following actions in the 1<sup>st</sup> quarter of 2011 (for more details, see the monitoring table 1):

- It was proposed to amend the February 9, 2009 GD No 102 “Concerning the approval of members of the national negotiation delegation for the Agreement between the Republic of Moldova and the European Union”. Although this step should be done in February 2011, this

amendment was not yet approved in the mid-April 2011. GD No 149 of March 14, 2011 updated the nominal composition of the governmental commission for the European integration of the Republic of Moldova, but this action was taken in response to the modified names of some ministries, as well as because the state minister, member of the commission, has become secretary-general of the Government.

- MEC set up the DCFTA Task Force which includes four technical working subgroups to deal with: market access and customs management, trade measures and barriers, financial services and competitive environment, consultations with the private and nongovernmental sector. Consultations with the private and governmental sector are designated as a distinct group, not as an efficient participation of the sector in working groups which will discuss essential technical elements. It is hard to understand the functioning of this arrangement, but the main risk is evident: the public could receive partial information about discussed details.
- A report assessing the needs to train the staff involved in the DCFTA-related negotiations was worked out. No training seminars were organised so far.
- The Government is actively participating in debates on strategic aspects of DCFTA organised by development partners and nongovernmental organisations.

**Monitoring table 1. Progress in implementing actions in the area “General coordination and strengthening of administrative skills” planned for the 1<sup>st</sup> quarter of 2011.**

<b>Planned action</b>	<b>Progress/Comments</b>
<b>Updating of the mandate and tasks of the governmental commission for European integration (Government Decision No 679 of November 13, 2009) and the national negotiation delegation for the new Agreement between the Republic of Moldova and the European Union (Government Decision No 102 of February 9, 2009)</b>	Updating of the mandate and tasks of the governmental commission for European integration (Government Decision No 679 of November 13, 2009) and the national negotiation delegation for the new Agreement between the Republic of Moldova and the European Union (Government Decision No 102 of February 9, 2009)
<b>The drafting of a governmental decision to approve the structure and members of the negotiation team for DCFTA, as well as its functioning regulation</b>	The drafting of a governmental decision to approve the structure and members of the negotiation team for DCFTA, as well as its functioning regulation
<b>The establishing of a Task Force in charge with the technical coordination of negotiations on DCFTA</b>	<b>The establishing of a Task Force in charge with the technical coordination of negotiations on DCFTA</b>
<b>Evaluation and identification of the needs to train staff participating in negotiations on DCFTA</b>	Evaluation and identification of the needs to train staff participating in negotiations on DCFTA
<b>The use of tools provided by EU and other donors to organise training seminars on relevant DCFTA-related issues</b>	The use of tools provided by EU and other donors to organise training seminars on relevant DCFTA-related issues
<b>Conduct of training seminars on DCFTA for institutions involved, private sector and civil society</b>	Conduct of training seminars on DCFTA for institutions involved, private sector and civil society
<b>Engagement and cooperation with EU high-ranking experts for practical consultations aimed to find and establish priorities for next 2-3 years</b>	Engagement and cooperation with EU high-ranking experts for practical consultations aimed to find and establish priorities for next 2-3 years
<b>Inclusion of DCFTA into the EU Programme on Strengthening the Institutional</b>	Inclusion of DCFTA into the EU Programme on Strengthening the Institutional Capacities with

<b>Capacities with the purpose to ensure conciliation and support to reform-related activities</b>	the purpose to ensure conciliation and support to reform-related activities
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## Assessment of progress

A moderate progress but also delays are generally observed in the process of implementation of the actions envisaged by Area 1. The actions are now at an “initial” stage which does not involve much effort or resistance/inertia of sectoral institutions. Making progress could become harder once the project will advance forward technical and implementation aspects, learning of knowledge transfer, not only adoption of formal decisions.

## Recommendations for Moldovan Government

By all account, “the Devil is in the details”, so now the key goal is to identify the “areas” of risk and the institutional resistance, articulate interest in the sectors to be covered by DCFTA, formulate offensive and defensive interests of Moldova in these fields, estimate costs of preparations for negotiation/make-ready to join DCFTA and find funds, and the last but not the least, communicate these issues to the private and associative sector. The Government is likely interested to speed up the start of negotiations aimed to conclude the Free Trade Agreement. However, the Government should do its homework – indicated above – before reaching this stage.

## Area 2. Access of goods to market / Trade statistics

### Analysis of current situation

Statistics on foreign trade are very important both during negotiations on DCFTA and after the opening of the free trade area. First, ample and credible statistics on trade inflows help estimate the costs and advantages of a free trade agreement, both for Moldova and for EU. As well, a clear statistical system of foreign trade which covers all territorial information on products would help a regular monitoring of trade exchanges, would forecast them and prevent mistakes and frauds in statistical reporting. Even if it was not involved in a European integration process, Moldova shall build a commercial statistical system correlated with international and European standards.

Now statistics on foreign merchandise trade in Moldova are based on recommendations by the UN Statistical Commission,<sup>12</sup> EUROSTAT<sup>13</sup> legislation concerning the international merchandise trade with third countries and the Regulation of the European Commission.<sup>14</sup>

The serious fault of Moldova’s foreign trade statistics is that the data collected by the Customs Service and published by NBS do not cover all Moldova, with districts from the left bank of the Dniester being excluded. This happens because not all trade exchanges between Transnistria-based enterprises and foreign partners are registered with the Customs Service, with the Transnistrian authorities opposing this procedure. There were many attempts to include Transnistria-based enterprises into the national statistical system, last time in 2008 when the EU granted the Autonomous Trade Preferences (ATP) to Moldova. Thus, Transnistrian businesses could also enjoy the autonomous preferences if they got registered with the State Certification Chamber and

<sup>12</sup> International Merchandise Trade Statistics – Concepts and Definitions, Series M No. 52, Rev. 2

<sup>13</sup> Regulation of the Council (EC) No. 1172/95 – EXTRASTAT

<sup>14</sup> Regulation of the Commission (EC) No. 1917/2000 concerning the enforcement of the Council (EC) Regulation No. 1172/95

reported their exports to EU. More than 600 economic agents were registered by the mid-2010 (about 70 percent of them got registered temporarily and another 30 percent permanently).

Transparency of all trade inflows is very important to join the free trade area. Thereby, improving the trade statistics inclusively by including all the country into the national statistical system, this being a task of the National Bureau of Statistics, Customs Service, Integration Office and Ministry of Economy, is a priority area of the Action Plan.

### Monitoring of specific actions

Actions in this area are expected to be taken at the beginning of the implementation term for the Action Plan, as other rounds at before-negotiation and negotiation stage depend on quality and availability of statistics. According to an official report by ME, following actions were implemented or initiated in the 1<sup>st</sup> quarter:

- With the purpose to prepare a real tariff offer, possibilities to set up a joint task force for cooperation between central authorities of Moldova and local administration of the Transnistrian region in the area of statistics are being considered, so that to cover the trade statistics, work out a concept on collection of trade statistics nationwide. The unclear formulation advantages Moldovan negotiators, as “considering possibilities to set up” does not mean to establish it, and this action is hard to accomplish as long as no political dialogue between the two banks of the Dniester is available.
- The Task Force for Economy and Commerce held a meeting on March 23, 2011, with the participation of Transnistrian representatives, and discussed the actions mentioned above, as well as other aspects of future negotiations on DCFTA. Although no details about the March 23 meeting were reported, it seems that Moldovan authorities are satisfied with the event.
- Under the Memorandum of Understanding, the National Bureau of Statistics reported to the Eurostat some statistical files on exports and imports for 2008-2010 of Moldova (Transnistria not included), detailed at level of 8 digits of the Merchandise Nomenclature, which was adjusted to the Joint Nomenclature of EU.

**Monitoring table 2. Progress in implementing actions in the area of “Access of goods to market / trade statistics” planned for the 1<sup>st</sup> quarter of 2011.**

Planned action	Progress/Comments
<b>Elaboration and coordination with the European Commission of a general concept concerning the collection of statistics in all statistical fields (including foreign trade statistics) in all territory of Moldova</b>	Is being fulfilled. Possibility of setting up a working group and a statistics collection concept is being considered. Transnistrian authorities also participated in the March meeting of the Task Force for Economy and Commerce, which discussed some of these aspects.
<b>Examination of possibilities to set up a working group for cooperation in the area of statistics (including foreign trade statistics) between the two banks of the Dniester</b>	
<b>3. Harmonisation of legislation in the area of statistics (including foreign trade statistics) with the community acquis</b>	The action is expected to be implemented starting 2011 and throughout negotiation and implementation of DCFTA. No progress was observed in the 1 <sup>st</sup> quarter.
<b>4. In line with the bilateral memorandum of understanding with EUROSTAT, the National</b>	Is underway. Statistics for 2008-2010 have been reported. Accounts for the 1 <sup>st</sup> quarter

**Bureau of Statistics will provide every quarter statistics on Moldova's exports and imports, detailed accordingly to eight digits of the Moldovan Merchandise Nomenclature, harmonised with the Joint Nomenclature of EU. The statistical files will not cover the export and import deals by Transnistria-based enterprises and organisations.**

will be provided after an appropriate processing.

### Assessment of progress

A moderate progress was observed in the area of trade statistics in the 1<sup>st</sup> quarter. However, the process should accelerate, given the importance of statistics and integration of the Transnistrian side into the national foreign trade statistical system.

### Recommendations for Moldovan Government

Actions aimed to collect statistics in all territory of Moldova are at an initial stage of implementation. Following is further important:

- To speed up the examination process and to initiate the harmonisation of legislation on statistics to the community acquis;
- To publish foreign trade data on countries and products accordingly to 8 digits, so that to make them available to population;
- To consider solutions aimed at motivating Transnistrian companies to join the national statistical system and co-interest the Transnistrian authorities to report to the Customs Service of Moldova and the National Bureau of Statistics;
- To boost cooperation between NBS and the Customs Service and to release existing data on foreign trade of Transnistria (on businesses registered with the State Certification Chamber).

## Area 3. Tariff and non-tariff barriers (NTBs)

### Analysis of current situation

Moldova enjoys a liberal trade regime at regional level, with a simple average customs tariff of 5.2 percent. But most important problems which sometimes turn into litigations to be settled within WTO are also related to non-tariff barriers (NTBs). Thus, though Moldova is a WTO member since 2001, the normative framework on NTBs does not correspond to commitments assumed by our country in front of this organisation. On the other hand, if Moldova imposes such barriers to commercial partners, the latter are free to apply similar actions. Even more, in order to be able to negotiate the DCFTA, Moldova must adjust its regulatory tariff and non-tariff framework to commitments towards WTO and then negotiate elements of the new agreement. At the same time, the sanitary and phytosanitary (SPS) standards, an aspect that Moldova stays behind since the implementation of the EU-Moldova Action Plan (2005-2008), are an important issue addressed by this area (along with Area 5). The group of players is complex. The imperative and crucial nature of these reforms is evident at political level. On the other hand, the implementation of reforms in this field requires both political willingness at strategic level, and avoidance of group interests and inertia at level of institutions concerned, as well as major financial investments by public authorities, financial institutions and private companies. Hence, apparently good laws will be undermined by "sectoral" regulations adopted by some institutions concerned, harmonised standards will not be respected because of the unclear competences of authorised institutions; the

lack of laboratories to attest the conformity of products, and the absence of SPS checkpoints will bar the trade of agro-food products etc.

### Monitoring of specific actions

The Moldovan Government took the following actions in the 1<sup>st</sup> quarter of 2011:

- A research on tariff and non-tariff barriers to trade which unfit the commitments on market access towards WTO was completed in April. The process involves a wider participation of the private and associative sector. The research was planned to be finished in the 1<sup>st</sup> quarter of 2011.

The capacity and the progress made by Moldovan producers in using ATP were evaluated. The incapacity to respect the European sanitary and phytosanitary standards is a major problem so far. The preferences (except for sugar export which was seriously hit by bad weather in 2009 and conjuncture on European market) were no used by sectors in which the standards are crucial. Both findings of assessments and the extended ATP by EU were mediated enough, including the difficult situation in terms of respect for SPS.

### Monitoring table 3. Progress in implementing actions in the area “Tariff and non-tariff barriers” planned for the 1<sup>st</sup> quarter of 2011.

Action	Progress/comments
<b>Assessment of the tariff and non-tariff barriers to trade, in accordance with WTO commitments on market access</b>	Completed in April. The working group with representatives of the private and associative sector helped drafting the research.
<b>Assessment of the current situation in terms of use of the Autonomous Trade Preferences (ATP) and information of public and private sector why the access of some products to EU market is limited</b>	Is being developed. Will be implemented until the end of the current ATP term (2015).
<b>Information of the private sector in connection with the extension of ATP for a 3-year term (2013-2015)</b>	Is being developed. Will be implemented until the end of the current ATP term (2015).

### Assessment of progress

A moderate progress in implementing the planned actions is generally expected. At the same time, essential efforts to accomplish actions in this field fall under incidence of Areas 4 and 5. Respectively, most difficult practical aspects shall be implemented within these chapters.

### Recommendations for Moldovan Government

Some transversal issues indicated by the analysis of this area may be observed and could be approached through targeted actions:

- The regulatory framework encourages bureaucratic interests in diverse state services and agencies. Thus, complex and unclear laws allow bureaucratic interests to undermine their declared goals and interpret them to meet their „rent-seeking” interests. Therefore, we need a simpler and clearer legislation, as once “guillotined”, this area should not become subject of new administrative reforms the next five years.
- Standards will function just on paper as long as a clear framework and technical capacities needed to ensure respect and check them are unavailable. Therefore, authorities should focus on ensuring capacities to respect standards, rather than on formally adopting them. In

this respect, a „screening” is needed to identify subsectors in which the need of European standards is critical for competitiveness of Moldovan products on EU market and would reveal (technical, financial and human resources) needs to implement these standards effectively.

## **Area 4. Technical barriers to trade (TBT)**

### **Analysis of current situation**

In the context of building the Deep and Comprehensive Free Trade Area between Moldova and EU, it is hard to underrate the importance of removing technical barriers on way of trade. Like tariff barriers, technical barriers have a restrictive impact. However, the impact of TBT is due to dearer production costs related to quality requirements on products, mandatory certification, hallmark or specific technical documentation norms. It is worth mentioning that a certain technical regulation level is unavoidable, as first of all it aims to protect consumers.

The set of Moldova’s objectives in the TBT area stipulated by the Action Plan on fulfilment of the European Commission’s Recommendations is one of most difficult. The much complexity will obstruct an autonomous implementation of these requirements because Moldova is short of qualified staff in the area. Even more, some measures required by the EC Recommendations demand a serious financial effort that the state budget cannot afford. Therefore, the only way to remove the TBT is to seek financial assistance and expertise from EU member states. In order to establish the volume of work needed to be done in the standardisation field only, it is enough to note that Moldova has adopted just 2,500 out of about 20,000 standards until now.

Going back to the Action Plan, it is worth noting that some goals set in this area are being fulfilled since early 2010. However, institutions in charge with reaching the objectives failed to provide a synergic cooperation mechanism needed to delimit the tasks of every side. In consequence, many planned tasks have not been completed.

### **Monitoring of specific actions**

A key objective that the Government should accomplish in the 1<sup>st</sup> quarter of 2011 was to select pilot laboratories as organisers of proficiency tests and inter-laboratory comparison at national level, and to endow them in accordance with ISO/CEI 17043. Fulfilling this goal rests with the Centre of Accreditation in the Field of Products Conformity (CAECP). With the purpose to implement the proposed plan, CAECP representatives worked out in March 2010 a programme on training of 35 Moldovan certified laboratories. A preventive spending analysis revealed that the training of all laboratories would be too expensive and could not be fully covered by available funds. In order to optimise the spending, CAECP issued a list of modern laboratories to receive equipment and to be trained by EU member partners. According to the CAECP project, laboratories trained within this pilot project will further teach and deliver equipment to unselected laboratories certified in Moldova. However, the CAECP scheme is at a level of project so far. Precisely, though the list of laboratories proposed by CAECP was worked out and tabled to the Government in March 2010, competent authorities such as the Ministry of Agriculture and Food Industry and the Ministry of Construction and Regional Development did not approve it. We failed to identify ministerial functionaries in charge with approving the list concerned. Representatives of the Ministry of Agriculture said that several laboratories in Moldova have already implemented the ISO/CEI 17043

standard, including the Laboratory of the Republican Veterinary Diagnostic Centre and the Spirits Control Centre. In other terms, Moldova has experts to assist the implementation of the ISO/CEI 17043 standard by other laboratories. It is worth mentioning that CAECP has a departing point to start training other laboratories which do not correspond to this standard. The fact that opportunities were not seized until now indicates first of all the lack of efficient cooperation between public institutions.

Although the ISO/CEI 17043 standard must be implemented for the recognition of national laboratories by EU, this is not the only goal. The accordance of national criteria for accreditation of certification organs and testing laboratories with those from EU is one of key and complex conditions raised by EC. The national accreditation institution plays a major role in this respect. The accreditation procedure was carried out by the Department for Standardisation and Metrology in 1993-2003. In 2003 this function was taken over by CAECP, nominated as the National Accreditation Body (ONA). A step forward according the criteria was made in 2005, when ONA signed an agreement with the European Cooperation for Accreditation. According to the Progress Report for the 1<sup>st</sup> quarter of 2011 compiled by the Ministry of Economy, the ONA is applying the related general criteria and regulations established by European organisations. Even more, according to the Progress Report, the criteria for accreditation of certification bodies and testing laboratories set by European organisations were adopted at national level. However, despite achievements indicated by the Progress Report, EU member states did not recognise so far the accredited conformity assessment laboratories operating in Moldova.

Another essential purpose is to synchronise the legislation on conformity accreditation and assessment. In this respect, the draft law on conformity accreditation and assessment was worked out in 2010 to set up regulatory requirements in line with Regulation (EC) No 765/2008 of the European Parliament and of the Council of July 9, 2008. The draft law stipulates the unilateral recognition of conformity certificates and testing reports issued by certification bodies and testing laboratories accredited by international organisations (signing of the Agreement on Multilateral Recognition with the European Cooperation for Accreditation). The approval of this document in the Parliament drags on for almost one year for hard-to-understand reasons.

Another technical barrier is the limited traceability of animal products and the lack of measurement standards. According to a former minister of agriculture and food industry, the state-run enterprise in charge with the identification and traceability of animals can now identify just 35 percent of animals, which traceability can be supervised to slaughter-houses.<sup>15</sup> This low share is explained first of all by the shortage of funds. According to estimates by the Ministry of Agriculture and Food Industry, the identification of all animals in good time requires 12 million lei in 2011 (half of animals of farms and households), 19 million lei in 2012 (75 percent of animals) and more than 25 million lei in 2013 (all animals). Even more, the traceability cannot be fully conducted without modernising the information system, works estimated at around 4 million Euros. According to most optimistic estimates, a traceability mechanism which would correspond to EU requirements could be implemented after 2-3 years, if necessary funds will be available.

Although the vegetal production traceability algorithm is easier, it functions more in words than in actions. Unlike animal traceability, the vegetal production traceability is fully funded and ensured by producers. The Government pledged just to build a legislative framework, leaving the

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<sup>15</sup> Interview published on <http://www.amn.md/stiri--727-0.html>.



implementation of measures on producers' shoulders. Wineries are now most interested in implementing the traceability, as they want to join the EU market and the traceability is a precondition for this purpose. Perhaps this is the reason why wine enterprises were readier to implement the traceability than other sectors.

The elaboration of a plan to develop measurement standards and a metrology system compatible with the European one, including the description and implementation of traceability, is an action aimed to meet the EU recommendations. As for the measurement standards and metrology system, representatives of the Ministry of Economy told us during an interview that they have been synchronised with international standards and they are being adjusted to EU requirements.

### Monitoring of specific actions

According to situation for the 1<sup>st</sup> quarter, the implementation of the following actions by Government shall be mentioned:

- CDACP tabled the list of laboratories selected to participate in the pilot project. Although the list was issued in March 2010, the Government did not approve it until now.
- According to the progress report tabled by the Ministry of Economy, the draft law on conformity accreditation and assessment is being examined by Moldovan Parliament and it was already considered by three parliamentary commissions. The draft law on accreditation operations is expected to be approved in the 2<sup>nd</sup> quarter of 2011, though the Action Plan stipulated the approval for the 1<sup>st</sup> quarter.
- The Moldovan Government worked out a communication on accreditation of certification bodies. The communication is to be delivered to the European Commission.
- The Ministry of Economy and the National Institute of Standardisation and Metrology worked out the basic National Programme on Standards for 2011-2015 in the 1<sup>st</sup> quarter of 2011. According to the progress report, the draft may be tabled to the European Commission upon demand.
- The Ministry of Economy issued Internal Order No 4 of 20.01.2011, which stipulates the establishing of a Task Force to harmonise the National Metrology System with European and international requirements. Precisely, the Task Force will work out a programme on transposing the European Directive in the national legislation in the area and a programme on considering the regulatory framework on metrology.

**Monitoring table 4. Progress in implementing actions in the area "Technical barriers to trade" planned for the 1<sup>st</sup> quarter of 2011.**

Action	Progress/Comments
<b>Selection of testing laboratories as organisers of proficiency testing (PT) and inter-laboratory comparison (ILC) at national level, accordingly to recommendations by the National Accreditation Body, and their training in line with ISO/CEI 17043.</b>	Partly fulfilled. The Government shall approve the list of laboratories selected by CDACP, in order to give green light to the action plan.
<b>Promotion to the Parliament of the draft law concerning the conformity accreditation and assessment operations (approved under Government Decision No 685 of August 2,</b>	Partly fulfilled with delay. The law was considered by three parliamentary commissions and is to be approved by the end of the 2 <sup>nd</sup> quarter.

<b>2010 and delivered to the Parliament to examine it).</b>	
<b>Elaboration and reporting of the Moldovan Government's position regarding accreditation of certification bodies to the European Commission.</b>	Although the Government's position was formulated, it is unclear so far whether it was reported to the European Commission or not.
<b>Working out of a research on the current metrology system and institutional capacity to enforce the legislation in the area, and capacity to implement modifications within DCFTA, inclusively by describing the way of introducing and applying the traceability.</b>	Unaccomplished. According to the metrology directorate of the Ministry of Economy, this goal is irrelevant because the legislation on metrology was drafted in 1995 and amended in 2007. A ministerial representative said that the traceability is implemented in Moldova and describing the way of introducing it is useless.
<b>Elaboration of a plan on developing measurement standards and a metrology system compatible with the European one, including description and implementation of traceability.</b>	Fulfilled. According to the Progress Report, the plan can be delivered to EC if demanded.

### Assessment of progress

In brief, the Government achieved moderate progress in the TBT area. The shortage of funds jeopardises some goals (for example, the traceability). Other objectives were omitted because of the lack of efficient cooperation between ministerial institutions (the pilot programme envisaged by CDACP). The current round is rather a planning, which means that the working pace is being tested. While very limited resources are available for implementing the measures, an optimal and realistic plan is essential to clearly delimit the tasks of each institution.

### Recommendations for Moldovan Government

The following is recommended to boost performance of institutions involved in reaching the TBT-related goals:

- If more institutions are in charge with reaching a goal, each of them shall nominate a functionary to deal with cooperation, communication and synchronisation of taken actions.
- The plan on implementation of ISO/CEI 17043 in laboratories accredited in Moldova shall be adjusted. In other terms, the participation of laboratories which already introduced the
- ISO/CEI 17043 standard in the training process is recommended.
- The implementation of traceability is a goal requiring much effort from the Ministry of Agriculture and Food Industry and economic agents. Since Moldova has a legislative framework in this respect, authorities shall mobilise the financial and administrative means needed for the effective introduction of the mechanism. In this respect, the research on necessary resources and schedules to develop the process shall be published.
- Although Moldova reports the existence of such a plan, it was not published on official websites of institutions in charge with this goal.<sup>16</sup>

<sup>16</sup> Ministry of Economy, National Institute of Standardisation and Metrology.

## Area 5. Sanitary and Phytosanitary (SPS) Measures

### Analysis of current situation

Adjustment of sanitary and phytosanitary (SPS) measures to EC requirements is another very complicated area of the Action Plan on fulfilment of the EU Recommendations. (This is probably the reason why many actions are planned for later). The objectives established in this area are congruent with the TBT-related goals. Adjustment of performance parameters in this area is a premise for accession of Moldovan production to European markets.

Three institutions are now in charge with the SPS measures in Moldova: the Ministry of Health, the Ministry of Agriculture and Food Industry and the General Inspection on Phytosanitary Supervision and Seed Control, with the latter dealing as well with the certification of important food products for export. The National Institute of Standardisation and Metrology is in charge with supervising all standards in Moldova, including food-related. The national legislation explains the tasks of each institution and the penalties applied against economic agents for violation of SPS standards.

Nevertheless, recent SPS researches signal high administrative costs and inefficiency of state institutions involved in food security. In a move to meet the EU recommendations, institutions<sup>17</sup> helping reaching the set of goals worked out an in-depth food security strategy which includes an operational programme and fulfilment terms. The Progress Report notes that the strategy concerned seeks the reorganisation of the institutional structure. Unfortunately, this strategy is unavailable on official websites of competent institutions. Therefore, there are all premises to affirm that such a strategy does not exist or, in the best of cases, is being worked out.

The most important progress in reaching the goals set for the 1<sup>st</sup> quarter of 2011 was made by the Ministry of Agriculture and Food Industry, which transposed in national legislation the following EC regulations:

- Regulation (EC) 852/2004 was transposed in GD No 412 of 25.05.2010;
- Regulation (EC) 853/2004 was transposed in GD No 435 of 28.05.2010;
- Regulation (EC) 854/2004 was transposed in GD No 1112 of 16.12.2010;
- Regulation (EC) 882/2004 is being harmonised and will be transposed.

### Monitoring of specific actions

The Government implemented the following actions in the 1<sup>st</sup> quarter of 2011:

- The 2011 plan on harmonisation of the SPS legislation and the food security strategy were worked out. The plan was not introduced so far.
- The Ministry of Agriculture and Food Industry worked out secondary regulations and guidelines on honey exports to EU and is working on necessary legislation and directory regulations on eggs, milk and fish.
- The Ministry of Agriculture and Food Industry implemented some EC regulations on hygiene.
- An institutional restructuring plan was worked out to facilitate the reaching of the goals set by the Action Plan.

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<sup>17</sup> Ministry of Agriculture and Food Industry, Sanitary-Veterinary Agency for the Security of Products of Animal Origin, General Inspection on Phytosanitary Supervision and Seed Control, Centre for Harmonisation of Legislation.

**Monitoring table 5. Progress in implementing actions in the area “Sanitary and phytosanitary measures” planned for the 1<sup>st</sup> quarter of 2011.**

Action	Progress/Comments
<b>Analysis of the effective SPS legislation before starting with NALA and revision of institutional capacity.</b>	Formally accomplished. Nevertheless, a real progress in this area is not observed, as the report by the Ministry of Economy indicates strategies and policies which were not published and cannot be assessed.

### Assessment of progress

If actions indicated by the Progress Report are real, the SPS goals set for the 1<sup>st</sup> quarter of 2011 were accomplished. However, it is hard to observe a real progress in this area, as the report by the Ministry of Economy indicates strategies and policies which were not released and, therefore, cannot be evaluated.

Nevertheless, the adoption of some EC regulations is good news at this stage. These achievements are particularly due to efforts made by the Ministry of Agriculture and Food Industry in 2010.

### Recommendations for Moldovan Government

Following steps are recommended to improve performances in this area:

- Publication of all strategic policies drafted by institutions in charge with reaching the goals of the Action Plan. A distinct institution may be empowered to publish the drafted documents on its official website. These measures would ensure certain transparency and would allow third parties to assess strategic decisions.
- Monitored enforcement of legal stipulations transposed from EC Regulations. Transposing SPS regulations and requirements imposed by EC is just a first step forward a legislative framework. The operation of enterprises addressed by new legislative regulations shall be monitored in order to enforce the new stipulations.

## Area 6. Trade facilitation and customs management

### Analysis of current situation

This sector was the subject of many reforms addressed inclusively by EUMAP in 2005-2008. Despite these reforms, Moldovan companies regard this sector as very problematical. According to the „Enterprise Survey” worked out by the World Bank in 2010, more than one fourth of interviewed companies feels the customs and trade regulations as major restrictions for their functioning. Another report reveals that the customs sector holds the heaviest share of informal payments, both in eyes of businessmen and householders.<sup>18</sup>

Hence, the reformation of the Customs Service would serve as a reaction paper for Government’s capacity to respect the commitments in front of the European Commission. According to experience of countries which harmonised this sector with the European one, key reform aspects relate to streamlining (which would remove co-interested interpretations by groups of interests from the service concerned) the regulatory and legal framework, so that to reset the mentality of employees,

<sup>18</sup> Transparency International Moldova, Measuring corruption: from survey to survey, 2008.

to improve the control on the Customs Service, to optimise the management of human resources (employment, promotion, rewarding, etc.) employed with this service, and to ensure a transparent functioning. In addition, an essential aspect addressed by the Action Plan is ensuring control on the Transnistrian segment of the eastern border of Moldova – a sine qua non condition to build the free trade area.

The Customs Service (CS) and the Ministry of Finance which coordinates the CS are key players in taking the measures foreseen by the Action Plan. Other important stakeholders are: the Fiscal Inspection (tax collection), Border Guard Service, SIS, CCEC, MIA (all four institutions are in charge with combating smuggling, etc.). EUBAM (Transnistrian segment) is a relevant foreign player, but economic agents carrying out export-import operations also play an evident role.

### Monitoring of specific actions

Following progresses were observed in the 1<sup>st</sup> quarter:

- EUBAM recommendations were fulfilled by revising the legal framework on mobile teams and improving the data exchange with the Ukrainian Customs Service. On summer 2010 Moldova and Ukraine signed a protocol concerning the interaction between border-crossing stations at the Moldovan-Ukrainian state border and a joint anti-fraud action plan between the two customs authorities for 2010-2011.<sup>19</sup> The documents concerned regulate the cooperation of customs authorities to combat frauds, to work out and take joint actions aimed to identify border violations, and to exchange information with the view to combat customs frauds and to confirm data exchanges between customs services from both states.
- In order to improve the mechanism of signalling violations of conduct rules, the communication mechanism was strengthened through a hotline, and a trust line was set to advise the new Civic Board of the Customs Service. It is worth mentioning that according to perceptions by citizens, people's petitions to the Customs Service had the least chance to be settled in a positive way among a total of 15 monitored public institutions.<sup>20</sup> Thereby, progress assessments in this field will reveal how efficient the CS actions are.
- The rotation system for customs functionaries running sensitive functions is being improved. The Customs Service approved the regulation on key principles of the rotation process and categories of corruption-weak activities, and worked out the Performance Management Concept, which brings a new staff evaluation mechanism and a remuneration system based on individual performances.
- Although the European Commission demands progress reports, the Customs Service tabled just the general annual action report. Of course, this report is much broad and does not provide a well-structured picture of progresses.
- The Customs Service reports amendments to the fiscal and customs legislation of Moldova to the European Commission. To note that CS started reporting information in 2011, while decisions breaching commitments towards WTO and the trade facilitation imperative were made in 2010. An example in this regard is the order concerning the procedures of detaching the merchandise clearance to another checkpoint than the one registered with the economic agent. So far, some internal orders imposed to businesses are issued but not published for groundless reasons.

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<sup>19</sup> Customs Service, Annual Report, 2010.

<sup>20</sup>Transparency International Moldova, Petition system: monitoring and improvement, 2010.

**Monitoring table 6. Progress in implementing actions in the area “Trade facilitation and customs management” planned for the 1<sup>st</sup> quarter of 2011.**

<b>Action</b>	<b>Progress/comments</b>
<b>Fulfilment of EUBAM (EU Border Assistance Mission) recommendations</b>	Is being implemented, progress in functioning of mobile teams and data exchange with Ukrainian party. Activity extended on all duration of the Plan.
<b>Revision of the mechanism of signalling and examining violations of conduct norms</b>	Is being implemented. The regulation on functioning of the CS hotline was revised. The Civic Board was set up to advice CS and operates a trust line.
<b>Revision and improvement of the rotation system for CS personnel running sensitive functions</b>	Is being implemented. The performance management concept was drafted; a new regulation was worked out to ensure the rotation of personnel running sensible functions.
<b>Presentation of progress reports by CS to the European Commission</b>	Partly implemented. The Action Report for 2010 was presented.
<b>Periodical reporting of amendments to the fiscal and customs legislation of Moldova to the European Commission</b>	Is being implemented. However, previous inappropriate decisions are not reported or revised.

### Assessment of progress

Thereby, the progress in taking the measures foreseen by the Action Plan is moderately positive. A process rather than finality is observed.

### Recommendations for Moldovan Government

Following shall be done next to achieve concrete results<sup>21</sup>:

- To revise the conformity of regulations adopted by CS with commitments towards WTO and cancel those inappropriate;
- Simplifying requirements that businesses must meet to get licences for export/import deals (for example, the stipulation on guarantee deposit, etc.);
- Not the last, the Customs Code could be revised in terms of accordance with European standards and practices.

## Area 7. Rules of origin

### Analysis of current situation

The transfer of competences of certifying the origin of goods from the Chamber of Commerce and Industry of Moldova (CCI) to the Customs Service is an important reform implemented in this area in line with EUMAP. Following this reform, Moldova was granted some Autonomous Trade Preferences by EU. The current regulations used to certify the origin of goods fit the related European standards, but CCI would like to get back control on some competences from CS. We fear that reintroducing the CCI certification of origin of goods would be a serious regress.

New commitments assumed by Moldova in the area of rules of origin via the Action Plan seem to be very complicated and ambiguous: the **appropriate** participation of the Customs Service in certifying

<sup>21</sup> See also <http://www.conventia.md/recomand%C4%83ri-de-politici/>.

and checking the origin of goods from the Transnistrian region and the **regular** enforcement of the rules of origin nationwide. What do “appropriate” and “regular” mean? While assessing the readiness of Moldova to begin negotiations will the EU take into account the fact that the Transnistrian conflict bars a regular implementation? Will the EU make any concession to Moldova or will it condition the accession to DCFTA with a strong control on all territory?

The implementation term for the actions stipulated in the area “Rules of origin” is “permanent”. At practical level, “to certify and check the origin of products made in the Transnistrian region and to apply uniformly the rules of origin in all territory of the country” mean that the Customs Service enjoys a free and immediate access to the Transnistrian enclave to carry out necessary customs controls. Given the current status of political negotiations on the Transnistrian conflict and the limited number of tools available to official Moldovan authorities to certify and check the origin of goods made in the breakaway region, one could just guess the way the Customs Service would hold control.

### Monitoring of specific actions

The Customs Service reported the following actions accomplished in the 1<sup>st</sup> quarter of this year:

- The permanent execution of Government Decision No 816 from 2005 (revised in 2006 and 2008) and Government Decision No 1001 from 2001 (revised in 2002-2008), which particularly regulate the trade of commodities and services to and from the Transnistrian region and origin certificates for exports from the breakaway enclave. These certificates allow all temporarily or permanently registered Transnistria-based businesses to apply for preferential origin certificates for export to EU, if businesses provide enough information, documents and physical access to their headquarters. To mention that these conditions are in effect for all companies regardless of their location on the right or left bank of the Dniester.
- The Customs Service reported that it honoured all EU and EUBAM recommendations concerning the rules of origin, assuring that it got no recommendations in the 1<sup>st</sup> quarter of 2011. Nevertheless, the Customs Service had an interesting reaction to the way the media covered discussions on the topic “Moldovan-Ukrainian Border: EUBAM Purpose and Role” hosted by the Press Club of the EU Delegation to Moldova on March 29, 2011. Media outlets cited some bitter statements by Andrew Filmer, head of the institutional development directorate of EUBAM: he criticised the high corruption rate and the too bureaucratic customs procedures.<sup>22</sup> The Customs Service issued a press release to state that “the so-called criticism brought by EUBAM against the Customs Service is inaccurate and some recommendations made by our partners in connection with our activity were withdrawn from the context.” Further, “the Customs Service of the Republic of Moldova is fully aware of the need to reform and adjust its work to European practices in the area, and the support provided by EUBAM and other development partners for this purpose is essential. That’s why we keep expecting constructive suggestions and recommendations from EUBAM, which would accelerate the modernisation of our institution.”<sup>23</sup> However, it is hard to understand why anti-corruption recommendations are expected from EUBAM.
- Fifteen inspections/audit controls were organised in the 1<sup>st</sup> quarter of 2011 jointly with customs officers from post-customs audit divisions and divisions in charge with regulating

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<sup>22</sup> See the news „EUBAM likely to extend activity with 2-4 years”, <http://www.azi.md/ro/story/17456>.

<sup>23</sup> Press release by Customs Service, <http://customs.gov.md/index.php?id=2602>.

the origin certification process, with the purpose to check certificates of origin. But common operations such as customs inspections and controls are strangely reported as actions that helped meet the EU recommendations. The Customs Service conducts such inspections and controls regardless of the EU recommendations, in line with the national customs legislation. The essence of the EU recommendation is to build audit skills, which means a more complicated activity than some ordinary controls: an activity based on qualified human resources for auditing, a friendly attitude of customs officers towards audit companies and a clear regulatory framework to regulate the customs audit operations. No national legislative or regulatory document explains the customs audit and the body in charge with the customs audit in CS called Post-Clearance Audit Division of the Risk Analysis and Post-Clearance Audit Directorate needs more human resources.

**Monitoring table 7. Progress in implementing actions in the area “Rules of origin” planned for the 1<sup>st</sup> quarter of 2011.**

Action	Progress/comments
<b>Continuous enforcement of Government Decisions No 815 of August 2, 2005 and No 1001 of September 19, 2001 in all Moldova</b>	Is being developed.
<b>Ceaseless fulfilment of relevant EC and EUBAM recommendations on certification and control of origin of goods</b>	Hard to assess. The Customs Service says that last time it got recommendations was in 2010, while the Progress Report on the EUBAM activity in 2005-2010 contains such recommendations. <sup>24</sup> The report clearly reveals the priorities for the Customs Service to ensure an efficient customs control, strengthen capacities, prevent border crimes, manage customs incomes, anti-corruption measures, integrated border management, to help settling the Transnistrian conflict and improve public visibility.
<b>Reinforcement of the customs audit function needed to check the origin of goods</b>	No progress. Customs controls and inspections conducted in the 1 <sup>st</sup> quarter and reported as accomplishments are not elements capable to reinforce the customs audit function.

### Assessment of progress

A modest progress in implementing actions in Area 7 was observed in the 1<sup>st</sup> quarter. The Customs Service kept enforcing Government Decisions No 815 of August 2, 2005 and No 1001 of September 19, 2001, but due to EUBAM and EU pressings on Ukraine to cooperate with Moldova in checking trade inflows through the Transnistrian region. The end of EUBAM could harm Moldova’s capacities to enforce the Government Decision and the law concerned. The Customs Service claims that it did not get any recommendations from EUBAM in the latest period, while the last report on activity of this mission contains such recommendations. Reinforcing the customs audit function is a task assumed by the Customs Service, but it is late to honour it.

### Recommendations for Moldovan Government

- To raise the recently drafted Customs Code for public debates.

<sup>24</sup> Progress Report 2005-2010 „Main achievements in Border Management by Partner Services in Five years of EUBAM activity”, <http://www.eubam.org/files/AOSU%20Progress%20Report%20final.pdf>.



- To strengthen information collection and processing capacities as a premise to assess high customs risks for protection of personal data.
- To implement the electronic business solutions, Customs System proceedings at a wider scale, to simplify the customs procedures and to strengthen the customs audit capacities by using new control techniques, to improve the circulation of information and documents inside of CS, and to exchange information with other services.
- To keep developing the technical consolidation process and providing customs checkpoints with modern equipment.
- To increase communication with Transnistria-based businesses in order to tell them commercial opportunities provided by EU and encourage them to join the legal international trade ensured through clearance by Moldova's Customs Service.
- To resume the railway cargo transportation through the Transnistrian region.
- To resume the political negotiations and build confidence with the view to reduce administrative barriers which harden the trade between economic agents from both banks.

## **Area 8.1. Financial services**

### **Analysis of current situation**

The financial sector in Moldova is relatively developed compared with other economic areas of the country, but is behind financial sectors from most of countries in Central and Eastern Europe. The financial intermediation level in Moldova is very low, compared with other countries. In particular, this is the situation of non-bank financial services, with insurance services including pensions being the most problematical subsector because of bad condition and demographic perspectives. The financial sector is regulated by the National Bank of Moldova (for banking) and the National Commission of Financial Market (for non-banking). EU adopted the Financial Services Actions Plan (FSAP) for financial services sector, which stipulates a series of legislative actions aimed to develop a single service market. However, the fundamental challenge in the financial services sector is that besides EU standards, a series of international standards issued by IMF, the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors, the International Organisation of Securities Commissions, and others, shall be implemented in this sector. Just a gradual approach in implementing these standards is feasible for Moldova, given their complexity and major economic implications. However, a "gradual" introduction does not mean postponement for an indefinite term.

### **Monitoring of specific actions**

The Action Plan on fulfilment of the EU Recommendations stipulates some actions planned for all 2011 (such as those related to staff training) and few is scheduled for the 1<sup>st</sup> quarter. Official communications report the following actions as accomplished:

- The Parliament of Moldova adopted a draft law concerning amendments to the Contravention Code of Moldova, which empower the National Commission of Financial Market to consider contraventions committed by insurance companies;
- Members of the Financial Stability Commission signed on February 17, 2011 a Memorandum of Understanding on Maintenance of Financial Stability, which sets measures to combat causes of systemic financial crises;

- The National Commission of Financial Market worked out several draft laws on enforcement of the Development Strategy on non-banking financial sector for 2010-2013;
- A draft law was worked out to amend Law No. 1466-XIII of January 29, 1998 which regulates the repatriation of funds, commodities and services from foreign deals. According to amendments, the repatriation term for funds will be extended and penalties for inconformity will be lowered.

**Monitoring table 8.1. Progress in implementing actions in the subfield “Financial services” planned for the 1<sup>st</sup> quarter of 2011.**

<b>Action</b>	<b>Progress/comments</b>
<b>Training of employees of the National Bank of Moldova with participation of foreign experts</b>	Is being developed. A training course on implementation of the Financial Reporting Standards for NBM staff was organised on February 21-24, 2011.
<b>Organisation of seminars, roundtables for banking community and release of advisory reports to inform population in this respect</b>	Is being developed. A roundtable with commercial banks focussed on implementation of the International Financial Reporting Standards, prospects of applying prudential requirements in the framework of the Basel Agreement Commission concerning the Basel II capital and delivery of data to Credit Offices was organised on February 28, 2011.
<b>Enforcement of the 2009-2011 Development Strategy concerning the non-banking financial sector</b>	Is being developed.
<b>Elaboration of the draft law on amendment of the Contravention Code of the Republic of Moldova</b>	Is being developed.
<b>Drafting and approval of a memorandum of understanding to delimit the tasks of participating public authorities</b>	Is being developed.
<b>Elaboration and approval of internal procedures on tasks of competent institutions in the National Financial Stability Committee</b>	Is being developed.

### Assessment of progress

A pretty good progress was achieved in this area. Given the complexity of international and European standards to be adopted, as well as their major economic impact, the process in areas covered by the harmonisation policy decision shall be accelerated, and a deeper ex-ante assessment of the impact shall be made.

### Recommendations for Government and Parliament of Moldova

- Communication between NBM and commercial banks shall increase in the bank services sector, in order to discuss the transition to the Basel III Standards.
- The law on financial institutions shall be revised in a move to transpose all provisions of Directives 86/635 of December 8, 1986 concerning accountancy, financial reports, audit and inspections in financial institutions and Directive 89/117 of February 13, 1989 concerning bank branches.

- A joint working group shall be established to modify the regulatory framework with the view to consolidate the solvency of insurance companies and prepare the sector for the gradual enforcement of Directive 2009/138/EC.

## **Area 8.2. Setup right (right of commercial societies)**

Moldova has minor faults in this area. Foreign investors are not discriminated in comparison with domestic investors while building companies. The legislative clause which bans foreign companies to buy farm land is preserved by many EU member states, though it could be regarded as discrimination, being a very sensitive political and social issue.

The Action Plan on fulfilment of the EU Recommendations includes three recommendations of which Moldova has implemented two. An action reported by Government as accomplished is the efficient functioning of competent administrative bodies, including the operation of a central coordinating organ which facilitates the registration of businesses. Necessary information is automatically recorded when businesses and individual entrepreneurs are registered, and no additional intervention by applicant, social, medical, fiscal and statistical organs is required. The registration term was reduced from 15 days in 2006 down to 5 days in 2011 and even to 24 hours or 4 hours in case of emergency.

Removing discriminatory measures for foreign investments and enforcing the standstill clause, so that not to impose more restrictive business registration conditions but when an APC was signed, are the second action foreseen by the Action Plan on fulfilment of the EU Recommendation reported as already accomplished. This recommendation was fulfilled through effects of Law No 81-XIV of March 18, 2004 concerning investments in entrepreneurial activity, which sets the terms of registration, functioning and dissolution of foreign companies similar to those in effect for domestic businesses, and Government Decision No 815 of July 20, 2004 that modified the registration taxes for foreign enterprises.

Thereby, carrying out a complete screening of national legislation so that to identify barriers to business registration, in order to gradually remove them is the only relevant recommendation. The progress report by the Ministry of Economy says the following in connection with this recommendation:

- In order to facilitate the business registration procedure, the Ministry of Economy has plans to simplify it until the 4<sup>th</sup> quarter by introducing a single business registration tax to cover all related actions, and eliminating the applications for certification of debts towards budget. This action is scheduled for the 4<sup>th</sup> quarter of this year.

## **Area 8.3. Investment climate**

According to reports assessing the progress made by Moldova in the framework of the European Neighbourhood Policy, the European Commission has raised most of reserves in connection with the investment climate in Moldova. Despite this fact, the Action Plan on fulfilment of the EU Recommendations does not provide the least of elements in this area. At the same time, no action was planned for the 1<sup>st</sup> quarter of 2011. The implementation of the Action Plan will be assessed just in the 4<sup>th</sup> quarter of this year with the view to optimise the entrepreneurship. Other actions are stipulated by the Government Action Programme “European Integration: Freedom, Democracy,

Welfare for 2009-2013”, the economic redress and stabilisation programme of the Republic of Moldova for 2009-2011 and the national development strategy for 2008-2011, which monitoring exceeds much the volume and objectives of the quarterly publication „Euromonitor”. However, the most important decisions adopted or discussed in the 1<sup>st</sup> quarter of this year include: the proposal to shorten the list of facilities non-liable to privatisation and the decision on restructuring the Moldovan Export Promotion and Investment Attraction Organisation.

## Area 9. Intellectual Property Right

### Analysis of current situation

Great progress has been made in the area of the intellectual property right the last years. According to the final report of the project “Support for the implementation of Agreements between the Republic of Moldova and the European Union,”<sup>25</sup> which came to an end in March 2011, the Moldovan legislation on intellectual property is generally compatible with the EU one, but needs additional harmonisation. An important step was made in 2010, as the law on copyrights and related rights was drafted and approved, and entered into force in 2011. It set up the basis for adoption and enforcement of the secondary legislation in the sector, so that to further comply with the European legislation on copyrights.

Actions taken in the area in the period concerned fit the goals of the national development strategy on national system of protection and use of intellectual property objects until 2010, which aimed to promote coherent state policies on intellectual property compatible with the mechanism of EU and other states of the world. The National Commission for Intellectual Property<sup>26</sup> is expected to work out by 2011 a strategy on harmonisation of Moldovan legislation to EU regulations in terms of protection of intellectual property rights, in accordance with European and international norms, which shall ensure a permanent attention to intellectual property rights in the EU accession agenda of Moldova.

The importance of intellectual property rights rests both with providing optimal conditions for creation and protection of intellectual property, and with building a viable mechanism to combat violations of intellectual property rights and to prevent the importation, manufacturing and trading of counterfeit products. For this purpose, many players participate in actions related to the intellectual property sector: the AGEPI, key protector and developer of intellectual property in Moldova, the Customs Service, which is in charge with ensuring respect for the intellectual property right in Moldova by efficiently controlling the importation, exportation and illegal transit of inappropriate goods which violate the intellectual property rights, given the fact that the country is used as a transit route for goods made in Russia and Ukraine in particular.<sup>27</sup> The Ministry of Finance, the Health Ministry and the Centre for Harmonisation of Legislation are also in charge with some actions.

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<sup>25</sup> Support for the implementation of agreements between the Republic of Moldova and the European Union, Progress Report: 1 October - 31 December 2010

<sup>26</sup> Under a Government Decision of March 29, 2008, a National Commission for Intellectual Property was created to coordinate the activity of organisations interested to develop and protect the intellectual property rights. The commission started operating in June 2010.

<sup>27</sup> Legislation and policies on intellectual property: harmonisation of Moldovan legislation with EU standards, Support for the implementation of Moldova-EU Agreements, 2010

## Monitoring of specific actions

Following actions stipulated by the Action Plan were taken in the 1<sup>st</sup> quarter:

- An interparliamentary working group (AGEPI, Ministry of Agriculture and Food Industry, Health Ministry, Drug Agency, Centre for Legislative Harmonisation) is being created to coordinate actions aimed to assess the legislative framework of Moldova regarding protection and secret of data during record, testing or homologation of pharmaceutical, agro-chemical and phytosanitary products which contain new chemical components, and identify the laws to be amended. Competent authorities are identifying legislative documents which must be amended and will work out a plan on assessment of the effective regulatory framework in the area and identification of legislative and normative policies that must be amended.
- Following documents are being drafted:
  - Draft regulation concerning the collective management of copyrights and related rights;
  - Draft Regulation of the Mediation Commission advising AGEPI;
- AGEPI opened public consultations relating to the enforcement of regulations. Under the new law on copyrights and related rights, a law is being drafted to regulate the functioning of AGEPI.

**Monitoring table 9. Progress in implementing actions in the area “Intellectual property right” planned for the 1<sup>st</sup> quarter of 2011.**

Action	Progress/Comments
<b>Building and endowment of an information service as part of the State Agency for Intellectual Property (AGEPI) to ensure information exchanges between authorities in charge with protection of intellectual property rights and elaborations of reports, analytical and statistical researches in the area</b>	Action planned for 2011.
<b>Training and seminars for customs organs to improve actions aimed to protect the intellectual property at border</b>	Action planned for 2011.
<b>Assessment of Moldova’s legislative framework on protection and secret of data during record, testing or homologation of pharmaceutical, agro-chemical and phytosanitary products which contain new chemical components, and identification of the laws to be modified</b>	Action planned for 2011. Is underway. Normative policies needing amendments are being identified and an action plan on assessment of the effective regulatory framework is to be worked out.

## Assessment of progress

Many actions launched last year were being implemented in the 1<sup>st</sup> quarter of 2011, but a minor progress was observed.

## Recommendations for Moldovan Government

Following actions shall be implemented in the next place:

- To harmonise the legislation on invention licences, brands and customs legislation;

- To strengthen the Customs Service's capacities. This service is often criticised in connection with registered violations, especially at the border with Transnistria, as confidence in the area is very low.
- To strengthen capacities of the National Commission for Intellectual Property with the purpose to take over some tasks from AGEPI, especially those relating to enforcement of legislation.

## Area 10. Public procurements

### Analysis of current situation

The public procurements represent one of most problematic sectors in Moldova. Besides the direct limitative impact on trade inflows, corruption and non-transparency in this sector obstruct the deepening of economic integration between Moldova and EU. When public procurements take place within "arranged tenders", there is no honest competition between economic agents (and inefficient use of public funds).

The acting Agency for Public Procurements (AAP) was built on November 24, 2009 through division of the Agency for Material Reserves, Public Procurements and Humanitarian Aid. AAP initially had a limited 26-member staff and this number was increased up to 30 in 2010 "to reinforce capacities of the Agency for Public Procurements during execution of international commitments in the area, monitor and control public procurements including electronic acquisitions in an efficient and quality manner."<sup>28</sup>

The implementation of the electronic acquisitions system is being discussed since EUMAP, but just in April 2011 the APP was completed with a new structural unit called Directorate for Statistics and Electronic Procurements. "The harmonisation of legislation with European and WTO principles in the area of procurements" is another priority which migrates from an action plan to another, without any essential and clear progress: this priority is also part of the Action Plan of AAP for 2011. A system approach in adjusting the legislation is unavailable, while some legislative and normative policies are amended just ad-hoc. At the same time, AAP has little institutional capacities and this obstructed until now the drafting of the regulations needed to implement all stipulations of the law on public procurements adopted yet in 2007. Another serious fault is that a statistical system of public procurements was not set up until now, and thus the condition and performance of the procurement system do not provide a univocal and clear picture (to Government inclusively).

### Monitoring of specific actions

AAP reported the following actions as accomplished in the 1<sup>st</sup> quarter of 2011:

- AAP worked out the Action Plan on Development of Public Procurements (PADAP) for 2010-2013 and delivered it to the Ministry of Finance in order to examine it. To mention that the Action Plan on fulfilment of the EU Recommendations indicates the 1<sup>st</sup> quarter as deadline to approve PADAP. Such an ambitious deadline is hardly understandable, since PADAP is to be consulted with the European Commission. Even more, PADAP is expected to be the basis of an institutional reform, with the reform being expected to develop the decentralisation. For this reason, entrusting the AAP to work out the PADAP is a negative decision.

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<sup>28</sup> Government Decision No 683 of 02/08/2010 concerning the modification of Government Decision No 747 of 24/11/2009

- The timetable for adjustment of legislation on procurements to the EU acquis is being drafted. Once again, a delay is observed, as the Action Plan on fulfilment of the EU Recommendations indicates the 1<sup>st</sup> quarter as deadline to approve the timetable. Besides the too ambitious deadline, the timetable on adjustment of legislation shall derive from PADAP and it shall not be born before or in parallel with PADAP.

**Monitoring table 10. Progress in implementing actions in the area “Public procurements” planned for the 1<sup>st</sup> quarter of 2011.**

Planned action	Progress/Comments
<b>Approval of the action plan on development of public procurements for 2010-2013 after consultation with the European Commission. The action plan will cover the legislative harmonisation, as well as the institutional reform, the strengthening of administrative capacity and other related issues. The institutional reform aims to decentralise the competences of the Agency for Public Procurements by building territorial subdivisions and endowing them, including offices</b>	Minor progress. The plan is reported as drafted (by AAP) and delivered to the Ministry of Finance to approve it. At the same time, the PADAP will likely require a government decision and thus it will be adopted very late.
<b>Elaboration of a timetable on adjustment of the legislation on public procurements to the community acquis</b>	Minor progress. According to AAP, the timetable is being drafted.

### Assessment of progress

The analysis of situation and monitoring of accomplished actions indicate a minor progress in the field of public procurements.

### Recommendations for Moldovan Government

- Developing the statistical system of public procurements is an absolute priority, which regrettably is not part of the 2011 Action Plan of AAP. At the same time, the National Bureau of Statistics shall also help elaborating the system of statistical indicators of public procurements, in order to ensure respect for some universal principles and statistical standards in statistics on public procurements.
- Correlating with the precedent recommendation, the standard forms used in the public procurement system shall be unified and harmonised with the 2007 law on public procurements.
- AAP is a key institution among governmental agencies which have tangencies with the use of public funds. Therefore, besides a better supervision of AAP by the Chamber of Auditors and the Government, AAP needs more human resources and a larger budget. These are key premises for the institutional reform and decentralisation of the public procurement system.

## Area 11. Competition

### Analysis of current situation

Although the setup of the National Agency for Protection of Competition (ANPC) was foreseen by the 2000 law on competition, the first actions have been taken much later. The agency was set up<sup>29</sup> just after the inclusion of this action in EUMAP, being a permanent authority in public administration, a legal entity in charge with promoting the state policy on promotion of competition, limiting or reprimanding anti-competition activity by businesses, public administration authorities, and controlling the execution of legislation concerning the protection of competition.

However, ANCP was inefficient from the very beginning, with actions being very slow. ANPC was entrusted much authority: power of decision, right to investigation through self-apprising, right to issue executory titles, and right to sanction. It used the last right when it sanctioned shortly after being set up, with the law on criteria of establishing and applying fines being very unclear at those times. This fact revolted the population, particularly because of a clear conflict of interests, as ANPC is free to hold 20 percent of the fine.<sup>30</sup> ANPC was quite inert afterwards the next three years. Just in 2011 ANPC increased operations for rather political reasons, making a series of consecutive decisions. Although many talks in the electoral period focussed on existing monopolies and need to eliminate them, which indicates the inefficiency of ANPC and the imperfect legislation, the situation did not change after elections, this being a major fault of the acting Government.

Moldova's legislation on competition does not mostly correspond to the EU requirements and shall be approximated as soon as possible, with the National Agency for Protection of Competition being the key institution in charge with implementing actions in this area. Necessary actions envisage both the law on competition, the law on state assistance, and regulations on enforcement of these laws.

But norms on competition and subsidies are very important on the single market, as the lack or the inefficient regulatory framework on competition and state assistance bars the access of EU exporters to market. Hence, the deep interest of EU in harmonisation of legislation on competition and valorisation policies is understandable, as it wishes to protect its companies against possible anti-competition tactics.

### Monitoring of specific actions

Few actions relating to the legislative harmonisation in particular were implemented in the 1<sup>st</sup> quarter of this year, as most of them were planned for the 2<sup>nd</sup> quarter:

- The National Agency for Protection of Competition (ANPC) is completing a new draft law on competition, worked out in accordance with the EU acquis. The draft contains norms which clearly delimit the roles and functions of relevant authorities, provisions on major violations of competition, including sanctions, individualisation of penalties, clemency, etc.
- ANPC worked out and tabled a draft law on state assistance, which the Moldovan Government approved in 2010. It will be delivered to the Parliament.

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<sup>29</sup> Hotărârea Parlamentului Nr. 21 din 16.02.07

<sup>30</sup> Competition protection Law No 1103 of 30.06.2000



**Monitoring table 11. Progress in implementing actions in the area “Competition” planned for the 1<sup>st</sup> quarter of 2011.**

<b>Action</b>	<b>Progress/Comments</b>
<b>Drafting of secondary normative policies on competition in line with recommendations from the December 2009 Report “Competition Law and Policy – Law Approximation to the EU standards in the Republic of Moldova”</b>	Action planned for 2011. Is being developed.
<b>Strengthening of capacity of the National Agency for Protection of Competition and improvement of its functioning within the Twinning Project „Support for the implementation of the competition and state assistance policy”</b>	Action planned for 2011. Is being developed.
<b>Professional training of staff of the National Agency for Protection of Competition, judges and regulation authorities</b>	Action planned for 2011-2012. Will be taken within the Twinning Project „Support for the implementation of the competition and state assistance policy” launched in March 2011.

### Assessment of progress

Hereby, a very moderate progress was achieved in the area of competition in 2011, with most of actions being started last year and the process was slowed down. Actions in the area of competition shall speed up, given the critical situation in the field.

### Recommendations for Moldovan Government

Following is very important on a short and medium term:

- A methodology on calculation of fines and penalties applied by ANPC shall be approved, so that to stipulate fines for certain violations or clear criteria for calculation of fines.
- The legal framework shall also ensure the defence right of companies, which is very imprecise at present.
- The ANPC staff shall be trained, so that to be able to implement the new competition law when it will be enforced.

### Area 12. Sustainable development (social environment and labour)

It is hard to understand the relevance of this area in the light of the future DCFTA negotiations. The implementation of the planned actions – to set up commissions for collective consultations and negotiations in all branches of national economy and all districts of the Republic of Moldova, to consider opportunities of establishing the Economic-Social Council (on basis of consultations within the National Commission for Collective Consultations and Negotiations), and to adopt a law which would regulate the functioning of the Economic-Social Council – could improve the social dialogue at a certain extent, but the impact on quality of commercial negotiations will be minimal. No actions were planned for the 1<sup>st</sup> quarter of 2011. However, it is relevant that the Moldovan Government relies on EU assistance before drafting a law to regulate the functioning of the Economic-Social Council.

## **Area 13. General aspects**

### **Analysis of current situation**

The name of this area is somehow confused: the aspects addressed by the Plan are not at all “general” and they are even clearly related to the Transnistrian issue. In the framework of negotiations and eventual implementation of a Free Exchange Agreement, the EU has two concerns related to the Transnistrian region: first, the region shall not be any longer a grey transit zone for smuggled goods and shall stop undermining the capacity of Moldovan authorities to control the rules of origin; the second is related to the EU plans to make Transnistria enjoy the future Free Exchange Agreement, which is expected to be an instrument capable to encourage to settlement of the Transnistrian conflict. In order to minimise future risks and maximise benefits for the Transnistrian region, EU will seek some measures capable to motivate the Transnistrian authorities to participate in negotiations.

### **Monitoring of specific actions**

Nevertheless, little was done in this area in the 1<sup>st</sup> quarter because of unfavourable evolutions for talks. Vienna hosted an informal meeting of participants in the 5+2 Transnistrian settlement negotiations on February 14-15, 2011, which it did not end with an appeal by hosts to resume the official talks. Of course, there is no much time and desire left to discuss the implications of a DCFTA on the Transnistrian region and participation of its representatives in future negotiations, after discussing issues related to security problems faced by Romanian-language schools based in the region and fundamental human rights. At the end of the meeting, the participants agreed on an agenda of actions planned for 2011, some bilateral contacts between Chisinau and Tiraspol and some confidence-building actions. The introduction of the DCFTA issue in agenda of future talks could be one of confidence-building measures.

Besides obligations of the Moldovan party (shared by the Bureau for Reintegration, the Ministry of Foreign Affairs and European Integration, the Ministry of Economy), the Action Plan on fulfilment of the European Commission’s Recommendations on setup of DCFTA stipulates two important steps as part of “general aspects”, expecting the support of the OSCE and the EU Delegation to Moldova (but no precise temporary framework was established for any of them). The first step is designated to begin and develop with the support of the OSCE Mission to Moldova a permanent dialogue on consultation of representatives of competent institutions from the Transnistrian region in charge with implementing the DCFTA in the region by Moldova’s negotiation team. The “permanent dialogue” did not start yet, as no “representatives” were nominated so far. The second planned action aims to organise seminars on DCFTA implementation for business representatives and local authorities from the Transnistrian region, with the support of the EU Delegation to Moldova, the EU Special Representative to Moldova, competent institutions from Moldova, and nongovernmental organisations. According to available reports, such actions did not take place in the 1<sup>st</sup> quarter of this year.

Monitoring table 12. Progress in implementing actions in the area “General aspects” planned for the 1<sup>st</sup> quarter of 2011.

Planned action	Progress/comments
<b>Inclusion of the issue related to implementation of the future DCFTA in the working agenda of meetings between representatives of Chisinau and Tiraspol in the Transnistrian conflict process</b>	This issue was not part of the agenda of talks of the February 14-15 informal meeting.
<b>Inclusion of the issue relating to the implementation of DCFTA in action plans of working groups, particularly in the agenda of the joint task force for economy in the framework of the Confidence and Security Building Measures in Moldova</b>	No progress was observed. The working groups are not functional.
<b>The approach of issues relating to the implementation of DCFTA in all territory of the country including the Transnistrian region by the EU Delegation, the EU Special Representative to Moldova during meetings with the Transnistrian administration.</b>	The EU Delegation head met the “foreign minister of DMR” on January 21, 2011 and the “president of DMR” on April 8, 2011. The talks focussed on efforts to restart the 5+2 official negotiations before and after the February 14-15 informal meeting within the OSCE. Transnistria conditions the resumption of negotiations with the annulment of “discriminatory economic sanctions”.
<b>The opening and development of a permanent dialogue with the support of the OSCE Mission to Moldova to allow Moldova’s negotiation team for DCFTA to consult representatives of competent institutions from the Transnistrian region involved in the DCFTA implementation process in the area.</b>	No clear progress was observed.
<b>Organisation of seminars on implementation of DCFTA for business representatives and local authorities from the Transnistrian region, with the support of the EU Delegation to Moldova, EU Special Representative to Moldova, competent institutions from Moldova, nongovernmental organisations.</b>	No clear progress was observed.

### Assessment of progress

The progress is invisible.

### Recommendations for Moldovan Government

- The Moldovan Government should take a pro-active position towards the Transnistrian region and guarantors, in a move to resume the negotiations. This means both to resume contacts with the (next) Tiraspol administration, to build new ways of communication with people and economic agents from the region, and to set up a social guarantee system for population.

## Information about implementing organisations

The Association for Participatory Democracy ADEPT is a non-government, not-for-profit, independent, and non-partisan organisation, which is acting in the Republic of Moldova. ADEPT was registered in January 2000 and gained status of an organisation working for public benefit. ADEPT is an analytical and practical centre that offers expertise in electoral and democratic processes in Moldova. The mission of ADEPT is to promote and to support citizen participation in all aspects of public life.

EXPERT-GRUP is an independent think tank that acts in the Republic of Moldova. Being a nongovernment organisation, EXPERT-GRUP is not affiliated politically to any party and it decides independently on its institutional strategy. The mission of Expert-Grup is to contribute to the economic and democratic development of Moldova and to consolidation of Moldova's international competitiveness. The organisation uses analyses and research at international quality standards as its practical instruments to achieve these goals. Economic policy, European integration, private and public management are the areas where EXPERT-GRUP expertise is applied.

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