



Formerly part of Romania, and a part of the area known historically as Basarabia, Moldova was incorporated into the Soviet Union at the close of World War II. Although the Republic of Moldova has been independent from the USSR since 1991, Russian forces have remained on the Moldovan territory east of the Dniester River supporting the Slavic majority population, mostly Ukrainians and Russians, who have proclaimed a ‘Transnistria’ republic.

The poorest nation in Europe, Moldova became the first former Soviet state to elect a Communist as its President in 2001.<sup>1</sup>

### Economy

Moldova is largely reliant on agriculture as its major source of revenue, enjoying a good climate and some of the best farming land in the world. However, it has few mineral deposits, and imports almost all of its energy supplies from Russia, leaving it vulnerable to energy shortages after the break-up of the Soviet Union in December 1991. This led to a sharp industrial decline.

An ambitious reform effort after independence saw Moldova introduce a convertible currency, free interest rates and free prices, privatise land, and remove export controls. The Government entered into agreements with the World Bank and the IMF for promoting growth and reducing poverty. The economy returned to positive growth in 2000, and has grown consistently since then.

An increasing number of Moldovans are working abroad. Therefore, workers’ remittances, at current rates, may soon equal gross foreign exchange earnings from all merchandise exports. However, the economy remains vulnerable to higher fuel prices, poor weather, and the scepticism of foreign investors.

PROFILE	
Population:	4.2 million****
GDP (Current US\$):	2.0 billion****
Per Capita Income: (Current US\$)	590 (Atlas method)**** 1,900 (at PPP)**
Surface Area:	33,843 sq km
Life Expectancy:	67 years****
Literacy (%):	99.1 (of ages 15 and above)*
HDI Rank:	113***
Sources:	
- CIA - The World Factbook	
- World Development Indicators Database, World Bank, 2004	
(*) 2003 est	
(**) 2004 est	
(***) For the year 2002	
(****) For the year 2003	

### Competition Evolution and Environment

Moldova is currently Europe’s poorest country. Within Europe, it is able to compete primarily due to the low wages paid for an often highly skilled labour force. However, low labour costs do not protect Moldovan producers of consumer goods in the domestic market against increasing competition from imports. Neither exporters nor enterprises competing with imports get much help from the Government. Despite attempts to improve the competitiveness of the economic environment, the Government still maintains policies, which increase the cost of doing business and sap the country’s competitive potential.

Yet the picture is by no means bleak. In a difficult environment, some of Moldova’s enterprises manage to compete successfully, to survive and even prosper in competitive markets. The country’s exports to the EU are gaining market share in growing and stable markets there.

\* Original paper submitted in August 2005. Revised in March 2006 extensively by Alice Pham of CUTS

1 CIA -The World Factbook

Apparel producers are moving along the value-added path from just sewing, to cutting and sewing, and on to private label production.

The challenge for Moldova is to leverage emerging capacities, to raise productivity levels throughout the economy, and to improve the competitiveness of the country's producers, in domestic as well as export markets. Meeting that challenge demands a carefully articulated strategy, focusing on areas of economic activity that have a high payoff in terms of productivity gains.

Unlike other CIS countries, Moldova did not have any pre-USSR laws from which to draw upon, and was effectively starting from scratch in its evolution of a competition environment. Its first competition law – The Law 'Concerning Limitation of Monopolistic Activities and Development of Competition' was passed on May 1, 1992 (hereinafter referred to as the Anti-monopoly Law).

### **Competition Institutions and Regulations**

#### ***The 1992 Anti-monopoly Law***

The 1992 Anti-monopoly Law regulates the organisational and legal framework for the development of competition; provides measures for preventing, restricting and forbidding monopolies towards providing the necessary conditions for the creation and operation of the market economy in the Republic of Moldova. It excludes state monopolies from its jurisdiction.

State policy concerning facilitation of competition and restriction of monopolistic activities is the responsibility of the State Committee for Economic Reform (CER). The main tasks of the CER in the sphere of anti-monopoly regulations are:

- (i) to establish measures for developing market oriented relations on the basis of development of entrepreneurship and competition;
- (ii) to prevent, restrict and suppress monopolistic activities; and
- (iii) to monitor compliance with the Anti-monopoly Law.

The CER is entitled to impose penalties for violations of the law, including evasion of implementation or delayed implementation of the CER's orders, failure to submit necessary information to the CER, or submission of deliberately false information.

Entities or individuals can go to court to attempt to recover losses incurred as a result of monopolistic activities. The CER also has some authority to review cases filed by entrepreneurial entities, regulatory authorities and consumers' societies and unions, or to file cases itself. Similarly, entities may appeal to the courts against CER decisions.

#### ***The 2000 Law on Protection of Competition***

On December 31, 2000, the new Law No. 1103-XIV 'On Protection of Competition' (hereinafter – Law on Protection of Competition) was adopted. Many of provisions of the new Law reproduce provisions of the 1992 Anti-monopoly Law, though the latter one has not yet been abolished. The new Law on Protection of Competition regulates in more detail relations in the sphere of competition. It provides major definitions in the area of competition and antimonopoly policy, stipulates basic restrictions for economic subjects and state authorities in order to protect competition and system of state control in this sphere.

Chapter III of the Law on Protection of Competition stipulates provisions on anticompetitive actions. Article 5 of the Law states that anticompetitive actions are the following:

- Monopolistic activities:
  - Abuse of the dominant position in the market;
  - Anticompetitive agreements between economic subjects;
- Unfair competition;
- Activities of Public authorities, which constrain competition.

A dominant position in the market is defined in Article 2 of the Law on Protection of Competition as an exclusive position of an economic actor in the market, which allows him alone or together with other economic actors to exert decisive influence upon general conditions of goods turnover in a certain market or to create obstacles for other economic subjects to enter the market. The share of an economic participant in the market in order to consider him as holding dominant position must be not less than 35 percent.

The same article of the Law provides definition of unfair competition, which is understood as any actions of the economic participants directed towards getting unjustified advantages in their business activities, which breach legislative provisions on protection of competition and damage or could damage other economic participants or their business reputation.

Detailed provisions on abuse of dominant position in the market are contained in Article 6 of the Law on Protection of Competition. It states that the actions of an economic participant with the dominant position in the market or of several economic participants holding in aggregate a dominant position, which have or can have as a result the limitation of competition and/or infringement of other players and natural persons' interests. These actions include but are not limited to:

- Obtrusion of indubitably unprofitable or irrelevant conditions to contractors;

### Box 86.1: Prices Not a Major Problem, but Export Restrictions Hurt

The pricing regime in Moldova, as mentioned above, has been liberalised, but several goods and services remain subject to price controls, especially those produced in industries where State monopolies are permitted by law, such as electricity, heating, telecommunication services, land, transportation, and medical services. A number of ‘socially important’ goods are sold with a maximum commercial mark-up of 20 percent, including canned food for children, sunflower oil, dairy products, butter, flour, bread, drugs, and others.

State interference, though limited, does exist. Recent examples include interference in the grain market in 2001 through provisional restrictions on bakeries, and the initiative of regulating pricing on the basis of a law in 2001, when the Parliament was considering a draft of the Law on Prices. A recent initiative to restrict exports of sunflower seeds was aimed at

protecting the interests of local sunflower processing companies.

Even with these constraints, price controls are not perceived by businesses as considerably constraining their operations. According to the Cost of Doing Business survey, about 70 percent of respondents do not perceive the state to be influencing prices. Those who do report state interference in price-setting, emphasise such mechanisms as ceilings on retail prices, restrictions on profitability, and minimum retail prices.

The business environment does appear to be competitive. According to another survey, 84 percent of firms report at least four competitors, and 76 percent have four or more suppliers. Sixteen percent of respondents see anticompetitive and informal practices as a ‘major’ constraint on business activity, similar to other CEE and CIS countries.

*Source: ICA (2004), Moldova Investment Climate Assessment, World Bank and International Finance Corporation*

- Compulsion of contractors to conclude a contract under conditions of purchasing (selling) of other goods or to refrain from purchasing/selling the goods from/to other economic participants;
- Maintenance of artificial deficit of goods in the market;
- Implementation of discriminating conditions, which put the contractors in a situation less favourable as compared to other economic participants;
- Fixing the price limitations on reselling of the goods;
- Putting obstacles in the way of entrance into the market for other economic participants;
- Establishment of monopolistically low (predatory) prices;
- Establishment of monopolistically high prices;
- Ungrounded refusal to conclude a contract with certain customers having possibility of producing or selling respective goods.

There are also certain restrictions in respect to the agreements resulting in limitation of competition. Such agreements are prohibited between:

- Competitive (rival) economic participants possessing an aggregate share in the market more than 35 percent;
- Non-competitive economic participants, one of which holding a dominant position in the market, and another one being his supplier or customer; and
- Non-competitive economic participants, each of them holding a dominant position in the market of certain goods.

If such contracts have the signs of contracts, which restrain competition, they may be concluded with the permission of the CER.

Coordination of one economic participant’s activity with another one, if it results in limitation of competition, is also prohibited.

The Law on Protection of Competition of 2000 provided the basis for creation of the National Agency on Protection of Competition. The Law has stipulated a reference for such Agency. It was supposed to become the main antimonopoly public authority. Nevertheless, at the present moment this Agency has not been created, which is one of the obstacles for proper implementation of competition law.

#### Sectoral Regulation

##### *Telecommunications Sector*

The last years of the 20<sup>th</sup> and beginning of the 21<sup>st</sup> century in Moldovan telecommunication market were marked with continuous evolution and development. Liberalisation of the market was declared as one of the main priority directions in this process. At the same time, there are still certain problems in regard to fulfilling the requirements of fair competitive market rules.

The evolution of the market was also marked with the development of legislation regulating the relations of different subjects in the sphere of telecommunications. The legislative and normative regulation of telecommunication market deals mostly with 2 main goals:

- to establish certain requirements in regard to the operators activities, technical requirements, licensing, etc.;
- to create necessary conditions for development of fair competition and liberalisation of the market.

The basic legislative act in the sphere of telecommunications is the Law # 520-XIII of July 07, 1995 “On Telecommunications” (hereinafter – the Law on Telecommunications). According to its Article 1, this Law sets forth the main rules and terms of activity in the field of telecommunication in Moldova, rights and commitments of the State, legal entities and individuals in the process of creation, administration, operation, maintenance and use of telecommunication facilities with the aim to provide all citizens of the Republic with rapid and efficient telecommunication services at reasonable prices, as well as ensure free access to public telecommunication services for all potential users, according to available facilities.

The Law provides that telecommunication networks can be owned by both state and private sector enterprises, thus providing the equal opportunities for private and state owned companies to enter the market. Telecommunication

facilities and networks, which constitute the state property, can be determined only by corresponding laws, regulations and Government decrees.

The Law on Telecommunications provides that the public authority, which implements the Government policy in the field of telecommunications and determines the telecommunications development strategy, shall be the Ministry of Transportation and Communications. On the other hand, the authority, which regulates the activities in the field of telecommunications and ITs, is the National Regulatory Agency for Telecommunications and Informatics (NRATI).

The Ministry of Transportation and Communications carries out general management of different issues of telecommunications sphere, and the NRATI is a specialised state authority in telecommunications. It also regulates the

### Box 86.2: Competition in the Telecommunications Market in Moldova

Although the market of fixed telephony services in Moldova has a much longer history, it is the least competitive and developed. The main feature of this segment of the telecommunications is the actual monopolist position of the state owned company “Moldtelecom” SA. Moldtelecom was declared by the National Agency as operator with dominant position in the market. At the present moment, Moldtelecom holds monopoly in the market of international and interurban fixed telephone services. Moreover, it is still considered as an operator with dominant position in the market of local telephony. By December 31, 2003, in Moldova, thirteen companies were registered as authorised to provide fixed local telephony services. Nevertheless, only two of them – Moldtelecom and SC “Calea Ferata” provided such services.

Though Moldtelecom holds in fact a dominant position in the market of fixed telephony, it is still unable to provide these services to all population of the country. The index of telephone penetration per household is improving year by year. Nevertheless, half of the number of families do not have a telephone line at home. This situation is particularly grave in rural areas.

A different situation is observed in the market of mobile telephony. In this segment of the market, competition between different market participants exists. The market of mobile telephony was open in Moldova in 1997 when the exclusive right to provide GSM cell mobile services was granted to the company “Voxtel” SA. In 1998, this company launched the first

GSM mobile telephony network in Moldova. In 1999, the second company, “Moldcell” SA was granted with the right to provide the services of mobile telephony. It started to provide its services to population in 2002.

It is worth mentioning that, at the first stage of development of mobile telephony services market with only one operator, a very limited number of consumers requested the offered services. The situation has significantly changed since the second operator has entered into the market. Due to the decline in prices, more people became able to afford using the services of mobile telephony. It is noteworthy to show the changes in the number of subscribers of Voxtel and Moldcell during the years of their parallel activities. Whereas in 2000 and 2001, the number of subscribers was almost equal, during the following two years the number of Voxtel’s subscribers has significantly increased as compared to the number of Moldcell’s subscribers.

Thus, in 2003, the market of mobile telephony services is divided in the following proportion: Voxtel – 62 percent and Moldcell – 38 percent.

Despite the existence of competition in the market of mobile cellular telephony services, there is enough possibility for entrance of other companies into this market. On February 28, 2003, Moldtelecom was provided with the license to provide such services along with other operators. However, it has not yet launched any activities in this direction.

Source: Alexei Ghertescu, *Telecommunication Market in Moldova: Steps Towards Liberalisation and Competition*; [www.joensuu.fi/taloustieteet/ott/scandale/tarto/papers/alexei%20ghertescu.pdf](http://www.joensuu.fi/taloustieteet/ott/scandale/tarto/papers/alexei%20ghertescu.pdf)

fulfilment of legal requirements on competition by the participants in the telecommunication market. At the same time, the key issues of state policy in telecommunications are determined by the Parliament and the Government.

One of the key issues in regulation of telecommunications market is interconnection between the networks of different operators. The main act in this sphere is the Regulation on Interconnection (adopted by the National Agency Decision # 02 of March 13, 2002).

In accordance with paragraph 4.1 of the Regulation on Interconnection, any operator shall have the right to request and obtain interconnection of its networks and services, with any other network or service of another operator in technically feasible points, under non-discriminatory and transparent terms and conditions.

When offering interconnection, every operator is obliged to offer interconnection conditions that will ensure the integrity of the network, interoperability and quality of services, promotion of efficiency and fair competition on the market, meeting to the utmost the end-user's demand.

The Regulation on Interconnection also provides a set of rules in order to ensure fulfilment of competition law requirements in case of interconnection with the networks of operators with dominant position in the market. On an annual basis, a market analysis is done to check on compliance with the law.

If an operator appears to have exercised decisive influence on a particular services market, this operator is declared, upon the National Agency's proposal, by the authorised bodies, as being a dominant operator in the market. The National Agency imposes an obligation on the dominant operator to ensure interconnection at any technically feasible point in the network.

Thus, the legislation of the Republic of Moldova including special legislation on telecommunications provides a basis for the further development of competition. It contains the necessary conditions for taking measures in order to limit monopolistic activities. And even in cases of companies holding dominant position in the market the necessary provisions are stipulated to curb the negative consequences of lack of competition.

However, there still exist problems of realisation of these legislative requirements. In particular, these problems are faced in mutual relations between large operators,

especially in the case of relations with Moldtelecom (which is a dominant operator in the market of telecommunications in Moldova) (see box 86.2).

### Consumer Protection

The Consumer Protection Law No. 105-XV has been adopted by the Parliament of the Republic of Moldova, on March 13, 2003. This Law took effect as of October 27, 2003. It includes provisions on:

- Definitions of consumer, producer, seller, service-provider, service, product, quality, abusive commercial practice, counterfeit product, damage, etc.
- Protection of consumer's safety, health and security by imposing specific requirements to the producers and sellers.
- Protection of consumer's economic interests via binding contract clauses, guarantee terms, etc. In particular, for the products, which do not indicate the expiry, the guarantee period shall be of 2 years.
- Informing consumers on the products produced.
- Sanctions to be applied for the failure to comply with the law.

In comparison with the old Consumer Protection Law adopted in 1993, consumer rights are more clearly defined than in the current law, and the new Law is less tolerant of non-compliance and provides for penalties exceeding 500 minimum wages (Art. 28) for economic agents violating the new provisions.

### Concluding Observations and Future Scenario

Although there are many laws in place to protect consumers, and to enable the development of a more competitive economy, widespread corruption is seriously undermining any progress made in Moldova so far. Poor infrastructure and many government policies, which seem having been designed to increase the cost of doing business and to sap the country's competitive potential, are also undermining Moldova's chances of developing.

Besides, the whole legal framework on competition and consumer protection in Moldova is in the process of being revised and updated; old structures are still in place, while new structures are yet to be firmly rooted, in some cases even not yet established. This may turn out to be bad or good for the country, depending on the approach it takes, and the sincere efforts it is putting into place. Radical, modern and comprehensive reforms may be the result, but so do disorder and other sour fruits of the transition period, such as negative lobbies, corruption and business opposition.

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