USAID FROM THE AMERICAN PEOPLE | GEORGIA

Governing for Growth in Georgia

RONDELI FOUNDATION | GEORGIAN FOUNDATION FOR STRATEGIC AND INTERNATIONAL STUDIES

GEORGIA – EUROPEAN UNION

DEEP AND COMPREHENSIVE FREE TRADE AREA

* Key Aspects *

The Project **"Deep and Comprehensive Free Trade Area (DCFTA) Awareness Raising Trainings for Journalists and Civil Society Organizations"** is funded by USAID project Governing for Growth (G4G) in Georgia and implemented by Georgian Foundation for Strategic and International Studies.

This publication was made possible through support provided by USAID, under the terms of the Governing for Growth in Georgia activity. The opinions expressed herein are those of the author(s) and do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

2017

Contents

Kakha Gogolashvili

European Integration

The European integration has a narrow and broad understanding. The narrow sense of this term implies the processes taking place within the EU - legislative harmonization, deepening of joint policies, relations within the common market, economic and monetary union. The process of integration ongoing within the EU is governed by several major agreements, namely:

- About the EU (EU)
- European Economic Area (EEA)
- Customs Union
- The Schengen Agreement (Schengen)
- Monetary Union (EMU)

Treaty on the European Union (TEU) establishes a list of common policies delegated by the countries that are supporting competencies of the EU, as the organization, either fully, or in part, or the so called auxiliary competencies. Membership in 21 agencies of the EU, in such as the Organization of Standardization, the internal integration of the European Union is far from over, since the member states independently implement competencies in many policies. Large-scale European integration has many forms and types, for example, the well-known Council of Europe, which unites almost all states across the European continent and introduces human rights and supremacy of law in the wide region; The Organization for Security and Cooperation in Europe (OSCE), also referred to as a structure of Euro-Atlantic integration; Functional integration with EFTA countries (within the framework of EEA) and Switzerland, which are practically integral participants of the EU single market; The European Patent Union, the Union of European Broadcasters and many others are also manifesting this broader form of the European integration. In addition, broader understanding of European integration also includes a number of smaller formats, such as the Visegrad Group (V4), the Nordic Council, the Baltic Assembly, Benelux, GUAM, the Central European Free Trade Agreement (CEFTA) and many others, which create specific forms of cooperation between the small groups of the EU member and non-member states.
The forms of the European integration are diverse and include various fields of activity. The three pillars introduced by Maastricht Treaty (1992) provides a clear demonstration of the internal integration of the EU itself.

The following table shows the main forms of the European integration:

Table 1. Main forms of the European integration

Economic integration	Free trade
	Customs Union
	Single Market
	Monetary and Economic Union
Political union	Security
	International Policy
	Defence
Justice and Home Affairs	Illegal migration prevention
	Fight against illicit trafficking of arms and psychotropic substances
	Fight against terrorism
	Fight against corruption

Please, note that this table does not specify all the directions of the integration process that deals with such areas as health and energy, transport, environment, science, education, sports, etc.

In the subsequent chapters we will focus only on economic integration.

Trade through the system of the World Trade Organization: Global Model of Liberalization

It is impossible to understand the economic integration processes that is primarily intended for liberalization of trade without minimum information about the World Trade Organization (WTO). The WTO was established in 1995 after the *Marrakesh Agreement*. Today it unites 152 countries. It was based on the *General Agreement on Tariffs and Trade* (GATT) initiated in 1947 (Havana) aimed at universalizing rules in international trade of goods, elimination of discriminatory treatment and universal fair competition. In addition to this Agreement, there are several international agreements on WTO that facilitate trade liberalization in areas such as General Agreement on Trade in Services (GATS), Sanitary / Phytosanitary (SPS), Technical Barriers to Trade (TBT), Government Procurement, Intellectual Property Protection (TRIPS), etc.
In addition to the above agreements, this system has the following key elements:

Table 2. Key Elements of the WTO

MFN-Most Favored Nation	Under the WTO agreements, countries cannot normally discriminate between their trading partners. Grant someone a special favour such as a lower customs duty rate for one of their products or in terms of any other trade barriers.
Free transit of goods	Member States have no right to carry out the legal cargoes of another country that are directed to third countries.
Quantitative restrictions	The so called quotas - fixing annual limits on import of goods or services by the Government of the country for the purpose of promotion / security of their own production.
Anti-Dumping and Compensation Measures	Observance of fair and uniform rules for compensation measures in case of damage or avoiding damages as a result of artificial reduction of prices on imported products.
Generalized System of Preferences (GSP)	Arrangement of MFN Statute allows developing country members to provide preferential tariff treatment to products of least developed countries.

It can also be noted that in 1994, the European Energy Charter Treaty was established with the efforts of the European Union - an organization based on the WTO principles, which regulates issues of trading with hydrocarbons and energy products between countries located across the Europe-Asia corridor.

It is also worth mentioning that Article XXIV of GATT Agreement, which exempts from MFN for the countries which create free trade space with each other.

Economic Integration

As we learned from Chapter I, economic integration ongoing in the European area is expressed by four main forms. The following subsections provide their characteristics.

Free Trade

The Free Trade Area (FTA), which deals with the initial level of economic integration, implies the complete cancellation of customs tariffs between the Contracting States for a substantial part of the goods, namely, industrial goods, as described in Article XXIV of the WTO Agreement. But now there are many free trade areas where countries are completely free of each other's products, including services and agriculture, from customs duties. This form of integration is called a deep and comprehensive free trade area. Creation of such area allows both countries to provide significant freedom for access to the partner country market, creates equal conditions for the local and products of other countries involved in the space when placing on the market, allows relative advantage of

usage, facilitates sectoral specialization in the country and promotes generation of more profit at the expense of economic operation of the scale. European integration was also aimed at establishing a free trade area between the first countries participating in the Treaty of Rome 1957. Now the European Union, which is fully implementing all forms of economic integration, also tries to establish free trade with the region and many countries worldwide. Please, also note the multilateral trade cooperation with the South and East Mediterranean countries, which was established in 1995 by the so-called "Barcelona Process". Most of them are now engaged in free trade regime. But the EU strives to establish a free trade regime with new partners. The term "deep" except for the cancellation of customs barriers also implies the cancellation of non-tariff barriers.

The agreement between the EU and Chile, which was signed in 2002, envisages cancellation of customs tariffs and non-tariff barriers on both industrial and agricultural products and services, so this agreement bears the name of a deep and comprehensive free trade area - DCFTA. The Agreement with Chile includes mutual recognition of the goods conformity assessment, protection of investments, competition, state procurement, intellectual property protection, competition, customs procedures and regulations in the sanitary and phytosanitary field, which significantly reduces technical barriers due to different technical regulations and standards.

Customs Union

A relatively high form of economic integration is the Customs Union, which means cancellation of customs tariffs not only for imported goods (FTA) but also full harmonization of customs policies, rates on import tariffs, and customs clearance fees and rules.

Common customs area unites the market of two countries, increasing their competitiveness by commodity imported by third countries. The Customs Union also increases the attractiveness of the affiliate countries for investors and international trade partners.

The EU itself is a customs union too. At the same time, it creates a single customs area (Customs Union) with Turkey (1996) and with such microstates as Andorra and San-Marino. The Customs Union with Turkey only concerns the industrial goods, and the comprehensive customs ties with the other two states are created. The Agreement signed with Turkey concerning creation of the Customs Union (1995) also focuses on the harmonization of the trade-related rules in the fields of competition law, public procurement, intellectual property protection, taxation and customs legislation.

Single Market

What is called a single market today was created on the basis of Treaty of Rome 1957 (EEC Treaty - Treaty establishing the European Economic Community). According to Articles 2 and 3 of the Treaty, it shall be the aim of the Community, by establishing a Common Market and progressively approximating the economic policies of Member States. This implies the elimination, as between Member States, of customs duties and of quantitative restrictions in regard to the importation and exportation of goods, the establishment of a common customs tariff and a common commercial policy towards third

countries; the abolition, as between Member States, of the obstacles to the free movement of persons, services and capital. Thus, a single market is a free trade zone and a customs union, where in addition to the goods and services market access rules the following processes are effected: intensive convergence, harmonization of legislation in all the areas that have impact on free competition between countries in a free trade environment, including food safety, technical barriers to trade, competition, intellectual property, labor law, public procurement, health, environment, etc.

Acquis communautaire was maintained as the result of the progress achieved in terms of legislation approximation. Acquis communautaire is the accumulated body of law now covering 35 policy areas (articles) and comprises of the EU directives and regulations governing the particular areas in all member states. Signing of the *Single European Act* in 1987 contributed to full harmonization of the Union's law and, therefore, of the then European Union legislation and the final formation of the single market. The term "Single Market" is more ambitious and has the idea of full economic integration of member states. Although this term is now used in EU institutions, full integration has not yet been achieved, as for the smooth movement of factors among countries - for example, there are differences in the labeling and packaging rules for goods. Also, there is a difference between the social protection rules of workers, which partially restrict full free movement of the workforce.

EEA – European Economic Area

The *European Economic Area* was created on the basis of the Agreement signed by and between the EU and EFTA in 1992. This form of integration implies creation of deep free trade area (without a customs union) aimed at full harmonization of the trade-related legislation between participating countries. Taking into account the absolute freedom of factors (workforce, services, capital, business activity) the EFTA member states, as well as Iceland, Liechtenstein and Norway, were allowed to fully and functionally integrate with the EU Single Market. Despite the above-mentioned, they do not have the right to vote in the EU institutions, and they, as a rule, introduce and implement the directives and regulations adopted in the EU in their legislation. Switzerland, which is also the EFTA member, has not joined the agreement, but through signing many bilateral agreements which ensure awareness and understanding of goods and services infrastructure rules between the partners, free trade, free aviation and land transport services, the elimination of technical barriers to trade, access to public procurement, etc., the country is functionally integrated with the European Union and is fully integrated into its Single Market.

Economic and Monetary Union

The Economic and Monetary Union (EMU) is based on integration of fiscal and monetary policy of the countries. The single monetary space, the single monetary unit, significantly simplifies transfrontier business and trade operations, reduces the risks associated with fluctuations in exchange rates and expenses incurred due to currency exchanges.

The following table clearly shows the main characteristics of the economic and monetary union separately.

Table 3. Economic and Monetary Union

Economic Union	Monetary Union
The Single Market which seeks to guarantee free movement of goods, capital, services, and labour.	Total and irreversible conversion of currencies
Competition policy and other market-enhancing mechanisms.	Full liberalization of capital transactions and full integration of banking and other financial markets
Structural changes and a single policy for regional development.	Cancellation of the fluctuation levels of exchange rates and fixing the par value of the exchange rates unchanged.
Coordination of Macroeconomic Policies, including Mandatory Rules of Budget Policy.	Introduction of a single monetary unit.

In the 20th century, the European countries intensively monitored monetary policy, but the creation of a strong and stable monetary union was only possible within the EU. In the 1970s, the main instrument of the monetary system was the *Exchange Rate Mechanism* (ERM), and its main element was the so called Parity Grid of bilateral currencies. All currencies participating in the grid were flexibly fixed within ±2.25% margin of fluctuations. Under Maastricht Treaty (1992) the EU member states started creating EMU. The so called *Maastricht (Convergence) Criteria*, implementation of which was considered and is currently considered as the necessary condition for the economic and monetary union membership, was approved. These criteria concern the level of inflation in the country, budget deficits, external debt, exchange rate stability and bank interest rates.

The euro, as a single currency, was introduced in 1999. Since 2002, the physical money unit has been in circulation. In 2002, 11 EU countries adopted the euro. The Great Britain and Denmark refused to join. Nowadays the eurozone unites 20 EU member states. The rest still cannot meet *Maastricht Criteria*. All 28 countries participate in economic relations, but integration in this direction is still deepening.

Kakha Gogolashvili

Key aspects

The Association Agreement represents a broad institutional framework for close cooperation between Georgia and the European Union. It was not built from the ground up. The creation of an institutional framework between the EU and Georgia was commenced by the Partnership and Cooperation Agreement (signed in 1996) and is currently underway within the Eastern Partnership. In the introductory part of the Agreement, Georgia is referred to as an Eastern European state, its European aspirations and choice, its historical ties with member states and common values are recognized, which virtually confirms its right to join the EU in accordance with Article 49 of the Treaty of Rome.

By the Association Agreement the Parties seek to strengthen cooperation on protection of democratic values, to advance the state building and reforms in Georgia, which will contribute to the country's participation in the various EU policies, programs and agencies.

Civil society development, good governance, including in the field of taxation, trade integration and enhanced economic cooperation, institutional development, public administration and civil service reform and the struggle against corruption, poverty reduction and cooperation in the freedom, security and law administration are considered to be the cornerstone of this Agreement. The EU has expressed its readiness to support reforms in Georgia. The commitment to the international values in the field of democracy and peace should be based on the respect of the European Conventions, UN and OSCE Basic Documents.

In the Agreement the Parties express their full respect for the principles of independence, sovereignty, territorial integrity and inviolability of internationally recognized borders. The need for a peaceful and final resolution of the conflict in Georgia is underscored and the EU is committed to support this process in this line. The Association Agreement obliges the Parties to combat organized crime, including terrorism, to deepen cooperation by increasing mobility of citizens towards the establishment of visa-free movement in the future (Title III).

The economic integration, first of all, implementation of DCFTA, is recognized as the purpose of the Agreement and the commitment of the Parties. The Agreement is intended to create a new environment for the development of trade and investment. At the same time, the parties are committed to enhancing the security of energy supply, including the development of the Southern Corridor by, inter alia, promoting the development of appropriate projects in Georgia facilitating the development of relevant infrastructure,

including transit through Georgia, increasing market integration and gradual regulatory approximation towards key elements of the EU legislation (*EU acquis*), and promoting energy efficiency and the use of renewable energy source; the cooperation in the field of energy (including the commitment to implement the Energy Charter Treaty) is underscored, as well as the improvement of public health safety, development of interpersonal contacts, cooperation in the scientific and technological areas, business, youth, education and culture. The implementation of the Agreement shall facilitate the cross-border and interregional cooperation of both parties. In order to fulfill all the obligations, Georgia should properly develop its administrative and institutional infrastructure. The European Union will use all its technical, financial and economic mechanisms to facilitate the ongoing reforms in Georgia.

Political cooperation

The political association model proposed for Georgia (Political Dialogue, Title II) covers two directions of cooperation between the parties, which are formally different. In particular, the process of strengthening democratic political institutions and cooperation in foreign policy, security and defense. In fact, the EU has never clearly distinguished between one another, on the one hand, support of democratic development (on a local and regional level) and on the other hand, stability and security. Any Framework Agreement that has been adopted by the EU with third countries reflects this approach, which is not an occasion, but an expression of the fundamental mission of the EU. The Treaty on European Union (TEU) defines the EU foreign policy as the guidelines "which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law". If we look through the EU and Georgia Association Agreement (which is similar to the EU Association Agreements with Ukraine and Moldova), we will see a serious attempt to develop EU-Georgia political cooperation on the highest possible level in terms of cooperation depth and scope. The Agreement provides that the political dialogue "will increase the effectiveness of political cooperation and promote convergence on foreign and security matters, strengthening relations in an ambitious and innovative way". Deepening of political cooperation is seen through the prism of the growing rapprochement of political and security policy.

The Association Agreement in the Part of Political Cooperation deals with issues such as promoting international stability and security on the basis of effective implementation of multilateral cooperation; struggle against the spread of weapons of mass destruction; international security and crisis management; response to global and regional challenges and major threats; promotion of territorial integrity, inviolability of internationally recognized borders, sovereignty and independence; promotion of peace, security and

stability on the European continent; security and defense sphere and regional cooperation. The subject of political cooperation is also a peaceful solution to the conflicts in Georgia.

The Agreement recognizes the need for the implementation of the 6-point Agreement on August 12, 2008, with the support of international mechanisms based on it and the safe and dignified return of internally displaced persons and refugees. The terms of the agreement will apply to all citizens of Georgia, including the community separated as a result of the conflict.

No other agreement signed by the EU with the third countries (excluding NATO member states) is so detailed and in terms of ambitious political cooperation and security commitments. It is clear that in the stabilization and association agreement (with Western Balkan countries) the EU has not specified such details and left enough space for the political format - to determine the area of interaction between partners.

Trade and trade related issues

Title VI of the Agreement refers to the creation of a deep and comprehensive free trade area between the Parties. This is the largest and most difficult part of the Association Agreement. The free trade space is a cornerstone of all the EU agreements signed by the European Union, but the special importance of the agreement signed with Georgia is that the parties are exempted from customs duties.

Sectoral cooperation

Titles V, VI and VII of the Agreement present the provisions of cooperation in 22 areas between the Parties. This includes economic cooperation, covering topics such as energy, environmental protection, transport, agriculture, finance and business, healthcare, culture and other. The main goal of this cooperation is development of policy management capabilities in Georgia and approximation to EU standards. In order to better understand the overall approach of the sectoral cooperation, we will provide for example the agreed provisions in a single sector - agriculture that envisages permanent dialogue and promotion in the following issues:

- Agriculture and rural development policy, including good governance and practice;
- Development of administrative capacity;
- Modernization and sustainable development in the field of production;
- Sharing knowledge and best practices in order to ensure economic well-being in rural communities;
- Competitiveness;
- Ensuring efficiency and transparency;

- Promoting policy control mechanisms;
- Winemaking and agro-tourism;
- Promoting development of farmer's service centers;
- Aspiration to harmonize issues within international organizations.

The EU will also assist the Government of Georgia to approximate the legislation in this sphere to the EU Directives and Regulations.

Cooperation institutions and civil society

Final and institutional provisions are provided in the Title VIII of the Agreement. The Agreement establishes the possibility of political dialogue between the parties at all levels. The Association Council is established to conduct a high level political dialogue, at the ministerial level. Other relevant institutions shall mainly support the work of the Association Council.

The following associate institutions will be created in accordance with this Title:

Political dialogues body	Functions	Periodicity
Association Council	Ministers, the European Commission. Supervision and monitoring of the Agreement. Makes decisions which are mandatory for the parties. Can amend the Annexes related to Title IV.	At least once a year
Association Committee	High ranking public officials. The Association Council will assist in performing duties and functions. The duties delegated from the Council.	At least once a year
Parliamentary Association Committee	Members of the European Parliament and Parliament of Georgia. Monitoring the implementation of the Agreement.	Once a year
Subcommittees	Middle ranking public officials. It is created in a variety of fields, in agreement with the parties: trade, human rights, JLS and others.	

The Parties will also facilitate regular meetings of civil society representatives to increase their participation in their awareness and Agreement implementation.

In this regard, the Agreement provides the establishment of the following formats:

Institute	Functions/topics	Periodicity
Civil Society Platform	EU and Georgia 9 + 9 NGOs. Development of recommendations and submission to associate institutions.	At least once a year
International Forums of Labour and Environmental Issues of Trade and Sustainable Development	World Trade Organization (WTO), International Labour Organization (ILO), UN Environmental Program (UNEP) and Multilateral Environmental Agreements (MEAs)	Not defined
Local Consulting Group	Balanced participation of economic, social and environmental parties, employers' and employees' organizations, NGOs, business groups, and other relevant stakeholders.	By agreement

Territorial application

The trade-related provisions of this Agreement (Title IV) are applied to Abkhazia and South Ossetia when the Government of Georgia restores full control over them.

Overview of EU-Georgia DCFTA

Kakha Gogolashvili

One of the basic aims of the Association between EU and Georgia is creation of a Deep and Comprehensive Free Trade Area (DCFTA). DCFTA offers partners a wide liberalization on goods and services with practically full elimination of tariff barriers, e.i. customs duties on imported goods. Minimization of non-tariff barriers is also achieved by practical elimination of quotas and licenses, minimization of anti-dumping and countervailing measures, simplification of customs procedures, etc. However, the main factor of actual trade liberalization, especially in view of assessing the European market, is to cope with the problem of sanitary and phytosanitary standards (SPS) and technical barriers to trade (TBT). A liberal approach being carried out by our country for years has left the consumer and the environment practically unprotected from the adverse effect of domestic and imported goods placed on the market. All types of technical regulations, sanitary inspections, market surveillance, food safety regulations and institutions carrying them out have been practically abolished in the country; the quality infrastructure was practically absent. Such an approach completely excluded any long-term arrangement with the EU, which would simplify the access of our products on its market. Therefore, from 2009 the government of Georgia intensively started the recreation of the quality infrastructure and product safety set by the EU as a condition for starting DCFTA negotiations.

The Association Agreement and, in particular its Title IV, contains proper provisions requiring from a partner country to ensure the legal environment compatible with that of the EU's Internal Market like competition protection standards, protection of intellectual property, environment and labor rights, other.

The establishment of a free trade area with the EU has both - economic and political dimension. It is clearly manifested against acute discussions held by the supporters of an alternative project of a regional integration such as the Eurasian Economic Union (EAEU) set up under the aegis of Russia. In this respect, further research of these matters is of much importance, in order to avoid distortion of the real essence of the matters and their incorrect communication. The EU-Georgia DCFTA, which was put into action from 1 September 2014, includes many advantages. It exempts partners almost fully from customs duties, with small exceptions. The Agreement also gives a good advantage for overcoming technical barriers. Concurrently, its actual efficient use asks for a prompt and effective harmonization of legislation and the regulatory system, making of a mutual recognition agreement, recognition of equivalence, maximum use of rules of origin Cumulation capacities. The work in connection to the Cumulation will continue to extend to Norway and Switzerland (like it is set with Turkey by the Agreement).

World Trade Organization (WTO) says nothing of the *Deep and Comprehensive Free Trade Area* – allowing only a simple free trade, as an exception to the "most-favoured-nation-treatment". Notwithstanding this, the establishment of the DCFTA fully meets the spirit of WTO agreements like TBT, SPS, Government Procurement agreement and others. At the same time, if the WTO agreements are of a reccomendatory nature and outline the main

direction, towards which the countries should address their efforts, the DCFTA sets bilateral mandatory obligations, which give a full guarantee for implementing these calls. According to Article 26 of Title IV of the Agreement" the Parties shall eliminate all customs duties on goods originating in the other Party as from the date of entry into force of this Agreement except as provided in paragraphs 2 and 3 of this Article and without prejudice to paragraph 4 of this Article". These exceptions cover a list of 277 products (basically of the animal origin), subjected to an anti-circumvention mechanism and shall be imported into the Union free of customs duties within the limits of the tariff rate quotas. This is dynamic type of quota fitting all the time real capacity of Georgian economy to expert the mentioned goods. The fixed tariff quota of 220 t. is effectively applied only to one product – garlic. 28 products are subjected to specified duties according to the minimal entry price system. All the mentioned partial restrictions cover around 3 percent of Georgia's export positions and do not affect the trade in real terms.

Box 1. Elimination of customs duties on Imports as stipulated by EU Georgia Association Agreement

1. The Parties shall eliminate all customs duties on goods originating in the other Party as from the date of entry into force of this Agreement except as provided in paragraphs 2 and 3 of this Article and without prejudice to paragraph 4 of this Article.
2. The products listed in Annex II-A to this Agreement shall be imported into the Union free of customs duties within the limits of the tariff rate quotas set out in that Annex. The most-favoured-nation (MFN) customs duty rate shall apply to imports exceeding the tariff rate quota limit.
3. The products listed in Annex II-B to this Agreement shall be subject to an import duty when imported into the
Union with exemption of the ad valorem component of that import duty.
4. The import of products originating in Georgia listed in Annex II-C to this Agreement shall be subject to the anti-
circumvention mechanism set out in Article 27 of this Agreement.
5. After five years from the entry into force of this Agreement, at the request of either Party, the Parties shall consult to consider broadening the scope of the liberalization of customs duties in the trade between the Parties. A decision under this paragraph shall be made by the Association Committee in Trade configuration, as set out in Article 408(4) of this Agreement.

Agreement also defines the rules of origin that provide the access of a product to the market under national treatment. It means more prospects for local production to manufacture fully competent products using foreign produced ingredients or components and will stimulate international businesses to look for partners in Georgia for cooperation aimed at marketing joint products in the EU. The effect of cumulation of rules of origin is also rather important for facilitating trade as EU-Georgia Association Agreement states that "...products shall be considered as originating in the exporting Party if they are obtained there, incorporating materials originating in the other Party or incorporating materials originating in Turkey...It shall not be necessary for such materials to have undergone sufficient working or processing..." At the same time, the agreement lacks the opportunities of neither regional nor extended diagonal Cumulation with other EU partner/associated countries. In the future EU will supposedly recognize cumulation between Georgian,

Moldovan and Ukrainian products, with the EFTA countries and Switzerland. It is already planned the mentioned countries to join pan-*Euro-Mediterranean system of cumulation of origin*. The Pan-Euro-Mediterranean cumulation of origin includes EU, EFTA States, Turkey, the countries which signed the Barcelona Declaration, the Western Balkans and the Faroe Islands. When Georgia, Moldova and Ukraine accede to the respective EMP Convention they will establish among themselves and EU diagonal Cumulation of rules of origin. It is based on a network of Free Trade Agreements having identical origin protocols. The issue is under negotiation now and when completed the countries will have possibilities to trade with industrial products produced in their countries free of the restrictions on 'sufficient working or processing'.

Box 2. Cumulation of Origin

Cumulation is the term used to describe a system that allows originating products of country A to be further processed or added to products originating in country B, just as if they had originated in country B. The resulting product would have the origin of country B. It can only be applied between countries operating with identical origin rules. An important point to remember is that in the case of cumulation the working or processing carried out in each partner country on originating products does not have to be 'sufficient working or processing' as set out in the list rules. There are four types of cumulation: bilateral, diagonal, regional and full. Diagonal cumulation operates between more than two countries provided they have Free Trade Agreements containing identical origin rules and provision for cumulation between them.

Access of industrial products to the EU market is very complicated because of numerous directives that establish technical regulations, standards and the conformity assessment rules and procedures. In order to overcome these technical barriers, so that the products originating in Georgia would be placed on the EU market without additional examination and procedures, the Agreement requires the introduction in Georgia of the EU's common technical regulations (technical regulations provided for the global and new approach directives and standards), the respective institutional environment (standardization, metrology, accreditation and conformity assessment), including market surveillance institutions, development that ensure the full implementation of these regulations.

The recognition by the EU of the certificates of conformity issued by the national accreditation authorities shall take place in two ways – the Georgian institutions of quality infrastructure shall be united into the respective European organizations and an Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA) shall be made between Georgia and the EU. This Agreement may be effected sectorally, depending on the sectors where a real progress with regard to approximation of legislation has been observed.

The Agreement also aims to ensure approximating the Georgian regulatory system in the Sanitary/Phytosanitary field to that of the Union and to establish, on this basis, a mechanism for the recognition of equivalence of measures maintained by the Parties. Georgia will need to improve its legislation and institutional basis to achieve full liberalization of export of food products to EU markets. One of important topics is approval of the processing establishments of animal products which are situated in the territory of

the exporting Party (Georgia), without prior inspection of individual establishments. Authorities of Georgia, who are to carry out testing and inspection and should, for this purpose, be equipped with proper laboratory facilities, personnel and experience. Their activities should be transparent, etc. Otherwise this privilege will remain unused.

There is much for everyone to do to benefit from DCFTA. It is well noticeable that the country's institutions lack financial means and human resources to communicate and promote the knowledge on DCFTA provision to the wider business community, while the business community lacks the ideas and motivation for learning more about it and start benefitting from it. Other problems lay in the area of developing a quality infrastructure in the country, which would allow the businesses to fulfill all necessary procedures of certification of products and proper registration of their companies in Georgia. There is an urgent necessity to elaborate a strategic plan for such support and start building testing laboratories and training personnel in areas where Georgia has real export potential. It Is also important to establish an active public-private partnership in such areas. Public support of studies and promotion of EU-Georgia DCFTA potential benefits abroad to foreign companies, investors and businesses is also an important task, otherwise Georgian business, as it is today, alone will not afford attracting foreign partners to jointly benefit from the liberalization of Georgia's trade with the EU.

Kakha Gogolashvili

What are Technical Barriers to Trade?

Trade liberalization has become a leading trend in international economic relations. They classify as Tariff and Non-Tariff Barriers. Tariff barriers (generally in the form of import duties) are globally being constantly reduced trough WTO-led negotiations, however, the so called "trade barriers" can still be considered as important obstacles to trade.

UNGTAD led project "MUST" developed a detailed list of NTBs. It comprises variety of measures such as sanitary and phytosanitary measures (SPS), pre-shipment inspections, distribution restrictions, restrictions on post sales, on the government procurement, licenses, quotas, etc. Technical Barriers to Trade (TBT) represent the most complex and widespread NTB measure. In general, it involves technical regulations and standards, as well as conformity assessment rules including inspection, testing and certification, which limit market access of goods and services. TBT aim to defend consumers and the environment from hazardous and damaging effect of unsafe products, but are increasingly used by the governments to reduce competitiveness of the imported goods at their markets and discriminate them against similar domestic products. The restrictions on the ground of TBT may appear in numerous ways such as authorization or registration requirements, prohibitions on imports of certain goods, tolerance limits on certain substances, labeling and marking requirements, packaging, performance, etc.

International framework

WTO TBT agreement- *To* reduce negative effect of TBT on world trade, in 1970s states, signatories of GATT started negotiations for the agreement establishing international rules in this area. The agreement was reached in 1993 and with the establishment of WTO in 1994 it was called WTO TBT agreement. The agreement recognizes rights of the nations to have different regulations on market access, but introduces as main principle the obligation not to use the mentioned right for creating unnecessary and unjustified barriers to trade. The agreement encourages the governments to specify, whenever appropriate, product regulations in terms of performance rather than design or descriptive characteristics. Its logic is based on four main principles:

Principle of non-discrimination-TBT introduces "Most Favored Nation" and "National Treatment" regimes for imported goods and services in relation to technical regulations and conformity assessment practices, which should exclude discrimination of the imported products against the domestic ones.

Principle of harmonization. The agreement also recommends using international standards developed by specialized international organizations for the purposes of introducing new or adapting existing technical regulations or conformity assessment rules.

Principle of "equivalence". It calls the states for mutual recognition of technical regulations and conformity assessment practices as essential tool to reduce relevant barriers to trade. Implementation of this principle is envisaged through conclusion of Mutual Recognition Agreement (MRA) or Agreement on Conformity Assessment and Acceptance of Industrial Goods (ACAA).

Principle of Transparency. In addition, TBT establishes the obligation for prior notification (up to 60 days) by all signatories to the agreement about the adoption of a new technical regulation or conformity assessment rules. TBT Agreement has also promoted the establishment of national inquiry points to ensure transparency of state regulations in the area.

Bilateral agreements

To reduce technical barriers, the states, dispose of two main strategies: a) harmonized technical regulations and norms; b) mutual recognition of the equivalence of conformity practices, to guarantee easy access to the market of goods and services certified in another country. Most prominent progress in both directions was achieved within the EU, where the harmonization of TR and standards reached a very high level. In addition, the EU has introduced a supranational system of adoption of technical regulations (through new approach directives and regulations), which involves full European Economic Area and provides for elimination of technical barriers among EU member states and EFTA countries. The EU, as a united trade actor negotiates and signs MRA and ACAA with other partner countries. It has signed MRAs with USA, Canada, New Zealand, Australia, Israel, Japan, and Switzerland. The parties have agreed to recognize mutually the conformity assessment rules in areas listed in each agreement. While MRA is signed on the basis of mutual interest and recognition of each other's rules, the ACAA agreements require from signatory country to align its respective technical regulations with that of the EU. This agreement is also signed on sectoral basis, depending on the progress in approximation of the legislation in respective fields. This is a new type of agreement, which EU has just concluded (January, 2013) with Israel in the pharmaceutical sector It is being negotiated with number of Mediterranean countries and Ukraine. EU-Georgia and EU-Moldova DCFTA envisage the same agreements to be signed, when the conditions are met.

EU Regulatory System

EU founding treaties are the main legal source for elimination of technical barriers at EU level. In particular, articles 34-36 of TFEU state that "Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States". This does not call for elimination of technical regulations and assessment rules, but to

eliminate their negative effect on the trade. Still article 36 of the same treaty allows technical restrictions and prohibitions on imports and exports with the aim of protecting public safety, security and other important interest. But such measures cannot be discriminative or arbitrary towards the goods and services of other member states. Effective elimination of the negative effects of TBT in the EU is achieved through: 1) harmonization of regulations and standards, conformity assessment procedures (around 75% of the technical regulations and standards are harmonized in the EU via old and new approach directives), and 2) application of the mutual recognition principle, which allows the rules and measures applied in one-member state to be considered as equivalent and acceptable in the other.

As regards the harmonization of laws, while the Old Approach directives were involving detailed specifications of the products, elaborated on the basis of time consuming and difficult negotiations between member states, the New Approach directives, introduced in 1985 reduced the necessity for long and detailed debates on bringing closer very specific technical regulations adopted in different countries. Furthermore, it has established a more effective way of agreeing on general functional characteristics of the group of products. European standardization bodies CEN, CENELEC and ETSI work on elaboration of harmonized standards, with the aim to facilitate compliance with the directives of newly developed products used by businesses. All products in the EU are subjected to the conformity assessment (CA) procedures adequate to the risk they may cause to the consumer or environment. The low level risk products may be a subject of self-declaration by the producer/distributor, but the others need involvement of third parties. The higher risk products will go through inspection, testing and certification by a notified body. Any product in the EU, especially those not falling under any directive regulation shall satisfy requirements set out in the General Product Safety Directive 2001/95/EC. The Member states recognize and accept certificates of conformity issued by the notified bodies of other Member States. The EU promotes international cooperation of accreditation bodies.

Market surveillance in the EU is regulated based on principles set in EU regulation (765/2008/EC), which makes a clear distinction between liabilities of the manufacturer, importer, and distributors. The activities are carried out by specified surveillance services in Member States, which communicate their findings and decisions about the products suspected to bear the risk for consumers to other member states through EC managed rapid alert system RAPEX.

National regulatory system in Georgia

Georgian legislation regulating TBT complies with the principles of international best practice. It incorporates the provisions of EC directives on General Product Safety and Liability for Defective Products, recognizes the principle of voluntary standardization and replicates European institutional design in conformity assessment. Indeed, Georgian legal

system is still undergoing reform process, which is guided by relevant strategy and program documents adopted to this end.

Code of Product Safety and Free Movement of Goods (May 8, 2012) represents the main legal source regulating TBT area. The Code establishes all relevant procedures in this field and defines main institutions and their functions. Adoption of technical regulations (TR) is centralized under the competence of the Presidential or Governmental decree. The register of TRs is carried out by the MoJ. National Technical regulations are adopted in conformity with international standards. The Code recognizes equivalence of EU and OECD TRs. In addition, the Government is authorized to recognize equivalence of TRs of any other third country. The products imported from those countries are placed on Georgian market without any additional testing and/or certification. The products from the rest of the world are subjected to the conformity assessment (CA) according to Georgian legislation. Apart from the bodies accredited by Georgian National Accreditation Service Georgia recognizes the conformity assessment carried by those organizations accredited by signatories of ILAC, IAF or EA MRA or MLA agreements. The goods with the CE mark are allowed to the market without additional CA as well.

Technical Regulations. Georgia started gradually transposing of EU New and Global Approach directives into its national TR system since 2011 and transposed 6 EU new approach directives up to date. These are directives regulating technical requirements on lifts, cable ways, high pressure vessels, high pressure devices, water heating systems, recreational crafts. The process will further continue under the DCFTA implementation framework.

Standards. GEOSTM is responsible for the registration of standards. Georgia recognizes international standards and new standards are developed if there are no relevant international ones. Respective Technical Committees are established to adopts and approve new standards. Any group or individual may develop a standard and register it after approval by the technical committee. ISO, IEC, CEN, CENELEC standards can be used after GEOSTM register them as Georgian standard. GOST standards are also in circulation based on the 1998 CIS relevant agreement. Producer may develop and use his own standard without registering it, but assumes the full responsibility for its compliance with relevant TR.

National Institutions

The main institutions representing the quality infrastructure are: Georgian National Agency for Standards and Metrology (GEOSTM), responsible for development and registration of national standards, development of metrology and operation of WTO TBT inquiry point; Georgian Accreditation Centre (GAC) providing accreditation of conformity assessment bodies such as testing and calibration laboratories, medical labs, product certification bodies, inspection bodies. Since 2011 GAC has been an associate member of

European Accreditation. Technical and Constructions Supervision Agency (TCSA) carries out market surveillance not only in the area of construction, but since 2012 in industrial sectors as well. The subject of surveillance is the sectors with high risk (including radiation and nuclear safety) as well as areas covered by new approach directives. Gradual expansion of market surveillance system in Georgia is also envisaged by the GoG TBT strategy. In addition to the mentioned institutions under the Ministry of Economy and Sustainable Development, Customs administration is involved in supervising the process of conformity assessment with the imported goods.

Europeanization of the National System

DCFTA, which represents the part (Title IV, Trade and Trade Related Matters) of the EU-Georgia Association Agreement, became effective from September 2014. Chapter III of the agreement concerns TBT, in which, in particular, Georgia takes obligation to approximate standards, TR, metrology, market surveillance, accreditation, conformity assessment with their relevant EU systems, comprising legal and institutional actions. In addition, GEOSTM should become participant to the relevant European and International bodies. Market surveillance should become fully functional and effective. After these measures take effect, ACAA agreement covering more advanced sectors can be signed between parties.

The agreement sets the timetable for transposing selected EU directives (TR) (presented in the Annex III-A of the EU-Georgia AA) into Georgian legislation in a period of up to 8 years. Currently, it covers 21 EU New Approach (sectoral) directives. So called "Horizontal directives" regulating the functioning of the safety infrastructure across all sectors will also be adopted according to Annex III-B of the agreement. EU and Georgia agreed that Georgia will adopt measures guaranteeing adequate protection of consumers in non-regulated sectors. To this end, it will be necessary to establish and promote specialized bodies (including consumer protection unions) able to provide adequate level of control in non-regulated fields (such as textile, furniture, etc.).

Tamar Labartkava

The main objectives of the Chapter on Sanitary and Phytosanitary Measures of the DCFTA are as follows:

- to facilitate trade in commodities covered by sanitary and phytosanitary measures between the parties;
- to safeguard human, animal and plant life and health;
- to approximate with the animal welfare standards.

The food crisis in Europe in 1990s, which was related to the bovine spongiform encephalopathies (BSE), necessitated the establishment of common effective control mechanisms for ensuring food and feed safety. A new concept of food safety management has been developed based on the risk management – the unified harmonized requirements have been established within the EU Member States in terms of food safety, the compliance with which became obligatory for the producers within the EU Member States as well as for importing parties. The aim of fulfilment of those requirements is to look after human health and protect the customers' interests.

By signing the DCFTA, the Government of Georgia has undertaken the obligation to gradually approximate by 2027 the legislative acts of Georgia with the requirements set out in 272 EU regulations and directives related to the food/feed safety, veterinary and plant protection.

Thanks to the DCFTA, Georgian agricultural goods companies will be able to benefit from the favourable trade regime and sell their products to the European markets if their exported products meet the requirements of the European Union. However, first of all, DCFTA should be considered as the mechanism for increasing the safety level of the food circulated on the local market, which is, in the first place, aimed at the protection of health of Georgian customers.

The legislation of Georgia

In terms of sanitary and phytosanitary measures the main law of Georgia is the Food/Feed Safety, Veterinary and Plant Protection Code of Georgia. The main purpose of the Law is to protect human life and health, consumer interests, animal health and welfare, and plant health, as well as to define the unified principles of state regulation and to form an effective system of state control. The Law defines certain terms related to this area, including the following:

- **business operator –** a person whose activities are related to the production, primary production, processing, distribution of food/feed, animals, plants, products of animal and plant origin, veterinary drugs, pesticides, agrochemicals, as well as to services in the fields of veterinary and plant protection.

A business operator must register annually with the registry of economic activities. Besides, business operators, whose activities are related to the production and/or processing of food of animal origin, shall be subject to recognition by the National Food Agency (taking into consideration certain exceptions);

- **small business –** the activities of a business operator whose annual turnover does not exceed GEL 200 000;
- **household production -** production and/or primary production of food/feed in an unorganised manner and/or for self-consumption;
    - often persons, who regularly produce food in their households with the help of their family members and supply that food to the market, are wrong to assume that they are the household producers and do not register as business operators. But this situation is a serious impediment to the healthy competition.

This Law also ensures distribution of liability between the private sector and the state authorities:

- a business operator producing, processing/distributing/selling food – effectively carrying out internal operations and control measures in order to ensure safety of the final product, which also includes implementation of the traceability system and compliance with the appropriate labeling rules.
- Ministry of Agriculture – determining the state policy, participating in drawing up legal acts, participating in the management of crisis situation, organizing risk analysis;
    - National Food Agency – carrying out state control, carrying out risk management and communication, issuing certificates, permits and licences;
    - Scientific-research Center of Agriculture – carrying out risk assessment, testing and evaluation of new species, producing, standardizing and certifying seeds and planting materials, etc.;
- Revenue Service – controlling food safety during the movement of goods across the customs border of Georgia;
- Ministry of Health, Labour and Social Affairs – determining the requirements for food safety norms and parameters, also for special groups of customers, monitoring, researching and controlling the diseases caused by food, participating in the management of crisis situation.

Concept of food safety management

Safe food is the food, which will not harm human health and life if consumed for its intended purpose.

The goals of the food safety management system are as follows: 1) to avoid, eliminate or minimize the risks related to food, 2) to ensure production of safe food; 3) to verify that the produced food is safe.

According to the modern concept of food safety, each entrepreneur (producer, processing entity, distributor, trading network, etc.) involved in the food chain is responsible to ensure food safety within the scope of its activities. This is an important issue considering that certain hazards may arise at a certain stage of food chain (for example, pesticide or veterinary drugs waste, if it exceeds the ceiling levels in an agricultural product) and they may become impossible to manage at the following stages of food chain (for example, at the processing stage). Therefore, specific business operators are required to effectively control food safety hazards in their activities from the production of ram materials/products to the delivery of the products to the consumers.

The introduction of the food safety management system in the private sector includes the following stages, which should be fulfilled successively:

- **General hygiene rules / Simplified hygiene rules**
  - the model practice of primary production – requirements for farms;
  - the model practice of production – requirements related to the arrangement of infrastructure of processing entities/retail entities and others and the flow of the production processes;
  - necessary preliminary programmes – requirements for maintaining the hygiene conditions necessary for the production of safe food with regard to the personal hygiene of the staff, control of the suppliers, storage, cleansing and disinfection, waste management, water control, management of allergens, etc.

- **Hazard Analysis and Critical Control Points (HACCP) plan/system**

  Aimed at the control of biological, chemical and physical hazards related to food safety that cannot be managed by general hygiene rules/simplified hygiene rules.
  - The HACCP approach is based on 7 principles: (1) to conduct hazard analysis, (2) to identify critical control points, (3) to establish critical limits, (4) to establish monitoring, (5) to establish corrective actions, (6) to establish verification, (7) to establish documentation and records.

One of the basic requirements for food safety is existence of traceability. **Traceability** is the possibility to establish data and information on food/feed, any substance to be used in them, animals and plants, products of animal and plant origin, veterinary drugs, pesticides and agrochemicals at the stages of their production, processing and distribution. A business operator is obliged to have information, based on the records, regarding the type, batch and quantity of the raw materials received at a specific date from a specific supplier and on the batch and quantity of finished products delivered to a specific customer at a specific day. In addition, an entrepreneur should know, based on the records, in which conditions were the finished products of a specific batch produced and which raw materials were used for its production. The traceability system of a specific business operator applies to a direct supplier and a direct customer.

At present, according to the legislation of Georgia, the implementation of the HACCP is obligatory for slaughterhouses and the business operators, which carry out thermal processing of raw milk. From 1 January 2018, the implementation of the HACCP will become obligatory for the exporters of the processed nut kernels. Also, it should be noted that a veterinary certificate, to be issued in case of export of Georgian honey or fish to the

EU Member States, implies the existence of a system based on the HACCP principles at an exporting undertaking.

As in the EU, the implementation of the HACCP will gradually become obligatory for the business operators of all other sectors, except the primary production entities.

Equivalence

On the one hand, the EU has established internal legislative requirements, the compliance with which is ensured by all EU Member States, and has also determined relevant equivalent measures for the exporting third countries. Equivalence is the condition where the measures implemented in an exporting country (Georgia), although they differ from the measures of an importing party, actually achieve the permissible risk levels established by the importing party.

For this purpose, upon its request, the importing party shall be able to carry out inspections, tests, verification and other relevant actions. The parties shall hold consultations in order to reach bilateral and multilateral agreements for the purpose of recognition of equivalence of certain sanitary and phytosanitary measures. Verification actions by an importing party may include the following:

- complete or partial verification of the inspection and certification system of a competent body of an exporting country;
- on-site inspection of certain number of undertakings.

Verification may be a part of the procedure of conditional recognition of undertakings.

Admission of food of animal origin to the EU Member States

The requirements applicable to the export of food of animal origin from the third countries to the EU, due to the high risks of those products, are very different from the requirements applicable to the export of plant products. In order to obtain the right to export food of animal origin it is necessary to undergo the following procedures:

- at the state level – obtaining authorisation of the country, which requires the following:
    - development of waste (veterinary drugs, pesticides, other contaminants from the environment) monitoring programme;
    - determination of the structure of a competent body, relevant legislative acts, the list of the laboratories selected for the testing of waste and their accreditation status, and the official sampling procedures;
- at a business operator level:
    - registration and recognition as business operator;
    - compliance with the requirements defined by the legislation;
    - adding a certain business operator to the list of undertakings permitted to export food of animal origin from third countries;
    - obtaining veterinary certificates for each batch of products.

At present, the export of wool, honey and sea fish is permitted from Georgia to the EU.

RASFF

For the purpose of effective exchange of information on the hazardous food/feed between the partner countries, the Rapid Alert System for Food and Feed (RASFF) is operated in the EU. The contact persons named by the EU Member States, the European Commission, the European Food Safety Authority (EFSA), the European Free Trade Association (EFTA) and third countries are engaged in it (from Georgia: National Food Agency and Revenue Service). The information, spread by this system, is available on the RASFF portal without naming a specific company.

Positive consequences and challenges of the DCFTA

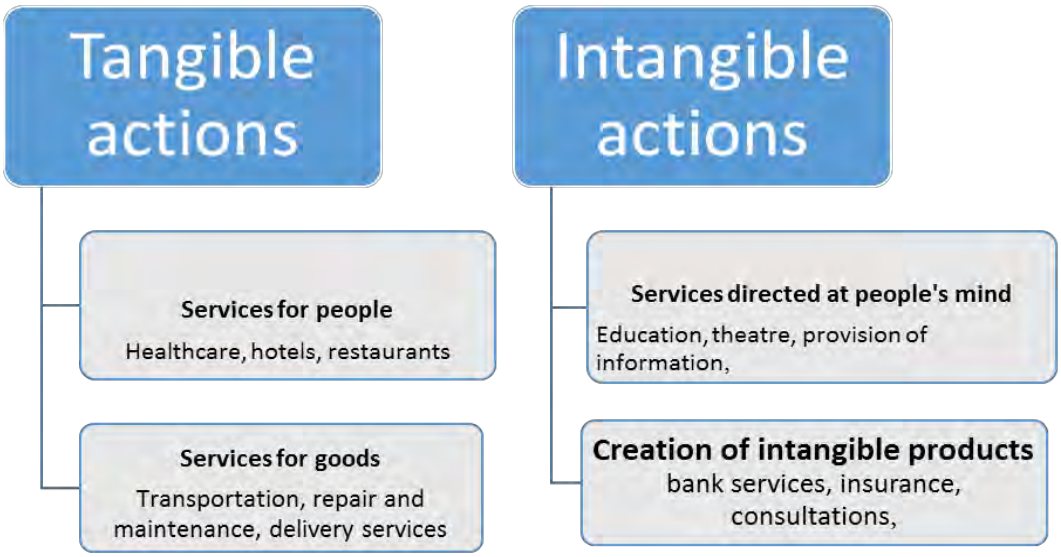
As a result of the DCFTA, the following benefit is expected to be gained by Georgia in terms of sanitary and phytosanitary issues:

- improvement of food/feed safety standards for local as well as for exported and imported products;
- protection of health of the population of Georgia;
- increase of the competitiveness of Georgian companies on the international market and, consequently, diversification of sales market by Georgian entrepreneurs in the countries with stable, open, transparent game rules and growing demand.
- Along with the positive consequences, certain challenges should also be considered:
- compliance with the high standards of food/feed safety, veterinary and plant protection;
- requirements set by EU customers (retail outlets, trading companies, processing companies), which are often stricter than the legislative requirements of the EU food safety and also concern the qualitative parameters of the product, the compliance with specific standards (for example: GLOBALGAP, ISO 22000, FSSC 22000, IFS, BRC, etc.);
- frequent changes in the Georgian legislation;
- full enactment of legislative acts;
- improper level of development of the organizations connected to the food sector (laboratories, educational institutions, research institutes, etc.);
- lack of professional knowledge and information;
- lack of proper staff;
- often there is an established approach among the representatives of the private sector and the customers that “everything should be done by the state”;
- low level of development of primary production and small farms, which hinders the provision of sufficient products and stable supply;
- increased short-term and long-term expenses for ensuring legal requirements, which is caused by the following needs: improvement of the state control system, drawing up and enactment of legislative acts, raising awareness and professional level of food producers and other organizations connected to the sector, investments for the arrangement and improvement of the infrastructure of the country and individual companies.

All the above challenges must be overcome by close cooperation between the state, private sector and customers.

Kakha Gogolashvili

Goods and services – both are necessary products, but they greatly differ from each other: goods are physical subjects, while service is more of a process or action, such as doing hair or drawing up a balance sheet, transporting passengers, for example, by airplanes (air service), or carrying cargo by a train. Two actions can be distinguished in the classification of services: tangible and intangible actions.



International framework

Trade in services is a very fast growing and dynamic form of foreign economic relations around the world. At an international level, within the WTO (World Trade Organisation), the rules of trade in this field are regulated by the General Agreement on Trade in Services (GATS). Generally, the area of trade in services is less liberalized and the rules adopted internationally give more freedom to countries to decide themselves to what extent they would like to allow products on their markets.

The main principle of the GATS is a so-called Market Access provision, according to which the countries shall accord access to the service suppliers and investors of the third countries to their national markets with no less favourable conditions, than they would accord to their own service suppliers and investors.

Four models of supply are specified in the GATS and, respectively, in the AA/DCFTA:

Service areas according to GATS

Business and professional services

Communication

Construction services

Financial services

Distribution services

Studies and education

Energy services

Environmental services

Healthcare and social security services

Tourism

Transportation services

- *Transboundary trade (cross-border supply)* - supply of services from the territory of one country to another by post, e-mail, telephone, other means of telecommunication.
- *Consumption abroad* – when a citizen of one country arrives in another country to obtain a service (tourism, healthcare).
- *Commercial presence* - a service supplier of one country establishes a territorial presence in another country, including through ownership or lease of the office or premises.
- *Presence of natural persons* – the natural persons moving from one country to another/establishing in another country in order to supply services (teachers, doctors, consultants).

The signatory countries to the GATS guarantee complete liberalization of the trade in services only in the areas determined by them. Those areas are specified in the so-called "schedule of commitments", which is binding after its registration with the WTO. Besides, the countries are fully entitled to maintain the restrictions (not to apply the national scheme to the third countries) in the areas, which are considered necessary. However, the obligation to treat every country in the preferential support regime (equally) applies to all service sectors. The conditions of that agreement do not apply to the governmental sector and mostly to the air transport services.

Advantages under the DCFTA

Trade in services between the EU and Georgia is regulated by the Association Agreement / Deep and Comprehensive Free Trade Area Agreement. Unlike trade in goods, the provisions of trade in services do not provide full access of a partner's products to each other's markets. Although overall they apply to each other's services the national regime of operation on their own markets, important clauses and exceptions significantly reduce the list of activities that are carried out smoothly and without discrimination on the partner's territory.

The purpose of the Agreement in this section is "progressive liberalization of establishment based on the principle of reciprocity and trade in service, and cooperation in the field of e-commerce." At the same time, according to its provisions, each party reserves the right to regulate and introduce new regulations "for achieving the legitimate goals of the policy". Although trade in services in most cases requires movement of citizens and its liberalization is closely linked to free movement and employment of people, this Agreement does not apply to the individuals seeking access to the employment market of the member parties, to the measures related to citizenship, permanent residency and employment. It also does not restrict the party to apply the measures, which regulate the entry or temporary stay of individuals on its territory.

Cross-border supply, determined by the DCFTA, combines two forms of supply of services determined by the GATS classification:

- from the territory of one party to the territory of another (regime I);
- from the territory of one party to the consumers of another (regime II).

The provisions of the Agreement regarding the cross-border supply apply to all sectors, except for the following:

- audiovisual services;
- national marine cabotage;
- local and international air transport services, directly related to the exercise of the rights of movement.

In addition, the Agreement covers such forms of air transport services as:

- plane repair and maintenance services, during which the plane is withdrawn from service;
- sale and marketing of the air transport services;
- Computer Reservation System (CRS) services;
- land services;
- services related to the operation of airports.

Annexes XIV-B and XIV-F to the Agreement include the lists of all sectors of international service classified by the World Trade Organization. The same Annexes include the clauses, by which the European Union and Georgia report the removal of specific activities from the common authorised regime. There are many such clauses, especially in the section related to the EU, which is logical because the EU represents 28 independent states that have different national interests in this area. Therefore, there are many clauses in the Annexes stating that a certain country does not undertake the obligation to give the services of a partner country access to its market in a certain sector or subsector.

However, in the cases where the obligations to give access to the market are determined, each party grants to the services and service providers of another party no less favourable regime, than it grants to its services and service providers. This is the obligation of a national regime.

Clauses for Georgia (extract from Annex XIV-F)

Sector or subsector	Description of a clause
1. Business services	
A. Professional services	
Legal services (including legal consultation in domestic and international law) (CPC 861)	Regimes 1 and 2 No limitations
6. Environmental services	
A. Sewerage services (CPC 9401)	Regime 1 No commitments, except for the consultationservices Regime 2 No limitations
B. Waste removal services (CPC 9402)	Regime 1 No commitments, except for the consultationservices Regime 2 No limitations

According to the above specific example, Georgia has no limitations in terms of business services, but it has limitations in some subsectors of the environmental services. In terms of cross-border services Georgia has not undertaken the obligation to apply the national regime in the area of transportation services either.

The table below shows a short extract from the list of sectoral clauses of the EU and the Member States:

7. Financial services	
A. Insurance and insurance services	Regimes 1 and 2
	AT, BE, CZ, DE, DK, ES, FI, FR, EL, HU, IE, IT, LU, NL, PL, PT, RO, SK, SE, SI and UK: there is no commitment on the direct insurance services, except for the risk insurance, which is related to:
	i) sea shipments and commercial air services and space launches and cargo shipment (including satellites), if such insurance covers any or all of the above mentioned: transported goods, means of transportation of goods and any obligation derived therefrom; and
	ii) goods in international transit.

This is just one example of the clauses for the EU Member States. The EU and its Member States have similar clauses in almost all sectors. It is notable that the parties do not impose restrictions in any sector in a so-called Regime II (consumption abroad).

Information on the sectors, which are fully open or restricted for Georgian service provider in the EU, is given in Annex XIV-B and XIV-F of the Association Agreement between Georgia and the European Union.

It is notable that the basic provisions of the Agreement cover in more detail the sectors, such as financial services, electronic communication network (ECN) services, e-commerce, postal services, transportation services, computer services, intermediary services. The role of the regulator (if any) and the issues related to security, access and legislative approximation are defined in all areas.

The parties have the right to impose new regulations and restrictions, but it should be based on reasonable considerations and should not discriminate suppliers of a partner country.

Establishment of a Business

Kakha Gogolashvili

General Agreement on Trade in Services (GATS) defines two types of establishment of a business, according to which legal and natural persons of one country carry out commercial activities on the territory of another country:

- establishment of a subsidiary, branch or representation of a legal entity;
- supply of services by a natural person on the territory of another country

In both cases it is possible to establish a business separately by registration as an entrepreneur or without registration.

GATS member countries apply the most favoured nation treatment mode to this form of service, which means the exclusion of discrimination of the third countries when a company or natural person is established in another country.

According to the provisions of the DCFTA (Deep and Comprehensive Free Trade Area Agreement) the national treatment mode is established for the citizens of both parties during as well as after the establishment. The term "establishment", specified in the Agreement, has the following meaning:

> as regards **juridical persons** of the Union or of Georgia, the right to take up and pursue economic activities by means of setting up, including the acquisition of, a juridical person and/or create a branch or a representative office in Georgia or in the Union respectively;
>
> as regards **natural persons**, the right of natural persons of the Union or of Georgia to take up and pursue economic activities as self-employed persons, and to set up undertakings, in particular companies, which they effectively control.

Which economic activities do the provisions of the Agreement cover?

The provisions of the Agreement include the measures adopted and applied by the Parties, which affect the establishment in all economic activities, with the exception of:

- mining, manufacturing and processing of nuclear materials;
- production of or trade in arms, munitions and war matèriel;
- audio-visual services;
- national maritime cabotage;
- domestic and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights (other than:

aircraft repair and maintenance services during which an aircraft is withdrawn from service; selling and marketing of air transport services; computer reservation system (CRS) services; ground-handling services; airport operation services).

National treatment and most favoured nation treatment

As regards the establishment of subsidiaries, branches and representative offices of juridical persons of the Union Georgia shall grant treatment no less favourable than that accorded to its own juridical persons, their branches and representative offices or to subsidiaries, branches and representative offices of any third country's juridical persons, whichever is the better; respectively, in case of establishment on the territory of the European Union, it grants Georgian companies equivalent treatment. As regards the operation of subsidiaries, branches and representative offices of juridical persons of the Union in Georgia, once established, Georgia shall grant treatment no less favourable than that accorded to its own juridical persons, their branches and representative offices; or to subsidiaries, branches and representative offices of any third country's juridical persons, whichever is the better.

The Agreement does not preclude the application by a Party of particular rules concerning the establishment and operation in its territory of branches and representative offices of juridical persons of another Party not incorporated in the territory of the first Party, but legal or technical characteristics of those rules and the reasonable necessity of their application must be justified.

The legal or technical differences of those different rules between such branches and representative offices must be justified as compared to branches and representative offices of juridical persons incorporated in its territory or, as regards financial services, for prudential reasons.

As, overall, complete liberalization of the trade in services is neither considered in the WTO (World Trade Organisation) system, nor generally in the EU regional agreements or the DCFTA, those commitments are not absolute and are stipulated in the reservations and restrictions listed in the Annexes (Annex XIV-E and XIV-A, respectively).

The list of reservations included in Annex X are horizontal (applying to all sectors or sub-sectors) and specific (applying to a specific sector or sub-sector). The reservation may include the denial of the liberalization condition on a specific activity, which is given in the following record: “No national treatment and most favoured nation treatment obligations”.

If the reservation concerns the EU party, the Annex includes the reservations specified completely by the EU as well as the restrictions applied by individual states, marked with the abbreviations of those states. In order to be clear for the reader, some extracts from the DCFTA are given below:

Sector	State/reservation
Public utilities	EU: Economic activities considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators.
Types of establishment	EU: Treatment accorded to subsidiaries (of Georgian companies) formed in accordance with the law of the Member States and having their registered office, central administration or principal place of business within the Union is not extended to branches or agencies established in the Member States by Georgian companies AT (Austria): Managing directors of branches of juridical persons must be resident in Austria; natural persons responsible within a juridical person or a branch for the observance of the Austrian Trade Act must have a domicile in Austria.
Investments	FR (France): Georgian purchases exceeding 33,33 % of the shares of capital or voting rights in existing French enterprises, or 20 % in publicly quoted French companies, are subject to the following regulations: - investments of less than 7,6 million euros in French enterprises with a turnover not exceeding 76 million euros are free, after a delay of 15 days following prior notification and verification that these amounts are met; - after a period of one month following prior notification, authorisation is tacitly granted for other investments unless the Minister of Economic Affairs has, in exceptional circumstances, exercised its right to postpone the investment.

The Agreement also states that, taking into consideration the specified reservations, the Parties shall not introduce new regulations or measures, which can cause discrimination with regard to the establishment or operation of Georgian or EU legal persons on the territory of another party.

Temporary presence of natural persons for business purposes

The establishment and operation of the companies on the territory of another party, also the activities of natural persons are necessarily related to the measures applicable to the entry and temporary stay of the key personnel, interns, business sellers, contractual service

suppliers and independent professionals in the country of domicile, which are defined in a relevant article of the DCFTA. The following terms are used in this regards:

Key personnel	Natural persons employed within a juridical person of one Party, who are responsible for the setting-up or the proper control, administration and operation of an establishment. "Key personnel" comprise "business visitors" for establishment purposes and "intra-corporate transferees" (managers, specialists), with at least one year of working experience at a founding undertaking.
Interns	Natural persons who have been employed by a juridical person of one Party or its branch for at least one year, possess a university degree and are temporarily transferred to an establishment of the juridical person in the territory of the other Party.
Business sellers	Natural persons who are representatives of a services or goods supplier of one Party seeking entry and temporary stay in the territory of the other Party for the purpose of negotiating the sale of services or goods.
Contractual service suppliers	Natural person who is not an agency for placement and supply services of personnel nor acting through such an agency, has no establishment in the territory of the other Party and has concluded a contract to supply services with a final consumer in the latter Party, requiring the presence on a temporary basis of its employees in that Party.
Independent professionals	natural persons engaged in the supply of a service, who have concluded a bona fide contract to supply services with a final consumer in the other Party requiring their presence on a temporary basis in that Party.

Employment of natural persons at the undertakings

Annexes XIV-C and XIV-G to the Agreement include the reservations, according to which each party must allow the entrepreneurs of the other party to employ the natural persons of the latter party at the undertakings, established by them, provided that those employees are key personnel and interns.

In some cases, those Annexes establish limits regarding the overall number of the persons to be employed by an entrepreneur, who are key personnel and interns in specific sectors, in a form of a numerical quota or economic needs test, which constitute an exception from a

general rule. Generally, such restrictions should not have neither regional nor national effect.

The key personnel and interns may enter and temporarily stay on the territory for the period not exceeding 3 years, in case of the intra-corporate transferees, 90 days in each period of 12 months - in case of "business visitors" for establishment purposes and 1 year - in case of interns.

Contractual service suppliers

General conditions are similarly established, which must be met by a contractual service supplier natural person in order to obtain the right to enter the country and carry out his/her professional activities there:

- they must be engaged in the supply of a service on a temporary basis as employees of a juridical person, which has obtained a service contract not exceeding 12 months;
- they should be offering such services for at least the year immediately preceding the date of submission of an application for entry into the other Party;
- they must possess a university degree and qualification;
- they must have at least six years of professional experience in this business sector;
- they must possess a university degree and professional qualification pursuant to the laws, regulations or legal requirements of the Party where the service is supplied;
- the entry and temporary stay of natural persons within the Party concerned shall be for a cumulative period of not more than six months or, in the case of Luxembourg, 25 weeks in any 12-month period or for the duration of the contract, whichever is less;
- they must provide only the services determined by the contract.

Independent professionals

According to Annexes XIV-D and XIV-H to the Agreement, the Parties shall allow the supply of services into their territory by independent professionals of the other Party, subject to the following conditions:

- the natural persons must be engaged in the supply of a service on a temporary basis as self-employed persons established in the other Party and must have obtained a service contract for a period not exceeding 12 months;
- the natural persons entering the other Party must possess, at the date of submission of an application for entry into the other Party, at least six years professional experience in the sector of activity which is the subject of the contract.

The above stated persons often need to obtain a licence or pass a qualification test in order to carry out their activities. The procedural norms, related to such requirements, are based on the criteria that prevent the competent authorities to arbitrarily exercise their powers, for the avoidance of which the following criteria have been established:

The measures must be:

- due to the goals of public policy:
- clear and unequivocal;
- unbiased;
- preliminarily established;
- preliminarily known to the society;
- transparent and available.

The authorisation or licence must be issued immediately upon establishing that the conditions for obtaining authorisation or licence are met.

The Agreement also includes the requirements for issuing licences and authorisations for the purpose of carrying out professional activities:

- clear, public, unbiased and impartial;
- simple, which shall not excessively complicate/hinder the provision of services;
- cost-effective;
- a reasonable timeframe must be determined for an applicant for submitting and processing an application;
- if relevant, authentic copies shall be filed instead of original documents.

In order to simplify provision of services by independent professionals from one party to another, the Agreement determines the possibility of mutual recognition of university degrees, qualification certificates and other relevant documents, the exercise of which depends on the quality of approximation of the country's respective legislation and institutional system with the EU standards. In this regards, in case of achieving equivalence, the matter of mutual recognition shall be reviewed by the Association Committee for trade issues, which then gives recommendation to the signatory parties regarding mutual recognition.

Tsiuri Nozadze

The Deep and Comprehensive Free Trade Area (DCFTA) (Chapter 6) between Georgia and the EU creates a real mechanism for gradual economic integration of Georgia on the EU internal market.

These mechanisms imply the legislative approximation envisaged by the DCFTA, which means the introduction of European standards and practices in relevant areas, as well as technical/expertise, educational and financial assistance for development of the institutional infrastructure.

Using modern information and communication technologies, any kind of relationships, including electronic commerce (e-commerce), are available in real-time and space.

E-commerce is a methodology of modern business which fulfills the need of business organizations, vendors and customers to reduce cost and improve the quality of goods and services while increasing the speed of delivery.

Thanks to Internet e-commerce ensures access of manufacturers to the maximum number of consumers and their many requirements and allows clients to order goods or services directly within the enterprise management system. The attractiveness of Internet in e-commerce is mainly due to the low cost of data transmission. However, access to the data exchange system is a problem for the bulk user of global network.

E-commerce refers to paperless exchange of business information using following ways:

- Electronic Data Exchange (EDI)
- Electronic Mail (e-mail)
- Electronic Bulletin Boards
- Electronic Fund Transfer (EFT)
- Other Network-based technologies

EDI - is a convenient and secure electronic interface that ensures standardization of documents turnover between companies. The major drawbacks of EDI are as follows:

- The necessity for improvement of IT system software in order to present in the format compatible with in-house software;
- The need of coordination of EDI packets (protocol) formation rule;
- Large amounts of transactions.

The drawback indicates that introduction of EDI is a complex and expensive event, which is only available for large companies.

Unlike traditional systems, e-commerce systems exchange information through electronic communications channels, which have less impact on the personal skills of information exchange and provide a universal platform for exchange of information to support commercial / business activities across the globe.

Ideally, economic commerce allows the business to be completely excluded from the commercial cycle - not only the consumer but also the buyer. ***Seller-Buyer*** Relationships System can be replaced automatically with a functioning system - ***Server-Client,*** which is presenting only by hardware and software tools, i.e. information is stored on the web-servers – in the Internet service provider's own computers, and upon the customer's request, access is provided through the network client's program-web browsers.

Form of e-commerce

Three main types of electronic trading system are developed in **e-**commerce:

- *Internet front* – which only performs the promo function.
- *E-store* - which is a combination of Internet and electronic trading system. It performs orders, payment control and post-sale services;
- *Electronic Auction,* System-Website, which has a trading function;
- *Trading Internet System* is characterized by a high degree of automation of commercial cycle as compared to the usual electronic shop. It is integrated with the corporate information system.

e-Commerce Resources

The following components create electronic environment for e-commerce implementation:

- Technical - hardware resources
- Software – special programs - Interface, payment systems
- Legislative - legislative instrument

A reliable tax system for electronic transactions plays a key role in e-commerce. There are many tax systems on modern software market that effectively interact with the manufacturer, seller, buyer and bank web-sites. They carry out non-cash settlements, helping business organizations to increase the volume of trade and expand the market.

E-payment models are: credit cards, debit cards, smart cards, e– money, etc.

Advantages and disadvantages of **e-commerce:**

E-commerce advantages can be broadly classified in three major categories:

- Advantages to Organizations
- Advantages to Consumers
- Advantages to Society

E-commerce disadvantages can be broadly classified in two major categories - technical disadvantages and non-technical disadvantages. Technical Disadvantages mean that there can be lack of system security, reliability or standards owing to poor implementation of e-commerce. Non-Technical Disadvantages mean high cost, consumer mistrust; mistrust towards online transactions, etc.

e-Commerce Models

e-Commerce system users can be both business organizations and consumers (persons). According to users, e-commerce business models are generally categorized in following categories:

- Business - to - Business (B2B)
- Business - to - Consumer (B2C)
- Consumer - to - Consumer (C2C)
- Consumer - to - Business (C2B)
- Business - to - Government (B2G)
- Government - to – Business (G2B)
- Government - to - Citizen (G2C)

Model B2B (Fig. 1) includes all levels of interaction between companies, and furthermore special technologies and standards for electronic exchange data, such as EDI (Electronic Data Interchange) can be used.

A website following the B2B business model sells its products to an intermediate buyer (a company) who then sells the products to the final customer who comes to buy the product at the wholesaler's retail outlet.

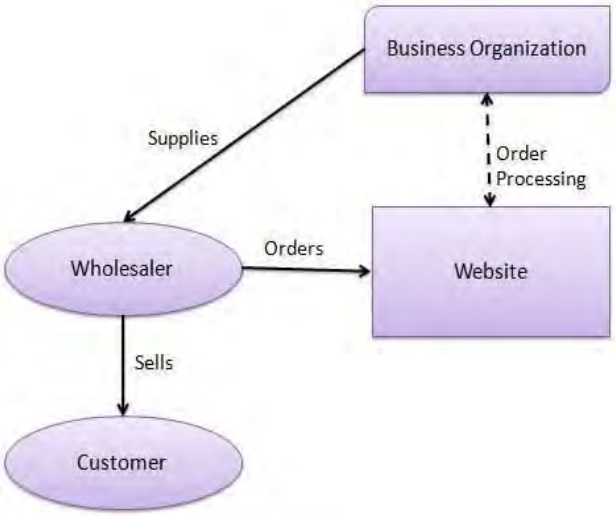


Fig 1. Model B2B

The basis of B2C Model is electronic retail trade. In B2C model, a business website is a place where all the transactions take place directly between a business organization and a consumer. A consumer goes to the website, selects a catalog, orders the catalog, and an email is sent to the business organization. After receiving the order, goods/products are dispatched to the customer.

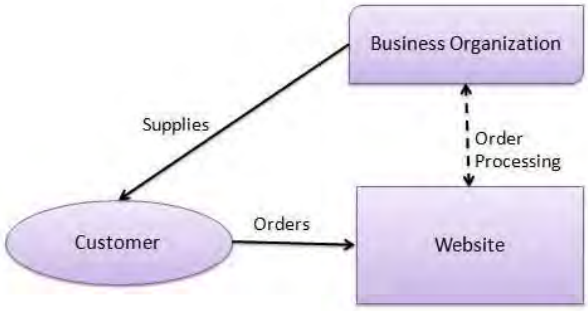


Fig 2. Model B2C

Model C2C helps to exchange commercial information between consumers. A website following the C2C business model helps consumers to sell or rent their assets by publishing their information on the website.

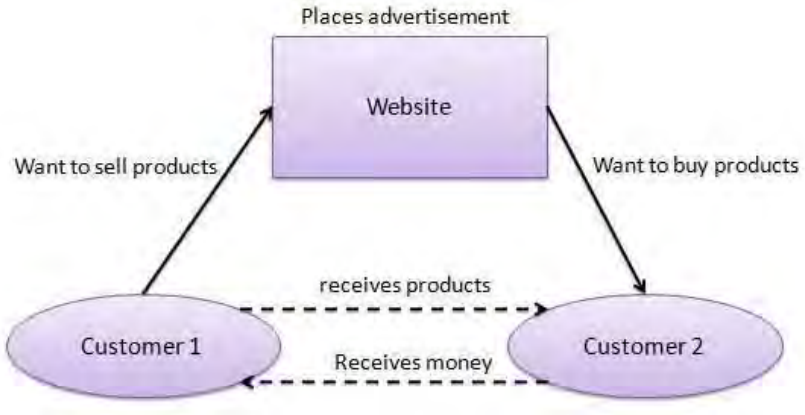


Fig. 3. Model C2C

In C2B model, a consumer approaches a website showing multiple business organizations for a particular service. The consumer places an estimate of amount he/she wants to spend for a particular service. For example, the comparison of interest rates of loan provided by

various banks via websites. A business organization who fulfills the consumer's requirement within the specified budget, approaches the customer and provides its services.

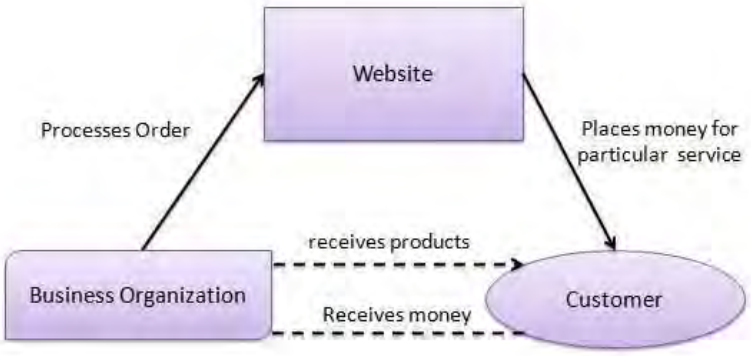


Fig. 4. Model C2B

B2G model is a variant of B2B model. Such websites are used by governments to trade and exchange information with various business organizations.

Fig. 5. Model B2G

Governments use B2G model websites to approach business organizations. Such websites support auctions, tenders, and application submission functionalities

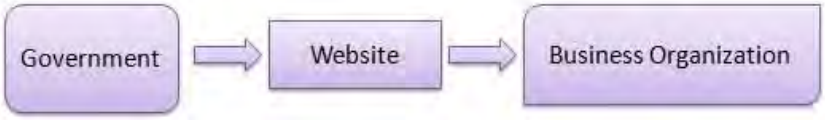


Fig. 6. Model B2G

Governments use G2C model websites to approach citizen in general. Such websites support auctions of vehicles, machinery, or any other material. Such website also provides services like registration for birth, marriage or death certificates.

The main objective of G2C websites is to reduce the average time for fulfilling citizen's requests for various government services.

Fig. 7. Model G2C

Let us consider use of these models on the example of tourism business, where customers are interested in e-services – promotion of tourism sites, ticket reservations and hotel bookings, air and land services, etc., a convenient access environment. Different business models operate on different levels of relationships between tourist business organizations and users.

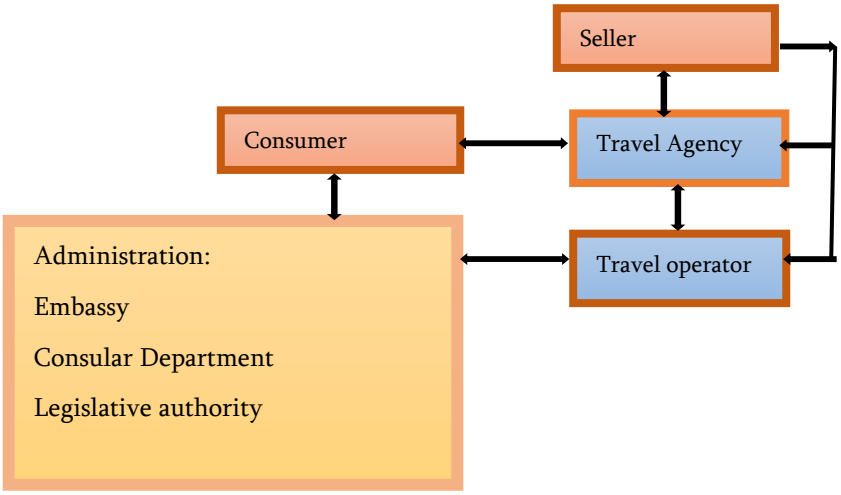


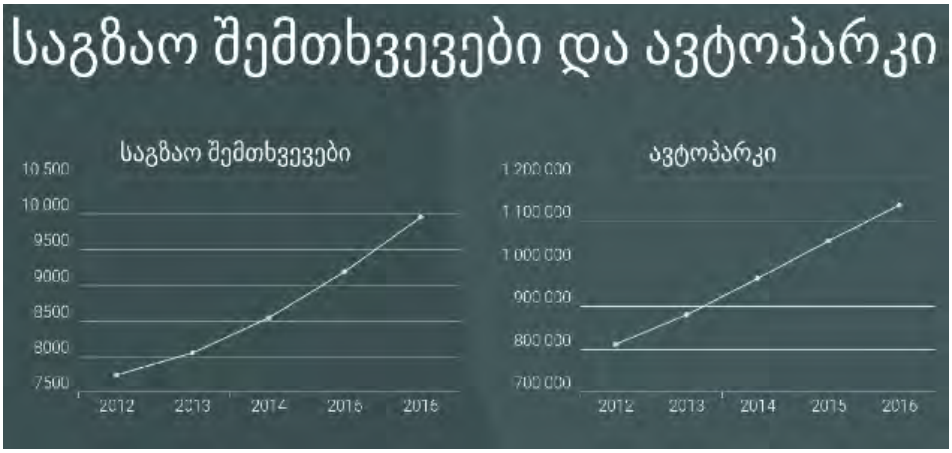
Figure 8 presents the approximate structure of business models in tourism industry.

A lot of people die and 50 million get injured in car crash worldwide. The largest share of road accident victims falls on medium and low income countries.

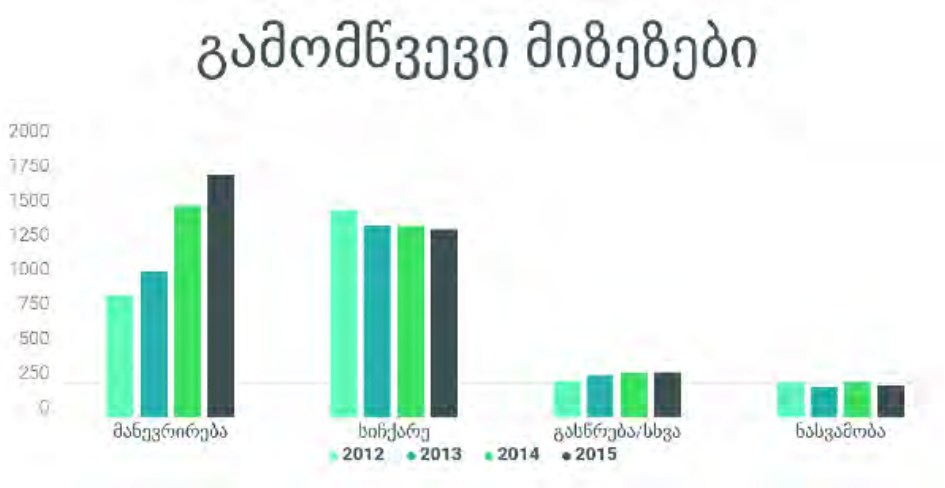
According to the data of 2016, about 15 out of 100,000 people die in car crash in Georgia. This is quite a high rate in comparison with previous years (in 2013-2014 – 11.5 victims).

The main reasons for road accidents are wrong maneuvers, speeding, drunk driving.

Car accidents and auto parking



Causes



If preventive measures are not taken to minimize traffic accidents, it is expected that the road accident mortality will get on the first place among the leading diseases worldwide.

Due to the urgency of the issue, the United Nations initiated the decade of action and called on countries to act. Within the framework of the 2011-2020 Decade, the EU countries aim to halve the mortality and injuries in ten years and have planned the road safety measures to achieve this goal.

In 2011-2016 due to the active involvement of EU countries the mortality decreased by 20% in the member countries.

Every country has developed a road safety strategy and an action plan aimed at halving the risk of serious trauma and death during a car crash by 2020.

Although the road safety strategy has been in Georgia since 2010, the planned activities have failed to change much the dynamic of the overall increasing picture.

The reason should be uncoordinated approaches and lack of financial resources.

Among the traffic participants the most vulnerable persons are: children, pedestrians, motorcyclists, bicyclists, disabled persons. In road traffic accidents 26% of pedestrians die and 20% get injured. This is often caused by faulty infrastructures, poor sidewalks, parking spaces arranged on sidewalks. The factor of obsolete or inconvenient underground passages or overpasses is a big barrier for pedestrians. All this creates the syndrome of unconstrained crossing and increases the risks for both pedestrians and drivers.

The speed limit in the city (an average of 60 km/h and possible additional 15 km/h as provided by the law) increases the risk of severe trauma and fatalities.

Passengers are also a vulnerable group among the traffic participants. The Georgian legislation does not require the use of seat belts on the rear seats in private cars, which would reduce severe damage or fatal outcomes by 40-60%. The law does not imperatively regulate the use of special fasteners for children whereby the juveniles face a high risk during a trip.

As for the safety of motor vehicles, the obligatory car maintenance check has been postponed five times in recent years and 90% of the total car fleet is outdated or defective. Old transport is not equipped with modern protection mechanisms and the chance of fatalities or severe trauma in road accidents is high.

According to the data of 2016, the Georgian car fleet includes more than 1, 200,000 vehicles. The annual growth rate of the car fleet is 8-9%. Over 80% of the fleet composition is private vehicles and off-road cars.

It is noteworthy that the share of passenger vehicles in the Georgian car fleet is 5.2% and of the trucks – 8.9%. A significant part of the fleet (90%) was manufactured before 2004 while the vehicles of up to 3 years are only 2% of the fleet. Approximately 40% of the cars are in the capital-city and the rest are in the regions.

5 main components of road safety

A complex and coordinated approach is required to increase road safety. The management, safe infrastructure, car maintenance, public awareness, timely medical services are the areas that increase safety on the roads.

The leading ministry, which coordinates road safety and is responsible for the current situation, is the Ministry of Economy and Sustainable Development. Furthermore, these duties are also distributed to other agencies that work on safe infrastructure, law enforcement, public awareness/dissemination of information in educational institutions and first aid after a car accident. These agencies are:

- Ministry of Internal Affairs
- Ministry of Infrastructure
- Ministry of Education
- Ministry of Health
- Local municipalities

The function of a coordinating unit is to develop of the National Road Safety Strategy and Action Plan, specific activities which will lead to the goal –decrease in mortality and severe trauma rate in a specific period of time. Also this unit should work in the following areas:

- Interdepartmental coordination
- Legislation
- Financing
- Promotion
- Monitoring of results

New legislative regulations (score system, contactless patrolling, etc.)

In recent decades, the high rate of casualties and injuries in Georgia has been a new challenge for the Georgian state and society because it threatens the country, social welfare and economic development. More than 600 people die in Georgia as a result of road traffic accidents every year and more than 9000 are injured.

The main reasons for road traffic collisions in Georgia are speeding, violation of maneuvering rules, crossing the axle line and drunk driving. Most casualties in traffic accidents result from speeding (24%), followed by violation of maneuvering (31%). It is noteworthy that only human resource of the patrol police cannot answer the existing challenge and it is necessary to implement legislative amendments.

The score system has been introduced, which means that 100 points are charged on a driver's license for one year, and the reduction of the accrued scores on the driver's license to 0 during the calendar year will result in suspension of owner's driving license for 1 year.

A new system of enforcement – the contactless patrolling has been introduced, which means the remote control of violations through mobile cameras.

The number of fines has increased for speeding, use of mobile devices while driving, axle line crossing and other violations.

It is noteworthy that road traffic accidents have decreased by 10% (in January-August compared to 2016) through the current campaign and interventions, and the fatalities and injured number has decreased by 12%.

By the end of 2017, installation of 3000 cameras across Georgia is planned which will record in automatic mode the red light running, crossing the axle line, speeding up and moving on the wrong side. The operators will record mobile phone calls, non-use of helmets and belts.

EU Directives and Technical Regulations

10 EU Regulations regulate the traffic movement, the safe transport/carriage.

From January 1, 2018 the mandatory periodical car maintenance check system will be introduced and gradually launched. Such a decision of the Government is related to one of the articles on the Association Agreement with Europe, which assigns to start a mandatory periodical car maintenance check process for all types of vehicles from September 2018.

Under the Government's decision, the process of car maintenance check system will continue in 2018-2019, after which the 4 + 2 + 1 European system will be launched and will release the vehicles up to 4 years from mandatory periodical maintenance check.

According to the current legislation, motor vehicles M2 M3 with more than 8 passenger seats must pass the car maintenance check four years after the date of first use, twice a year, and vehicles N2, N3 intended transporting cargo – every year.

The check criteria for M1 types vehicles are:

- Braking equipment
- Steering wheel
- Visibility
- Lamps, light bulbs and electrical equipment
- Axles, wheels, tires and suspension
- Body, body elements and pins, cabin
- Other equipment
- Vehicle's noise
- Vehicle's contour marking (number plate marks)
- Vehicle's configuration (fire extinguisher, first aid box)
- Vehicle's emission

Tachographs

The control device is installed and used for passenger carriers or cargo carriers and for vehicles registered in the member state. This Directive refers to the control devices (tachograph) that registers the maximum admissible duration of daily continuous driving, total weekly driving, rest and break periods for vehicle crews (drivers) which provide the international motor transport.

The technical regulations "Rule of Operation of Control Devices (Tachographs) Recording the Vehicles Movement Parameters" serve to ensure the optimal safety and rest regimes for drivers of vehicles which provide international transport. The tachograph should display the following parameters:

- The motor vehicle's mileage;
- Vehicle's speed;
- Duration of vehicle driving;
- Other periods of work or stay in the workplace;
- Daily periods of rest and breaks during work;
- Opening of the casing containing the log.

Speed limiters

The EU Directive also provides the necessity of speed limiters on cargo and passenger vehicles of large mass (N2, N3, M2, and M3 categories).

The function of a speed limiter is to regulate the fuel supply in the engine to limit the speed of the vehicle to the specified value. The use of M2 and M3 categories of vehicles is allowed on roads if they are equipped with this device and are adjusted so that the speed does not exceed 100 km/h; for vehicles of N2 and N3 category - 90 km/h. Speed limiters shall be installed on the vehicles specially designed for transportation of dangerous cargo and registered in the territory of Georgia so that their maximum speed does not exceed 90 km/h.

The control of enforcement of these Directives is carried out by the MIA and LEPL Land Transport Agency of the Ministry of Economy. The effective date is December 31, 2017.

Work and rest period

The EU Directive also regulates the conditions for the protection of optimal regimes of the work and rest of the crews (drivers) carrying out the international transportation vehicles (drivers) (the daily maximum allowable continuous daily driving of vehicles, total weekly driving, rest and break time allowed durations), compliance with them, the carrier's obligation to comply with them, monitoring over compliance.

Technical Regulation "Rules and Conditions of Operation of Car Station and Parking" applies to the car stations and individuals and legal entities registered in accordance with

the law, serve passengers and carriers at car stations in the process of international and domestic regular passenger transportation (other than local passenger transportation).

The Regulation aims to satisfy the necessary conditions for organization of international and domestic regular passenger transportation, safety of passengers and car station workers.

The purpose of Technical Regulation “Rules and Conditions of Operation of Car Station and Parking” is: a) to ensure the safety, protection of human life and health, environment and property of passenger in the process of transportation and cargo carriage by transport means; b) bringing the conditions of passenger service by the road transport in conformity with the modern requirements; c) identification of passenger, driver and carrier rights, liabilities and responsibilities while carrying passengers and cargo by passenger and cargo vehicles.

Sophio Panjikidze

Deep and Comprehensive Free Trade Area Agreement (DCFTA) places great store on protection of intellectual property rights in Georgia. Intellectual property is related to the mental and creative activities of a human being, including the fields of science, technology, production, literature and art, and comprises the combination of the rights that arise from such intellectual activity. Therefore, respect and observance thereof serves as the prerequisite of welfare of any community.

The regulatory norms for different intellectual property provisions are defined in Chapter 9 of DCFTA (Intellectual Property Rights), which determines the commitment of adequate and efficient implementation of international treaties in the sphere of intellectual property to which Georgia and the European Union are signatories. By signing the DCFTA, the Parties agree to effectively implement international agreements administered by the World Intellectual Property Organization (WIPO), which Georgia has already joined. In total, the DCFTA provides for approximation of the Georgian legislation with the EU intellectual property legislation.

For the purpose of DCFTA "Intellectual Property" includes the following categories of intellectual property such as patents, trademarks, geographical indications (GIs), copyright and neighboring rights, designs, and norms related to the protection of the data presented for obtaining a permit for marketing of medical products and plant protection products.

Essence and Scopes of Intellectual Property Rights

Traditionally, two sections of intellectual property rights protection are distinguished: protection of industrial property rights and copyright protection.

- Objects of ***industrial property rights*** include inventions; industrial designs; layout-designs of semi-conductor integrated circuits; trademarks and geographical indications. Furthermore, one of the forms of protection of industrial property rights is protection against unfair competition.

- Objects of ***copyright*** include literary, artistic and scientific works such as novels, poems, plays, music, drawings, paintings, photographs, sculptures, architectural projects, etc. The protection of mental labor, such as computer programs and electronic databases is also subject to copyright protection.

Intellectual property rights are like any other property right. They allow creators, or owners, of patents, trademarks or copyrighted works to benefit from their own work or

investment in a creation. These rights are outlined in Article 27 of the Universal Declaration of Human Rights, which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic productions.

There are several compelling reasons to the question why intellectual property needs promotion and protection.

- The progress and well-being of humanity rest on its capacity to create and invent new works in the areas of technology and culture;
- The legal protection of new creations encourages the commitment of additional resources for further innovation;
- The promotion and protection of intellectual property spurs economic growth, creates new jobs and industries, and enhances the quality and enjoyment of life.

In terms of protection of intellectual property rights in Georgia, it is worth noting that the Georgian National Intellectual Property Center "**Sakpatenti**" works in accordance with Western standards and requirements. All objects of industrial property (patent, trademark, design, etc.) are registered in "Sakpatenti" and shall be deposited with copyrighted works in the same office.

Brief review of the intellectual property categories that deal with DCFTA:

Patent

A patent is an exclusive (monopoly) right granted to an inventor or its successor for the limited time defined by the State, on the basis of which the patent owner may prohibit any person to use the patented invention or the utility model protected by the patent. The granting of such rights is confirmed by patent license (patent) issued by the Patent Office.

The patent can be issued for an invention or utility model, the object of which is:

- Device (machinery and-mechanisms, equipment, tools, electronic circuits, etc.);
- Substance (solutions, alloys, chemical compounds, mixtures, etc.);;
- Biological material (strain of microorganisms, plant and animal associations, cell culture, etc.);
- Saw (technological processes, tricks, operations, etc.).

The patent protects such inventions which meet the following three main criteria:

- **Novelty** - some new characteristic that is not part of the body of existing knowledge in its particular technical field;
- **Inventive step** - An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art;

- **Industrial application** - An invention shall be considered as susceptible of industrial application if it is possible to carry out massive production or manufacture of the product in agriculture, healthcare and other sectors.

Patent rights arise on the basis of patent, which are two types: *personal non-property and property rights*. Patent personal non-property rights are not limited to term and territory. As to special rights, a patent is granted to the limited period of 20 years and in case of utility model - from the date of filing an application - within 10 years, and their action shall apply to the territory of Georgia only.

Trademark

A trademark is a distinctive sign that identifies certain goods or services produced or provided by an individual or a company, and distinguishes it from the goods or services of the competitor. For example, "DELL" is a trademark indicating products (computer hardware and the related items) and "HSBC BANK" is a trademark related to services (banking and financial services). The well-known trademarks that are different from the others and have the practical experience for the user are the best guide for a customer to easily choose the product of the desirable properties and quality.

The trademark may be either word (e.g. Kodak) or a combination of words (e.g. Coca-Cola), as well as a man's name (e.g. Ford, Dior) or abbreviations of names (e.g. YSL - Yves Saint Laurent), letters (e.g. BMW, IBM), numerals (e.g. 7/11), drawings, three-dimensional figures, such as shape or packaging of goods, as well as the use of other color of the goods using a combination of colors or colors. The trademark may also be registered for invisible signs, such as sound, smell.

The trademarks are protected by the owner of such mark on the basis of obtaining the so called exclusive right. Trademark protection ensures that the owners of marks have the exclusive right to use them to identify goods or services, on the one hand, or to authorize others to use them in return for payment, on the other hand.

The exclusive right is obtained in Georgia through registration of a trademark directly in Sakpatenti or on the basis of international registration. Exceptions are only the well-known signs that are protected without registration. For registration of a trademark it is necessary that it is defensive, and that is quite different from other and should not be contrary to public order.

The exclusive right of a trademark shall be valid for a term of 10 years, which can be extended for each subsequent 10 years, without limitation, if the fee for the extension of the term is paid. The exclusive right shall apply only on the territory of the country where the trademark is registered. The scope of exclusive rights is limited to the goods for which

the mark is registered, except for the well-known marks for which such rights apply to any goods.

Geographical Indication

A geographical indication is a sign used on goods that have a specific geographical origin and possess qualities or a reputation due to that place of origin. Most commonly, a geographical indication consists of the name of the place of origin of the goods – village, city, region or a country itself.

Geographical indications may be used for any products but by now they are most widely used in agricultural products and, first of all, wine production. This is understandable, since agriculture products usually have characteristics that are formulated by a specific local environmental environment such as climate and soil (natural factor). For example, "Roquefort" - for cheese produced in that region of France, Khvanchkara" - for Georgian wines, "Porto" - for Portuguese wine and so on. It is not excluded that the use of geographical indications may also highlight specific qualities of a product that are due to human factors found in the product's place of origin, such as specific manufacturing skills and traditions (For example, Swiss watches).

Copyright and related rights

Copyright is the rights granted to the author regarding the work created by him. Any works of science, literature and art shall be protected by copyright, resulting from intellectual-creative activity, regardless of the purpose of the work, quality, genre, volume, expression and means.

Copyright protects the works of science, literature and art. These works imply all works created in literature, science and art, regardless of the shape and form of the expression, such as:

- literary works (books, brochures, articles and other written works; lecture, referring, preaching and other similar works;
- dramatic or musical-dramatic works;
- choreographic or a pantomime works and other theatrical works;
- musical compositions with or without words;
- audiovisual (motion picture) works;
- sculptural, painting, pictorial, lithographic; theatrical-decorative art works;
- photographic works or works produced by aid of means analogous to photography;
- decorative and applied arts or monumental art works;
- maps, plans, sketches, illustrations and other similar works related to geology, geogr aphy, cartography or other spheres;
- architectural, urban planning or landscape design works;

- revised works, in particular, translations, interlinear translations of artistic works, adaptations, screen versions, reviews, staging, compilations, musical arrangements, and other alterations of scientific, literary and artistic works;
- composite works, in particular collections, encyclopedias, anthologies, databases and other works that are the result of intellectual and creative activities according to the selection and arrangement of the material;
- computer programs;
- other works.

Copyright shall arise upon the creation of a work and shall be effective during the author's lifetime and within 70 years after the creator's death. The right to respect for the authorship, name, work and reputation of the work relating to the work is carried out for a lifetime. Once the copyright term expires, the work may be used by any person without payment of the remuneration.

Objects of related rights are: performers; producers of phonograms, videogram and broadcasting organizations in their radio and television programs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television (on air and cable) programs

Design

The design is an expression of the whole product or part arising from the product's marks, including lines, contours, colors, shapes, textures, and / or material, or from the cover of the product. The design must be protected if it *new* and *original*.

Murman Margvelashvili

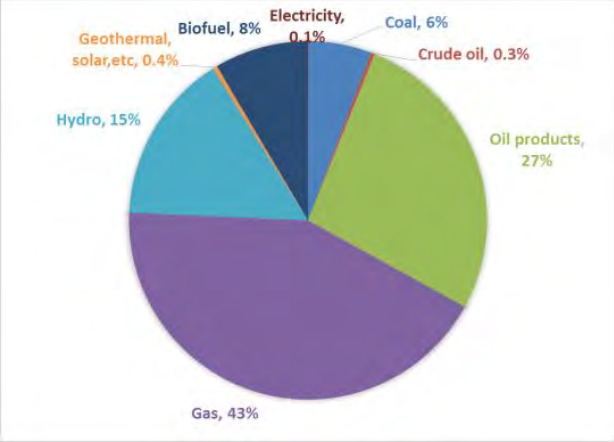
Short overview of Georgia's energy sector

Power supply

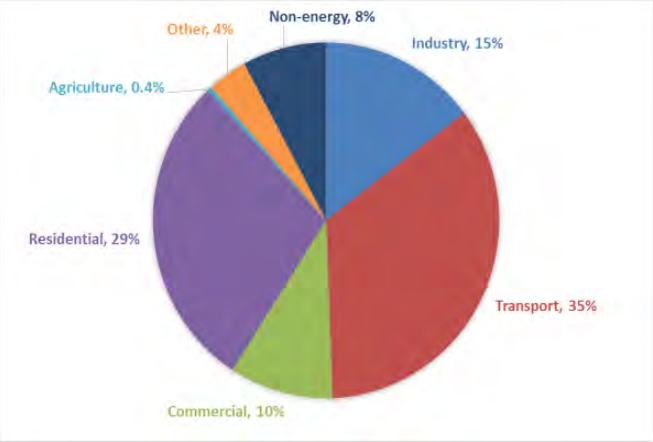
Georgia's energy sector is a unified complex system where the supply markets and systems operate and provide the energy supply of electricity and natural gas, oil products, fuel and coal. According to the energy balance of 2015, 72% of Georgia's energy supplies come from external sources, where 43% is the imported natural gas and 27% - the imported oil products. The country experiences the scarcity of mineral reserves, but is rich in water resources and can develop solar and wind renewable energy.

The total annual power generation of hydroelectric power plants ensures only 15% of the energy consumption of the country and fails to independently provide the energy security. The significant source of local energy is firewood, which is 8-10% of the energy balance and is mainly used at the expense of forest clearing.

Supply



Consumption



Georgia's energy consumption in 2015 was 54.9 TWh, where the electricity consumption - 10.4 TWh. It is noteworthy that the high share of household sector in energy consumption indicates a relative weakness of economic development.

The seasonal fluctuation of the electricity and gas consumption is a significant problem. Due to the summer excess and winter deficit of waterpower the development of

hydroelectric power plants for the internal market only is complicated. The lack of gas storage makes it difficult to balance the sharp fluctuations in consumption. Due to this, the development of Georgia's energy depends on cooperation with neighboring countries.

The geographical location of Georgia is one of its advantages. It performs the role of energy bridge in the East-West, North-South directions. The energy transit is one of the important sources of national and energy security.

The biggest problem is the growing unpaid consumption by Abkhazia that demands more resources from the Georgian energy system and does not allow it to utilize properly the Inguri/Vardnili hydropower cascade.

Georgia is an important transit country. Baku-Supsa, Baku-Tbilisi-Ceyhan oil pipelines and the Baku-Tbilisi-Erzurum gas pipeline as well as the North-South (Russia-Armenia) gas pipeline put the country in the focus of the international interest and is one of the key factors of its security. The current expansion of the South Caucasus pipeline and the ability to transit gas to Europe via Turkey (by TANAP and TAP pipelines) serve to further strengthen the transit function of the country and increase transit flows and transit revenues in the future. This project represents the main part of the so-called Southern Gas Corridor concept, which is crucial for the EU with the perspective of receipt of the Caspian gas without Russia's involvement and significantly increases the Georgia's transit importance.

Thus, the energy cooperation with the EU can become an important contributing factor in strengthening the country's energy security.

Legislation and institutional environment

The regulatory framework of the energy sector includes energy laws and subordinate acts: fundamental laws on Electricity and Natural Gas, Oil and Gas, Electricity and Gas Market Rules, Tariff Methodology, etc.

The Electricity and Gas Law, as well as the Electricity and Gas Market Rules once been of the transparent and decent form, have been modified many times due to the private single needs and are not currently in line with the industry standards. The current version of the law grants the excessive and uncontrolled authority to the Ministry of Energy, and disrupts the functions of the GNERC, which, of course, must play a decisive role in creating an attractive investment environment through the impartial non-political regulation.

The legal environment is even more complicated by the memorandums signed with energy companies and HPP developers of neighboring countries that creates a nontransparent, non-competitive environment and hinders the development of the sector. Under the conditions of dependence on the single gas supplier (SOCAR Gas), no effective gas market and effective tariff system has been developed.

The subsidization of tariffs is also an obstacle to the creation of a competitive and efficient market; it is a state interference in the market operation and indicates its inefficiency. Electricity and gas tariffs are artificially preserved for the population.

The legislative environment and institutional structure of the sector requires urgent transformation, the best example of which is the European energy legislation (Directives and Regulations).

Conclusion: ***Georgia's energy security is highly dependent on external sources, while the sector and the regulatory framework are far behind the European and advanced international standards, for what reason it is ineffective and creates significant risks of security. The Association Agreement and introduction of European legislation and systems will contribute to reduce these risks.***

Association agreement and trade-related provisions

The most important aspect of the Association Agreement is the harmonization of energy legislation and energy markets with European standards and European energy legislation, regulatory approximation of the Georgian laws towards key elements of the EU directives and regulation.

The preamble of the Association Agreement emphasizes the EU's interest in developing the Southern Gas Corridor, the prerequisite of which is creation of the stable and transparent legislative environment. Chapter 11 of the Association Agreement provides for the trade-related issues, which mainly identify the obligations for facilitation of energy transit via Georgia. The country should undertake to facilitate the transit of energy products through it; not to create obstacles; not to allow the unauthorized tapping of transit pipelines or transmitting lines; to take measures against transit obstacles, and in case of transit termination for any reason, to quickly eliminate obstacles and restore transit streams. These provisions largely repeat the provisions of the Energy Charter Treaty.

An important provision is contained in Article 215, which requires both parties to designate a body which will regulate electricity and gas markets. An independent and authorized regulatory body is the main prerequisite for effective functioning of energy markets. Under the energy market laws of the European and other developed energy markets, the ministry shall not interfere in the regulation issues.

According to Article 216, the Parties shall create competitive energy markets and prevent discrimination of any enterprise. The only exception is the state intervention aimed at promotion of security, environmental protection, renewable energy and energy efficiency.

Title VI of Association Agreement - Other Cooperation Policies, Chapter II - Energy Cooperation

According to this Chapter, the subject of the EU and Georgia cooperation is the energy strategies and policies; a competitive, transparent and efficient energy market, third party non-discriminatory access, elaboration of relevant regulatory framework for regional energy issues; creation of attractive and stable investment climate; development of energy infrastructure; market integration and gradual regulatory approximation with key elements of the EU legislation; energy trade, transit, transportation and price policy; energy efficiency and energy savings and renewable energy development; scientific and technical cooperation; cooperation in the field of nuclear security and radiation protection.

Annex XXV of the Association Agreement

According to the Annex, Georgia is committed to implementing EU directives and regulations in its energy sector. The introduction of directives means that transparent and competitive markets should be created for electricity and gas trade where users will have a wide range of choices and competitive prices and the suppliers will have equal and transparent competitive environment. The state should promote energy efficiency and launching of renewable energy sources, including in buildings, and thus reduce environmental impacts and increase energy security. The high standards of service should be introduced and the user must be protected from termination of energy supply. For this purpose, the country must create oil and gas reserves and develop a cross-border trade.

Energy union and its membership

The European Energy Union (EG) is an organization created under the Athens Agreement of 2005, aiming to extend the EU energy markets and legislation on its neighbors. Members of the EG are the EU, the Balkans (non-EU countries), Ukraine, Moldova and Georgia, and observers - Norway, Turkey and Armenia.

The Secretariat of the Union operates in Vienna and its main duty is to assist member states in reforms in order to harmonize their markets and legislation with EU markets. The important principle of the EG Agreement is that member states will be able to provide the aid with stock and facilities to each other in case of energy emergency situation.

Ukraine enjoys the membership in the Energy Union, and despite of transit of Russian gas in its territory it gets this gas not from Russia but from EU countries due to its conflict with Russia.

The Protocol on the Accession of Georgia to the Energy Community Treaty was signed on 14 October 2016, under which the country undertakes to implementing the European energy legislation (Directives and Regulations) in the Georgian energy sector, within the timeframe defined by the Protocol. The protocol can be downloaded from the Ministry of Energy website. The introduction of directives implies both legislative and institutional reforms, which should formulate an advanced energy sector with modern standards.

16 Directives and three Regulations shall be introduced step by step, in accordance with the timetable set out in the protocol. This are the electricity and gas market directives that constitute the third package of energy directives. According to the third packet, the network enterprises must be separated from non-network activities so that they do not violate market competition in favor of their own interests.

In addition, the directives on energy efficiency and renewable energy, energy performance of buildings, on the indication by labeling the consumption of energy and other resource, electricity and gas supply security regulations and directive to maintain minimum stocks of crude oil and/or petroleum products as well as the price transparency and energy statistics systems and environmental procedures should be introduced.

When fulfilling the requirements of the Directives, Georgia receives the considerable assistance from the European Union, the Secretariat of Energy Union, donor organizations and the governments of European countries, which implement many projects in this direction.

For example, the Energy Efficiency Action Plan (EBRD) has been developed and of the Renewable Energy Action Plan (UNDP) is in process of development; the Secretariat of Energy Union has drafted a new energy law that is still under internal consideration. Several projects on energy performance of buildings, energy statistics, E-control, and the development of data-based policies are underway (DANIDA, EBRD.

The complex process of reforms is scheduled for 6 years and it will be necessary to overcome many barriers and obstacles to implement them with the involvement of civil society and journalists.

Trade and Sustainable Development

Manana Kochladze

In 2015 under the aegis of the United Nations more than 190 countries have been committed to achieving sustainable development goals, including elimination of poverty and inequality, environmental protection and climate change. The liaisons existing between international trade development and sustainable development have raised many questions across the globe, such as whether international trade is good for the environment? There are no questions without response. The goal of international trade such as upswing and development of the economy, export and import of goods have some impact on protection of environment and human rights.

EU law requires all relevant EU policies to promote sustainable development. So EU trade policy aims to ensure that economic development goes hand in hand with: social justice, respect for human rights, high labour standards and high environmental standards.

Sustainable Development

Sustainability is the ability of natural systems, human culture systems and economics to survive and adapt to the ever-changing environment.

The main component of sustainability is natural capital - natural resources and services. Economic activity may have two types of impact on natural capital:

- Natural capital may be degraded by misuse of renewable resource, for example, excessive fishing or unauthorized use of forest resources.
- Environmental pollution - air, water, soil contamination.

This impact can be quite challenging for the public. E.g., increased health care costs, geological risks (mudflows, landslides), etc.

According to Rio Declaration (1992) the main model of the future is the sustainable development, where economic development takes into account the interests of the environment, ensuring the well-being of human beings and quality of life so as not to infringe the future generations' rights. The model is based on three components:

- Strong, healthy and democratic society;
- Economy based on the principles of environmental security and social justice;
- Social welfare for all social groups, involvement and equal opportunities.

Effect of International Trade on Environment and People

According to the comparative advantage theory, trade and economic growth positively affects the welfare of the country, as trade partners benefit from the products they effectively produce. However, the theory does not recognize the so-called External environmental costs (air, water, soil pollution, health care costs, disruption of natural services) that may be associated with production or consumption of these products.

The national level regulation implies tightening of the environmental law and internalization of the external environmental costs (involvement thereof in the price of the product).

International trade may have direct or indirect positive impact on environment and society. For example, competition may lead to rational use of resources, minimizing wastes, introduction of new technologies. However, globalization of trade may also give negative consequences such as land degradation, soil erosion, pesticide impact on environment and human health.

These threats are not properly regulated in international trade. Under Article XX of the World Trade Organization, States have the right to limit trade for conservation of exhaustible natural resources or for protection of human, animal or plant life or health. But use of this Article in practice is quite limited.

In 1991, the Mexican government filed a suit against the USA in the World Trade Organization (WTO). The U.S. Marine Mammal Protection Act prohibits the use of tiny fishing techniques that kill dolphins. Consequently, the US has banned the importation of tuna from countries where such methods were used. The WTO dispute resolution mechanism found that the US could not use internal legislation to protect dolphins outside their territorial boundaries.

In general, WTO treats askance the so-called "Green Protectism". For example, it did not justify the EU when they banned the export of meat raised with hormones from the United States. According to the US, there is no confirmed information that the use of hormones harms human health. The EU is based on the principle of its environmental policy, under which the principle of prevention is crucial, since it is not proved that such meat does not hurt human health.

If industry is transferred to the developing countries, then the number and severity of human rights violations may increase. For example, in Uzbekistan, child labor is used to collect cotton yield, which is bad for children's health. Free trade can lead to increased mobility of employees, closure of enterprises, abolishment of safety rules for obtaining the relative advantage, and uneven distribution of revenue.

In international trade, international labor standards are governed by the International Labor Organization (ILO). The WTO itself does not consider labor standards in international trade. Members of the WTO have consensus regarding the so called "fundamental" labor rights, including:

- Freedom of association and recognition of the right to collective bargaining;
- Elimination of all forms of forced labour;
- The effective abolition of child labour';
- Elimination of discrimination in hiring and employment practices.

EU approach towards international trade from perspective of sustainable development

The EU approach completely differs from the approach of the World Trade Organization. According to Article 21 of the Lisbon Treaty, the EU should promote its foreign policy and actions: "... sustainable development on earth, solidarity and mutual respect for people, free and fair trade, eradication of poverty and protection of human rights". Consequently, new generation trade agreements include the principles of sustainable development that are necessary for signatories, including:

- Introduction of international labor and environmental legislation and standards;
- Effective performance of environmental and labor legislation;
- Absence of labor and environmental legislation is inadmissible to achieve a comparative advantage;
- Sustainable trade with natural resources (timber, fish);
- Fight against illegal trade of endangered wild flora and fauna species;
- Broad coverage of corporate social responsibility practices.

Georgia-EU Deep and Comprehensive Free Trade Area Agreement (DCFTA) emphasizes that Georgia must comply with the ILO basic standards and at the same time ratify other conventions according to priority.

The agreements also require introduction of state procurement sustainable system and elimination of the barriers to trade in the renewable energy sectors and for investment.

At the same time, Chapter 13 of DCFTA emphasizes that the Parties must comply with multilateral environmental agreements, including:

- The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- Framework Convention on Climate Change;

- Convention on Biological Diversity (CBD);
- Stockholm Convention on Persistent Organic Pollutants;
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
- Agreement on the Transboundary Movements of Hazardous Wastes and Their Disposal.

Trade policy should also contribute to the climate change and the development of an impedimentary economy by promoting innovations and investments, as well as environmental goods, services and technologies.

DCFTA's possible impact on sustainable development in Georgia

The European Union has already conducted assessment of the sustainability impact of the Agreement before signing the EU-Georgia DCFTA, which gives us an opportunity to determine what type of work should be done to eliminate potential adverse impacts.

Georgia has pressing environmental problems, including air and water pollution, land degradation, waste problem etc. In case of full implementation of the DCFTA, the impact will be quite moderate. For example, air pollution can be increased by 3.1% and land intake intensity - up to 2%. However, calculations showed that the reduction of air pollution to the initial level need investment of total of 20 million EUR. In addition, DCFTA will have a weak but positive impact on the implementation of international environmental legislation.

DCFTA has the potential to act positively on human rights, first of all, the labor rights; The execution of the contract should increase the administrative resource of the government for monitoring labor legislation, as well as the public demand for tightening labor standards. This will also positively affect equality and discrimination because DCFTA requires a number of international conventions to be implemented.

In 2014-2016, the Government of Georgia failed to take appropriate steps in this regard. In a joint statement of Georgia and EU Advisory Councils in 2016, Georgia must fully perform its obligations, including unification and collective bargaining, labor inspection and minimum wage margin.

Unfortunately, the DCFTA will not have a strong positive impact on particularly vulnerable groups and it will not help to mitigate and eliminate poverty. In this regard it is interesting that according to the survey, the most vulnerable regions are Shida Kartli and Mtskheta-Mtianeti and therefore it is important to eradicate this negative impact. At the same time, the DCFTA will have a positive impact on growth of both incomes of qualified workforce (3.6%) and gross domestic product in Georgia (6.5%). It may also increase the inequality of income (Gini index) - 02.%, from a long-term perspective

It is essential to evaluate the DCFTA's impact on sustainable development in Georgia from time to time and schedule the appropriate measures to eliminate negative consequences.

Public Procurement

Giorgi Lomtadze

Public procurement is one of the most fundamental and important functions of any government. Any liability or decision at the state level is at least partially implemented through public procurement.

Public procurement is purchase of goods, services or works by the state under the rules typical to the particular sector. The basic legislative basis for determining the rules is the Law on Procurement.

International Standards in the Domain of Public Procurement

Just as in other areas, there are international norms in public procurement. Despite the general principles and values, international regulatory norms of public procurement differ from each other. There are several approaches for choosing procedures, implementing procurement and resolving other issues.

The most important international norms in public procurement are the following:

- World Trade Organization (WTO) Agreement on Government Procurement - WTO GPA
- UNICITRAL Model Law on Public Procurements of the United Nations Commission on International Trade Law
- EU directives in public procurement
- Internal regulations of international financial institutions for public procurement (Asian Development Bank, World Bank, European Reconstruction and Development Bank, etc.)

These international norms are often used as the best standard or fundamental guide that will facilitate the States to improve the legislative base of procurement.

Georgia's legislative framework of procurement is largely consistent with various international norms, such as the WTO GPA. In addition, Georgia has made important progress in terms of approximation with the EU legislative framework. One of the obligations of the Association Agreement is to fully transpose the basic norms, principles and procedures of public procurement applicable in the European Union into the Georgian legislation.

Development Stages of Public Procurement System in Georgia

There are the following stages of development of the Georgian public procurement system:

1. System before 2010
2. System operating in 2010-2014
3. Amendments scheduled for 2014-2022 within the process of approximation with the European Union

Prior to reforms of 2010, the Georgian public procurement system was ineffective in terms of competition, savings, transparency, procedures and legislative framework. Purchases were implemented on paper, and there were geographical barriers, long-term procedures and discriminatory approach towards candidates involved in procurement.

Since large-scale reforms have been implemented, from 2010, the system has gradually taken its contemporary form. The new legislative framework was developed, which was in compliance with international standards, and the unified electronic portal of public procurement - spa.ge – was launched, rendering procurement and competitive procedures electronic.

In addition to the above-mentioned, we can outline some exceptionally positive changes:

- Information about procurement carried out from the state budget is open to the public;
- Conditions for equal participation of all potential suppliers were created;
- Simplifying procedures – curtailing the requested documents, sending and uploading electronically, reduction of participation fee (from GEL 200 to GEL 50), establishing electronic means of communication.

The current public procurement system is fully electronic. The only thing you need is access to Internet and information will be available to any person or company regarding approximately 38,000 procurements annually.

The system is transparent and public procurement is open to scrutiny until the last stage of its implementation. Companies or individuals involved in procurement can resolve disputes in the Dispute Settlement Board (DRB) and DRB's decisions are also publicly available for any person.

Public Procurement Procedures in Georgia

Procurement procedures: open procedures	
Electronic tender	Public procurement of homogeneous objects in the value up to GEL 5 000 or more.
Consolidated tender	Purchase of some homogenous products under the aggregated request: fuel, computers, A4 paper, telephone (mobile) communication services, tires.
Competition	Purchasing objects / projects related to the design by the decision of the procuring organization, i.e. architectural, engineering planning, design projects.
Two-stage tender	Purchase of goods, services and construction works based on price and other quantifiable criteria. The best candidate is revealed by the price / quality ratio, which is calculated by a unique algorithm built into the system. MEAT method.
Electronic tender without auction (bidding with concealed data)	All procedures are the same as in case of electronic reverse auctions, but instead of 3 extra rounds, a bid is presented only once. Besides the best offer, all bids remain sealed (including to the procuring state entity) until the final status is awarded to the tender (except for the status of "tender suspended").
Different procurement procedures for construction works	The procedure is implemented according to the so called pre-qualification. The candidates present bids, qualification documents and cost estimates. Once the procuring entity evaluates all the bids, and if the tender terms are satisfied, it will invite the candidate with the lowest price bid for awarding a contract in the established manner.

There are also additional procedures that are either non-competitive, or special rules apply to them.

Other Procurement Facilities	
GEO tender (electronic procurement procedure)	secret procurement; purchase of goods or services
Tender (electronic procurement procedure by donor funds)	Procurement procedures using donor funds (World Bank -WB, European Investment Bank-EIB).
Grant Competition (GRA)	Based on the principle of free competition, the conducted procedure aims at revealing the best grant application
Simplified purchase (direct procurement)	- purchase of homogenous goods for up to GEL 5,000 - in special cases provided by law

Basic Data on Public Procurement System of Georgia

If we look at 2011-2016-year data, the procurement system operates more or less in a satisfactory manner. On average, since 2011, purchasers have saved 10-11% of planned expenses. In addition, the number of system users is growing every year and today more than 30,000 users are registered. Also, the number of competitive tenders increases from year to year and in 2016 more than 38,000 tenders were announced.

The system has its own drawbacks, particularly, system problems and frequent disadvantages of the site, low competition in tenders - less than 2 participants, the share of non-competitive (direct) procurement in total value of public procurement- on average 30% of total annual expenditures (2011-2016).

Association Agreement and Georgia's Approximation with the European Union in the Domain of Public Procurement

Under the Association Agreement Georgia took a number of obligations in the field of procurement. Georgian legislation should comply with the main regulatory documents of the EU, for which Georgia has time up to 2022. Legislative harmonization process is divided into 5 phases.

Main Differences between Procurement Systems of EU and Georgia

- The Georgian law does not apply to individual sectors - water, electricity and postal services sectors. Consequently, these sectors do not have adequate transparency standards and use of the existing procurement procedures is not mandatory.
- Exemptions in the law are not consistent with the EU standards – the Georgian legislation has a long list of exemptions.
- There are no special rules, for example, in terms of public procurement of social services.
- Procurement Procedures – Competitive Procedure with Negotiation, Competitive Dialogue, Framework Agreement, which are characteristic for the EU.
- Non-availability of environmental characteristics in procurement as one of the criteria or demand vis-à-vis suppliers.

Main Purpose of Legislative Approximation

Upon completion of all phases, Georgian legislation will be changed fundamentally. New procedures will be introduced, new principles and terms will be adopted, the scope of the law will be expanded, and the number of exceptions will be reduced, regulatory norms for signing contracts will be improved, etc.

Introduction of the EU Public Procurement Legislation in Georgia and its Main Positive Effects

- Open, restricted and negotiation-based procedures will be introduced on the basis of which procuring entities will have the opportunity to choose procedures that are better suited to their needs and demands;
- The form of Periodic Indicative Notices will be created for participation in the tender, which will simplify the process for potential providers to prepare for tenders;
- Competitive Dialogue and Innovative Partnership Procedures will be introduced, which will enable suppliers to offer the buyer innovative proposals adapted to their needs;
- Time-frames related to tenders and direct procurement rules will be changed and the number of exceptions will be reduced, which, in its turn, will improve the Georgian public procurement system.

Natia Kutivadze

EU-Georgia Association Agreement on Regulation of Competition

The Agreement provides for the commitments of the Parties to ensure the institutional framework for regulating competition. In particular, according to the agreement, the parties must have a comprehensive competition law, which scope should be the anti-competitive agreements, concerted practices and the control over the anti-competitive activities of companies with dominant market power, in order to avoid restriction of free competition and abuse of dominant position. The Association Agreement also provides that the Parties should have a body responsible for the effective enforcement of the competition law with the relevant rights, and when applying the law, they should recognize the importance of the protection of publicity and non-discrimination in accordance with the principle of procedural justice and the right of defense of the parties.

Essence, Aims and Objectives of the Competition Police

Competition is an essential element of functioning for the market economy. The competition policy aims at ensuring such conditions where competition on the market is not restricted so to harm the economic prosperity of the society. The ultimate goal of competition policy is to satisfy customers' needs. The international practice proves that economic reforms, liberalization and deregulation processes in the country cannot be successful without the effective competition. Thus, the existence of efficient competition policy and relevant institutional framework in the country is a necessary component of its development.

International Experience: International Competition Rules and Principles

Even in countries with the traditions of competition regulation the attitude to the aims of the competition laws and methods and means of achievement of them differs. In spite of this, there is a homogeneous approach to the principles that should base the laws regulating the competition, namely:

- Competition laws shall ensure the avoidance of monopoly behavior and agreements that harm the customer;
- Competition laws should create favorable conditions for the entry of new companies in the market and for maintenance of a healthy competition among the existing ones;
- The regime of compulsory enforcement of competition law must be clear and predictable to convince investors that they will be protected from the anti-competitive behaviors of the companies established in the market and that their

activities will be objectively evaluated while citizens should be persuaded that they will be protected from the abuse and dictatorship of monopolist companies.

European Union Competition Laws

The European law on competition is based on the provisions of Chapter 1 of Title VII of the Treaty on the Functioning of the European Union (TFEU) (Articles 101-109) and focuses on the following main areas:

- Cartels and other forms of anti-competitive practice (TFEU, Article 101);
- Abuse of dominant position (TFEU, Article 102);
- Control of mergers/concentrations (Council Directive, *Merger Regulation 139/2004/EC*);
- Liberalization and state aid (TFEU, Articles 107-108).

The central executive body of the EU competition law is the European Commission, represented by the Directorate General for Competition. National bodies have the right to use both the EU competition law norms as well as the domestic rules established by the relevant country legislation.

Competition Policy of Georgia and the European Union

Georgia has undertaken certain obligations in the field of conforming the national regimes of trade and competition to the international norms (subject to the EU, WTO, UNCTAD, OECD rules and principles). These states are obliged to adopt, improve and effectively enforce the relevant legislative acts; to base the legislation on the principles of restraint and effective regulation of competition restricting activities; to ensure non-discriminatory approach to all enterprises; to improve the law enforcement measures.

The competition policy problems in Georgia became the special focus of the European Commission during the period of preparation of the Agreement on Deep and Comprehensive Free Trade Areas (DCFTA) between Georgia and the European Union. The European Commission's fact-finding mission determined the reforms, including in the competition policy, as an obligatory condition for further progress, in order to create a solid, efficient and transparent regulatory framework conforming to the European standards both in the antitrust regulation and state aid.

The priority direction of the reforms was to establish an agency with relevant authorities (including investigative one) and appropriate resources. In accordance with these requirements, in December 2010, the Government's Comprehensive Competition Strategy was approved. In December 2011, the state procurement and competition agencies merged. The new draft law "Free Trade and Competition" was initiated in May 2012, which became the basis for the implementation of the baseline definitions required for the existence of competition policy in the Georgian legislative space.

Regardless of the changes, the Agency practically failed to perform the competition state supervision functions for more than a year (no case was initiated/investigated by the Agency in the violation of the Georgian legislation in the field of competition within 1 year after enacting the Agency). In order to improve the effectiveness of the competition regulatory law and in line with the requirements of the competition regulation norms provided by the EU-Georgia Association Agreement, the competition policy reform was implemented in Georgia in March 2014. The following important novelties were introduced by the new Law on Competition in the competition regulatory institutional framework:

- **An independent structure – the Competition Agency was established** in order to ensure the efficient state supervision of a free, fair and competitive environment on the market, the Agency's following competences were defined: implementation of the effective measures to prevent abuse of dominant position by an economic agent with the dominant position in the market; promotion of small and medium enterprises and timely and appropriate responses in case of violation of free competition regulatory legislation.

- **The legislation provides guarantees for independence of the Competition Agency**, in particular the Agency is authorized to independently initiate the investigation of any segment of the market if there are appropriate signs of competition restriction on this segment and the existing situation requires the interference of the competition regulatory authority.

- **The scope of the Law of Georgia on Competition and the exceptions in the competition regulatory law are identified** (including the limits envisaged by the Georgian legislation for an agreement slightly restricting competition), to which the regulations set out by the same legislation do not apply. The conformity of the set exceptions to EU legislation is ensured.

- **The criteria for the dominant position of an economic agent are defined**, including its market share on the relevant market, financial position of competing economic agents, barriers to market entry or production expansion, purchasing power and other factors determining the market power. The market share of the economic agent in the relevant market is determined by the Agency, using methodical guidelines of market analysis. If no other evidence exists, the economic agent will not be considered to be dominant if its share of the relevant market does not exceed 40 percent. The criteria for group domination in the case of several economic agents are also established.

- **The law regulates the list of possible cases of abuse of dominant positions and unlawful restrictions on competition**.

- **The unfair competition is regulated for the purposes of the Law of Georgia on Competition**. As a result, the economic agents have been informed about what action is considered an unfair competition in order to prevent such action in the future.

- **The cases of concentration of economic agents shall be subject to regulation** where the economic agent shall send a notification about the concentration to the Agency as well as the cases of exemption from this obligation.

- **The competition regulatory legislation prohibits any form of the state interference that hinders competition or creates a threat of its prevention**. The legislation provides for the effectiveness of the Agency in the control over the state aid related to the facts of unlawful restriction of competition, in order to ensure the market fairness and transparency, the principle of equality in the activity of the economic agents.

- **The penalties for violation of the competition regulatory legislation are imposed so to have the function of preventing anti-competitive action**: in particular, the economic agent in the case of an anti-competitive behavior in the market is imposed a penalty which should not exceed 5% of its annual turnover during the previous financial year. In case the economic agent does not eradicate the legal grounds of violation or in case of repeated violation, the Agency shall be entitled to impose on the economic agent a penalty which shall not exceed 10% of its annual turnover during the previous financial year. When determining the amount of the penalty a damage caused by the violation, duration and severity of the violation shall be taken into consideration.

- **An economic agent, other person concerned shall have the right to directly apply to the court**, the respective authority or official with the request to eliminate the violation of the Georgian legislation on competition and to compensate the damage resulting from the violation, as well as appeal the Agency's decision to the court.

- **One of the main tools of the USA and Europa markets for struggle against the anti-competitive behavior of the economic agent - the Leniency Program, has been implemented in the legislation of Georgia**. This program implies full or partial release of the economic agent from the liability established by the law if he/she cooperates with the Agency in the process of investigating anti-competitive action. Through the Leniency Program, the Agency will be able to obtain the information necessary for the purposes of investigation about the anti-competitive action of the economic agent.

In accordance with the amendments, in the conditions of adequate political will and providing the Competition Agency with appropriate resources, the Georgian legislation on competition (despite necessity of further improvement) creates sufficient grounds for effective enforcement of competition policy.