



2009

**ROADMAP FOR THE DEVELOPMENT
OF MOLDOVA'S BUSINESS
AND ECONOMIC CLIMATE**

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AmCham Mission

The Mission of AmCham Moldova is to promote American trade and investment in Moldova and to work with the Moldovan Government and business leaders to foster a more favorable business climate in Moldova for foreign trade and investment.

AmCham Background

The American Chamber of Commerce in Moldova (AmCham Moldova) is a non-government non-profit organization, founded on September 4, 2006. As a member of the international network of 112 AmChams from the 99 countries worldwide, AmCham Moldova connects businesses and business leaders to share the common goal of bringing the entrepreneurial spirit and cultures of Moldova and the United States closer together.

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- | | | |
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The American Chamber of Commerce in Moldova
(AmCham Moldova)

2009

ROADMAP FOR THE DEVELOPMENT OF MOLDOVA'S BUSINESS AND ECONOMIC CLIMATE

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1. INTRODUCTION

The American Chamber of Commerce in Moldova believes that Moldova has not achieved the full benefit of its potential for growth and development and that, through a revised strategy towards the economy and private sector expansion, Moldova can achieve much of its economic potential. Moldova's ability to compete in the international marketplace, and especially its ability to compete against our regional neighbors, is the best guarantee of our ultimate success, prosperity and economic development. To communicate our views on the best path forward for Moldova and to offer the support of the business community to the government in its continuing pursuit of these goals, AmCham Moldova has prepared this 2009 Road Map for the Development of Moldova's Business and Economic Climate. Our intention is not simply to present requests for what the Moldovan government can do to improve conditions in the business sector, but rather to outline what we can do collectively to improve the conditions in Moldova for everyone.

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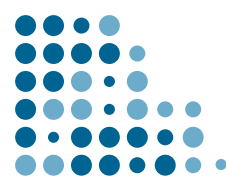
We believe that Moldova has the potential to achieve faster growth, more structured development and an improved standard of living for a greater portion of the population.

The members and administration of the American Chamber of Commerce in Moldova feel that the private sector is in a strong position to share the effort necessary to design our future direction and to take a collaborative role in the implementation of our jointly developed strategy. The private sector has the potential to attract new investment to Moldova, to introduce new technology and practices, to employ and train our labor force and to generate the economic and financial value-creation to spur our economy forward.

In the first three years of our activity, the American Chamber of Commerce has developed into one of the largest private business associations in Moldova. AmCham Moldova currently has more than 70 members and partners, representing large and small businesses, foreign investors, as well as domestic Moldovan interests. We provide assistance and support to our members and frequently represent their interests and concerns related to the general business environment. AmCham Moldova has demonstrated that we can be meaningful and collaborative partners with the public sector. We have contributed to the development of the Millennium Challenge Compact Program, showing that we can work in a collaborative way with government programs. We offer consultation to the legislative process and represent the interests of the private sector on the Guillotine Working Group, as well as in other forums. AmCham has also developed independent programs, studies and recommendations to support the improvement of the labor sector, ICT development, trade and general business development. We are implementing programs that actively promote Moldovan products and investment opportunities abroad. The AmCham and our individual members have also organized several social programs and events that contribute to improvement of the overall standard of life for the entire population. We believe that we all share a common interest in Moldova's economic growth and improvement and we are willing to work side-by-side with the public sector, private sector and civil society to implement the programs of our common interest in the improvement of Moldova's

1.

INTRODUCTION



1. INTRODUCTION

business and economic climate. Most importantly, we are ready to share the burden of turning our plans into a reality.

In the following pages, the American Chamber of Commerce has elaborated a series of recommendations that we feel would help Moldova to develop its economy and set us on the path to a more prosperous future. The recommendations reflect the work of our members, in-house experts and several of our collaborators and partner organizations. Some are older program recommendations and are, therefore, more developed and detailed. Others are newer concepts that reflect our current economic situation and the new realities of Moldova's economic potential. It is our desire that these recommendations be considered as a starting point for our future collaboration and hope they will be discussed and developed openly in order to become a set of shared goals and objectives that will be supported by a larger group of partners, all with a shared interest in Moldova's prosperous future. The American Chamber of Commerce in Moldova is prepared to make our contribution to the effort of improving the economic and business climate in the Republic of Moldova.

SUMMARY OF RECOMMENDATIONS

The members of the American Chamber of Commerce have elaborated a set of recommendations, organized into 10 categories, which are summarized here. We began our process of collecting and elaborating these recommendations during the summer of 2009 and are pleased to observe that several of our recommendations have been included in the governments recently published Plan for Economic Stabilization and Recovery. It indicates that we share the same priorities, values and views on the recommended course of action to improve our situation.

The following chapters elaborate each recommendation in further detail with explanations of the rationale behind the recommendation, suggestions for implementation and offers for how the American Chamber of Commerce can contribute. A summary of our recommendations are as follows:

IMPROVE THE INVESTMENT CLIMATE: PROMOTE DOMESTIC INVESTMENT

- Implement Salary-Based Savings Plans
- Revise and Improve the Tools for Financing Small and Medium Enterprises

IMPROVE THE INVESTMENT CLIMATE: PROMOTE FOREIGN INVESTMENT

- Promote Follow-on Investment
- Offer Tax Incentives for Follow-on Investment
- Increase International Tax Treaties
- Improve the Privatization Process
- Improve Visa and Immigration Procedures for Foreign Investors
- Eliminate the Restriction on Foreign Ownership of Agricultural Land
- Simplify the Process of Converting Agricultural Land to other Destinations



1. INTRODUCTION

IMPROVE THE INVESTMENT CLIMATE: ESTABLISH STRATEGIC SECTORS

- Establish a State Agency for Investment Recruitment
- Establish Strategic Sectors for Development

DEVELOP HUMAN CAPITAL AND REFORM THE LABOR CODE

- Implement Home Computing Initiative
- Modernize the Education Curriculum
- Improve Conditions for Teachers and Professors
- Greater Participation in International Programs
- Accreditation of Foreign Education
- Develop Post-University Training
- Formalize Internships
- Establish Programs for the Retention of Qualified Professionals
- Organized Return of Moldovan Professionals from Abroad
- Support the Struggling Employers of Moldova

AGRICULTURAL REFORM

- Eliminate the Restriction on Foreign Ownership of Agricultural Land
- Create Legal Framework Conducive to Agricultural Consolidation
- Stimulate the Deployment of Technology that will Increase Productivity
- Reduce VAT on Agricultural Products
- Eliminate Restrictions on Exports of Agricultural Goods

DEVELOP INFRASTRUCTURE – INFORMATION & COMMUNICATIONS TECHNOLOGY SECTOR (ICT)

- Pursue a Systematic IT Environment
- Establish a Credit Bureau
- Soonest Possible Privatization of Moldtelecom
- Provide Equal Access to State Infrastructure
- Eliminate the 1-year Contract Limit for Co-location
- Allow Immediate Cross-Border Permission for Private Telecommunications

DEVELOP INFRASTRUCTURE – ENERGY SECTOR

- Develop the Energy Sector
- Promote Energy Efficiency

TRADE REFORM

- Pursue the General System of Preferences with the United States under the WTO
- Pursue International Certifications
- Recognize International Certifications
- Adopt Policies that will Stimulate and Reward Successful Exporters
- Soonest Possible Privatization of Air Moldova, Chisinau Airport and the Moldovan Railroad



1. INTRODUCTION

TAX REFORM

- Pass a Unified Procedural Tax Code
- Amend the Fiscal Challenge Process
- Update the Corporate Income Tax Regulation
- Review the VAT Legislation and its Application
- Implement Stronger Legislative and Administrative Actions to Reduce Tax-Evasion

COMBAT CORRUPTION

- Create National Initiative to Combat Corruption
- Strengthen the Judicial Process
- Mandate Accountability of Public Officials
- Eliminate Opportunities for Corruption and Abuse of Authority

CONCLUSION: A PROPOSAL OF COLLABORATION FROM AMCHAM MOLDOVA

- Establish Working Groups to Implement a Collaborative Reform Effort



2.



IMPROVE
THE INVESTMENT
CLIMATE

A PROMOTE DOMESTIC INVESTMENT

The Moldovan economy needs new and increased investment to fuel the development of our production, services and growth of economic entities. Several policy, program and legislative changes could improve the climate for such investments and create the incentives for both domestic and foreign investors to invest in Moldova or increase existing investments.

Despite hundreds of millions of dollars per year of foreign remittances coming into Moldova, Moldovans are investing only a very small portion of these remittances into the future of their own economy. Instead, Moldovans consume more than 200% of their income, leaving Moldova almost entirely dependent on foreign investment as the source of future growth and development. Without significant domestic savings, Moldovan banks and lending institutions lose a significant and important source of funds from which to make loans to economic entities that would invest in future development. Furthermore, the majority of Moldovan savings are extremely short-term in nature, orienting the banks and lending institutions also to short-term loans with limited long-term economic impact. The effect is that only companies with access to foreign financing can receive long-term credits at competitive interest rates. Moldova should establish the legal framework to provide the programs and incentives necessary to stimulate long-term domestic savings on a mass scale in order to create a source of capital for long-term investments.

Recommendation: Implement Salary-Based Savings Plans.

We should establish the legal framework for salary-based savings programs that provide incentives and benefits to the employees, employers and lending institutions as a method to generate long-term domestic savings.

The following is an example of a typical savings plan that has been established in other countries: for example, the employees of a company would have an option to contribute up to 10% of their monthly salary into a long-term savings program. The contributions would be deducted from the employee's salary prior to tax and salary-based deductions. The employer would also make an additional contribution equal to 50% of the employee's contribution (up to 5% of salary), also contributed without tax and salary deductions.

The combined savings, would be administered by domestic banks, would generate interest and would grow over time, providing the employee with a long-term source of savings while also providing the bank and lending institutions with a source of funding long-term loans. The savings plans would be created with specific purposes, such as retirement or educational savings. The employee may withdraw funds from the savings plan for these purposes only. If the funds are withdrawn for other purposes, then the employee would be required to pay the full amount of tax due on the contributions.

Such a program in Moldova would provide an important source of long-term savings and financial resources for the domestic banks which would permit greater lending to domestic businesses and would accelerate domestic growth and business development. Additionally, since only official salary would be eligible for participation in the savings programs, employees would have an incentive to work for employers who pay official salaries.

The environment in Moldova is not conducive to the growth and development of small and medium enterprises. The majority of Moldova's domestic industries are composed of small and medium enterprises, which will necessarily be the basis for domestic economic growth. However, the policies and procedures in many sectors place more restrictions and difficulties on small and medium businesses rather than support and assistance. Bank credits to small and medium enterprises are too costly and carry heavy administrative procedures and assets requirements. The effect is that we have severely restricted the development of our domestic businesses and increased our dependence on foreign capital for economic growth.

Recommendation: Revise and Improve the Tools for Financing Small and Medium Enterprises.

We recommend the establishment of a fund, administered by private banks and lending institutions, specifically to providing support for low-interest loans to domestic small and medium enterprises. In order to provide financing to support this fund, we recommend the creation of a luxury tax of up to 5% to be applied to consumption of luxury goods. The revenues generated by this tax should be allocated exclusively to providing guarantees and support for low-cost financing to domestic small and medium-sized enterprises.

B

PROMOTE FOREIGN INVESTMENT

While support of small and medium enterprises can promote domestic economic development and independence for Moldova, foreign direct investment can be a source of much-needed expertise and a strategic source of large-scale investment for Moldova's development. However, Moldova's current efforts to attract new foreign investment are less than the efforts of our regional neighbors while the experience of existing foreign investors in Moldova is below satisfactory and has become a deterrent to some new investors. Our regional neighbors actively pursue strategic investors and make strong efforts to bring these investors to their markets. By contrast, Moldova has no comparable outreach programs aimed at attracting new investors. Additionally, there appears to be little recognition that new investors, before investing, will communicate with existing investors about their experiences. Unfortunately, foreign investors tend to experience administrative barriers and delays and even direct attacks from administrative authorities, a fact that is observed by potential investors who often choose more investor-friendly countries in the region. In order to reverse these trends, Moldova should create a truly investor-friendly environment.

Recommendation: Promote Follow-on Investment.

It should be generally recognized that follow-on investment by an investor that is already present in Moldova and familiar with the market is substantially easier than attracting new investors with no market experience and no existing business with which to share administrative expenses. Moldova should place an emphasis on the success of existing investors as an incentive to future investors and should maintain or improve the incentives to existing investors to re-invest profits and new capital into Moldova.

2. IMPROVE THE INVESTMENT CLIMATE

Recommendation: Offer Tax Incentives for Follow-on Investment.

Moldova should maintain the zero profit tax on re-invested profits and should re-establish tax-free periods of 3 to 5 years for companies that increase their charter capital. Additional incentives should be considered to encourage re-investment into Moldova.

Recommendation: Increase International Tax Treaties.

Double-taxation increases the cost of doing business in Moldova and contributes to making Moldova a less attractive investment target for foreign investors than our regional competitors. Moldova should implement tax treaties with the United States and other countries that are likely to invest in and have trade relations with Moldova.

Recent privatizations have not been coordinated or organized into a cohesive privatization strategy. Businesses have been privatized on case-by-case basis with little apparent planning towards economic development or fund-raising. The privatization process has lacked transparency with unclear bidding procedures and basis for valuation of the businesses. Non-strategic enterprises have been sold at far below reasonable market prices while enterprises in strategic sectors that would contribute to overall economic development have been priced far in excess of realistic regional prices, preventing the entrance of serious international investors with the potential to introduce follow-on investment and expertise towards modernization.

Recommendation: Improve the Privatization Process.

Through a restructured privatization process, Moldova has the potential to attract strategic partners with investment capital and expertise to the sectors of the economy that are critical for growth and development, such as telecommunications, energy and transportation. State enterprises in strategic industries should be privatized with price and tax incentives to attract investors with expertise to modernize the sector and which are willing to commit follow-on investments into the business and sector. A higher priority should be given to the expertise and follow-on investments than to the immediate monetary gain to the state budget. The medium and long-term benefits Moldova will gain from such strategic investors will far exceed the benefits of a marginally better privatization price today.

By contrast, Moldova can raise significant capital through an organized privatization process of non-strategic assets through improved communication to the investment community of upcoming privatizations and more transparency in the bidding process.

Today, the foreign representatives of foreign investors experience highly cumbersome visa procedures that require multiple visits to different government offices and frequently require return visits and re-filing of documents based on the demands of administrative personnel who independently interpret the application requirements or demand additional documentation and procedures. This is a poor introduction to Moldova for the foreign investors that Moldova desires to assist in its economic and business development.

2. IMPROVE THE INVESTMENT CLIMATE

Recommendation: Improve Visa and Immigration Procedures for Foreign Investors.

Moldova could improve the experience of foreign investors and simultaneously reduce their administrative costs and burdens by moving the application and renewal procedures for visas, residency permits and work permits for foreign investors to an online procedure. The full set of application documents should be placed online with clear instruction on how to complete the applications. The applications should be completed and filed online to a single government office that holds the responsibility to distribute the application materials to their appropriate agencies. Finally, the applicant should retrieve the visa and permits through a single in-person visit to a single government office within a programmed timeframe for completion of the application procedures. No additional documents or procedures should be requested independently by government agencies. Additionally, Moldova should make residency permits of up to 5 years available for long-term residents of Moldova in order to eliminate the repetitive annual process of renewals.

The existing restriction on foreign ownership limits the possibility of foreigners to invest in Moldova and creates significant and frequent opportunities for dishonest Moldovans to take unfair advantage of their position of land ownership. Additionally, foreign agricultural companies have the financial capability, knowledge and technology to significantly develop the agricultural sector and to generate immediate increases in production, processing and much-needed exports. Restricting foreign ownership of agricultural land limits the potential for such investment and significantly affects the interest of those investors with the greatest financial and technological capacity.

Recommendation: Eliminate the Restriction on Foreign Ownership of Agricultural Land.

The restriction on foreign ownership of agricultural land should be cancelled, especially in the cases when the new foreign owners will make immediate investments or improvements to infrastructure or productivity.

In many cases, foreign investors, in order to develop their business and industry look for land to be converted from agricultural to commercial usage as a means to support their business. The existing procedures and practices are lengthy, cumbersome and many times deterring the goal of economic development.

Recommendation: Simplify the Process of Converting Agricultural Land to other Destinations.

The law should specify a maximum timeframe of 90 days for the process of converting agricultural land to commercial use and a single government agency to be responsible for the full procedure. This legal revision is especially important in the cases where an investor will make an immediate investment for the improvement of the land.

C ESTABLISH STRATEGIC SECTORS

Several sectors of the economy can be considered strategic to the further economic development. Some are infrastructure-related that, if improved, will enable an accelerated economic growth and development of the businesses that they support. Industries such as telecommunications, transportation and energy are catalysts to economic development, thus their modernization, improvement and cost reductions will enable more rapid economic development for all business sectors.

Additionally, there are several sectors in which Moldova aims to become competitive internationally as part of its long-term economic strategy and in which it must, therefore, make a strong effort to develop. AmCham Moldova's opinion is that these sectors include software development, ICT, financial services, technical consulting, high-value manufacturing, high value agriculture and sectors bringing technology that increases the productivity of our population. Many countries in the region target the same sectors and are our strong competitors for foreign investment. These regional competitors actively pursue large scale and strategic investors by granting land, office space, tax-free periods and other incentives. Moldova should make a formal policy to develop these strategic sectors and offer similar incentives to investors that can improve Moldova's international competitiveness in these industries.

Recommendation: Establish a State Agency for Investment Recruitment.

Moldova should establish a government agency with the specific task of attracting new investment to Moldova and protecting their interests once they are established. This agency should have the budget to travel abroad to engage potential investors, the authority to offer incentives and concessions to strategic new investors, the support of parliament to fulfill these promises and a due influence in justice and government to protect investors once they are established.

Recommendation: Establish Strategic Sectors for Development.

In order to accelerate the development of those sectors that will contribute to Moldova's long-term development, the government should develop a policy to aggressively pursue new investments into technology and development of these sectors and should offer strong incentives to attract these investments.

As stated above, AmCham considers that, among the strategic sectors should be those that will act as catalysts to economic development by enabling other business to develop faster and more efficiently. Among these are:

- Telecommunications
- Air, ground and water transportation
- Energy generation, especially renewable resources.

We also propose that Moldova target:

- Software development
- ICT
- Financial services
- Technical consulting

- High-value processing and manufacturing
- High-value agriculture.

Examples of incentives that our regional competitors have used to attract strategic investors include:

- Land grants
- Long-term land and building leases at preferential rates
- Tax incentives such as offering up to 10 free years of VAT, profit and/or salary taxes
- Exemption of VAT on imported technology
- Low-interest loans, and
- Other trade and investment related incentives.

In order to be competitive for the most valuable new investors, Moldova should develop the potential to offer a similar set of strong incentives to strategic investors.



3. DEVELOP HUMAN CAPITAL AND REFORM THE LABOR CODE

Moldova's relatively small population is often cited as one of the drawbacks and disadvantages of investing in Moldova and one of the threats to our long-term economic growth. However, several countries have developed extremely strong economies based on relatively small populations. Switzerland, Luxembourg, Belgium and Holland are all examples of countries with small populations that have developed strong economies. Ireland and the Baltic countries are examples of countries with similarly small populations that have more recently developed into regional leadership positions. These success stories all have one important characteristic in common: they have all learned how to maximize the economic productivity of their entire population. Such increases in productivity can be achieved through investments into technology and training of the population.

Today, Moldova has one of the lowest computer penetration rates in Europe. Many of our students arrive to lyceums and even to university level having never worked on a modern computer or having developed even basic computer literacy. The lyceums and universities, therefore, are forced to teach the most basic computer skills rather than more advanced and productive computer functions. In order to become productive in a modern Europe, Moldova's population must become more computer literate. However, as in many countries with developing economies, many of Moldova's citizens can not afford to purchase home computers.

Recommendation: Implement Home Computing Initiative.

Several European countries have implemented government programs designed to increase computer penetration in the country and improve the overall computer skills of the population. Such programs were pioneered in 1998 by Sweden's Home Computing Initiative (HCI), designed and promoted by the labor unions at Volvo. Swedish companies were provided various incentives to purchase home computers for their employees. In 1997, before implementation of the program, computer penetration in Sweden was 40%. By 2001, computer penetration had increased to more than 80% and is currently in excess of 90%, giving Sweden the highest computer penetration in the world and one of the most technologically advanced and computer-literate populations. Since then, the UK, France, Spain, Romania, Lithuania, Estonia and several other European countries have implemented similar programs with varying degrees of success depending on the variation of the program implemented.

AmCham Moldova believes that Moldova should implement a similar Home Computing Initiative. We believe this can go a long way to increasing the computer penetration in Moldova and in developing a population that is more computer literate and ready to be productive in a modern economy.

Attached as Appendix 1 is a copy of the Home Computing Initiative developed by AmCham Moldova.

Today, curriculums and conditions in Moldova's lyceums and universities are not adequate to train our students for employment in modern industries. Our curriculums are outdated, lack resources, modern programs and international collaboration and exchanges. Our teachers and professors are under paid, under trained and frequently accept payments from students in exchange for passing grades. In such conditions, it is impossible for Moldova to develop young professionals who will be able to lead Moldova's economy into the future.

3.

DEVELOP HUMAN CAPITAL AND REFORM THE LABOR CODE

Recommendation: Modernize the Education Curriculum.

The Ministry of Education should collaborate with the private sector to modernize the curriculums of the most critical university faculties, colleges and other professional educational institutions, and to introduce an emphasis on practical knowledge and skills that are relevant in the modern work place. The private sector, as the employer of Moldova's university graduates, is in a strong position to advise on the skills and knowledge needed by our young professionals to be competitive in today's economy. We believe that a collaboration to update the schools' curriculums would produce more competitive graduates and would establish a very valuable communication between the education system and the private sector.

Recommendation: Improve Conditions for Teachers and Professors.

Teachers and university professors should have the proper skills and training to teach our youth. The teachers, professors and professional associations of teachers should take the initiative to eliminate payments in exchange for grades from the education system and to return integrity to the profession, as the developers of Moldova's youth.

Recommendation: Greater Participation in International Programs.

Moldova's universities should increase their collaboration and exchange programs with foreign universities in order to increase the exchange of knowledge and modern practices. Moldova should offer incentives to foreign universities to open local campuses in Moldova. We should increase the number of invitations to foreign professors to come and teach in Moldova as an alternative to the large number of students seeking their education abroad. Moldova should establish strategic partnerships with foreign universities that have strong programs for those departments that Moldova would like to develop but for which the local universities can not currently provide financial support. Moldova should increase the number of online educational programs and distance learning courses that are recognized towards university credit.

Recommendation: Accreditation of Foreign Education.

Today, Moldovan students who study abroad are not rewarded, rather they are punished as the education that they receive abroad is rarely recognized by the Moldovan educational system. However, the education received abroad can bring new ideas, methods and information about the newest advances being made throughout the world in every academic area. Moldova should reward those students who bring these studies back to Moldova rather than punish them by refusing to recognize the value of their studies abroad. Moldova should increase its recognition of high quality foreign education programs and facilitate accreditation of courses taken abroad.

To remain competitive in any field requires ongoing training and skills development, a capability that Moldova has not yet developed. Internationally recognized professional associations and certifications are available to help Moldova's professionals remain updated in their areas of expertise and aware of the most important developments. In this way, Moldova can remain on the cutting edge of those industries that will form the basis of the economy that we would like to develop.

Recommendation: Develop Post-University Training.

Moldova should develop a national strategy for post-university training of its population. Many companies today are already investing in post-graduate training for their employees, which has become an important source of modern education in Moldova. Such employer-sponsored training should be encouraged through incentive programs, tax code revisions, technical and financial support and other rewards for those companies that obtain recognized certification for their employees.

Recommendation: Formalize Internships.

Many companies are hosts to students in their final years of university education. Such internships form an important base for young professionals to gain their first professional experience and to begin their post-university training and education. Internship programs should be encouraged and companies that provide valuable internship programs rewarded. Additionally, internships should be formalized in the young professionals' labor books and recognized for the experience that they give.

It is well understood that Moldova is quickly losing many of its best and brightest young professionals who emigrate to other countries in search of higher salaries and better opportunities. Companies operating in Moldova increasingly understand that, in order to retain their most qualified professionals, they must offer salaries to compete with those in Western Europe and North America. Salaries in Moldova will continue to increase as the economy develops. However, there is often more than just salary that motivates young Moldovans to emigrate. The issue is not only about money, but also about a general interest in future opportunities, personal and professional development and the possibility to raise a family in an appropriate environment. AmCham Moldova believes that the creation of opportunity and the ability to support a family are at least as important to our young professionals as the monetary amount of the salary provided. We believe that implementing many of our recommendations will take large steps towards retaining our young professionals and attracting many who have already left to return.

Recommendation: Establish Programs for the Retention of Qualified Professionals.

In order to stop the 'brain drain' from Moldova and to retain many of our best and brightest young professionals, we should concentrate on improving the standard of living in Moldova and creating hope for the young generation that they will have opportunities to develop themselves and support their families. These include:

- Support the development and financing of small and medium enterprises;
- Improve banking legislation to support long-term lending for mortgages so that young Moldovans can buy homes for their families;
- Improve the education system so that the children of our generation of young professionals will have a decent education and hope of prosperity in their own lives;
- Combat the corruption that favors a very small minority of the population while leaving very few opportunities for those Moldovans who do not have 'political connections.'



3. DEVELOP HUMAN CAPITAL AND REFORM THE LABOR CODE

Recommendation: Organized Return of Moldovan Professionals from Abroad.

There are many Moldovans with strong technical and managerial skills living abroad. Many are strong patriots of Moldova with strong family ties here and who might be convinced to return to Moldova if they were offered a skilled position in a strong company or a consulting position with one of the government or NGO projects. Many companies and international organizations in Moldova already have the possibility to pay salaries competitive with Western countries. We should establish a program of advertising these positions to Moldovan professionals living abroad as an incentive to return to Moldova.

It is often very easy to take any single decision in favor of a social cause over private sector interests. These individual decisions often soothe our consciences and gain admiration from the population. However, cumulatively, these weaken the private sector and make Moldovan businesses less competitive internationally. Private sector employers provide the majority of salaries and benefits to the Moldovan population and are supporting an increasing amount of professional training and education. Eventually, we must also take some decisions in favor of the private sector to allow business to grow if we also want these salaries, benefits and training to increase proportionally.

Recommendation: Support the Struggling Employers of Moldova.

We should review labor legislation to create a more equitable balance of interests.

- Eliminate the practice of immediate compensation to an employee in labor disputes after only the first level of court review and provide the employer the protection of the full legal process, including all appeals;
- Create more balanced legislation in the area of terminating unproductive or disruptive employees in order to allow companies to more easily improve their efficiency and effectiveness;
- Modify the legislation related to employee resignations to require greater notification to the employers in order to provide companies adequate time to fill the vacancy and to remove the employee option to withdraw resignations up to 2 weeks after their submission;
- Reduce the term of 'no dismissal' protection for young mothers from 6 years to 2 years.

A more exhaustive list of recommended amendments to the Labor Code is included in Appendix 2.



4.



AGRICULTURAL REFORM



4. AGRICULTURAL REFORM

In the medium to long-term, high-value agricultural products have the potential to remain a strong and stable part of Moldova's export market and to grow to replace remittances as the main source of income to Moldova. Moldova should take bold steps to encourage the growth and development of large-scale high-value agricultural production that will have the potential to invest in modern technology and capacity to meet international standards for agricultural products.

Recommendation: Eliminate the Restriction on Foreign Ownership of Agricultural Land.

The restriction on foreign ownership of agricultural land should be cancelled, especially in the cases when the new foreign owners will make immediate investments or improvements to infrastructure or productivity. (Reference Section of Improving Foreign Investment.)

Recommendation: Create Legal Framework Conducive to Agricultural Consolidation.

Create a legal framework that will be conducive to the consolidation of agricultural production. Large-scale production and cost economies associated with scale will make Moldova's agricultural production more competitive domestically and internationally. Additionally, large-scale producers will more easily obtain international certifications for export and will have the potential to significantly increase Moldova's total export.

Recommendation: Stimulate the Deployment of Technology that will Increase Moldova's Productivity.

Moldova should stimulate the deployment of agricultural technology, such as irrigation, that will increase production yields and protect Moldova against droughts and climate-related changes.

Russia, Ukraine, Romania and many other countries in the region give financial subsidies and reduced VAT to the agricultural sector, which gives these producers significant advantages over Moldovan producers.

Recommendation: Reduce VAT on Agricultural Products.

Moldova should reduce the VAT rate for agricultural products to rates comparable to others in the region, in order to provide Moldovan producers the cost basis to compete more equitably internationally.

Agriculture has the potential to significantly increase Moldova's exports in the short-term, thus reducing Moldova's dependence on remittances as the primary source of capital inflows. More can be done in trade relations to facilitate this growth.

Recommendation: Eliminate Restrictions on Exports of Agricultural Goods.

Moldova should eliminate all restrictions on exports in order to maximize total exports. No products should be restricted and all restrictions on exporters should be removed to allow full and free access to the export market.



5.



DEVELOP
INFRASTRUCTURE –
INFORMATION &
COMMUNICATIONS
TECHNOLOGY SECTOR (ICT)

Moldova's ICT sector should be identified as a strategic sector for Moldova's economic development. The ICT sector provides economic benefit to Moldova in several important ways.

ICT services such as telecommunications and eDevelopment are forms of infrastructure that are economic catalysts and enable the more rapid growth and development of all economic sectors. Today, less than 20% of Moldova's population live in Chisinau but more than 80% of Moldova's economy is based in the capital city. Improved telecommunications services, especially to the regions of Moldova, would support more extensive economic growth and help to economically mobilize the vast majority of the Moldovan population. Improvement and expansion of Moldova's IT infrastructure should be a high priority as a catalyst for economic development of all industries and sectors.

Additionally, the ICT sector itself has the potential to generate a significant amount of economic growth. Software development, technical consulting and online services are all high-value industries in which Moldova already has the basis to become competitive internationally and which has an almost unlimited amount of unrestricted growth potential. Most importantly, many ICT services can be exported without restriction, the high costs of transportation or the challenges of visa restrictions. Moldova should seek increased investment and development in ICT services. Strong incentives to the development and growth of this area should continue and be strengthened.

Recommendation: Pursue a Systematic IT Environment.

Today, the number of administrative procedures, time delays and potential for administrative abuses create a significant and unmeasured cost of doing business in Moldova. Online procedures provide multiple benefits including increasing the speed with which businesses and industries can develop, reducing barriers and administrative hassles, reducing the number of in-person appearances necessary to accomplish most tasks, improving efficiency of public and government offices, reducing administrative costs and reducing the potential for corruption. Moldova should create a plan for systematic eDevelopment with aggressive timeframes and deadlines set for implementation. Specifically:

- All government and public applications and filing procedures should be made online with all required documents and forms also online;
- All court decisions should be made public and published online;
- All corporate tax, fiscal and labor filings should be made in electronic format. These should be filed online. All audit control comments, corrections and challenges should likewise be registered and delivered in electronic format and filed online where they may be reviewed by independent controlling organizations;
- Open access should be granted to state registries of legal entities with full access to non-confidential information and limited access to additional information when permission is granted. Among the benefits of such access would be to facilitate the development of a credit bureau to improve the lending and credit markets;
- All university exams should be administered online with electronic scoring within 5 years.

Recommendation: Establish a Credit Bureau.

One of the leading barriers to economic development in Moldova is the weakness of our capital markets, the inaccessibility, and high cost of bank credits. Moldova needs a central and trusted credit bureau.

Significant private investment is available for ICT infrastructure with the potential to act as a catalyst to economic development. However, private investment in competitive telecommunications and ICT infrastructure has been systematically blocked to the detriment of the entire Moldovan economy. While telecommunications was nominally liberalized in 2004, in reality the sector remains closed and controlled. Moldova should take strong steps to implement true market liberalization and fully open the sector for development. Specifically:

Recommendation: Soonest Possible Privatization of Moldtelecom.

State ownership of Moldtelecom has been one of the greatest conflicts of interest to the development of Moldova's economy. The government's interest in revenues from Moldtelecom is often given priority over increased ICT development that would enable far-reaching economic development throughout the country.

Recommendation: Provide Equal Access to State Infrastructure.

Access to and pricing for co-location and rent of the state-owned infrastructure is currently controlled by the state-owned telecommunications operators who use their control to suppress market development and subsidize their own unprofitable businesses. Access and pricing for this infrastructure should be controlled by the public regulator. Requests for access to infrastructure should be answered within 30 days with all refusals subject to independent review.

Recommendation: Eliminate the 1-year Contract Limit for Co-location.

Construction of telecommunications infrastructure is a long-term investment. The inability of investors to fix their costs for more than 1 year at a time adds a significant amount of additional risk and uncertainty to the investments.

Recommendation: Allow Immediate Cross-Border Permission for Private Telecommunications.

Today, Moldtelecom's monopoly on fiber-optic interconnection across Moldova's borders has created a significant deficit of telecommunications and Internet capacity to the outside world and maintains domestic telecommunications costs significantly higher than those in Europe. In some cases, such as Internet bandwidth and transport are as much as 800% higher than costs in Romania and other regional market. Such costs are prohibitively high and have had a negative impact on business development, especially outside of Chisinau.



6. DEVELOP INFRASTRUCTURE – ENERGY SECTOR

Moldova's energy sector should be identified as a strategic sector for Moldova's economic development.

Moldova's dependence on foreign sources of energy is a weakness and threat that is shared with the entire region. Incremental steps can be taken to improve energy efficiency and begin development of renewable energy sources. Rewards and incentives should be offered for investments into improved energy efficiency. Liberalization of the energy sector would permit the development of domestic sources of energy and renewable resources.

Recommendation: Develop the Energy Sector.

Moldova should privatize energy generation to allow private investment into the sector. Incremental private sector investments can accumulate to develop domestic generation of a significant portion of Moldova's energy needs. Specifically:

- Privatization of energy generation to permit private investment;
- Provide strong tax incentives and subsidies to investment in renewable energy;
- Increase the number of cross-border energy interconnections to increase grid efficiency and reduce our dependence on a limited number of foreign interconnection points;
- Require the electric distributors to sign long-term purchase agreements and pay premium prices for domestically-generated renewable electricity. Similar premiums have been paid in most EU countries and have resulted in significant investment and development of domestic renewable energy based on EU recommendations.

Recommendation: Promote Energy Efficiency.

As the cost of energy continues to increase, energy efficiency will become more strategic and valuable. Moldovan businesses and economic sectors should concentrate on improving energy efficiency and reducing electric consumption. For example:

- Promote energy efficiency through a national campaign to educate businesses and individuals on the various ways to save energy and become more energy efficient;
- Providing incentives for businesses to invest in energy-efficient technology;
- Require all public institutions to use energy-efficient lighting and develop energy-saving programs. Set targets for annual energy efficiency improvements;
- Require new construction to use energy-efficient methods and materials, including external isolation materials, triple glass in exterior windows and other requirements that have been applied in EU and other energy-conscious countries. The higher up-front cost of construction will improve Moldova's overall energy efficiency and generate significant long-term energy savings.

6.

DEVELOP INFRASTRUCTURE – ENERGY SECTOR



7.

TRADE REFORM

Because of the relatively small size of Moldova's population and domestic economy, Moldova must become very competitive in foreign trade in order to grow its economy. However, there has still to be developed an organized national strategy with a focus on improving foreign trade and growing Moldova's export market. There are several administrative and legislative reforms that Moldova has still not implemented, but which can improve trade and increase Moldova's exports.

Recommendation: Pursue the General System of Preferences with the United States under the WTO.

Recommendation: Pursue International Certifications.

Moldova should develop a systematic approach to obtain international certifications for its exports in order to reduce foreign markets' restrictions to our products. Obtaining international certification for Moldovan products, especially agricultural products and those with health-related regulations, can increase the number of markets to which Moldova can easily export its products. Additionally, Moldova should approach this as a national government initiative, as this will increase the credibility of all Moldovan exporters and facilitate the certification process, especially for smaller companies.

Recommendation: Recognize International Certifications.

Moldova duplicates many international certification efforts for agriculture, food, medical, technology and other products, often without the technology and resources to properly test the products it should certify. This increases the time and cost of international trade with Moldova and creates significant opportunity for corruption within the import process. Moldova should systematically accept recognized foreign certifications. Many industry certifications have become internationally accepted and can be shown to meet all Moldovan standards. Additionally, seeking to recognize certifications issued by the United States, Canada, the European Union, Russia and Moldova's other important trade partners can significantly ease trade with these countries. Such a systematic acceptance of international certifications can significantly improve Moldova's foreign trade relations, reduce domestic time and costs of trade and eliminate opportunities for corruption.

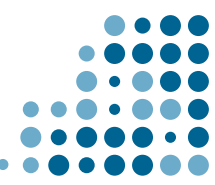
Recommendation: Adopt Policies that will Stimulate and Reward Successful Exporters.

In the 1960's, Japan pioneered a successful trade policy of Import Substitution that dramatically increased exports while also stimulating domestic development of skills in manufacturing and helped to build Japan's industrial economy. Moldova should encourage businesses that are successful exporters and offer incentives and rewards for their success. This will encourage exports and increase Moldova's international competitiveness.

Today, the cost of transportation and travel to and from Moldova has become prohibitively expensive. The cost of shipping products by road and rail is several times more expensive per kilometer in Moldova than elsewhere in the region and air transportation into and out of Moldova far exceeds costs elsewhere in the region. If Moldova is to develop its foreign trade, then shipping and transportation should become a competitive service to economic agents based on the best cost and quality, not a barrier to doing business.

Recommendation: Soonest Possible Privatization of Air Moldova, Chisinau Airport and the Moldovan Railroad.

These enterprises should be privatized to a strategic investor that will improve the quality of service, invest in modern technology to improve efficiency and lower overall costs. Additionally, these industries should be completely liberalized to permit full market competition based on cost and quality of service to the customer.



8.

TAX REFORM

The Tax Code and tax regime is the primary form of interaction between the government and the private sector. For non-regulated businesses, this can be the only point of interaction. Either way, the Tax Code is one of the most important tools of the state for influencing the private sector. It has the potential to encourage certain behaviors and restrict others. It can be used as a reward, or as a punishment. Most critically, it can influence whether or not the Moldovan private sector will be competitive against businesses from our regional competitors. AmCham Moldova believes that we should organize a systematic review of the Tax Code and procedures from the point of view of analyzing the influence they have on the private sector and the behavior that they encourage.

There exist numerous problems in the interpretation of Moldovan tax law, stemming in part from the lack of a unified Procedural Tax Code containing detailed norms on the methodology of application of the Tax Code provisions. Today, the application of Tax Code provisions are explained and clarified through a large number of instructions, decisions, orders, circulars, letters and other documents developed by the local tax authorities or other competent bodies. However, these are often unclear and confusing. Moreover, some of these documents have not been published officially or are contradictory with others and with the Tax Code. As a result, it is difficult to apply them in practice. Additionally, the Moldovan Tax Code contains generalities which leave room for interpretation or sophisticated norms with a lack of uniform and published explanations and clarifications.

The result is that tax issues are frequently treated differently by tax authorities and that businesses are exposed to risks of fiscal penalties, legal disputes, litigations, and even the risk of their business activity being suspended due to incorrect / abusive treatments of the tax authorities.

Recommendation: Pass a Unified Procedural Tax Code.

A draft Procedural Tax Code was completed in 2008 and submitted to Parliament, but was never ratified. This Code should be reviewed with the participation of the private sector, amended (if necessary) and ratified as one of the highest priorities of tax reform. Additionally, the Code and all future decisions, explanations and clarifications should be published online in order to be applied consistently and uniformly by all taxpayers and tax authorities.

There are currently no provisions in the Tax Code to regulate the manner in which the tax officers are assigned to deal with cases of taxpayers' challenges to minutes or decisions issued by Moldovan tax authorities on tax inspections performed. As a result, conflicts of interest can arise when a tax officer is involved in multiple stages of the challenge process and may not remain entirely impartial.

Recommendation: Amend the Fiscal Challenge Process.

We recommend that the law expressly provide for the principle of independence of the tax inspectors.

Considering that Moldova currently uses a 0% Corporate Income Tax (CIT) rate, many consider CIT compliance related matters to be of little relevance. However, it is well understood that the 0% CIT will not continue indefinitely. In anticipation of an increase in the CIT rate, we feel it is also important to address several issues that remain from the previous CIT regulations.

8. TAX REFORM

Recommendation: Update the Corporate Income Tax Regulation.

A detailed list of recommendations is included in Appendix 3.

As the largest contributor to the state budget, we recognize that we should be careful with significant changes to the VAT rates, as it can have significant impacts to the ability of the state to implement other valuable programs. Similarly, as the most significant tax burden on the private sector, we should also be careful with VAT charges and the proper application of this tax. VAT is often applied inconsistently or by officials that have not been properly trained and informed about the proper application of the Tax Code.

Recommendation: Review the VAT Legislation and its Application.

A detailed list of recommendations is included in Appendix 3.

Today, a significant portion of the businesses operating in Moldova collect revenue and pay their salaries in cash. This situation creates 2 serious negative conditions for Moldova. First, the government is losing a significant portion of its potential tax revenue. Moldova has the possibility to increase significantly its budget revenue through this segment of the economy.

Second, the tax-paying companies are supporting a disproportionate amount of the tax burden while a significant portion of the economy avoids their tax obligation and salary fund contributions. Generally, the large-scale and predominantly foreign investors fall into the first category of companies that are paying their taxes. These are also the companies that are bringing new investment and technology to Moldova and also investing in training and development of their employees. In short, these are the companies that we need in Moldova to develop our economy. It is unreasonable to punish these companies with excessive tax obligations while illegitimate companies that contribute very little to the future development of Moldova continue to enjoy a tax-free existence.

The existing Tax Code is adequate to generate the tax revenue, but the implementation of the Tax Code has failed and the tax collection agencies are either unable to effectively collect the taxes or corrupted.

Recommendation: Implement Stronger Legislative and Administrative Actions to Reduce Tax-Evasion.

To take strong policy action to eliminate the shadow economy through improved tax collections. Tax filings should be completed electronically and maintained in an online database with the ability for independent agencies to analyze and evaluate each company's reports. Unreasonably low revenue and salary reports should be investigated and confirmed with more emphasis of fiscal inspections placed on elimination of the shadow economy.

9.

COMBAT
CORRUPTION

The strong consensus among the private sector and many in the international community is that the failure of the Moldovan legal system to effectively uphold the Moldovan laws and to protect the interests of the private sector is the most critical problem in the Moldovan economy today. The court system frequently takes decisions in contradiction to Moldovan law, a situation that is illustrated by Moldova's poor record in the European Court of Human Rights, where Moldova has one of the worst records of all countries present. Additionally, several state and public agencies have the authority to unilaterally require private businesses to cease or alter their business activities before their case can be reviewed by the court system, circumventing the Moldovan legal system. This authority has become a source of abuse and corruption that has received significant international attention and is a deterrent to the success of existing investment and the attraction of new investment from abroad.

Moldova's past efforts to address corruption have had limited impact in stemming the situation. We applaud the government's requirement that top officials make their income and assets public. This program should be extended and more closely monitored and audited. Similarly, the efforts to bring transparency to the judicial system under the Millennium Challenge Threshold Program should continue to be enforced and extended to all areas of the judicial process. Unfortunately, several regulatory agencies continue without oversight and the law enforcement agencies charged with fighting corruption appear more focused on the private sector and political opposition than the actual government and public authorities that have been corrupted.

Recommendation: Create National Initiative to Combat Corruption.

Corruption and abuse of authority by public officials have become a significant barrier to attracting foreign and domestic investment and a barrier to overall economic development. Today's situation is serious enough that it warrants national attention and the development and implementation of a national strategy for combating corruption at all levels. Moldova should form a national task force to combat corruption with participation from the international community in order to bring experience from other countries that have faced similar situations.

Recommendation: Strengthen the Judicial Process.

The court systems should be Moldova's strongest method for defending the rights of the population, including the private sector. Moldova currently has very strong legislation for the protection of individual and company rights. The legal process should be strengthened to better enforce the current legislation. To achieve this, Moldova should:

- Make all court procedures public to allow open observation of the process, discussions and decisions;
- Publish all court decisions and make them available on the Internet;
- Establish programs to educate the public about their rights and how to enforce them.

Recommendation: Mandate Accountability of Public Officials.

Public officials should be responsible for their decisions.

- Hold judges responsible for their decisions and those decisions that are overturned in ECHR;
- Remove judges with repeated cases overturned in ECHR;
- Hold public regulators responsible for the legality of their decisions and those decisions that are overturned by Moldovan and international courts.

Recommendation: Eliminate Opportunities for Corruption and Abuse of Authority.

As part of the national effort to reduce corruption and abuse of public authority, Moldova should systematically eliminate situations that grant unchecked authority to regulators and public authorities. Private and corporate entities should always have the right to seek protection from the courts before decisions against them can be implemented. Moldova should limit the authority of regulators and government controlling organizations to implement their decisions against private businesses without the chance to appeal to the courts for a review of the legality of the decisions.



10. CONCLUSION: A PROPOSAL OF COLLABORATION FROM AMCHAM MOLDOVA

From our introduction, we would like to repeat that this document is not intended to present requests for what the Moldovan government can do to improve conditions in the business sector, but rather to outline what we can do collectively, to improve the conditions in Moldova for everyone. It is also not intended as a list of criticisms of all the points that are not working correctly. Instead, our intention is to point to opportunities for improvement of our existing system in ways that will improve Moldova's economy and create benefits for everyone. We would like to express a sense of optimism in our collective future and the readiness of AmCham Moldova to contribute where we can to a united effort to improve our shared environment.

We would like to express a sense of optimism in our collective future and the readiness of AmCham Moldova to contribute where we can to a united effort to improve our shared environment.

The American Chamber of Commerce in Moldova would like to establish a collaborative working relation with the new government. We are prepared to contribute rather than simply advise or criticize. We are prepared to contribute our collaboration, effort and expertise to the process of reform, development and improvements that we establish in cooperation with the new government.

Recommendation: Establish Working Groups to Implement a Collaborative Reform Effort.

AmCham Moldova would like to establish regular working group meetings between the government, private sector and members of civil society. This working group should have concrete tasks to accomplish and responsibilities for real improvement. The burden of the reforms we have proposed should not be born by one group alone. We will all share in the benefits and, therefore, should all be prepared to share the effort of finding the right path to achieve our goals.

10.

CONCLUSION: A PROPOSAL OF COLLABORATION FROM AMCHAM MOLDOVA



In modern economies more and more companies are requesting computer skills for employment. Thus, 5% of workforce in OECD countries is engaged in Information & Communication Technologies (ICT) Industry, while 20% of workforce in OECD is connected with ICT use.

Countries with transition economies, such as Moldova, encounter serious issues in supplying computer literate labour force, mainly because of:

- lack of relevant infrastructure
- lack of ICT culture among employees
- resistance against newest technologies
- fear that ICT will decrease the number of workplaces

Computers at home could help in acquiring the necessary ICT skills and, thus, surviving in new conditions. Following this presumption, many Governments have recently developed special Government Programs to solve the problem and have implemented it with various degrees of success.

In Moldova, some positive trends towards the building of information society were registered in the last years. Thus, through a “Presidential Decree on Building Information Society”, Building Information Society was declared as a national priority. National Strategy and Action Plan “Electronic Moldova” was launched and is in the process of implementation. Moldovan Government is steadily implementing e-services. ICT sector in 2007 contributed with 10, 2% to GDP, while annual ICT growth reaches almost 20%.

Nevertheless, lack of qualified workforce with computer skills is still observed and remains to be a barrier to the development of national economy.

In Moldova, the home computer penetration rate is only 20% compared with 54% EU average.

AmCham believes that situation may be considerably improved through the implementation of a Government Program, similar to those implemented in other European Countries, such as the UK, France, Spain, Romania, Lithuania, Estonia, designed to increase the home computer penetration rate.

The most successful government scheme to promote home computer use was for the first time implemented in Sweden in 1998, under the “Employee Program”. The same scheme was in a while applied by the Government of Great Britain under “Home Computing Initiative”.

The idea was initiated by labour unions at Volvo car-maker, main reason being the gap between blue-collar workers and white-collar colleagues in use of the benefits of personal computing.

Swedish Government responded to labour unions by allowing the purchase price of a PC to be deducted from employees’ salaries as monthly rate spread over a period of three years and tax-free computers (VAT at 25%).

APPENDIX 1

HOME COMPUTING INITIATIVE – INTERNATIONAL EXPERIENCE – SOLUTIONS FOR MOLDOVA

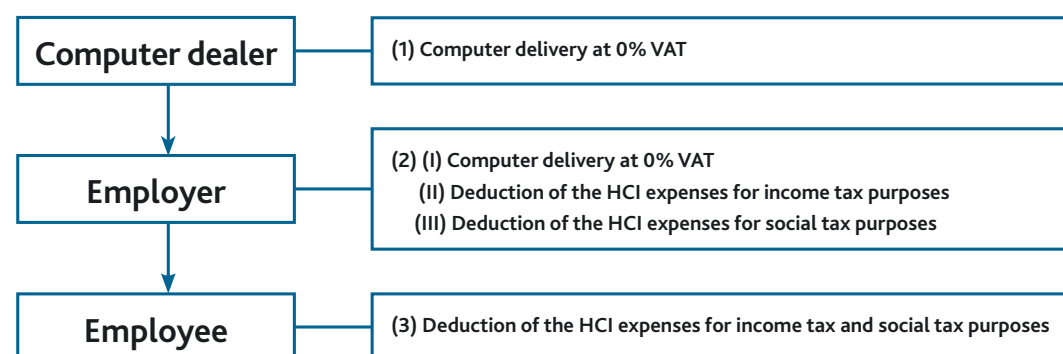
APPENDIX 1: HOME COMPUTING INITIATIVE

The PCs were leased to employees, who can buy the computer at the end of the leasing period at a favourable price. The company, in effect, underwrites around half of the cost, which includes help-desk support. A condition is that employees train at home on their own time and take an IT knowledge test.

In the first year, 600,000 units were sold under the scheme. In 1997, before the programme began, home PC penetration was 40%. By 2001, it had risen to 80% and is now estimated at some 90%— the highest in the EU. The scheme was adjusted during the next years and will be ended in 2009.

We at AmCham believe that the same model may be implemented in Moldova to raise the level of computer penetration and improve the overall computer skills of the population.

The ideal model, as it is seen by AmCham, should include solutions on three levels, considering the number of actors being implicated: computer dealers, employers and employees. The tax solutions are meant to motivate the participation of all the actors:



Several premises are imperative for Moldova to succeed in the implementation of a Home Computing Initiative:

- Strong political will, declared and followed;
- Clear targets established in strategic documents;
- Determined target groups;
- Administrative leadership by the responsible Government institution;
- Marketing of the Program properly, both to ensure its success and its long-term political viability;
- Easy for beneficiaries to understand and use the scheme;
- Close cooperation with the IT industry and other private sector players.
- Specific conditions of Moldova taken into consideration (few big companies, many SME);
- Impact measurement;
- Awareness campaign on TV, radio, Internet, other mass media means.

APPENDIX 2

LABOR CODE AMENDMENTS

The law requiring that employers must provide a written explanation of refusals to applications for employment even when such an explanation is not requested by the applicant is overly administrative, rarely practiced and exposes employers to unnecessary legal conflicts.

Recommendation:

Article 47, section (3) must be removed from the code, or needs to be amended to provide written explanation only when requested by the applicant.

To ensure greater security against leakage of corporate information and trade secrets it's necessary to extend the period binding the employee with the confidentiality clause.

Recommendation:

Modify Article 53 of the Labor Code, regarding persons who have held positions of responsibility to permit longer periods of confidentiality.

Fixed-term contracts and consulting are valuable sources of short-term expertise for employers and provide high-value and high-salary employment for qualified employees. Moldova should eliminate restrictions on how fixed-term contracts can be used in order to allow the growth of this valuable form of employment.

Recommendation:

Eliminate from Article 54 and 55 of the Labor Code the restriction to conclude fixed-term contracts only for certain positions.

Recommendation:

The time limits on fixed-term contracts specified in Articles 55 b), 70, 71 (2) should be modified to permit these limits to be negotiated under the clauses of the individual or collective labor agreement.

Current laws are overly restrictive on employers during the recruiting and interview process for hiring new employees. This exposes employers to risks of hiring unqualified employees or those inappropriate for their positions.

Recommendation:

To permit companies to require medical certificate for all employees.
Amend Article 57 of the Labor Code to permit companies to obtain copies of CPAS certificates and medical insurance policies, if they exist.

Proposed modifications to labor legislation related to probationary periods of employment:

Recommendation:

Modify the Labor Code to permit trial periods for young specialists, graduates from professional and vocational schools and persons selected for elective positions. Article 62 section c) should be modified to better define "competition" or provide that "competition" and its deployment procedures must be determined by the employer's regulation.

Provide for additional trial periods for employees that have been promoted or transferred to new positions within the same company.

Proposed modifications to labor legislation related to termination of employment contracts:

Recommendation:

To cancel the provisions of Article 87 and Article 388 (4) according to which employees elected into labor union offices cannot be dismissed during 2 years after the mandate expires, except for cases of company liquidation or employee's liability of a crime.

Recommendation:

Article 88 (1) f) and Article 184 (2) clearly contradict each other: the phrases "one day" or "at least one day" differ significantly, as well as the words "working" or "free". The latter being a case where logically would be for both of the articles to include the word "free".

Furthermore, the provision of Article 88 (1) c) should be removed to exclude employer's obligation to provide another position in the company for employees subject to layoff.

Proposed modifications to labor legislation related to annual leave:

Article 115 (5) and Article 116 (5) contradict each other. Under the current legislation the leftover of annual leave is "transposable." Therefore, the employee is entitled to request a desired number of days within the left period, durations that cannot be scheduled. It is also unreasonable to notify the employee with at least 2 weeks in advance that suddenly he/she needs one day out of the annual leave. How can the employer possibly know that the employee will need one day in two weeks?

Recommendation:

Article 115 (5) rules to necessarily grant 14 days of annual leave within a single fixed term, we suggest that a schedule be made only for these fixed 14 calendar days. Thus, the employee would be informed two weeks in advance only in what concerns the beginning of the fixed term.

There are many situations when employees in advance of their annual leave require for their allowances to be paid at a time with the monthly wage, in order not to leave without means of subsistence during the upcoming month.

Recommendation:

Amend Article 117 (3) to provide for payment of annual leave allowances with regularly scheduled salary payments.

Proposed modifications to labor legislation related to overlapping employment:

Recommendation:

Amend section 4 of Article 267 to require the consent of the primary employer.

Recommendation:

According to the law, the payment for overlapping occupations (functions) cannot constitute less than 50 percent of the tariff wage. We propose to cancel the limit and make the payments according to the time worked or to establish the complementary payment by the agreement of the parties.

**Proposed modifications to labor legislation related to disciplinary sanctions:**

Under current law the employer may apply disciplinary sanctions only for unmet work obligations expressly stated in the individual labor agreement, excepting the cases provided by the Labor Code. These provisions are limited, both in terms of enforcing the sanctions for infringements of company's regulation, as well as breaches of contractual terms.

Recommendation:

The employer should have the possibility to apply disciplinary sanctions for breaches of the company's regulation as long as the employee has been adequately informed of the regulations.

The employer should be provided the possibility to apply disciplinary sanctions for breach of specific contractual clauses.

Proposed modifications to labor legislation related to material responsibility:**Recommendation:**

Amend Article 339 (1) and allow the employer to conclude agreements for material responsibility with all employees, not just those holding positions specified in the article.

Other proposed modifications to labor legislation:**Recommendation:**

To amend legislation related to payment of moral damages in labor-related lawsuits to exclude the provisions of Article 90 (3) in regards to the minimum amount of moral damages paid to the employee in the event the employer has violated the former's rights. Any such payment should be determined by a court, thus establishing a minimum is not appropriate.

National legislation requires to pay an additional 10% of the tariff wage to the second class drivers and 25% - for first Class drivers, just because they have a driver's license specifying this, and despite the fact that these employees may not drive this type of transportation.

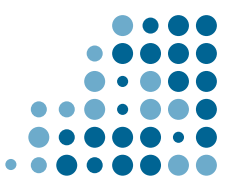
Recommendation:

Either eliminate the rule, or specify within it that the employee must actually be engaged in driving of the kind.

Employer-provided benefits can be an important source of incremental medical, educational material financial and other employee benefits. However current legislation provides no incentives for the employer to widely apply them and even applies taxes to such benefits.

Recommendation:

We propose amending the legislation in a way that would allow benefits, like, for example, meal tickets, not be taxed; or to establish a limited quantum accounted for social benefits that would not be subject to taxation.



The current limitations on deductibility of travel expenses do not correspond to true market costs for many international and domestic destinations. The costs of hotels, meals and transportation are often far higher than the allowable amounts, limiting the ability of Moldovan companies to participate in international forums.

Recommendation:

The restrictions on deductibility of travel expenses should be excluded, or they must be adapted to the market.

Recommendation:

The authority granted to the Labor Inspector under Article 376 (1) is included also in other laws and is reserved for other law enforcement agencies. To avoid conflicting jurisdiction and multiple controls on businesses these points should be allocated to a single regulatory agency.

Recommendation:

The national classification of occupations is outdated. It provides limited benefit and is restrictive on the administration of businesses. We should recognize an advisory and not binding character of the National Classifier of Occupations.

**Recommendation: To Pass a Unified Procedural Tax Code.**

A draft Procedural Tax Code was completed in 2008 and submitted to Parliament, but was never ratified. This code should be reviewed with the participation of the private sector, amended (if necessary) and ratified as one of the highest priorities of tax reform. Additionally, the code and all future decisions, explanations and clarifications should be published online in order to be applied consistently and uniformly by all taxpayers and tax authorities.

Recommendation: Implement Anticipated Individual Tax Solutions.

Moldova should amend the Tax Code to allow taxpayers to benefit from binding clarifications and anticipated individual tax solutions from the Moldovan Fiscal authorities. To properly implement this concept in Moldova, state authorities could perform a preliminary analysis of the best international practices as examples of how this can be successfully implemented. The implementation of this concept in Moldova could be beneficial for the taxpayers and could serve as a source of additional revenue to the national public budget, as the anticipated fiscal solutions are issued by competent authorities for a fee per solution.

There are currently no provisions in the Tax Code to regulate the manner in which the tax officers are assigned to deal with cases of taxpayers' challenges to minutes or decisions issued by Moldovan tax authorities on tax inspections performed. As a result, conflicts of interest can arise when a tax officer is involved in multiple stages of the challenge process and may not remain entirely impartial.

Recommendation: Amend the Challenge Process to Avoid Conflicts of Interest.

We recommend that the law expressly provide for the principle of independence of the tax inspectors.

Moldova has actively sought to conclude Double Tax Treaties (DTT) with other countries. There are currently more than 40 Moldovan DTTs in force and a number being ratified and / or enforced. As a result, multinational companies have a great business case for considering Moldova for investing, in addition to the efficient tax structuring opportunities.

Furthermore, despite Moldova currently being a non-OECD country, the Moldovan Ministry of Finance has put significant efforts in improving the local practice of interpreting DTT provisions. A positive step was the approval by the MoF in 2008 of the Order no. 38, according to which the OECD Model Tax Convention on Income and on Capital and its Commentaries were recommended for use by the Moldovan tax authorities and taxpayers as a Guide to interpreting and solving tax issues related to active DTTs.

Recommendation: Moldova should Continue to Further Enlarge its DTT Network.

It is also advisable that Moldova, as a non-OECD country, initiate the process of indicating its positions on the OECD Model. This would allow Moldova to establish a closer working relationship with the OECD in the area of DTTs, build dialogue with other countries on tax treaty issues and give a positive signal to foreign investors and potential treaty partners who would be interested in knowing how Moldova intends to apply its treaties.

APPENDIX 3

TAX CODE
AMENDMENTS

Although the concept of Permanent Establishments (PEs) was introduced into the Moldovan Tax Code in 2006, the application and treatment of PEs still remains poorly regulated in the Moldovan tax legislation. Moldovan tax authorities are not very familiar with the concept and do not have experience in dealing with PE-related tax matters. Since a PE is treated as a resident taxpayer, it appears that it should be subject to all tax liabilities in Moldova according to the standard taxation rules (including tax reporting). However, the tax law does not mention any other tax liabilities to which a PE should be liable, except for corporate income tax related compliance requirements.

Recommendation: To Clearly Detail the Overall Tax Regime Applicable for PE in Moldova.

The regulations should be documented and approved under a Government Decision. We also recommend that the current regulatory, banking and customs legislation be harmonised with the tax provisions and practice applicable for PEs, to ensure consistent treatment and practicality of this concept.

Improvement of Corporate Income Tax (CIT) Related Matters

Taking into account that the currently applicable CIT rate in Moldova is 0%, many consider CIT compliance related matters to be of no more relevance.

Nevertheless, we still consider it worthwhile to include few recommendations related to CIT issues.

Recommendation:

The following is only a summary of CIT related recommendations. These could be further detailed by us in future publications, depending on further developments in this area.

- To remove the restriction in the tax law according to which the fiscal loss value can be carried forward in equal instalments during five consecutive years. This restriction worsens the tax position and, hence, the financial situation of companies incurring fiscal losses during the period following the immediate start-up of business in Moldova;
- To allow the deduction for CIT purposes of certain expenses (e.g. expenses incurred by a Company with the properly documented recharges from a non-resident entity related to expenses incurred on the secondment of staff at the premises of this Moldovan company (including those related to selection, training, remuneration, secondment bonuses and benefits or any other expenses exclusively related to the secondment), provided the work of the seconded personnel is performed exclusively for the benefit of the Moldovan entity; expenses related to benefits granted by the employer, provided they were taxed at the level of the employee; expenses with the repayment of the material damage incurred by legal entities which are carrying out high danger activity, etc);

Instead of excluding the CIT incentives related articles (i.e. 49, 491, 492) from the Tax Code, as proposed under the draft Law for the amendment of certain legislative acts (including of the Tax Code), the action of these articles should rather be suspended for as long as the CIT rate shall be equal to zero, etc..

The current Moldovan VAT refund mechanism allows refund of VAT from the budget for only limited categories of VAT taxpayers, such as exporters of goods and services. Most VAT taxpayers do not receive VAT refund. While this provides short-term cash to the state budget, the impact is that it creates a significant barrier to investment. The additional cost of VAT that is not refunded leads to a significant negative cash impact on companies that such amounts may not be reinvested. Further, the restriction on VAT refunds affects most strongly new investments that are not yet cash-flow positive, and large infrastructure investments that take several years to generate financial returns. In short, the restrictions on VAT refunds have the largest negative impact on exactly the new investments that Moldova wants to encourage. Additionally, most of Moldova's EU and regional neighbours do not have such restrictions, so for Moldova this represents a competitive disadvantage in terms of country attractiveness for foreign investors.

Recommendation:

We recommend aligning the current VAT refund mechanism to the EU directives and international practice. In particular, it is recommendable that not only the currently regulated specific categories of VAT taxpayers have the right to refund VAT receivable amounts from the budget, but all VAT taxpayers that are in a VAT-recoverable position and opt for the refund of VAT.

Although, the current tax legislation provides for certain provisions on deductibility of expenses and input VAT related to inventory shortages (losses), business entities are still facing issues with it, since these provisions do not regulate all types of inventory shortages that may result at the business entities, as well as due to the lack of a commonly applicable mechanism for CIT and VAT purposes.

Moreover, the current limits (amounts) provided in the local legislation under which companies are allowed to deduct their input VAT on inventory shortages became out of the date or do not refer to all types of inventory shortages which in practice may be recorded.

Recommendation:

It is recommendable that the CIT deduction mechanism for expenses incurred by businesses be fully revised to ensure coherence with related VAT implications. We also advise that an adjustment of limits provided by law to the current business practice (or eventually to allow companies themselves to determine the admissible thresholds of inventory losses by type of good, loss) be performed.

The current VAT legislation does not expressly provide any specific rules to regulate the VAT treatment applicable for cross-border recharges (re-invoicing) of costs.

At the same time, in practice, there are many instances where foreign entities recharge to their Moldovan subsidiaries overhead expenses (e.g. accommodation expenses, transportation expenses, legal fees, etc.), along with specific service fees, which are locally allocated as they pertain strictly to the activity of the Moldovan subsidiaries.

This matter becomes especially important nowadays when local companies are acquired by foreign group companies and the local companies are bound to integrate into group standards and implement best group standards and practices.

Based on current general VAT provisions, as long as such no mark-up bearing recharges are performed by non-residents (apart from service fees) and they are properly documented, no VAT implications arise at the level of Moldovan subsidiaries upon their repayment.

Nevertheless, the current tax legislation is silent in this respect. Such silence leaves room for interpretation, so the tax authorities could insist a different treatment.

Recommendation:

For the purposes of companies mitigating eventual tax exposures within tax inspections performed by the Moldovan tax authorities, it is recommendable that the Tax Code specifically regulates the VAT treatment applicable to cross-border cost recharges.

According to the current VAT provisions, VAT payers entitled to get the refund of receivable VAT amounts (e.g. exporters, producers of bread/milk and bakery/dairy products, leasing companies) may either be transferred with the respective VAT amounts to their bank account or compensate their other liabilities towards the national public budget (or of their creditors), except for taxes, duties and charges managed by the customs authorities (e.g. import duty, VAT).

At the same time, VAT on imported goods is generally payable in advance, before import customs clearance procedures are performed, on the amount of the customs value of the respective goods and related import duties and charges, except VAT.

Whereas VAT amounts are paid in advance by importers, they are bearing significant VAT pre-financing costs, as such import VAT could be generally offset against future output VAT liabilities of respective companies.

Recommendation:

Taking into account that businesses are currently facing significant difficulties with cash availability, as well as the fact that the effective transfer of VAT-refundable amounts to the bank accounts of companies is a problematic issue (as most of transfers are blocked due to lack of liquidities at the level of the national public budget), it is recommendable that the law is amended in such a manner as to allow the compensation of refundable VAT amounts with customs duties (especially, with import VAT).

Referring to the necessity to compensate import VAT liabilities against refundable VAT amounts, it should be outlined that this amendment is highly important taking into account that, as such, importers are making no-interest-bearing advance payments to the state during a period of extreme economic recession.

According to the current VAT regulations, services provided by non-resident suppliers to residents of Moldova, which have their place of supply in Moldova, are deemed as being imported and are therefore generally subject to VAT in Moldova.

Generally, the place of supply depends on the specific nature of services. In particular, should they have the place of supply in Moldova (e.g. consulting, supply of staff, etc.), this will trigger import VAT liabilities (i.e. standard 20% VAT rate) for their Moldovan beneficiary, unless there is no specific VAT exemption provided by law. Import VAT has to be settled by the beneficiary of services in question on the date the external invoice is settled.

In situations where such import VAT is deductible for the Moldovan paying company, such company will incur VAT pre-financing costs. This matter is becoming significant, given the opportunity costs which are faced by such companies (e.g. impossibility of using the cash for other purposes – e.g. for capital investments, working capital, etc.).

At the same time, the payment of VAT amounts by companies in such circumstances should not be regarded as an enhanced mechanism of collection of taxes by the state, but rather as a financing of the budget for a specific period of time (by its full set-off by output VAT charged by companies).

Recommendation:

Considering the above, as well as the fact that during the current economic downturn companies are facing significant problems with cash availability, it is recommendable that the Moldovan authorities consider implementing VAT reverse charge simplification measures to avoid cash-disruptive advances of such further deductible import VAT.

According to the general rule, the VAT payer must issue the VAT invoice to the buyer on the date of the supply of goods and/or services.

Non-observance of this term is subject to a fine of MDL 1,800 per case of incompliance. For many companies (involved in a large number of transactions during any day) it is physically and technically difficult to issue VAT invoices on the very same day when the supply of goods and/or services is performed by them.

As a result, they run the risk of being fined per each case of delayed VAT invoice.

Recommendation:

To allow companies (VAT payers) to issue the VAT invoice to the buyer within a three-working day period from the date the supply of goods and/or services was performed or not to apply sanctions above to the given company if the VAT invoice was issued within a three-working day period from the date of the supply.

Personal income tax (PIT) rates are currently differentiated and depend on the size of the annual taxable income. For 2009, the Moldovan Tax Code establishes the following progressive PIT rates:

- 7% - for annual income of up to MDL 25, 200 (EUR 1,647);
- 18% - for annual income that exceeds MDL 25,200 (EUR 1,647).

Therefore, it becomes obvious that the progressive taxation with PIT is:

- a critically pressing issue due to its distorting and anti-competitive effects,
- a factor in official employment discouragement and increased causes of the grey economy,
- relatively difficult to be administered by both taxpayers and tax authorities, etc.

Recommendation:

We propose that the current PIT taxation structure be revised and a uniform flat rate be introduced. The thinking behind this is that:

- in the case of a flat rate there is no need to adjust tax brackets for high inflation rates,
- the flat rate system is easier to administer (for both taxpayers and tax authorities),
- the flat rate system ensures more transparency,
- such changes will encourage business to enter the formal sector and not to remain in the shadow economy, etc.

In our view some of the current fines imposed for infringement of the tax legislation are too severe and unfair for taxpayers since the high fines imposed usually do not correspond to the level of damage produced / that may be produced as a result of tax requirement violations. They also do not comply with other principles that should be taken into consideration in this subject such as: if the infringement was produced by the taxpayer wilfully or in error; if the infringement has happened before and, if so, how often; if the taxpayer has failed to comply with any undertaking / notifications to remedy the infringement and with other principles.

For instance, under the current provisions of the Tax Code a fine of 25% of the understated (undeclared) taxable income may be imposed by the tax authorities for taxpayers that apply 0% Corporate Income Tax rate. As can be noted, this fine may be very significant for companies that fail to declare correctly (or understate) the taxable income (e.g. it was produced by mistake) even though this infringement does not produce financial damage to the budget as at the moment the Corporate Income Tax is 0%.

Another example is that for failure to complete correctly or appropriately the supporting documents used for fiscal purposes or of the tax returns a fine of MDL 500 is imposed for each case. This fine, in our view, is also unfair and severe as it may result in significant amounts to be paid by the taxpayer (e.g. if a mistake, possibly even a typing error, is made in a list of the invoices issued during a period of time. Indeed, the fine of MDL 500 may be multiplied by a number of invoices where this mistake occurred) although this infringement does not produce any financial damage to the budget.

Recommendation:

We recommend conducting a review and change of the current system of fines imposed for infringement of the tax legislation to make it fair and to correspond with the level of damage to the budget. It should comply with the other principles we mentioned above in that regard.

For instance, the fine of 25% imposed for understatement of taxable income may be reduced and applied only if the taxpayer does not comply with the notification that the tax authorities issue before imposing such a fine in order to remedy the identified infringement.

Although, as we know, the tax authorities recently proposed to reduce the fine of MDL 500 for incorrect and inappropriate completion of supporting documents or of the tax returns, it may still be unfair given that this infringement does not generate financial damage to the budget. In our view, the amount of this fine may be reduced to MDL 200 and applied only once, i.e. not for each repeated case of the identified infringement.

Based on the Law on customs tariff, only the Moldovan Parliament is authorised to establish / modify customs duty rates. In practice, businesses may benefit from reductions and / or exemptions from customs duties based on:

- the application for suspensive customs regimes (e.g. inward processing relief),
- preferential tariff treatment granted in accordance with the provisions of free trade agreements;
- favourable tariff treatment granted depending on the type of goods or their final destination.

Besides the possibilities above, the current law does not enable Moldovan companies to benefit from the principle of temporary suspension and / or reduction of customs duties. At the same time, introduction of amendments into the Law on customs tariff may last for a long period of time due to operational reasons.

Compared to Moldovan legislation, the European Union law instead regulates the principle of customs duty suspension and / or reduction in customs duties. Obviously, the primary purpose of customs duty suspension principle is:

- stimulation and revival of economic activity at the country level,
- reduction of production costs (customs duties vary in Moldova up to 20% of the customs value of goods),
- increase of the competitiveness of domestic products,
- reduction of unemployment by creation of new jobs, etc.

Since in Moldova only the Parliament is authorised to approve customs duties, the implementation of the more flexible way to temporarily establish / modify customs duties would allow Moldovan authorities to more promptly address the effects of the economic crisis, as well as to pursue other macroeconomic targets.

Recommendation:

Taking into account the above, it is advisable to empower the Government with the right to approve temporary customs duty suspensions and / or reductions of import duties for some categories of goods in justified instances and in a transparent way.

Finally, the need to amend the current law in this area is also reasoned by the following arguments:

- Opportunity of implementation of such amendments as anti-crisis measures,
- Significant customs duties costs incurred by importers during the time of financial crisis and, consequently, its impact on local consumers,
- The trend of harmonisation of Moldovan legislation with EU law and international practice.



APPENDIX 3: TAX CODE AMENDMENTS

All companies that reported sales of goods and services in excess of MDL 2,000,000 during the previous year are obliged to install and use POS terminals to receive payments. This rule was aimed at keeping the cash in the banking system, but does not take into consideration the interests of a large number of companies that are mainly involved in “business to business” transactions and which exclusively receive wire transfer payments and have no need for installation of POS terminals and incur related expenses (ex. contractual fines payable to banks for non-use of the POS terminals).

Recommendation:

To amend the law so as to eliminate the obligation to install POS terminals for companies that receive payments exclusively by way of wire transfer.

Today, a significant portion of the businesses operating in Moldova collect customer payments and pay their salaries in cash. This situation creates 2 serious negative conditions for Moldova. First, the government is losing a significant portion of its potential tax revenue. Moldova has the possibility to increase significantly its budget revenue through this segment of the economy.

Additionally, the tax-paying law-abiding companies are supporting a disproportionate amount of the tax burden while a significant portion of the economy avoids their tax obligation and salary fund contributions. Generally, the large-scale and predominantly foreign investors fall into the first category of companies that are paying their taxes. These are also the companies that are bringing new investment and technology to Moldova and also investing in training and development of their employees. In short, these are the companies that we need in Moldova to develop our economy. It is unreasonable to punish these companies with excessive tax obligations while illegitimate companies that contribute very little to the future development of Moldova continue to enjoy a tax-free existence.

The existing tax code is adequate to generate the tax revenue, but the implementation of the tax code has failed and the tax collection agencies are either unable to effectively collect the taxes or corrupted.

Recommendation:

To take strong policy action to eliminate the shadow economy through improved tax collections. Tax filings should be completed electronically and maintained in an online database with the ability for independent agencies to analyze and evaluate each company’s reports. Unreasonably low revenue and salary reports should be investigated and confirmed with more emphasis of fiscal inspections placed on elimination of the shadow economy.

NOTES

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