

Governmental Decision
on the approval of the Methodology of regulatory impact analysis and monitoring of the efficiency of the regulatory act).

1230 of 24 10 2006

Monitorul Oficial # 170-173/1321 of 03 1 2006

Following the provision of the Law #235-XVI of 20 July 2006 regarding the basic regulatory principles regarding the entrepreneurship, the Government

DECIDES:

1. To approve the Methodology of regulatory impact analysis, and monitoring of the efficiency of the regulatory act.
2. Within one month the authorities of the Local Public Administration and the Central Public Administration, will nominate - within their subdivisions - the responsible staff for implementation of the regulatory impact analysis.
3. The specialized Central authorities and the authorities of the administration not directly subordinated to the Government will prepare the act on regulatory impact analysis as an integral part of an informative note about the draft normative act.

4. The Ministry of Economy and Trade:

will monitor the efficiency of implementation of regulatory impact analysis
will provide assistance to the ministries and other central public authority during the process of conducting the regulatory impact analysis

Prime - Minister

V Tarlev

Counter-signed....Minister of Economy

I. Dodon

Chisinau, 24 October 2006

Approved
by GD #1230 of 24.10.2006

Methodology of analyzing of the impact, and monitoring of the efficiency of the regulatory act.

I. General provisions

1. The Methodology was developed in line with the Law #235-XVI of 20 July 2006 regarding the basic principles of regulating the entrepreneurship
2. The present Methodology provides the way of assessment and monitoring of the regulatory impact o upon the society and on the entrepreneurs' rights
3. The regulatory impact analysis represents the reasons, based on cost and benefits assessment, for approval of a certain Draft Legal act (hereinafter "normative act") prepared by CPA of LPA.

4. The regulatory impact analysis is a part of the Informative Note regarding the Draft Normative Act.
5. The regulatory impact analysis elaborates on the advisability of approving a certain draft normative act, ensuring a quantity and quality assessment of its major impacts (benefits/costs) on the society.
6. The regulatory impact analysis may also be applied to the normative acts in force in order to amend or repeal them.
7. The present Methodology covers the draft normative acts developed by the central public administration or/and draft normative acts developed by the local public administration with a regulatory impact on the entrepreneurship.

II. Quality Standards for the Normative Acts

8. All the normative acts should meet the following quality criteria:

Stability - normative acts are based on the market requirements and correspond to the following principles: predictability, decisional transparency, and regulatory transparency. The normative acts that provide for restrictions on opening, running and closing of a business, free competition, trade and investments shall be justified from the public interests perspective.

Cost efficiency - the normative acts shall find low cost solutions for a clearly defined problem.

Flexibility and performance based approach - the normative acts establish the performances to be achieved by those affected and may not be argued by the implementation of techniques and methods necessary to reach those performances;

Proportionality - the normative acts shall be proportional toward the assurance of society interest and protection of entrepreneurs' rights.

III. Types of regulatory impact analysis

9. Prior to the preparation of the draft normative acts, each Public Authority shall undertake a preliminary regulatory impact analysis that will have the following sections:

a) problem identification. Preliminary regulatory impact analysis defines the problem to be solved and the potential (expected) results of the state regulation. Problem identification shall contain the following elements:

- the legal (juridical) component shall indicate the way (mode) a problem refers to a certain public authority, in order for the state to interfere;
- analytic component that shall explain the reason the problem appeared and estimate its magnitude;
- assessment of possible consequences in case no actions are taken;
- defining the goals of the actions to be undertaken by the state;

b) anticipated major costs and benefits of the state intervention. Preliminary regulatory impact analysis shall identify the potential major impacts of the state interventions in terms of quality and quantity. These impacts shall be grouped as follows:

- negative impacts or the costs of the state intervention
- positive impacts or the benefits of the state intervention
- major uncertainties associated with the potential impacts of the state intervention

c) assessment of alternative approaches. The preliminary regulatory impact analysis shall comprise at least two alternatives to be taken into consideration in order to address problem (response to the problem). A mandatory alternative approach is “the zero action” /”leave how it is” alternative. The other alternatives should derive from:

- adjusting of a certain normative act in force
- modification of the implementation mechanism for a normative act in force;
- information and educational campaigns;
- individual regulations
- individual regulation or or by third parties
- market instruments, including taxes

Alternatives shall be submitted as in the table below:

Alternative	Possible advantages	Possible disadvantages
Doing nothing alternative		

d) consultancy strategy. Preliminary regulatory impact analysis shall identify the main stakeholders that may be affected by the regulation and shall explain the mode (the way) the consultancy and communication process will take place. This type of analysis establishes the major data needs and the way consultancy will help to meet the identified needs;

e) recommendations. The preliminary regulatory impact analysis shall recommend to take a certain action justified based on the criteria specified in item 8 of this Methodology;

f) the summary of the preliminary impact analysis and the decision / recommendation. The summary of preliminary analysis shall be submitted by the author of the draft normative act and shall contain:

- the description of consultations with the stakeholders
- the summary of the alternative approaches (CBU - alternative analysis)
- the table containing the overview of the comments, objections, suggestions forwarded during the development of the preliminary analysis, including those of the Working Group of the State Entrepreneurship Regulatory Committee (hereinafter Working Group).
- decision/ recommendation to reject without any additional analysis the development of the draft normative act; to accept without any additional analysis the development of a normative act; to study in detail the advisability of a draft in accordance with the final regulatory impact analysis.

10. The final regulatory impact analysis shall comprise the following sections:

a) problem identification. The final regulatory impact analysis shall define the problem to be solved and set out the potential (expected) results of the state regulation. Problem identification shall contain the following elements:

- the legal (juridical) component shall indicate the way (mode) a problem refers to a certain public authority, in order for the state to interfere (state intervention);

- analytic element that shall explain the reason the problem appeared and shall estimate its magnitude;
- assessment of possible consequences in case no actions are taken;
- defining the goals of the actions to be undertaken by the state;

b) potential impacts that include:

- benefits (all major positive impacts, including impact on public health, national security and environment);
- costs (all major negative impacts including social and economic costs)
- impact on the SME (any negative or positive effects on opening, running and closing of a small and medium enterprise
- major distribution problems;

c) alternative options. Alternatives shall be compared using the following summary table:

Alternative	Benefits	Costs	Impact on SME	Distribution problems	Uncertainties
Doing nothing					

d) implementation. Final regulatory impact analysis shall suggest an implementation strategy and shall estimate:

- the financial costs of implementation;
- the existing capacities of the public administration responsible for the implementation of a regulatory act or other actions;

e) performance indicators. The final regulatory impact analysis shall identify concrete and measurable indicators to monitor the implementation of the act in connection with the objectives of the state intervention. The section shall:

- recommend indicators that estimate the efficiency of reaching the strategic objectives and costs or other major negative impacts;
- submit a monitoring strategy, including collection of information, consulting the stakeholders and monitoring frequency;
- the date of enactment and the period of time covered. The final regulatory impact analysis shall propose and justify, as appropriate, the date of enactment of the normative act and shall provide reasons for the proposed period of time for that.

IV. The process of development of the regulatory impact analysis

11. The process of development of the regulatory impact analysis encompasses the following stages:

a) Identifying the problem and deciding on the initiation of the regulatory process. The first stage of the analysis process is problem identification that justifies the state intervention through the regulatory process. The public authority empowered to initiate the development of a certain draft normative act shall be responsible to secure that the actions are in line with this Methodology;

b) preparing the preliminary regulatory impact analysis. Prior to the preparation of the draft normative act, the public authority shall prepare the preliminary analysis in line with this Methodology;

c) reviewing the preliminary regulatory impact analysis by the Working Group. The preliminary analysis is to be tabled to the Working Group for consideration and a further approval by the State Entrepreneurship Regulatory Committee. The Working Group shall review and endorse it in 2 weeks.

d) preparing the draft normative act and the final regulatory impact analysis. The public administration authority shall develop the draft normative act, accompanied, as appropriate, by the final analysis based on the decision of the Working Group;

e) endorsing and public consultations. The draft normative act and the draft final analysis shall be endorsed by the interested authorities and institutions, and Working Group in accordance with the law. The draft normative act shall be placed on the web page of the relevant authority for public consultations;

f) working out the draft normative act and final regulatory impact analysis. The public authority shall work out the draft normative act and the final regulatory impact analysis in line with the comments received and the public consultations by preparing the table of divergences;

g) the final version of the draft normative act and the regulatory impact analysis. The public authority shall develop the final draft of the normative act and regulatory impact analysis based on the no objections reply from the Working Group.

V. Final provisions

12. The public authority responsible for the implementation of the normative act shall monitor the performances of the regulatory act by using the indicators from the regulatory impact analysis and propose to amend or repeal it, as appropriate.

13. The public authority responsible for the implementation of the normative act shall present annually to the Government an evaluation of its efficiency.