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Tbilisi

Newsletter

The Implementation of the European Neighbourhood Policy Action Plan for Georgia in Trade and Some Trade Related Areas in 2012

Presentation of Report

On 19 March 2013, Eurasia Partnership Foundation (EPF) presented its report on Implementation of European Neighbourhood Policy Action Plan for Georgia in Trade and Some Trade Related Areas in 2012. The report was prepared by a group of experts within the framework of EPF's European Integration Program with the assistance of grants provided by the Swedish International Development Cooperation Agency (Sida) and the Canada Fund for Local Initiatives. The report evaluates Georgia's progress on its path towards EU integration, identifies obstacles to the implementation of reforms in various spheres, and provides recommendations for navigating these obstacles.¹ The presentation was attended by representatives of the Georgian government, the diplomatic corps, business, civil and international organizations and the media.

The report was presented in parts by each chapter's relevant author and each presentation was followed by a discussion. A brief outline of these discussions is provided in the Newsletter.

Standards, Technical Regulations and Conformity Assessment Procedures

Ms. Nino Chokheli presented the report on **Standards, Technical Regulations and Conformity Assessment Procedures**. Notable comments made after the presentation included the following:

Mr. Giorgi Chitadze, Deputy Director of the Georgian National Agency for Standards, Technical Regulations and Metrology:

- Listed activities in this sphere which have been implemented by the Government of Georgia do not include the following: the establishment of a technical committee; the translation of four EU standards; the conduct of Regulatory Impact Analyses with regard to the introduction of three EU technical regulations; the send-out of these regulations to ministries and the adoption of these regulations which are already underway. Also, Regulatory Impact

¹ The report is available on the Eurasia Partnership Foundation webpage – www.epfound.ge – in the European Integration Program section.



Analyses are conducted with regard to other technical regulations. This work is now in progress.

- It was noted that the terms envisaged in the interim provisions of the Code on the Security and Free Movement of Products were not being observed. Terms for the development of technical regulations were extended for an additional year in order to ensure the high-quality development of these regulations. A large part of this work has already been completed.
- It was noted that the principle of recognition of technical regulations of other countries is incorrect. Pursuant to the Code on the Security and Free Movement of Products, the application of the technical regulations of another country is allowed if a product manufactured in Georgia is intended for export to that country. In such a case, the entrepreneur can use the technical regulations of the destination country. Moreover, only the technical regulations of those countries which have a developed quality infrastructure are recognized (see, the Government of Georgia Order No 50, 7 March 2013).
- The Code on the Security and Free Movement of Products has not replaced the Law on Consumer Rights. This Code refers to consumer rights only in relation to industrial products. This Code provides stronger protection of consumer rights than the previous legislation because the Code includes provisions transposed from the relevant EU legislation. It is also noteworthy that the Parliamentary Committee for European Integration has started drafting a new law on consumer rights.

Mr. Oleg Shatberashvili, of the non-governmental organization European Studies for the Innovative Development of Georgia:

- It was noted in the presentation that the central budget of Georgia inadequately allocates small sums for the development of this sphere while a strong scientific and technical provision is needed. A public discussion is underway about the reorganization of the scientific system although I cannot detect the involvement of the Ministry of Economy and Sustainable Development or the Ministry of Agriculture. Their active involvement in this area is necessary.

Mr. Rati Oboladze, Deputy Director of the Technical and Construction Inspection Agency:

- The Code on the Security and Free Movement of Products is not in fact flawed with regard to the Agency's power to conduct control, as is argued in the report. In particular, the Agency is authorized to carry out site inspections, and after private inspection bodies have been established and have assumed the task of conducting site inspections, our Agency will have the right, in cases of reasonable doubt, to invite a third party to conduct a site inspection.
- I agree with the report's recommendation that our Agency will have to gradually assume more functions and that it therefore requires more resources.



In response, **Ms. Nino Chokheli** noted the following:

- The report did not cover all of December as the information had been fully collected by mid-December. The technical committee, as noted by Mr. Giorgi Chitadze, was established during the very period which is not covered in the report.
- Regarding the Regulatory Impact Analyses: they were prepared years ago, not in 2012 – that is, not during the accounting period of our report. Several other Regulatory Impact Analyses were to be conducted in 2012. This was envisaged in the Strategy for the Standardisation, Accreditation, Conformity Assessment, Technical Regulation and Metrology of the Government of Georgia.
- As regards the recognition of the technical regulations of other countries, the report explicitly notes that the technical regulations of those countries which possess a developed quality infrastructure are recognized. The problem here lies with something else: it is unclear how the employees of Georgian controlling bodies should apply the technical regulations of various other countries.
- My comment concerning the legislation on consumer rights referred to the fact that the Code does not define any “competent body” responsible for supervising the market in terms of general product safety. Without the definition of a competent body it is actually impossible to perform an adequate supervision of the market.
- A flaw I see in the powers of the Technical and Construction Inspection Agency is that, after the establishment of private inspection bodies, the Agency will not be entitled to enter, even in case of accident, an enterprise for inspection. I consider this unacceptable as it presents a heightened risk; I also deem the complete transfer of the powers of site inspections to private inspection bodies to be unacceptable.

Customs Procedures

Mr. Bondo Salukvadze presented the report on Customs Procedures. Notable comments made after the presentation included the following:

Mr. Shota Makatsaria, MD Group Company:

The so-called practice of applying “minimal values” is a grave problem which businesses face when undertaking customs procedures. The grading of customs values applied towards a given commodity is poorly determined. It is not based on real prices, and does not take market changes in global prices into account. This approach is unfair, restricts competition and shall be eliminated.

Ms. Marina Macharashvili, Division Head of WTO Affairs and Trade Negotiations, Department for Foreign Trade and International Economic Relations of the Ministry of Economy and Sustainable Development:



The minimal values method is solely a reserve method. It is to be applied only in cases when the customs cannot employ any of the five accepted methods of valuation. In certain cases it is even necessary to apply this method, especially in Georgia which has a very liberal approach to imports. To some extent, this is even an anti-dumping measure.

In response, **Mr. Bondo Salukvadze** noted the following:

The practice of applying minimal values is indeed a problem. However, this problem is not limited to Georgia. It exists in other countries, including countries in the developed world. It also contradicts the agreement with the World Trade Organization. However, there is no simple solution to this problem. If we reject this method altogether, customs officers must have an alternative possibility to determine the accuracy of client-submitted declarations. This requires personnel to have a high qualification level and extensive training. This, in turn, requires a large amount of resources as well as time. However, work in this direction must continue.

Competition Policy

Mr. Irakli Sokolovski presented a report on Competition policy. Notable comments made after the presentation included the following:

Mr. Temur Khomeriki, Ministry of Regional Development and Infrastructure:

The new government has already drafted a law aimed at improving competition regulation. The existing legislation has proven to be unsuccessful in this regard, while the merger of the Competition and State Procurement Agencies has also not been the correct step.

Mr. Slava Petelava, the Competition and State Procurement Agency:

- It may be justified that the Government of Georgia defines the priorities of the Competition and State Procurement Agency's activity, as it is now envisaged by law. However, the nature of these priorities must not be restrictive. If the need to study certain markets which do not fall within the priority spheres arises, this state body must also be entitled to pursue these directions.
- As of today the Agency has drafted and submitted for approval those normative acts which were supposed to have been drafted in 2012, but now the issue of amending the law is on the agenda and this matter requires revision.

In response, **Mr. Irakli Sokolovski** noted the following:

- The Law on Free Trade and Competition has serious shortcomings. Some of the exclusions envisaged in the Law render certain goals of the Law unachievable. For example, it is problematic that state regulation in the sphere of competition must rest on certain priority spheres as defined by the government. If such spheres do not include those sectors which are of high public interest – the pharmaceutical sector or the energy sector, for instance – the aim of the Law will not be achieved. The exclusion of presidential and mayoral funds from the scope of the activity of the Law is also a problem. The fact that the Competition and State



Procurement Agency does not have an obligation to initiate investigation and lacks the authority to punish violations is also ineffective.

- Regarding the merger of the Competition and State Procurement Agencies: if this increases state resources in terms of regulating competition, then it will work. We cannot evaluate the efficiency of this merger because the Agency has yet to actually conduct its activity in the area of competition. For this to happen, the relevant normative acts have to be scrapped.

Trade and Investments

Mr. Merab Kakulia presented a report on Trade and Investments. Notable comments made after the presentation included the following:

Mr. Mamuka Chikhladze, Portfolio Manager of the National Investment Agency:

- A new Agency webpage will be launched in about 10 days and all information necessary for investors will become available.
- There is no overlapping in functions of the Partnership Fund and the Investment Agency. The Partnership Fund becomes involved in investor negotiations only when the investor seeks co-funding from the state.
- The Agency carries out active work to attract investors to drawn up investment projects. We have started a more targeted work: we select countries, and concrete companies which, in our judgment, can become interested in concrete projects, and get in touch with such companies. We use our embassies abroad and other political contacts to move this work forward in those selected countries.

Mr. Genadi Arveladze Department Head of Foreign Trade and International Economic Relations of the Ministry of Economy and Sustainable Development:

- The presenter noted that in parallel with negotiations on the Deep and Comprehensive Free Trade Agreement, the analysis of existing preferential systems and trade regimes must be carried out. Our Ministry performs this analysis systematically and relies on it in negotiations.
- The presenter also noted the need for more comprehensive publicity with regard to the progress of negotiations on the Deep and Comprehensive Free Trade Agreement. It is worth noting that it is the requirement of the EU itself to observe confidentiality of the process of negotiations. During a public meeting held after the fourth round of negotiations we communicated general information on the progress of negotiations. Moreover, we met with several companies from the agriculture sector to discuss a whole set of issues.
- The report says that 34 Georgian products use the GSP+ regime. In reality, the number of such products actually numbers 1,300, although those 34 products are flagship products. The export volumes of the remaining products were small.



In response, **Mr. Merab Kakulia** noted the following:

- A requirement for better publicity regarding the progress of negotiations on the Deep and Comprehensive Free Trade Agreement was put forward to the EU by Ukraine in due time and as a result, this process became more open.
- As regards the GSP+ regime, it is a fact that the Georgian economy does not properly use its advantage because only two commodities accounted for 73 percent volume of products exported under this regime.

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