

EU-Georgia Association Agreement Food Safety Requirements



*Prepared by EU-Georgia Business Council
(EUGBC)*



THE PROJECT IS FUNDED BY THE EUROPEAN UNION



EU-GEORGIA
BUSINESS COUNCIL



The European Union (EU) is a politico-economic union of 28 member states* that has been developing gradually over the past 50 years. Today, the EU member states share open borders and use free trade area and common currency. The EU is ready to share its values and experience with third countries. For information on the EU - Georgia cooperation please visit the following website: <http://eeas.europa.eu/delegations/georgia>

* Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom.



EU-Georgia Business Council (EUGBC) is a non-profit association founded by Georgian and European companies in 2006 in Brussels. The objective of the EUGBC is to encourage investment and trade between the European Union and Georgia. For more information about EUGBC please visit the following website: www.eugbc.net

EU-Georgia Association Agreement Food Safety Requirements

Prepared by **EU-Georgia Business Council**

Author: Lia Todua, Expert of Center for Strategic Research and Development of Georgia

EUGBC is responsible for the content of the present publication. The views expressed in this publication do not in any way represent the views of the EU.

ISBN 978-9941-0-7856-9

EU-Georgia Association Agreement Food Safety Requirements

EU-Georgia Association Agreement includes Deep and Comprehensive Free Trade Area (DCFTA), which is a core part of the Agreement (title IV, Trade and Trade Related Matters. This agreement is laid down within the WTO-established rules and frames. It is therefore appropriate to consider some WTO rules in detail.

Free Trade Area

WTO requires two main rules to be met by its member countries in their international trade:

- National Treatment: foreign and national business/product should be treated equally (except from custom requirements);
- Most Favored Nation treatment: all foreign businesses/products should be treated equally.

WTO's allowed exception from the later rule regards establishment of free trade areas or customs unions between its members, where customs duties between the members of the area/union are substantially decreased or eliminated. Though not to the detriment of other WTO members – establishment of those areas/unions should not cause deterioration of trade conditions with other partners and of course the WTO and its members should be informed of the fact of establishment of such unions/areas among its members.

But the EU-Georgia trade agreement is not a simple agreement about free trade area. This agreement is called "Deep and Comprehensive", "deep" meaning eradication of not only the tariff barriers but non-tariff barriers as well and "comprehensive" meaning coverage of wide areas beyond the trade issues to include such issues as public procurements, free competition, protection of intellectual rights, sustainable development etc.

SPS measures

WTO is also addressing elimination of non-tariff barriers for international trade. The measures in the sphere of food production are called sanitary and phytosanitary measures. More specifically sanitary or phytosanitary measures means all laws, decrees, regulations, criteria, procedures, requirements for the processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments, requirements for transport of animals or plants, statistical methods, methods of risk assessment, packaging and labeling requirements which the country maintains in order to:

- (a) to protect animal or plant life or health from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
- (b) to protect human or animal life or health from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
- (c) to protect human life or health from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests;
- (d) to prevent or limit the entry, establishment or spread of pests.

WTO SPS agreement requires that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, and is based on science. To assess and achieve those characteristics of the SPS measures the Agreement introduces

several instruments:

ALOP, Appropriate level of protection of human/animal/plant health which should be basis for assessment of equivalence of different SPS measures of different countries. This level should not be theoretic, unachievable. To meet the abovementioned main rules of WTO the importing country, before requiring any exporter to achieve any specific ALOP with regards to human/animal/plant disease or pest, should be able to demonstrate that its own SPS measures ensure that level of ALOP.

International standards. SPS Agreement denominates three international organizations to develop the science-based standards/recommendations for SPS measures, which the countries could introduce in their territories with no other country allowing to object.

Risk Assessment

One of the important tools developed by WTO SPS Agreement is a concept of risk assessment. This is to be an unbiased, objective process of consideration and analysis of all available scientific data concerning the specific hazard, its cause, distribution, exposure of vulnerable groups, probability of illness, its gravity and consequences. The results and conclusions of such analysis should be publicly available.

The selection of appropriate SPS measures for risk management has to be a separate process, performed by relevant government institution. Agreement requires that the selection process is base on cost-benefit considerations and allows it members to challenge the specific SPS measure of any member (through the WTO dispute settlement mechanism) with suggestion of an alternative measure with the same level of risk reduction and less consequences in terms of costs for importers.

To summarize all the above: WTO SPS Agreement requires the countries to base their SPS measures on scientific data. Although any country is free to choose the ALOP for its territory, this level should be achievable through its SPS measures. Taking into account the basic rules of WTO, it is clear that the ALOP level, and the relevant food safety criteria should be the same for national products and all the imported products, notwithstanding whether it comes from the Free Trade Area or not. So although the countries within the FTA are free to reduce customs tariffs as they wish, the same cannot happen with the food/feed safety criteria, as the ALOP level of the importing country is intrinsically bound to it. That means that Georgian should not expect that the Free Trade Agreement with EU will allow any unsafe Georgian product to enter EU. No, the EU food/feed safety criteria cannot and will not change! The DCFTA will only ease the procedures for checking/ensurance of the food/feed safety, as the trust to the Georgian food safety system grows`.

Existing SPS measures in EU and Georgia

EU SPS measures are based on the fact that EU has officially declared (in numerous acts) high level of protection of health of people, animals and plants. Accordingly the relevant safety criteria of food, feed, plants and animals are quite restrictive. In Georgia, on the other hand, the soviet norms/criteria of 1970-s are still in force, which have merely been translated into Georgian. Those norms might have been more or less adequate for the time of their existence

** - This issue is stressed to avoid wrong expectations among Georgian food producers used to trade with Russia where the same product is either declared safe or unsafe - wholly dependent on political relationships*

in Soviet Union but are not any more. What is more important though, the soviet norms were not based on the compulsory requirement of their achievability. On the contrary, for the corrupted system of sanitary inspections it was beneficial to have unachievable norms in place so that all enterprises will have to enter into corruption schemes.

This is the main change which will occur in SPS sphere in Georgia: the norms/criteria will be replaced by those based on modern risk analysis and those which are achievable at the current state of art. But their enforcement will change drastically – Georgian entrepreneurs have to start respect the existing norms and criteria and devote all their efforts to meet them. SPS measures in the Association Agreement

The SPS chapter of EU-Georgia DCFTA is about the means Georgia and EU will implement WTO SPS agreement with regards to trade between them. Specifically, it says that Georgia will gradually approximate its SPS legislation to that of EU and equivalence of the EU-Georgia SPS measures will be assessed based on that approximation. In other words, assessment of equivalence will be based not on their results (the level of risk/ALOP) but it will follow a simpler path – making the legislation largely similar and comparing its requirements and implementation. Of course the relevant institutional arrangements and effectiveness of enforcement measures will also be taken into account, together with available information on actual results of those measures (results of monitoring, surveillance, inspections, custom checks, verification visits from EU, etc), as well as the whole progress of the SPS general reform. Equivalence of Georgia SPS measures could be assessed in stages – for separate measures, groups of measures, separate products, or groups of products.

The list of the EU SPS legislation which Georgia is going to approximate and the approximation timeline has been developed by Georgian side by the end of February 2015. It has been disclosed for public comments. At the moment of publication of this brochure the plan is under consideration of the Parties. The final version of the plan will become Annex XI-B of the Agreement and will be published at the official site of the Ministry of Economy and Sustainable Development of Georgia <http://www.economy.ge/ge/dcfta>.

SPS approximation plan

The developed SPS approximation plan consists of three lists of approximation timeline: approximation in the field of food safety, approximation in veterinary field and approximation in the field of plant protection.

The food safety approximation covers all main issues of food safety. In the 2015 approximation will include: correction of inconsistencies with regards to food safety crisis management and rapid alert system; Finalization of approximation of the Hygiene Package. Control measures of some specific food (sprouts, shellfish) and specific technologies (quick frozen food, irradiated food, novel food) postponed for later stages; Approximation of food safety microbiological criteria.

Approximation of food safety chemical criteria will be carried out in stages, during most of the approximation period: 2015-2016 – contaminants (sampling and testing methods postponed) and pesticide residues; 2015-2018 – pharmacological residues; 2016-2021 – food improvement agents; 2016-2017– food fortification (food supplements in 2022); 2018 – 2024 – food

between the countries. It is important that the entrepreneurs know that the with EU will not be like this, as it respects the WTO rules described above.

contact materials. Approximation with regards to the drinking water quality is envisaged not in SPS plan but in the approximation envisaged under the Chapter 3 (Environmental Protection) of the Title VI of the Agreement (Detailed in Annex XXVI of the Agreement) and is planned for 2018-2021. The mineral water quality is included in SPS plan and is planned for 2022-2023. Approximation of food labelling/presentation and health claims legislation is foreseen in 2016 (implementing measures postponed for 2022-2026). Lot indication postponed for 2019. Legislation of GMO food/feed will be approximated during 2018-2025. Specific legislation on feed will be transferred during 2021-2024 with only legislation on prohibition/control of hormones to be approximated in 2015-2017.

In the field of animal health provision the plan first envisages approximation of the legislation on registration of animals (2015-2016, pets and equidae postponed for later). Next are the control measures for prevention of spread of diseases (2015-2028), as well as legislation on monitoring and eradication of diseases (2016-2019). From 2017 the approximation of health and animal health rules during import and export of animals and food of animal origin will start, with the most of the acts transformed during 2020-2025. 2021 is the date of approximation of the framework Directive 2002/99/EC on animal health. 2022-2023 are dates of approximation of all the legislation on animal welfare, 2027-2030 – the legislation on zootechnics.

With regards to plant protection, approximation of two most important acts are planned during 2015-2016: 92/90/EEC Directive on registration of which producers and importers of plants and plant products; and 2000/29/EC Directive on protective measures against the organisms harmful to plants or plant products; to be followed by approximation of the implementing acts during 2017-2018. During 2015-2026 about 20 acts on control measures for specific diseases will also be approximated. Approximation of legislation on plant protection products will take place during 2019-2026 with the central acts (Directive 2009/128/EC on sustainable use of pesticides and the framework Regulation No 1107/2009 on placing of plant protection products on the market) being approximated in 2023 and 2025 respectively. The legislation on quality of seeds and propagating materials will be approximated during 2018 – 2026.

Of course it is not possible to know what exact form the described approximation will take: whether it will be development of new normative acts or upgrade/amendment of the existing legislation. The Agreement allows both approach. It should be noted though that according to the memo accompanying the published draft SPS-plan the Government plans development of the relevant legislative acts/amendments in an open and transparent manner with the aim to ensure balance between the private and public interests.



Tbilisi 2015