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Newsletter

Implementation of the European Neighbourhood Policy Action Plan in Georgia in Trade and Some Trade-related Areas in 2010

Presentation of the report

On 21 April 2011 the Eurasia Partnership Foundation presented its report on "Implementation of the European Neighbourhood Policy Action Plan in Georgia in Trade and Some Trade-related Areas in 2010". The report was prepared by a group of experts within the framework of the Foundation's European Integration Programme.

The report includes an analysis of Georgia-EU trade relations in 2008-2010; an overview of steps taken by the Georgian government in 2010 in regard to trade and other important related matters (investment, customs procedures, sanitation and phyto-sanitation, state procurements, intellectual property); and an assessment of these steps in the context of the fulfilment of the European Neighbourhood Policy action plan and the start of talks on a Deep and Comprehensive Free Trade Agreement (DCFTA).

The presentation of the report was attended by representatives of the Georgian government and opposition, the business sector, the diplomatic corps, the media and public and international organizations.

Event summary

The presentation was opened by Mr David Lee, the chairman of the board of trustees of the Eurasia Partnership Foundation. The authors of the report then presented their findings individually¹, with a discussion ensuing after each speaker's remarks.

Trade and investment

Mr Merab Kakulia, Senior Researcher at the Georgian Foundation for Strategic and International Studies, presented a report on **trade and investment issues**.

Ms Marika Gabunia, adviser to the Georgian prime minister, thanked the presenter for accurately reflecting the activities of the Georgian government in his report. She expressed

¹ The report is posted on the Eurasia Partnership Foundation's website, www.epfound.org, in the European Integration section.

hope that one of the problems outlined in the report, **Georgian products' difficulty in reaching the EU market**, would eventually be resolved, because, thanks to reforms carried out in the area of sanitation and phyto-sanitation, Georgian agricultural products (which have the best potential to make it to the EU market) will satisfy better current EU requirements.

Among the problems listed in the area of **food safety** was the limited scale of inspections of food businesses. Government representatives said the following in response:

- It was determined that one inspector can inspect 20 businesses per year. Therefore, the National Food Safety, Veterinary and Plant Protection Agency has enough inspectors to carry out this year's plan (200 inspections).
- The inspection system is difficult to manage. It is better to maintain the current scale of inspections and have the job done in a quality manner rather than hold more inspections at the expense of less effective oversight. At the same time, it is planned to increase the number of inspectors and, accordingly, the scale of the inspections.
- The fact that businesses are warned one week in advance about impending inspections is not a problem. The inspection system is not oriented towards punishing businesses.

In response, expert group member Nino Chokheli, who authored the food safety chapter of the report commissioned by the Eurasia Partnership Foundation, cited the example of Latvia. The country is of similar size to Georgia but its food safety service employs approximately 2,000 people while Georgia's employs only up to 300. Furthermore, she said, the Georgian agency's budget was reduced by 40 per cent compared with 2010. True, the agency was transformed into a legal entity of public law and was allowed to seek additional financing through providing paid services, but so far it is not clear what its chances are for receiving such additional funding.²

Ms Marika Gabunia discussed the small number of court cases related to the protection of **intellectual property rights**, which was among the problems listed in the report. She said one of the main causes was the small size of the Georgian market, which leads many businesspeople not to be interested in protecting their rights.

Among the positive processes listed in the report was the fact that **Georgia has become a centre for car re-exporting and, accordingly, a regional logistical centre**. Cars enter Georgia, are stored and fixed and then are re-exported to other markets, mainly in the South Caucasus. This is a new source of income for the Georgian economy and for the state budget, and there are quite a few people employed in this area. All of this is a result of the functioning of business-friendly customs legislation.

² The review of the reforms carried out in the sphere of sanitation and phyto-sanitation (including food safety), which was prepared by Nino Chokheli, was the subject of a separate round-table discussion on 10 March 2011. Therefore there was no special discussion on this topic at this conference. More information about the 10 March roundtable is available on the Eurasia Partnership Foundation's website, www.epfound.ge, in the European integration section.

The discussion also touched on **the question of how beneficial it will be for Georgia to fulfil the requirements of the DCFTA**. Some believe that it will damage the Georgian economy and that Georgia should instead be oriented towards Asian markets.

In this regard, Mr Merab Kakulia noted that it would be improper to discuss such issues at the current time. The Georgian government, based on relevant studies, determined that concluding the DCFTA with the EU would be beneficial for Georgia and has elaborated strategies and adopted relevant legislation in those areas.. It was also determined that the DCFTA would not harm (it may only help) Georgian products' export to Asian markets.

Ms Lali Ghoghoberidze, the chief of the Economic Policy Analysis Department of the Economy and Sustainable Development Ministry, informed the audience about the government's activities in the area of **competition regulation** also covered by the presented report. She said that active work is under way on elaborating a new draft law on competition. The ministry has already commented on the initial version and sent it to the prime minister's office. All the main European principles of competition are included in the draft law. It is planned to expand the function of the competition agency and strengthen it institutionally. The draft law will likely be submitted to parliament for approval this year.

Ms Marika Gabunia added that the draft law on competition had been discussed by EU representatives and received positive feedback.

Mr Merab Kakulia pointed out that, if the draft law does in fact contain the principles laid out in the competition strategy, it will reduce the phenomenon of government "patronage" of certain businesses and facilitate the formation of an environment of healthy competition.

In response to the report's criticism about Georgia's **support for agriculture**, the head of the Agriculture Ministry's International Relations Department, Nodar Kereselidze, said work was still under way to expand the list of products covered by a Georgia-EU agreement on Mutual Protection of Geographical Indications of Agricultural Products and other Foodstuffs which will facilitate the entry of these products into European markets.

In regard to participation in international exhibitions, Mr Kereselidze said that for the fourth year in a row the Georgian government was organizing the exhibition of Georgian products (mainly wines) at international exhibitions and that this had significantly helped Georgian export.

Customs procedures

Mr Bondo Bolkvadze (an independent expert) presented a report about issues pertaining to **customs procedures**.

After he spoke, he took questions from the audience about the main problems in the customs sphere. **Upon the adoption of the new tax code, the customs code was annulled and many norms contained in it were transferred to the realm of secondary legislation** (such as ministerial orders, decrees and other). This makes the already complicated environment even more unstable. There is no such practice in the EU, which has a unified tax code.

Manana Nachkebia, a representative of the opposition New Rights party, said that numerous people face punishment because they violated certain norms during the customs clearance process which were part of less publicized secondary legislation about which people knew nothing.

She said her party also knew of cases where some businessmen were stopped from importing pyrotechnic materials for New Year celebrations for undocumented reasons in the New Year period, when demand for such products is highest. Meanwhile, companies with close ties to state structures were given the right to import such products, she said. As a result, the aforementioned businesspeople suffered damages for which the customs service assumes no responsibility.

In this regard, Mr Bolkvadze said that the new customs oversight system is structured in such a way that makes it very difficult for ordinary customs employees to obstruct imports. Therefore, fewer such problems should emerge in the future.

Soso Uridia, a representative of the Finance Ministry's Revenues Service, assessed Mr Bolkvadze's report as consistent and well documented.

He also explained the reasons behind the abolition of the **institution of customs broker**, which was mentioned in Bolkvadze's report. Uridia said it was an ineffective mechanism and that most people working as brokers were unqualified. The importer was fundamentally responsible for customs documentation while the brokers effectively only raised the costs payable by the importers.

During the discussion a question was raised about a newly implemented change, namely the **ban on bringing imported commercial goods into Georgia in passenger cars**. Specifically, commercial cargo must be transported from the border to the customs checkpoint only in cargo vehicles and in sealed condition. This effectively makes it impossible for small-time traders to bring goods in using passenger cars. Mr Bolkvadze said this change was justified because it is a step forward in terms of improving customs control and preventing un-cleared goods from entering the market. This is how it is done in all civilized countries, he said.

Ms Nachkebia, meanwhile, said the move was unjustified from a social standpoint. There is an employment problem in Georgia and the implementation of this change means that many small-time traders will suffer and be unable to fully carry out their business activities.

Intellectual property protection issues

Ms Nino Evgenidze, Deputy Director of the Economic Policy Research Centre, presented a report about issues pertaining to the protection of **intellectual property rights**.

The discussion following her presentation touched on the **mass rotation of staff at the Georgian Patent Office, Sakpatenti**. Ana Gobechia, the chief of the international relations department at Sakpatenti, said that the "main nucleus" of staff at Sakpatenti had been retained. Nevertheless, said Oleg Shatberashvili, the chairman of the association European Research for Georgia's Innovative Development, the large rotation of employees at Sakpatenti was unjustified, since many years of training and experience are necessary to gain the required qualifications in this area.

He said that integration with the European Union cannot happen unless the people and the government truly share European values and principles. This is not currently the case, he added. In recent years nothing has been done to inform the population about intellectual property rights issues. Such problems are discussed only in the context of impending talks on the DCFTA.

Another issue raised during the discussion was the strict requirement that only **licensed products** be used could lead to the closure of many media outlets. However, Eurasia Partnership Foundation director Ketevan Vashakidze said that there are ways to obtain such licences in a simplified manner through the international organization Creative Commons. The Eurasia Partnership Foundation financed a project to conduct certain preparatory works on these issues. If additional work is done, it will be possible to broadly implant this system in Georgia.

Ms Nachkebia said that if the state demands that the media use only licensed products, the requirement should be applied equally to all media outlets without exception and should not be used as an instrument to obstruct the activities of independent media outlets.

State procurements

At the end of the presentation, Ms Nino Chokheli, senior researcher at the Georgian Foundation for Strategic and International Studies, presented her report on issues related to **state procurements**.

At the end of her talk, she said that the information posted on the procurements agency website served as a good tool for monitoring and analysing the situation in this area. For example, according to information posted on the website several days earlier, only one company is involved in state purchases of petrol. This indicates that everything is not in order in this area.

Sopio Berishvili, a representative of the State Procurements Agency, said that in 2011 already much more progress was achieved towards modernizing the state procurements system than the report prepared at the initiative of the Eurasia Partnership Foundation indicates. Information about the new system of electronic procurement is being actively disseminated. To this end the agency receives significant assistance from the German Society for International Cooperation (GIZ). Representatives of various companies are retrained to use the new system.

Ms Berishvili said that the aforementioned petrol procurement practice was the result of inertia from old practices regarding the division of the market and other objective factors. Specifically, there was a practice under which only certain companies were taking part in tenders held by a certain ministry. But the system will likely become more open in the future, she said. Furthermore, state agencies need fuel to be distributed to whole regions, and not all companies have such networks. There are other logistical problems, she added.

The report says that, under the current procurement rules, the main criterion that should guide the buyer is the price, i.e. priority should be given to the supplier who offers the buyer the lowest price. This reduces the risk of such decisions being taken based on "subjective" factors and, accordingly reduces the risk of corrupt deals being struck. However, it also makes it more likely that the product or service procured will be of lower quality.

Ms Berishvili said that the current system was the most optimal given the current conditions, since it reduces the risk of subjective decision-making to a minimum. At the same time, buyers should be better trained in assessing the quality of tender proposals. If a proposal does not meet the terms of a tender, it should not be accepted, even if the price is the lowest. Careful and detailed formulation of the terms of a tender is the prerogative of the buyer, but the Procurements Agency also pays attention to this and has on many occasions suspended tenders because the terms were not sufficiently well formulated.

Ms Nachkebia said that the new procurement practice had greatly complicated the work of schools and kindergartens. The fact that price is listed as the most important criterion forces them to buy low-quality products, she asserted. School and kindergarten administrations are afraid that if they refuse low-cost offers, they will face prosecution in the future.

GIZ Programme Expert Aleksandre Chkhikvishvili said that his discussions with businessmen during the implementation of his project on the new system of state procurements yielded the following picture: Suppliers of standardized products were largely satisfied with the work of the new system, while suppliers of non-standardized products and services were unhappy because the new system encourages them to lower the price of their tender offers at the expense of reducing quality.

Ms Marika Gabunia said the main problem in this sphere was corruption. The new system was introduced in order to resolve this problem. There are shortcomings but work is under way to eliminate them.

Mr Oleg Shatberashvili said that in Europe and the USA state procurements are used to stimulate small and medium-sized businesses. When companies offer the same quality, priority is given to small and medium-sized businesses. He asked whether introducing such a practice was under consideration in Georgia.

Ms Gabunia answered that the introduction of such a practice should not be expected since it would undermine competition on the market.

Eurasia Partnership Foundation Programme Manager Vakhtang Kobaladze asked why the Reserve Funds of the Georgian President and the Mayor of Tbilisi have been removed from the electronic system of state procurement, a move which made it much simpler to make purchases by these Funds than other state agencies are able to do.

Ms Chokheli responded that during the research she did not receive a well-documented answer to this question from representatives of state agencies.

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