

**Georgia's Response to EU commission's Recommendations Regarding
Georgia's Preparedness for the DCFTA Negotiations**

AREA	ISSUES WHERE ADDITIONAL PROGRESS IS NECESSARY	RECOMMENDATIONS TO THE GEORGIAN AUTHORITIES CONCERNING GEORGIA'S PREPAREDNESS FOR DCFTA NEGOTIATIONS (RESPECTIVELY KEY PRIORITIES ¹ AND ADDITIONAL RECOMMENDATIONS ²)	
		RECOMMENDATIONS TO THE GEORGIAN AUTHORITIES CONCERNING GEORGIA'S PREPAREDNESS FOR DCFTA NEGOTIATIONS (RESPECTIVELY KEY PRIORITIES ¹ AND ADDITIONAL RECOMMENDATIONS ²)	GEORGIA'S RESPONSE/ACTIONS TO RECOMMENDATIONS
1. GENERAL ISSUES/OVERALL COORDINATION		<i>KEY PRIORITIES:</i>	
	<ul style="list-style-type: none"> <i>Lack of functioning governmental institutional structures</i> ensuring effective lead and coordination of a preparatory process as well as future negotiations of a DCFTA (and at the later stage supervising the implementation of the future agreement): <ul style="list-style-type: none"> - Georgia plans to establish (on a basis of a governmental decree) a <u>special governmental commission</u> that will be empowered to negotiate a (DC)FTA once the EU has officially addressed it 	<ul style="list-style-type: none"> <i>Create transparent and efficient institutional structures</i> for the purpose of DCFTA preparatory and negotiation process and notify their set-up, composition, competences and rules of procedure to the European Commission. This could comprise in particular: <ul style="list-style-type: none"> - Creating the envisaged <u>special governmental commission</u> already for 	<p>Commission for the EU Integration (chaired by the Prime Minister and composed of respective Ministers) created in 2004 is responsible for the political coordination of the preparatory process for the DCFTA with the EU.</p> <p><u>The Inter-Agency Task Force for Coordination of Preparatory Works for the DCFTA</u> under the Commission for the EU</p>

¹ key priorities = issues where Georgia needs to show progress to enable the Commission to conclude that it is sufficiently advanced in its preparations for the negotiating process of a DCFTA with the EU

² additional recommendations = additional actions aiming at facilitating future negotiations of a DCFTA with the EU

	<p>with an offer to start negotiations. However, Georgia would be ready to consider creating this special commission already for the purposes of the preparatory process.</p> <ul style="list-style-type: none"> - It is <i>not clear</i> whether the commission will be a <i>decision-taking</i> (politically coordinating) <i>or negotiating body</i> as it consists of representatives at both political and technical level (see below). - The commission will be headed by the Minister of Economic Development, and consist of the Deputy Ministers and experts from the line Ministries and other governmental bodies involved in the negotiations. Georgia, however, has <i>not</i> provided <i>detailed information on the composition, rules of procedure and competences</i> of this commission within the government. - It is also <i>not clear</i> whether the Minister of Economic Development as a chairman of this commission will have enough political <i>power to arbitrate and request specific actions</i> from other Ministries and governmental bodies in relation to the preparations/future negotiations, e.g. as concerns position papers and offers, assessment of negotiating proposals etc. (as well as the implementation of the future agreement at a later stage). - Ministry of Economic Development (its Department for Foreign Affairs and International Economic Relations) is to be responsible at <i>technical level for coordination</i> of a preparatory process and the DCFTA negotiations proper. However, Georgia has <i>not provided sufficient information</i> concerning the Ministry's carrying out of this role in practice. 	<p>the purposes of the preparatory process. The commission (at high level) could ensure political coordination of the preparatory and - at the later stage - negotiation process through decision taking on related issues.</p> <ul style="list-style-type: none"> - Ensuring that the <i>chairman</i> of the commission has enough political <i>power</i> over the other Ministries and governmental bodies taking part in the process in order to be able to <i>request specific actions and arbitrate</i> if necessary. - Appointing a <i>chief negotiator</i> and establish a <i>task force</i> headed by him/her and composed of experts in all areas covered by a DCFTA (preferably not only by the civil servants from the Ministry of Economic Development but also from other Ministries and governmental bodies who by their engagement in negotiations will be better associated in the implementation of DCFTA commitments at a later stage). The creation of the task force should take place already for the purposes of the preparatory process which would allow for enhancing operational preparedness of the staff involved for the negotiations proper. - Designating a person at technical level within the task force (or coordinating unit of the Ministry of Economic Development) who will be the interlocutor of the <i>coordinator</i> of the preparatory/negotiation process in Directorate General for Trade of the European Commission. 	<p>Integration was created in April, 2009.</p> <p>The Task Force is chaired by the Chief Advisor to the Prime Minister and is composed of respective Deputy Ministers and Heads of State Agencies. Executive secretary of the task force (Senior Advisor to the PM) is designated as a contact person for the DG Trade.</p> <p>Coordination of DCFTA related issues is performed by Prime Minister's office. In order to better coordinate this process two advisory groups in Prime Minister's office where recently reorganized and staff was assigned to support the work of DCFTA Task Force. 15 staff members, including 2 chief advisors to the PM, are involved in the overall coordination process. 9 out of this 15 are directly responsible for the concrete chapters of future DCFTA.</p> <p>Respective Ministries and State Agencies designated experts responsible for concrete chapters of future DCFTA .</p> <p>The DG Trade was notified about all these developments through the designated contact person.</p>
	<ul style="list-style-type: none"> • Weak administrative capacity of the institutions to be 	<ul style="list-style-type: none"> • Strengthen the administrative capacity 	<p>Overall coordination of the DCFTA</p>

	<p>involved in DCFTA negotiations (and the preparatory process for these negotiations as well as the implementation of the future agreement at a later stage):</p> <ul style="list-style-type: none"> - <u>Ministry of Economic Development</u>: The Ministry's Department for Foreign Affairs and International Economic Relations - in charge of the overall coordination of the negotiations - will engage experts from two out of its three divisions (Division for European Affairs and Relations with International Organizations, and Division for Foreign Trade) and to a lesser extent also from the Economic Analysis and Policy Department. However, Georgia has <i>not yet assigned those experts</i> with the concrete tasks. The information provided by Georgia so far on number of staff to be involved and their level of expertise shows that these <i>capacities are limited</i> (e.g. Division for European Affairs and Relations with International Organizations has 5 employees and Division for Foreign Trade 4 employees, whose training on DCFTA related issues started only very recently). - Administrative capacities of the <u>other Ministries and governmental bodies</u> to be involved in DCFTA negotiations (and the preparatory process and the implementation of the future DCFTA): The human resources in these Ministries and bodies are in general <i>uneven</i> in terms of education, qualifications, skills and competences and international experience. There is a small group of internationally educated young cadres occupying high political or managerial positions while the <i>majority of staff has limited</i> understanding of the EU's trade and investment related acquis, international legislation and practices in these areas. The knowledge of foreign languages, including English is rather low. The Georgian authorities themselves recognize that their staff will in general need to achieve a (significantly) better level of understanding of the EU's practices and requirements concerning a DCFTA. 	<p>of the institutions to be involved in DCFTA negotiations (and the preparatory process for these negotiations as well as the implementation of the future agreement at a later stage), through, inter alia, <u>ensuring that</u>:</p> <ul style="list-style-type: none"> - the <u>Ministry of Economic Development</u> has an adequate number of well qualified experts in order to be able to ensure effective coordination of DCFTA negotiations (and the preparatory process) at technical level. - all the <u>members of the task force</u> mentioned above have sufficient knowledge of the EU and international trade and investment related legislation and procedures, good understanding of the EU's practices and requirements related to DCFTA negotiations, as well as good working level of English. The same refers to <u>other staff in line Ministries and governmental bodies</u> who will be dealing with the EU affairs. 	<p>preparatory process is performed by the PM office (two advisory groups), which was reorganised for this purpose and staffed with appropriate employees/experts.</p> <p>With due regard to the importance of strengthening administrative capacity of the institutions to be involved in DCFTA negotiations DCFTA Task Force in coordination with the EU funded project GEPLAC designed the capacity building programme for the Task Force and its supportive staff. The programme addressed all the key issues outlined in the Commission's assessment. The core activity foreseen was trainings on key priorities. Trainings on all key priorities of DCFTA were prepared and delivered in May, 2009-February, 2010. Namely:</p> <ol style="list-style-type: none"> 1. General introductory seminar on DCFTA 2. EU Trade Policy and Tariffs 3. EU Technical Regulation 4. EU Food Safety Regulation 5. Intellectual Property Rights Enforcement 6. EU Competition Policy 7. Wrap –up session with the presentation of the Technical Background Paper on DCFTA and the Paper on Macroeconomic Framework of DCFTA 8. Seminar on EU Best Practice of Competition Institutional Setup 9. Workshop on Organization of Food Control under in the Food Safety Legislation of the EU and particularly in relation to SME's 10. Seminar on EU Best Practice of setting special Food Safety
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		ADDITIONAL RECOMMENDATIONS:	
	<ul style="list-style-type: none"> • <i>Lack of systematic involvement of stakeholders (business community, civil society etc.,) in the</i> 	<ul style="list-style-type: none"> • <i>Significantly improve involvement of stakeholders in the preparatory process</i> 	The Government has regular consultations with business community, NGO's and

	<p>preparatory and DCFTA negotiating process: So far, the Georgian government has <i>in general</i> consulted only a few selected big companies on trade matters, be it on negotiations in the WTO framework, FTA negotiations with Turkey or issues related to the EU GSP+. Consequently, awareness of these issues e.g. among SMEs, business associations and NGOs (including consumers' representatives) is minimal and they feel excluded from the process. As regards a <i>future DCFTA with the EU</i>, the government e.g. participates in regular workshops organised by an NGO (Eurasia Partnership Foundation) on the issue as from last September, but does not organise any such events or other awareness-raising actions on its own initiative.</p>	<p>for a future DCFTA with the EU (launch regular consultations with business community, organise public awareness-raising campaigns, etc.) as well as in <i>other trade related matters</i> (in particular focus on raising awareness of the opportunities offered by the EU GSP+ as unilateral EU's trade preferences and their benefits if accompanied by regulatory adjustments).</p>	<p>parliament on future DCFTA and other trade related issues including EU GSP+.</p> <p>DCFTA task force in coordination with the NGO "Eurasia Partnership Foundation" (Head of NGO Coalition) organised round tables on the relevant DCFTA issues with the participation of all interested stakeholders starting from fall 2009.</p> <p>The Government with Business Association of Georgia (BAG) organised roundtable to provide to business community information on implementation steps of food safety legislation, including: implementation of registration of food business operators starting from 2010.</p> <p>Apart from the above-mentioned, GoG plans to organise further events on DCFTA issues in coordination with GEPLAC and other donors.</p>
	<ul style="list-style-type: none"> • Insufficient translation capacities: Due to capacity constraints, Georgia was not able to provide English translation of several pieces of legislation requested by the European Commission's services as a follow-up of the fact-finding mission (draft law on accounting and auditing, public procurement law, sectoral legislation including competition provisions), which prevented the European Commission's experts from finalising/carrying out in a sufficient depth their analysis of the situation in these areas. 	<ul style="list-style-type: none"> • Enhance translation capacity of legal texts, in particular in the sophisticated areas for the purpose of negotiations and regulatory approximation. As urgent issue continue <i>translation into English</i> of the existing/draft Georgian legislation in the DCFTA relevant areas. Priority should be given to the pieces of legislation requested, but not provided as follow-up of the fact-finding mission. Similarly, continue <i>translation into Georgian</i> of the relevant EU and international legislation. In this case, prioritisation could be made according to the objectives set in the ENP Action Plan in the respective areas relevant for a DCFTA. (e.g. technical regulations, sanitary and phytosanitary rules). 	<p>The translation of the existing/draft Georgian legislation in DCFTA relevant areas is underway with the support of UNDP. The following pieces of legislation requested by EU commission are translated and provided to DG Trade:</p> <ol style="list-style-type: none"> 1. LAW ON LICENCES AND PERMITS 2. LAW ON STATE PROMOTION OF INVESTMENTS 3. LAW ON PROMOTION AND GUARANTEES OF INVESTMENT ACTIVITIES 4. LAW ON GEORGIAN NATIONAL INVESTMENT AGENCY 5. LAW ON LEGALIZATION OF PROPERTY 6. LAW ON ACTIVITIES OF COMMERCIAL BANKS 7. LAW ON ELECTRICITY AND

			<p>NATURAL GAS</p> <ol style="list-style-type: none"> 8. LAW ON TELECOMMUNICATIONS 9. LAW ON STATE PROCUREMENTS 10. DRAFT LAW ON ACCOUNTING AND AUDIT 11. LAW ON FOOD SAFETY AND QUALITY 12. LAW ON VETERINARY 13. LAW ON PLANT PROTECTION FROM PLANT PROTECTION 14. DRAFT DESIGN LAW 15. DRAFT AMMENDMENTS TO THE GEORGIAN LAW ON PATENT REGARDIN THE INTRODUCTION OF SUPPLEMENTARY PROTECTION CERTIFICATE 16. Amendment to the Tax Code 17. Amendment to the Law on Free Trade and Competition 18. Charter of the Competition Agency
2. TARIFF AND NON-TARIFF BARRIERS (NTBS)		KEY PRIORITIES: NONE	<p>On 27 March 2009, Georgia deposited with the Secretary General of the World Customs Organization its instrument of accession to the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System). The order of the Minister of Finance on Commodity National Nomenclature of Foreign Economic Activity, according to which the National Commodity Nomenclature will switch to HS 2007, was adopted on 9th of September and enacted in November 2009.</p> <p>TA is required to assist the Department of Statistics in conversion of trade statistics for the last three years into HS 2007.</p>
		ADDITIONAL RECOMMENDATIONS:	
	<ul style="list-style-type: none"> • <i>Lacking components indispensable for preparation of tariff offers</i>, including trade statistics for the three full years prior to the start of negotiations, in accordance with the latest version of the Harmonised Commodity Description and Coding System (HS 2007): <ul style="list-style-type: none"> - Georgia currently uses an earlier version of the HS (<u>HS</u> 2002) with some exceptions at 11 digit level. Preparations are ongoing for the switch to the latest version of the HS (HS 2007) with envisaged start of the implementation of the project in spring 2009 and accomplishment within a few months time. 	<ul style="list-style-type: none"> • <i>Achieve and demonstrate ability to prepare all the elements needed for exchange of tariff offers</i>. This in particular requires to: <ul style="list-style-type: none"> - Accomplish the switch from <u>HS</u> 2002 to HS 2007. - Achieve proper understanding of <i>modalities for exchange of tariff offers</i> and demonstrate it by providing the Commission's services in charge with an adequate presentation of tariffs (in HS 2007). 	

	<ul style="list-style-type: none"> - During the fact-finding mission, the Commission's experts explained to the Georgian side how standard <i>modalities for exchange of tariff offers</i> look like, but the data requested by the Commission's experts and delivered by Georgia after the mission were not in the right structure. - The number of staff of Georgia's State Department for Statistics has been reduced significantly (from 540 to 189 persons) in 2007, which in general has put at stake the sustainability of the national statistical system, and in particular raises doubts about the administrative capacity of the State Department for Statistics to provide the <i>statistics</i> for the purpose of exchange of tariff offers during future DCFTA negotiations with the EU. 	<ul style="list-style-type: none"> - Provide the Commission's services in charge with fully inclusive and detailed trade <i>statistics</i> for the last three years converted into HS 2007. 	
3. TECHNICAL BARRIERS TO TRADE (TBTs)		KEY PRIORITIES:	
	<ul style="list-style-type: none"> • Overall, Georgia has so far achieved <i>only very limited progress in</i> the implementation of the <i>PCA</i> and <i>ENP Action Plan's</i> objectives of <i>establishment of a legislative and institutional framework</i> in the TBTs areas <i>compatible with the EU and international standards</i>. [for more details please see the next two bullet points in this sub-sections] 		
	<ul style="list-style-type: none"> • Weaknesses in the legislative framework: <ul style="list-style-type: none"> - There has not been a clear and well prioritised and consequently implemented government programme of adoption of <i>technical regulations</i> regarding industrial products' safety (the government gives priority to the EU directives as a model for the domestic laws to be based on, but this approach is not firmly followed and the overall process is very slow). - For the purpose of the fact-finding mission Georgia has identified <i>priority industrial sectors for legislative approximation</i> with the EU acquis, 	<ul style="list-style-type: none"> • Adopt and start implementing a governmental programme of adoption of technical regulations in line with the EU acquis in the priority industrial sectors. 	<p>Interagency working group under the Commission for EU Integration was created, chaired by the Chief Advisor to the Prime Minister, in order to prepare the requested governmental programme.</p> <p>The Governmental Programme is composed of four Sub-Programmes:</p> <ul style="list-style-type: none"> • Institutional Development Sub-Programme, which describes what activities and development should be taken by the Government of Georgia to ensure progress in the establishment of

	<p>although this was an objective of the ENP Action Plan which was included already in the Implementation Tool for the first year of the Action Plan's implementation (2007).</p>		<p>a domestic institutional system in the area of technical regulation, standardisation, accreditation, metrology, conformity assessment and market surveillance, and achieve the progress in strengthening the institutions in charge of these respective issues. This Governmental Programme also outlines requested Technical Assistance and identifies those areas and spheres Georgia considers TA from the EU would be desirable to achieve the maximum efficiency in understanding the EU acquis;</p> <ul style="list-style-type: none"> • Sub-Programme on Incorporation of the New Approach and the Global Approach Directives outlines the detailed agenda of incorporation of the New Approach and the Global Approach Directives into the national legislation for priority industrial sectors and sets relevant timetable for the incorporation; • General Legislative Approximation Sub-Programme describes how the national legislation should be amended in order to align with the requirements of EU acquis; • Relevant Legal Activities Sub-Programme outlines what relevant legal activities are needed to ensure compliance with the EU acquis and what normative acts should be adopted with this aim. <p><u>The draft Strategy in Standardisation, Accreditation, Conformity Assessment, Technical Regulation and Metrology, and Draft Programme on Legislative Reform and Adoption of Technical Regulations is finalised taking into account the comments</u></p>
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			<p><u>of COM services.</u></p> <p>The GoG prior to the formal adoption of the Strategy and the Programme started the implementation process.</p> <p>The following implementation steps have been already started in TBT area:</p> <ul style="list-style-type: none"> • Legislative reform manifested in drafting of Code on Safety and Free Movement of Products³- Due to the fact that Strategy is multifarious document that covers many different fields respectively relevant legislation need to be amended is as well as diversified, therefore it was considered justified to introduce new the Code on Safety and Free Movement of Products where all necessary innovations and amendments will be reflected in a coherent manner. The draft Code is planned to be finalised by the end of [April, 2010]. • Institutional reform manifested in creation of Technical and Construction Inspection Agency for market surveillance - GoG confirms it's commitment to develop a strategy for market surveillance by 2011 year. This Agency will also be intensively involved in the development of the strategy for market surveillance, as the agency will be one of the responsible
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³ Working title of the Code

			<p>institutions for the Incorporation of the New Approach and the Global Approach Directives.</p> <p>The aim of this institutional reform is to create fundamental bases for the comprehensive market surveillance body which will be gradually gaining sufficient power and administrative capacity for effective market supervision on other products as well.</p> <p>The plan of this reform was elaborated in 2009. The relevant amendments in the laws were drafted and submitted to the Parliament of Georgia in January 2010.</p> <ul style="list-style-type: none"> • Amendments in the Georgian law on “Ensuring Uniformity of Measurements” due to gaps existing in Legal Metrology - The relevant amendments in the Georgian Law on Ensuring Uniformity of Measurements have been elaborated due to gaps existing in legal metrology, the amendments provide for more precise and exact definition of the scope of legal metrology e.g. the list of legal measuring instruments subject to mandatory verification as well as the verification interval thereof are defined. <p>The amendments contribute the process of approximation of the Georgian Law on Ensuring Uniformity of Measurement with OIML ID1 (model law on metrology). The amendments are adopted by the Parliament of Georgia and sent for the adoption to the President</p>
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			of Georgia.
	<ul style="list-style-type: none"> • Weaknesses in the institutional framework: <ul style="list-style-type: none"> - <u>Conformity assessment and market surveillance institutional systems (enforcement of products' safety regulations)</u> are not sufficiently developed and consequently they are not able to ensure adequate level of consumer protection in Georgia - <u>Conformity assessment certificates</u> issued by Georgia are not recognized internationally, which poses serious obstacles to Georgia's exports, including to the EU. 	<ul style="list-style-type: none"> • Achieve progress in the establishment of a domestic institutional system in the area of technical regulation, standardization, accreditation, metrology, conformity assessment and market surveillance. Create if needed and strengthen the institutions in charge of these respective issues. 	<p>Draft Strategy in Standardisation, Accreditation, Conformity Assessment, Technical Regulation and Metrology envisages strengthening of relevant domestic institutional system.</p> <p>Georgian National Agency for Standards, Technical Regulations and Metrology (GEOSTM) is a correspondent member of International Standardization Organization (ISO)since 2006 and participates in general assembly and committee meetings thereof on permanent base. GEOSTM is an affiliate member of European Committee for Standardization (CEN) from 2008 and received from CEN full database of EN standards elaborated by CEN.</p> <p>Georgia in 2008 became an associate member of the General Conference for Weights and Measures (GCPM) that is one of the prerequisites for international recognition of national measurements standards.</p> <p>GEOSTM in the framework of Euro-Asian Cooperation of National Metrological Institutions (COOMET) participates in international comparisons of national measurements standards with those of other countries. Works are in process for implementation of quality management systems according to ISO/IEC 17025 in respective laboratories of GEOSTM and for declaration thereof within the Quality Forum of COOMET. After successful completion of these procedures the national measurements standards of the country will be recognized on international level by International Bureau of Weights and Measures (BIPM), this in</p>

			<p>turn is one of the prerequisites of international recognition of test and measurements results carried out in the country.</p> <p>As for preparation and strengthening of respective enforcement infrastructure e.g. Quality Infrastructure institutions (standardisation, metrology) a number of projects are carried out in Georgia. Particularly two of them should be mentioned:</p> <p>1. EC TACIS project “Support to Implementation art. 51 (Quality Management System) of PCA” covers three main elements of quality infrastructure - standardization, metrology, accreditation. Within the framework of the project seminars, trainings and study-visits in EU member countries are carrying out in order to get experience on advance practices and methods. In addition the reference laboratory will be created which will provide services in conformity with requirements of international and European standards in two priority fields – agriculture (inter alia reference materials for food sector) and oil-gas sector.</p> <p>2. Bilateral Georgia-German cooperation project “Promotion of Quality Infrastructure in Georgia with special regard to legal Metrology”. The aim of the project is to develop demand oriented quality infrastructure according to the priorities of the country and requirements of business sectors. Within the framework of this project Mass Reference Laboratory in conformance with the existing international requirements will be established, equipped and international recognition thereof will be ensured. The services provided by this laboratory will cover the existing needs of the country in this field and entrepreneurs,</p>
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			<p>particularly export oriented SME's, will have possibility to obtain adequate services locally.</p> <p>Georgian Accreditation Centre (GAC) is an affiliate member of ILAC Since 2005. GAC activities are based on international standard ISO/IEC 17011. In the framework of EU TACIS project "Support to implementation of Art 51 (Quality Management System) of the Partnership and Co-operation Agreement (PCA) of Georgia" more than 20 procedures and technical guidelines of EA, ILAC and IAF are being harmonized into Accreditation Management System. With the assistance of the foreign experts, a special task force was formed to do GAC Quality management documentation in a line with international requirements.</p> <p>Accredited conformity assessment bodies are testing products in accordance with international standards such as OIV/ISO, ISO and ASTM and Regional standards- GOSTs.</p> <p>Preparation for "Contract on Co-operation" with EA was successfully accomplished. Signing of "Contract of Co-operation" with EA was a priority for the Accreditation Centre in 2009. After the evaluation of GAC's application and appropriate documentation by the EA MAC (Multilateral Agreements Committee) the "Contract of Co-operation" was signed between EA and GAC on General assembly held in Belgium on 26.12.09.</p>
		ADDITIONAL RECOMMENDATIONS:	
	<ul style="list-style-type: none"> • While demonstrating good knowledge about the key TBTs issues the Georgian <i>experts</i> expressed a <i>need of</i> 	<ul style="list-style-type: none"> • <i>Strengthen administrative capacity in terms of further improving knowledge</i> 	<p>GEPLAC has organised the training on TBT issues for the relevant governmental</p>

	<p><i>further improving their knowledge</i> and wish of information sharing, in particular as concerns the EU acquis and European normalization system.</p>	<p><i>and understanding</i> among the officials in charge of future negotiations and implementation of the DCFTA's TBTs chapter of the EU acquis and international legislation and practices in TBTs areas, as well as of the EU's practices and requirements concerning DCFTA negotiations of the TBTs commitment and their implementation.</p>	<p>institutions. Further capacity building in terms of improving knowledge and understanding among the officials in charge of future negotiations and implementation of the DCFTA's TBTs chapter is planned in particular in the framework of TAIEX, WTO and ongoing EC TACIS project "Support to implementation of Art 51 (Quality Management System) of the Partnership and Co-operation Agreement (PCA) of Georgia".</p> <p>In the framework of EC TACIS project "Support to Implementation art. 51 of PCA (Quality Management System – standardization, metrology, accreditation)" seminars and trainings are carried out on permanent base.</p> <p>At the Donor Coordination Roundtable held on January 25, 2010, needs in TBT area were presented by the Government of Georgia to the donors.</p>
<p>4. SANITARY AND PHYTOSANITARY (SPS) MEASURES</p>	<p><i>KEY PRIORITIES:</i></p> <ul style="list-style-type: none"> • <i>Serious deficiencies in Georgia's SPS system</i> [see details in the following bullet points], persisting in spite of long standing commitments in the <i>PCA</i> and <i>ENP Action Plan</i>, severely restrict exports of Georgian agricultural and food products (except wine and hazelnuts) to the EU (which could gain at most from trade liberalization) and put at stake the health of domestic consumers. • There are <i>serious gaps in the SPS related legislation and its implementation</i> in Georgia: 	<ul style="list-style-type: none"> • <i>Start implementing the suspended food safety legislation, including</i> through creation if needed and <i>strengthening of the institutional capacities</i> of all the bodies in charge. • <i>Prepare a comprehensive strategy</i>, possibly with accompanying operational programme, <i>of establishment of a solid food safety system</i>. The following components should be taken into account: 	<p>Interagency Working Group under the Commission for EU Integration was created chaired by the Minister of Agriculture in order to prepare the requested comprehensive strategy.</p> <p>Comprehensive Strategy in Food Safety and Operational Programme were prepared and approved by the EU Integration Commission. It was provided to DG Trade on September 10, 2009. COM Services sent comments on</p>

	<ul style="list-style-type: none"> - <i>Framework food safety legislation</i> has been adopted (Law on Food Safety and Quality of December 2005), but its implementation has been suspended until 2010 and there are indications that the Georgian government is considering further postponement. - As a result there is no legal base to guarantee <i>animal health</i> in particular through adequate inspections, traceability system, registering and certifying the eligibility of animal holdings and food establishments to produce and export (the 2007 outbreak of African Swine Fever with an inadequate government's response is an example of Georgia's vulnerability regarding animal health safety). - Georgia does not have in place a monitoring and control system (including specialized laboratories) for residues of <i>veterinary drugs</i> in respect of animals and animal products. In addition, the application of drugs is quite liberal, e.g. availability of antibiotics for animals does not need a veterinary prescription. Some products, which are banned in the EU, such as growth hormones, are allowed in Georgia and there are no controls over the extent of their use either. - As concerns <i>health issues related to plants</i> there are some legal acts in place (e.g. concerning residues of pesticides), but most of them needs updating and alignment with international and EU standards. 	<ul style="list-style-type: none"> - preparation, adoption and launch of implementation of the remaining lacking specific <i>laws</i> and implementing acts; - enhancement/creation (if needed) of elements of the <i>institutional structure</i>, in particular inspections performing official controls, network of well equipped specialized official laboratories (including reference laboratories) and veterinary and phytosanitary border checks; - monitoring system and contingency plans as concerns <i>animal diseases</i>; - the importance of existence of an <i>early warning system</i> related to food safety including the link to the EU's Rapid Alert System for Food and Feed (RASFF); - <i>human resources</i> needed in order to ensure adequate functioning of the system; - <i>training</i> needs at all levels of the system; 	<p>Comprehensive Strategy to Georgian authorities on November 5, 2009. Expert Meetings between Commission Services and Georgian Authorities on Food Safety Issues (hereafter Expert Meeting) were held in Brussels, on November 12, 2009 and on June 9, 2010. During the meetings, Comprehensive Strategy was discussed by the sides in a detailed manner.</p> <p>According to the Operational Conclusions of the expert meeting held in November sides agreed, that:</p> <ul style="list-style-type: none"> • Gradual and product-by-product implementation approach can be introduced • Private control bodies may be included in the Strategy, provided that this does not contradict EU acquis • For revision of the draft Strategy EU TA will be used by the GoG • Both sides will treat the process as a matter of priority • Elaborate Overall Operational Programme, which will list concrete actions, their timeframes, specification of the body responsible for implementation of each action, indication of sources of financing, etc • Develop a programme of gradual approximation of domestic legislation with the EU acquis. Information on the approximation with relevant horizontal and vertical EU legislation will be included in the overall Operational Programme to the extent required for the implementation of food safety legislation.
	<ul style="list-style-type: none"> • <i>Insufficient institutional capacity of the food safety system:</i> Two main authorities are in charge: 1) Food Security Department in the Ministry of Agriculture, 2) National Service of Food Safety, Veterinary and Plant Protection. The <i>Food Security Department</i> is responsible for elaborating policy and regulatory measures, including secondary/implementing legislation. The Department i.a. established a set of secondary legislative instruments which (although not without some deficiencies) would be able to ensure effective enforcement of the Law on Food Safety and Quality, if this Law was being implemented. The <i>National Service</i> is charged with responsibility over 		<p>GoG addressed all the issues outlined in operational conclusions and sent the revised documents to the EC.</p>

	<p>inspections and controls, but does not effectively perform this function. The National Service also issues export phytosanitary and veterinary certificates, but these are not recognized internationally due to the deficiencies in Georgia's control and testing systems [for details on these issues see next bullet points]. Both the Food Security Department and the National Service have recently been restructured and substantially downsized. For instance, Food Safety Department in the National Service has been almost completely disbanded and its functions suspended. The personnel of both bodies are subject to frequent turnover.</p>		<p>According to the Operational Conclusions of the Expert Meeting held in June sides agreed, that:</p>
	<ul style="list-style-type: none"> • All <i>SPS import controls</i> in Georgia are in the competence of the <i>customs service</i> and they are performed only at the borders. This is not in line with the EU practice and in particular the customs service does <i>not have necessary capacities</i> to make checks regarding animal health, food safety, and plant health other than documentary checks, exposing the country to significant risks to animal, plant and human health. [see also in the section on customs] 		<p>a) In addition to the already included information GE authorities will introduce into the draft operational programme, for each legal act, a legal and institutional gap assessment and resources needed for approximation, training, implementation and enforcement.</p> <p>b) Clarification of the role (including scope of the rights and subordination to the official control) of the independent third party inspections in addition to the official ones, in line with the EU legislation, will be included in the draft Strategy.</p>
	<ul style="list-style-type: none"> • <i>Too liberal approach to controls for food establishments</i>: As an example, official controls are not regularly performed for different types of establishments (like slaughterhouses) or animal holdings. In the particular case of slaughterhouses, these are not inspected by official competent authorities but only by private veterinarians employed by the slaughterhouses. Only in case of a serious outbreak the competent authorities would be contacted. Although the National Service is charged with responsibility over inspections and controls, inspections have never started. Moreover, current regulations do not allow inspectors to enter establishments before a lengthy legal procedure involving court hearings. Even in the case of inspectors entering the premises and finding violations, the National Service does not have the right to impose sanctions but only transfer the case to financial police 		<p>The issue of timelines for the implementation of the Food Safety Law has remained open. GE authorities' underlined, that they are ready to further accelerate implementation targeted at establishment of a solid food safety system in Georgia. Their approach to the issue is constructive, result oriented, forward looking and action based taking into account jointly agreed priorities. In GE authorities' view, without jointly agreeing on these timelines, it will be impossible to finalise the strategy.</p> <p>Because of the above-mentioned, COM services proposed to organize a videoconference in two weeks from the Expert meeting where the issue of timelines for the implementation of food safety official control will be agreed.</p>

	<p>or another authoritative body. Therefore, lack of official controls and inspections poses significant health risks for humans, animals and plants in Georgia and countries importing Georgian agricultural products.</p> <ul style="list-style-type: none"> • Lack of sufficient number of official laboratories: There is only one public official laboratory (covering only animal diseases). All the official samples from controls or border inspection posts would need to be sent to private laboratories. There are 30 accredited private laboratories in Georgia. Their know-how is, however, limited and they are not able to analyse e.g. the residues of veterinary drugs or contaminants. • Licensing of veterinary laboratories and pharmacies has been discontinued. Veterinary medicines are regulated by the Ministry of Health based on documentary evidence. The Ministry does not have any laboratories for testing. • The National Service issues export phytosanitary and veterinary certificates. However, as the Service's representatives in the regions of Georgia do not have laboratories or equipment for testing on the presence of harmful pests, epidemics and epizootics in the region, the existing system renders these certificates invalid in the eyes of importers, including the EU. 		<p>The GoG prior to the formal adoption of the Strategy and Operational Programme undertook the implementation step. Accordingly, specific steps to start implementation of previously suspended article of Law on Food Safety and Quality have already been undertaken, namely: registration of food business operators started from February 1, 2010. As for March 7, 2729 food business operators registered already.</p> <p>Already existing authority responsible for company registration (National Agency of Public Registry) registers food business operators, as it has adequate institutional capacity and experience in handling databases. The registration authority is obliged to ensure transparency and accessibility to the database.</p> <p>While the registration procedures are undertaken by the National Agency of Public Registry, the National Service of Food Safety, Veterinary and Plant Protection will have full access to the database of registered food business operators.</p> <p>National Agency of Public Registry has branches in all regions of the country. Accordingly, the food business operators have possibility to make registration at local branches and at the same time avoid transport, time related and other additional costs. Priority is given to electronic registration.</p> <p>Georgia has used various forms of expertise from the EU to revise the Strategy, namely:</p> <ul style="list-style-type: none"> • In December 2009, GEPLAC organized a
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			<p>workshop on Organization of Food Control under in the Food Safety Legislation of the EU and particularly in relation to SME's. The workshop was dedicated to the discussion of the EU regulatory framework on food safety control: competencies of public bodies, different modes of control as well as possibilities to outsource certain functions of the control to the private sector. The existing models of food safety, veterinary and plant health control of SMEs were reviewed as well.</p> <ul style="list-style-type: none"> • In February 2010, GEPLAC organized a seminar on EU Best Practice of setting special Food Safety Regime for Small Businesses. The seminar was focused on the EU and Member States regulatory framework on food safety control as regards small businesses: examples of derogations and exemptions, practices and procedures of public bodies, benefits and disadvantages of such derogations and related procedures were handled. • In February 2010, IFC organized seminar for public officials on Main Principles of Food Safety Management Systems. The seminar was focused on: implementation of HACCP, GMP, GHP, etc. • In February 2010, IFC organized workshop on Relaxed Regulatory Schemes for Small Businesses. • In February 2010, a study visit to the UK was organized by GEPLAC, for Georgian public servants, both practitioners and policy-makers involved in the elaboration of the new food safety strategy, relevant regulations and legislation. The study visit to the UK addressed to issues, which were
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			<p>revised according to the Operational Conclusions of Expert Meetings.</p> <ul style="list-style-type: none"> • The draft Comprehensive Strategy and Operational Programme were sent to the GEPLAC expert Mr. Hendrik Kuusk prior to his visit. The expert made the revision of the draft Strategy as required by the Operational Conclusions of the Expert Meeting. Three consequent meetings were held on 10-12 March, 2010 in Tbilisi between Mr. Hendrik Kuusk and Georgian authorities. Georgian side was presented by the representatives of the Office of Prime Minister, Head of National Service of Food Safety, Veterinary and Plant Protection, Advisor to the Head of National Service. <p>The report was prepared on those issues of Strategy and Operational Programme, which were revised in accordance with GEPLAC expert recommendations. All approximation dates with EC regulations and implementation periods reflected in the Operational Programme on Food Safety were revised in accordance with the GEPLAC expert recommendations.</p> <p>Revised final draft Strategy and Operational Programme were submitted to the EU Integration Commission. The final draft Strategy and Operational Programme were approved by the EU Integration Commission and sent to DG TRADE on March 13, 2010.</p> <p>The draft strategy and operational programme takes into account all components required by the respective</p>
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			<p>recommendations of the EU Commission.</p> <p>The draft strategy and operational programme aim at: a) Thoroughly analysing the existing legislative framework and identifying possible shortcomings. b) Describing the steps, Government of Georgia plans to take in order to introduce a solid food safety system in Georgia. c) Outlining principles and priorities by which the establishment of such a system should be guided. d) Identifying the needs, goals and challenges, associated with implementation of each component of the food safety system. e) Introducing timelines and stages in which the implementation should be ensured.</p> <p>According to the draft strategy the suspended articles of food safety legislation will be implemented gradually. The gradual implementation of suspended articles of food safety legislation started in 2010, namely the registration of food business operators, started on February 1, 2010. On July 1st of 2010, implementation of remaining suspended articles related to the inspection and traceability will start for food business operators exporting products to the EU. The full implementation of a modern food safety system will be achieved by 2017.</p> <p>This strategy will serve as a guiding document and framework for further streamlining the food safety legislative framework and ensuring introduction of a solid food safety system in Georgia.</p> <p>The Working Group while analyzing the legislation and existing legislative and institutional shortcomings found it most efficient to adopt a unified legal act on Food Safety, Veterinary and Plant Protection that would embrace all legislative issues related</p>
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		<p>to ensuring food safety and quality, animals' welfare and plant protection. The issues covered by this legal act are strongly interrelated and represent different sides of one umbrella framework – ensuring food safety and quality. The principles and main topics are common for all the issues and having separate laws entails the risk of repetition and duplication of most of the provisions.</p> <p>In addition, Georgia would like to use this opportunity to revisit and revise its legislation in the concerned areas and build the unified and efficient base for ensuring adequate level of food safety and quality.</p> <p>As for the concern, that Georgia does not have in place a monitoring and control system, the NS performs state control of food quality aiming at monitoring of food safety and quality. On the retail trade level, state monitoring activities include procurement and testing of samples in an accredited laboratory. For this purpose, the NS elaborates and implements state programmes.</p> <p>As for the concern related to registration of veterinary drugs, the NS carries out registration of veterinary medicaments produced or imported in Georgia. 284 kinds of veterinary medicaments have been registered by the NS. Veterinary drugs can be replaced on the Georgian market based on two kinds of registration, namely:</p> <ol style="list-style-type: none"> 1. Registration of veterinary drugs through the national registration regime and 2. Recognized regime of state registration of veterinary drugs. This regime can be used for the veterinary drugs, which are registered by the relevant authorities of foreign countries.
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		<p>private sector. These trainings were, among others targeted at providing tailored assistance with the aim to revise the present strategy paper according to the Commission comments and Operational Conclusions of the technical meeting on food safety.</p> <p>World Bank's International Finance Corporation also organised a number of trainings for public officials and business representatives on food safety and quality related issues, including the HACCP training for the members of interagency working group (Office of the Prime Minister of Georgia).</p> <p>In addition to this, several steps have been taken with the aim to enhance the human resource system of the NS. The National Service conducting various training programs to build capacity within its staff. Most of the seminars, workshops and other training programs are funded by European Commission and other donors. Currently the National Service is planning with the support of the World Bank to carry out long term training program jointly with relevant Latvian authorities.</p> <p>Staff of the National Service participated in trainings, seminars, conferences, work meetings which were organized by the international (WB, FAO, OIE, EPPO, IPPC, UNDP) and non-governmental organizations in the fields of food safety, veterinary and plant protection.</p> <p>At the same time, the National Service is recruiting as interns young specialists: veterinarians, food hygienists and etc. From 200 candidates 76 have been selected</p>
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			<p>through relevant oral and written exams. The selected group is taught and relevant theoretical and practical lectures are given to them by senior officials of the Service. Interns were awarded with certificates but the most successful ones will be employed by the National Service.</p> <p>The Comprehensive Institution Building (CIB) will be started for National Service by the 1Q 2011. The CIB will be aimed to ensure effective institution-building of National Service.</p> <p>Special training programme will be elaborated for the capacity building of the staff of the NS. TAIEX joint training for the NS and RS staffs performing SPS control at the border has already been requested by Georgia, as well as the SPS training modules to train veterinary and phytosanitary border inspectors – via a twinning project fiche.</p> <p>United Nations Development Programme is requesting consultancy service to support National Service for Food Safety, Veterinary and Plant Protection in capacity analysis and needs assessment. Estonian consultant will conduct capacity needs assessment and provide recommendations to the NS. In addition, Swedish International Development Cooperation Agency (Sida) provides consultancy assistance to the NS and Office of Prime Minister of Georgia in revision of the Comprehensive Strategy and Operational Programme in Food Safety to improve legal environment approximation needs assessment for identification gaps in food safety legislation.</p>
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		<p>According to primary legislation of Georgia (Georgia Laws On Veterinary, On Agricultural Quarantine, and Customs Code) Revenue Service of the Ministry of Finance (RS) implements state phyto-sanitary and veterinary border-quarantine controls based on rules defined by the Ministry of Agriculture. This decision was part of the border control related reform, which aimed at, among others, introduction of streamlined procedures at the customs and eradication of corrupt practices, which was an impediment to trade and development. Since April of 2007 the competence of RS has been extended and now it covers not only customs issues, but tax, SPS border control, passport control regarding certain types of passengers, weight control of vehicles at the border and etc. Therefore RS is integrated institute.</p> <p>The sphere of competence of RS is defined as the operational authority, and Ministry of Agriculture as the policy decision making authority. According to N987-N2-184 joint order, 31.12.2008 of the Minister of Agriculture and Minister of Finance, veterinary or phyto-sanitary officer of RS has obligation to undertake documentary check, identity check, and physical check and laboratory samples taking. This joint order was elaborated with the assistance of EU funded project TA to the secondary customs legislation and SPS border control. The sphere of competence and basics of relationship between National Service of Food Safety, Veterinary and Plant Protection (NS) and RS are defined by this Joint order.</p> <p>From July 1, 2009 RS started to undertake full identity check and physical check (with laboratory samples taking or without it). Full</p>
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			<p>identity check includes visual inspection to ensure that the veterinary or phyto-sanitary certificate(s) or other document(s) provided for by the Georgian legislation tally with the product itself, as well as for the presence and conformity of the marking which must appear on the animals themselves or on the packaging of products. The procedure includes also opening of transport means.</p> <p>Documentary and identity check of imported goods should be undertaken in every case (excluding consignments which have to be controlled according to monitoring plan). If the officer finds any non-compliance in the process of documentary and identity check, he/she should undertake physical check and laboratory samples taking procedures additionally. The transportation of goods may be continued from Border Inspection Post (BIP) to customs clearance office only if results of physical check and laboratory samples taking will not reveal any threat for society.</p> <p>Only Documentary check should be implemented at the BIP if consignment will be chosen according to the reduced frequency of physical checks monitoring plan for laboratory analysis. In this case the identity check will be implemented in the place of destination by the relevant phyto-sanitarian or veterinarian officer of Regional Centre of RS and if the officer:</p> <p>a) Finds out any non-compliance, or suspicion in the process of identity check, officer should implement physical check and laboratory samples taking. Goods may be released into free circulation (import) only if results of physical check and laboratory samples</p>
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		<p>taking will not reveal any threat.</p> <p>b) Not finds out any non-compliance, or suspicion in the process of identity check, officer should implement physical check and laboratory samples taking (the same will apply regarding physical check). Goods may be released after laboratory samples taking, without waiting for results of laboratory samples.</p> <p>Monitoring plans for 2009 were made out based on statistical data for 2008, with the assistance of EU funded project TA to the secondary customs legislation and SPS import control. RS took into account quantity of goods subject to control which were moving via each BIP. Current monitoring plans were agreed with the NS. The same was applied to the new Monitoring plans for 2010.</p> <p>According to the Joint Order, RS has obligation to send information regularly to the NS which consists of data on consignment, serial number of control act and results from checks. Based on this information the monitoring plan should be adjusted or frequency of physical checks and sampling at the BCP may increase or decrease.</p> <p>According to the existing monitoring plan samples should be examined by the Legal Person of Public Law-Laboratory of Ministry of Agriculture.</p> <p>Positive results of tests undertaken either based on monitoring plan or due to a suspicion, are immediately notified by the RS to the NS. In this case, NS should re-examine the case, and give to RS relevant notification.</p>
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			<p>RS has obligation to take into account the notification of NS and either continue, stop or prohibit of clearance process of these goods.</p> <p>The World Bank Funded Project is starting according which the consultant team are expected to submit (i) a detailed description and design of a modular BIP and Border Crossing Point (BCP); (ii) Building projects for two motor transport BIP&BCP (Sadakhlo (border with Armenia), and Tsiteli Khidi (border with Azerbaijani)); (iii) recommendations and operational manual on movement of live animals; and (iv) design for five small food safety laboratories located at the BIP including detailed specifications for laboratory equipment. Five food safety laboratories will be purchased and put in operation for the BIP-s.</p> <p>BIP Design should be consistent with and support the standard operating procedures and inspection requirements for agricultural products, livestock products and live animals as defined in the EU directives: 1. “Technical requirements for veterinary border inspection posts”; 2. Commission directive 98/22/ec of 15 April 1998, laying down the minimum conditions for carrying out plant health checks in the community, at inspection posts other than those at the place of destination, of plants, plant products or other objects coming from third countries”; 3.COMMISSION DECISION of 7 December 2001 drawing up a list of border inspection posts agreed for veterinary checks on animals and animal products from third countries and updating the detailed rules concerning the checks to be carried out by the experts of the Commission 2001/881/EC).</p>
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		<p>The building process of new BCP/BIP at the border with Turkey is underway. A detailed plan of, “Kartsakhi” BCP/BIP at the border with Turkey was elaborated (the project includes SPS control infrastructure) with the agreement of RS. This new BCP/BCP will be built in 2010.</p> <p>In order to further improve capacity of SPS specialists working at customs, extensive trainings were undertaken. With this aim, the Government of Georgia requested TAIEX training on food safety which should involve employees of the National Service and some 123 employees of the RS performing SPS control at the border. As it was mentioned above, cooperation between the NS and RS is not stipulated by the Law. Therefore, obligation of RS to permanently exchange information with the NS will be introduced and defined in the Law.</p> <p>Standard twinning project fiche was prepared and sent to Brussels for consolidated comments.</p> <p>There is planned to introduce automated decision making system for choosing consignment which has to be controlled according to monitoring plan. This process will be done based on Automated System of Customs Data.</p> <p>Obligation to issue permissions on transit of goods subject to veterinary control was revoked. The list of goods subject to veterinary import permissions were halved. In the near future this obligation for import veterinary permission will be almost revoked also.</p>
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			<p>It is notable, that the total number of laboratories accredited in Georgia is 75. 16 of them are accredited in food and feed sector.</p> <p>Accreditation of laboratories is executed by the Georgian Accreditation Centre (GAC). GAC is a legal entity of public law under the state supervision of the Ministry of Economic Development of Georgia. Operation of GAC is based on international standard ISO/IEC 17011. It accredits laboratories in different fields of conformity assessment according to different international standards.</p> <p>GAC is affiliate member of ILAC (International Laboratory Accreditation Cooperation) and actively cooperates with EA (European Cooperation of Accreditation).</p> <p>Nowadays the control, detection and surveillance of animal disease is provided by the State Unified System of Disease Detection and Response. The United System was established according to the Law on Public Health, 160 Decree of Governmental Resolution #160, from July 30, 2008.</p> <p>Currently, the Unified System consists of:</p> <ol style="list-style-type: none"> 1. National Center for Disease Control and Public Health of Georgia (NCDC) under the Ministry of Labour, Health and Social Protection. 2. A number of Public Veterinary Laboratories under the Ministry of Agriculture. <p>At the Donor Coordination Roundtable held</p>
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			on January 25, 2010, future needs on SPS administration related issues were presented by the Government of Georgia to the donors.
		ADDITIONAL RECOMMENDATIONS:	
	<ul style="list-style-type: none"> The Border Inspection Posts <i>do not yet receive information through the EU's Rapid Alert System for Food and Feed (RASFF)</i>. However, there is a project on-going in Georgia on RASFF and training will be organised in the near future. The final aim is to include the RASFF into the border control systems. 	<ul style="list-style-type: none"> <i>Continue preparations for achieving the interconnection</i> with the EU Rapid Alert System for Food and Feed (RASFF). 	On December 3, 2008 order of the Prime Minister on Measures for the Provision of the Integration in the EU Rapid Alert System for Food and Feed (RASFF) was adopted. The contact person for RASFF has been already appointed in the National Service of Food Safety, Veterinary and Plant Protection. Accordingly, Georgia is becoming progressively integrated into EU Rapid Alert System for Food and Feed.
	<ul style="list-style-type: none"> <i>Animal welfare</i>: Georgia does <i>not</i> have any <i>legislation</i> in place for animal welfare, <i>nor conditions</i> for welfare of animals during transport or killing nor conditions at animal housing. 		This topic will be included in the unified and harmonized legislative base for food safety, veterinary and plant protection as proposed in the Comprehensive Food Safety Strategy and Operation Program.
5. TRADE FACILITATION AND CUSTOMS ADMINISTRATION		KEY PRIORITIES:	
	<ul style="list-style-type: none"> The <i>situation concerning the two break-away regions, Abkhazia and South Ossetia, raises questions</i> about Georgia's <i>capability to ensure proper control of illicit trade</i> through these two territories, as well as to ensure <i>that only eligible products would benefit from trade preferences</i> granted by the EU. 	<ul style="list-style-type: none"> <i>Provide information on the envisaged treatment</i> for Abkhazia and South Ossetia aiming at <i>ensuring that only eligible products would benefit from trade preferences</i> granted by the EU. 	Information on the envisaged treatment for Abkhazia and South Ossetia aiming at ensuring that only eligible products would benefit from trade preferences granted by the EU is provided to DG Trade on June 12, 2009 in the framework of the memo on trade facilitation and customs administration.
		ADDITIONAL RECOMMENDATIONS:	

	<ul style="list-style-type: none"> Georgia is continuing the implementation of the Customs Business Strategy aiming at further approximating its customs legislation and practices with the EU acquis and international standards. However, the ongoing reforms focus mainly at trade facilitation, while not sufficient attention is paid to questions of security, safety and combating customs fraud. 	<ul style="list-style-type: none"> Continue a strategic reform of the customs systems, <i>including administrative capacity building</i>. The use of the EU Customs Blueprints is recommended. Pay specific attention to the questions of security, safety and combating customs fraud properly balanced with simplification and facilitation of legitimate trade. 	<p>Security, safety and combating customs fraud are among priorities of Customs Administration of Georgia. In 2008 the Revenue Service (RS) has expressed its intention to implement the World Customs Organization (WCO) Framework of Standards to Secure and Facilitate Global Trade. The diagnostic mission experts have finalized the draft report on the needs assessment to Georgia. The report was approved by the WCO and RS, so Customs Administration of Georgia switched to the 2nd phase of Columbus Programme.</p> <p>Georgian Customs started to build the capacity to deal with the issues identified by the report, namely, Backscatter van mobile screening system was purchased. There was granted one mobile inspection system and one fixed inspection system via grant of Government of People's Republic of China. Specialised central unit was established, namely, Operational Management Division at the Customs Control Department. The officers were hired and specially trained. The database is in place about vehicles, trucks which have hiding places, numerous infringements. When such transport is entering into Georgia in the process of issuing T1, the system sends SMS message to the Operational Management Division. In response to this the division gives to border customs office detailed instruction (including defining customs route for obligatory scanning of the transport means)</p> <p>Cases of discovered infringements regarding contrabands increased. If in 2008 510 cases were reported, from January to August 2009</p>
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			<p>450 cases were reported.</p> <p>Customs officers of Operational Management Division scan for twenty-four-hour consignments entered Georgia at the Border Check Points based on instruction from central staff of Operational Management Division. They are attaching all scanned images to electronic T1 forms (transit declaration) via Automated System of Customs Data (ASYCUDA), so the customs officer of the office of destination can retrieve the image electronically from ASYCUDA and use this image for customs control purposes.</p> <p>Customs has to control weight parameters for trucks. Based on random selection trucks entering into Georgia should be weighed and if there is revealed difference between transport documentation and data from scale, entry customs office enters this information into electronic T1 (transit declaration).</p> <p>As competence of RS has been extended to the passport control the customs authority has access to the passport data-base. This tool is very useful for customs control point of view.</p> <p>RS expressed the its interests in the ongoing UNODC/WCO Container Control Project. Now UNODC mission is in Georgia. The basic objective of the mission is to exchange of the views with the senior officials from Customs and other law enforcement agencies of Georgia, introduce the project and discuss the potential roadmap and other possibilities.</p>
	<ul style="list-style-type: none"> • Customs legislation (Customs Code and implementing provisions) is broadly in line with the EU and 	<ul style="list-style-type: none"> • <i>Continue approximation of customs legislation and practices</i> with the EU and 	<p>All pieces of implementing provisions required by Georgian Customs Code were</p>

	<p>international standards, but <i>further alignments and improvements are needed</i> in particular with regard to <i>implementing provisions</i> and <i>customs practice</i>.</p>	<p>international standards. In particular draft, adopt and start to implement consistent, clear and straightforward <i>implementation provisions</i> of the Customs Code (secondary customs legislation).</p>	<p>adopted. Due to latest amendments to the Customs Code which came into force in 2009 a number of additional acts need to be adopted. These acts are: The decree of the Government of Georgia “on Georgia Integrated Tariff”, the order of Ministry of Finance “on rules of implementation of post-clearance customs audit”, joint order of Ministry of Finance and Ministry of Interior “on Rules of Entrance, movement and leaving in Customs Control Zone of Border Crossing Points Open to International Movement”.</p> <p>Customs began to draft standard procedural manual for customs officers. Such manual is in place covering a) customs infringement and definition of the sanction; b) border customs procedures in Tbilisi International Airport, Poti Sea Port and Kutaisi FIZ.</p>
	<ul style="list-style-type: none"> • <i>Human resources policy</i>: Recruitment as well as training system take into account professional and integrity standards, but <i>more comprehensive strategy</i> in this area is <i>needed</i>, in particular with regard to improving and maintaining high degree of ethics and integrity. 	<ul style="list-style-type: none"> • <i>Start to prepare a comprehensive human resources strategy</i> aiming in particular at addressing ethics and integrity issues in a complex manner (recruitment, training, organization, procedures and control). 	<p>There are specific legal acts (the Law on Public Service, the Law on Revenue Service of the Ministry of finance) which regulate ethics and integrity issues. It is notable that Code of Ethics for customs officers will be adopted according to the Arusha Declaration. Two orders of the Ministry of finance were adopted, which regulate recruitment and training process of probationers in the Customs. The process for elaborating comprehensive human resources strategy has started.</p>
	<ul style="list-style-type: none"> • As from April 2007 the organization and structure of customs service is based on a concept of <i>far reaching integration with tax administration</i>. Such a concept 	<ul style="list-style-type: none"> • <i>Ensure sufficient institutional and operational capacities</i> of the customs service under the recently introduced 	<p>In the period of April 2007 at the time of creation of Revenue Service (which unifies customs and tax authorities) the amount of Customs officers was 885 (regional) and 38</p>

	<p><i>could have negative impact on institutional capacities</i> in either of these areas and the issue of institutional capacities thus needs to be paid specific attention.</p>	<p>system of their deep integration with tax administration.</p>	<p>(central), now this amount increased up to 1020 (regional) and 76 (central). There was established Customs Control Organization Division (initially with 38 officers). The division was restructured as Customs Control Department (with 76officers). This structural unit has solely customs function at central level, which coordinates and supervises daily activities, infrastructure issues, identifies technical, training needs of customs offices at regional and local levels.</p> <p>Functions of the customs are clearly defined within this unified institution of Revenue Service.</p>
	<ul style="list-style-type: none"> • Georgian Customs use an <i>earlier version of</i> the Harmonised Commodity Description and Coding System (<i>HS</i> 2002) and National <i>Commodity Nomenclature</i> based on Common Commodity Nomenclature of CIS countries of 1995. Preparations are underway for switching to HS 2007 and acceding HS Convention. [see also the section on Tariffs and NTBs] 	<ul style="list-style-type: none"> • <i>Adopt the latest version of HS</i> system (HS 2007) and align <i>Combined Nomenclature</i> with the EU's one. 	<p>On 27 March 2009, Georgia deposited with the Secretary General of the World Customs Organization its instrument of accession to the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System). The order of the Minister of Finance on Commodity National Nomenclature of Foreign Economic Activity, following which the National Commodity Nomenclature switched from HS 2002 to HS 2007 was adopted on 9th of September and came into force in November 2009.</p>
	<ul style="list-style-type: none"> • Georgia <i>applies customs fees</i> collected at 2 fixed rates 60 Euros, or 5 Euros for each customs import declaration, depending on the quantity of declared goods. This practice does not comply with the EU practices, and is seen as an additional import duty. 	<ul style="list-style-type: none"> • Focus on <i>gradually improving the situation</i> concerning respectively <u>customs fees</u>, <u>customs valuation</u>, <u>risk management</u>, <u>post clearance</u>, <u>IPR</u> protection in the area of customs role and <u>SPS</u> controls at the border. 	<p>Issues related to the abolition of customs fees are under discussion by GoG. The draft amendment to the Law on Customs Fees was prepared by the Ministry of Finance. According to this draft the fee for amendments into customs declaration will be revoked.</p>

	<ul style="list-style-type: none"> Georgia does not comply with the WTO customs valuation rules (Valuation Code) based on the principle of transaction value. Georgian Customs applies reference/indicative prices for verification of customs value and frequently refers to the 6th method of value verification, thus bypassing methods 1-5 which should be used consecutively. Customs introduced risk management system and risk analysis is based on profiles integrated in the ASYCUDA customs declaration processing IT system. However, the system currently covers only importation, other procedures are yet to be covered. Post clearance control system does not exist in practice, though preparations are underway to establish a legal basis, necessary structures and train officers (the latter is ongoing with the assistance of USAID). 		<p>The declared customs value is defined according to the principles of Agreement on Implementation of Article VII of The General Agreement on Tariffs and Trade 1994. The valuation chapter of Customs Code was completely amended and subsequent implementation provisions were enacted. The amended version of legislation clearly defines procedures for defining and verification.</p> <p>It should be taken into consideration that in 2008 93,25% of goods were declared using the first method. In 2009 (January-August) this figure amounted to 97,85%.</p> <p>From January 1, 2009 risk management system and risk analysis based customs control via ASYCUDA covers import, export, customs warehouse, part of re-export.</p> <p>Post clearance control system is widely implemented. The new chapter XIV1 on post clearance customs audit was introduced in Customs Code (came into force in 2009), The provisions of this chapter (articles 921 - 9212) consist of detailed procedures according to which post clearance customs audit should be implemented. Post clearance customs audit is divided into four subtypes: current control procedures (this type of control should be implemented according to XIV chapter of Tax Code), monitoring of activity (this type of control should be implemented according to XV chapter of Tax Code), documentary customs audit and field customs audit. It should be taken into account that current control procedures,</p>
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			<p>monitoring of activity, and documentary customs audit may be undertaken by a territorial unit, regional centre (tax inspection) of Revenue Service (RS) since January 2009. As a matter of fact numerous audit cases have been undertaken by regional centres. Regarding field customs audit, according to the order No170 of the Minister of Finance only the customs control department of RS has authority to implement this type of customs audit. At this moment two field customs audits were completed, five are ongoing.</p>
	<ul style="list-style-type: none"> • Customs needs substantial improvements in the area of IPR controls (e.g. extensive IPR training, competence to act <i>ex officio</i>) to improve its effectiveness in combating IPR infringements in cross-border movement of goods. [see also the section on IPR] 		<p>According to the law of Georgia on Border Measures Related to Intellectual Property Rights customs have ex-officio power for IPR in relation of IP objects that are registered in a special register. Up to this moment 73 objects of intellectual property are registered in the RS. Based on this there were created risk profiles and they are integrated into ASYCUDA. The information about registered trade-marks and legal proceedings of registration is published on official website of Ministry of Finance. 5 decisions to suspend the movement of goods were taken by customs. Only one case was brought to the court by the trade mark holder. In one case the goods which were detained by customs administration were destructed before the case was brought against court. This was done based on mutual agreement of IPR holder and importer.</p> <p>Extensive trainings are planed on these issues in the framework of WTO TA.</p>
	<ul style="list-style-type: none"> • Contrary to the EU practice the customs service is responsible for SPS controls at the border. For this 		<p>It should be underlined that customs administration had not been responsible for</p>

	<p>purpose, experts from relevant services (phytosanitary and veterinary) were engaged by the customs to carry out controls at the border. However, the <i>customs service's capacities in this area remains very limited and SPS controls at the border are not carried out adequately</i>. [see also the section on SPS]</p>		<p>SPS border control since April of 2007, when Revenue Service of the Ministry of Finance of Georgia (RS) was created. Taking into consideration that RS is integrated institution which competence covers not only Tax, customs issues, but also SPS border control, passport control regarding certain types of passenger, control of weights norms at the border. (for more details see “Sanitary and Phytosanitary (SPS) Measures”)</p>
	<ul style="list-style-type: none"> The <i>transit</i> procedure is in place for internal transit between the points of entry and inland or exit points and Georgia is a member of TIR convention (but not ATA, Istanbul and COTIF). However, Georgia has recently <i>abolished an obligation for guarantees</i> as “cumbersome and time consuming”. 		<p>The reason for abolishment of obligation for guarantees was improvement of customs administration of transit movement within Georgia. There was only one case, when customs authority could not find the truck, which violated transit procedures. Customs Administration of Georgia continues to apply TIR procedures. Customs does not issue paper version of TI, but stamps and defines customs route and timeline of transit movement in TIR Carnet.</p>
	<ul style="list-style-type: none"> Georgia has signed <i>Protocol on Mutual Assistance in Custom Matters with a number of EU Member States, despite of the existence of such a protocol under the current PCA</i> between the EU and Georgia. Any future FTA with the EU will also contain a protocol on mutual assistance in customs matters for all matters of Community competence, which will take over any agreements on these matters with Member States. 		
	<ul style="list-style-type: none"> Georgia plans to open a free industrial zone in the port of Poti. There is specific chapter in the Georgian Customs Code on free industrial zones foreseeing appropriate measures from customs point of view. However, the foreseen tax exemptions from profit taxes for companies established in <i>free industrial zones are not in line with EU and international taxation principles</i> (in particular, the Georgia legislation goes 		<p>There are no tax exemptions for companies established in Free Economic Zone. There is a special taxation regime in the Free Zone, where all the companies are taxed in the same way.</p>

	against the EU Code of Conduct for Business Taxation).		
6. RULES OF ORIGIN (ROO)		KEY PRIORITIES: NONE	
		ADDITIONAL RECOMMENDATIONS:	
	<ul style="list-style-type: none"> • Rules of origin used by the EU in its FTAs are largely already in place in Georgia as they are contained in the Georgia-Turkey FTA. However, their understanding at the time of the fact-finding mission was very shallow and it was impossible to envisage how successfully the relevant provisions of the Georgia-Turkey FTA would be implemented. To this end further information from Georgia is necessary. 	<ul style="list-style-type: none"> • Ensure an adequate understanding of the EU rules of preferential origin among the officials assigned to be in charge of this area during the DCFTA negotiations. 	<p>TAIEX seminar is requested to ensure an adequate understanding of the EU rules of preferential origin among the officials assigned to be in charge of this area during the DCFTA negotiations.</p> <p>Further capacity building as a follow up of the TAIEX seminar will be planed based on identified needs.</p>
<ul style="list-style-type: none"> • Certification of origin: <ul style="list-style-type: none"> - The preferential certificates of origin (certificate A for GSP+ and EUR.1 for the Georgia-Turkey FTA) are currently issued by Ministry of Economic Development (for all products except wine and spirits) and Ministry of Agriculture (for wine and spirits).This is not in line with the normal EU practice where EUR.1 is issued by the customs authorities. The EU expects its FTA partners to follow this approach as well. Currently, however, the Georgian customs service does not have capacity to issue EUR.1 certificates. Therefore, it will be necessary to transfer the competence of issuing EUR.1 to the customs and at the same time build their capacity in this area, including staff transfer from the Ministry of Economic Development and from Ministry of Agriculture where applicable. - In case of doubts on issuing of a preferential certificate Ministry of Economic Development / Ministry of Agriculture may request additional 		<p>For building capacity of customs in issuing EUR 1, other preferential and non-preferential certificates at the first stage (as the first step) the RS (customs administration of Georgia) become as one of issuing authority according to the joint order N890-N1-1/2978 30 December, 2009 of Minister of Finance and Minister of Economic Development. This is so called transitional period when those certificates may be issued also by customs, there will be created electronic common database for registering all relevant data regarding issuance of certificate (application, decision of issuance or non issuance, issuing authority, unique reference number and etc.) Only via this common database will be possible to issue certificates. Certainly certificates' forms will be standardized. Therefore all issuing authorities will be users of this common electronic database. The server will be in the Ministry of Finance, and so network</p>	

	documentary evidence. In these cases, they are also entitled to carry out <i>physical audits</i> , but they do <i>not</i> use this power in practice as they lack the necessary institutional capacities.		administration will be within the competence of the Ministry.
	<ul style="list-style-type: none"> Both <i>issuing of preferential certificates of origin and their verification is done by the same bodies</i> – Ministry of Economic Development and Ministry of Agriculture. Furthermore, both Ministries in principle <i>verify only the validity of stamps</i>, but not the actual production process. 		
	<ul style="list-style-type: none"> The Georgian authorities do <i>not</i> have experts <i>specialising in different processes</i> and do not require that applicants describe full production process. 		
7. SERVICES AND INVESTMENT			
<u>7.1. Right of Establishment</u>		KEY PRIORITIES: NONE	
		ADDITIONAL RECOMMENDATIONS:	
	<ul style="list-style-type: none"> The <i>situation</i> for the establishment of foreign companies <i>seems favourable and non discriminatory</i> at least as far as the legal framework is concerned. <i>However</i>, there still <i>may be some issues to be addressed, namely</i>: 	<ul style="list-style-type: none"> <i>Provide</i> the following <i>information</i>: 	
	<ul style="list-style-type: none"> - According to the legislation, the <i>Georgia National Investment Agency</i> is the ‘one-stop-shop’ for (both local and foreign) investors. However, it is <i>not clear whether</i> in practice the Agency functions as a <i>proper one-stop-shop</i> (only point of contact for the creation of new companies), or its role is limited to signpost the entrepreneurs to the relevant offices in order to get the documents needed to start up a company. 	<ul style="list-style-type: none"> - information on practical implementation of the "one-stop-shop" function of the <i>National Investment Agency</i>; 	Information on practical implementation of the "one-stop-shop" function of the <i>National Investment Agency</i> was provided to EU Commission in the framework of the Subcommittee meeting held on 27-28 May, 2009.

	<ul style="list-style-type: none"> - Through the <i>Law on Licenses and Permits</i>, Georgia has <i>apparently simplified licensing and permitting requirements</i> to ease constraints on business. However, to be able to verify this information and carry out a more detailed assessment of the situation in this area, the Commission services will need to receive the English versions the Law on Licenses and Permits. 	<ul style="list-style-type: none"> - English copy of the <i>Law on Licenses and Permits</i>; 	English copy of the <i>Law on Licenses and Permits</i> was provided to designated contact person in DG Trade on September 8, 2009.
	<ul style="list-style-type: none"> - To be able to finalise the analysis of the situation in the area of establishment, the Commission services will <i>need to receive additional information</i> on respectively the requirements applicable to <i>cross-border providers of services</i> not established in Georgia and the current rights of entry for natural persons for the <i>temporary provision of services</i> in Georgia. 	<ul style="list-style-type: none"> - information on the requirements applicable to <i>cross-border providers of services</i> not established in Georgia; - information on the current rights of entry for natural persons for the <i>temporary provision of services</i> in Georgia. 	Requested information and answers to the questions on cross-border provision of services was provided to designated contact person in DG Trade in the beginning of August, 2009.
<u>7.2. Company Law</u>		KEY PRIORITIES: NONE	
		ADDITIONAL RECOMMENDATIONS:	
	<ul style="list-style-type: none"> • The Law on Entrepreneurs is an important step forward in ensuring <i>conformity of the Georgian company law and corporate governance practices</i> with international and EU standards. However, there is <i>still significant work to do</i> in this respect, in particular: <ul style="list-style-type: none"> - The Law simplifies the registration procedure and provides for more transparency and public accessibility to companies' information. We notably take note that a new online registry has been created and both the number of procedures as well as the registration fee were reduced. However, there is still some grounds for improving the <i>transparency issue</i> and be more in line with EU standards in terms of disclosure requirements (e.g. objects of the company, amount of capital), grounds for nullity, certain rules on publicity of registers (the company may not rely 	<ul style="list-style-type: none"> • Although a number of issues identified in the <i>Report on the Observance of Standards and Codes (ROSC)</i>: Corporate Governance Country Assessment, Georgia (March 2002) of the World Bank were dealt with in the recently adopted Amendments to the Law on Entrepreneurs, Georgia should <i>ensure that all policy recommendations are gradually addressed</i>. This would provide for further conformity of Georgia's company law and corporate governance practices with international and EU standards. <i>Implementation and enforcement</i> should also <i>be improved</i> through enhanced <i>institutional capacity</i> 	<p>Corporate Governance Country Assessment of the World Bank was undertaken in 2002. After 2002, a number of reforms were implemented in this sphere. Most of policy recommendations were implemented and this process is ongoing.</p> <p>The Law on Entrepreneurs was modified and is in conformity with the principles of OECD and the recognized international standards.</p> <p>Information and answers to the questions on company law was provided to designated contact person in DG Trade in the beginning of August, 2009. The information among others included issues related to Corporate governance code.</p>

	<p>upon the published data against third parties before the 16th day following the disclosure, if the third party proves that it was impossible for him/her to get knowledge thereof).</p> <ul style="list-style-type: none"> - The amended Law is not fully in compliance with other EU standards in respect of the formation of <i>public limited liability companies</i> and the maintenance and alteration of their capital (e.g. there is no minimum capital requested for public limited companies, no provisions on maintenance of capital, or concerning mergers (cross border mergers), divisions of public limited liability companies and rules on takeover bids. - According to our information, there is no <i>Corporate Governance Code</i> in Georgia, although there is a 'Georgia Corporate Governance Project' run by the International Finance Cooperation (IFC, belonging to the World Bank Group) to promote best international practices. 	building.	
<u>7.3. Accounting and auditing</u>		<i>KEY PRIORITIES: NONE</i>	
		<i>ADDITIONAL RECOMMENDATIONS:</i>	
	<ul style="list-style-type: none"> • The Georgian side has <i>not provided a requested English translation of the draft law on auditing and accounting</i>, therefore the Commission's services have not been able to carry out a thorough evaluation of the situation in this area. 	<ul style="list-style-type: none"> • <i>Provide an English translation of the draft law on accounting and auditing.</i> 	English translation of the draft Law on Accounting and Auditing was provided to designated contact person in DG Trade on September 8, 2009.
	<ul style="list-style-type: none"> • On the basis of the discussions between the Commission's and Georgia's experts during the fact-finding mission, additional written information provided by the Georgian side after the mission and the information included in the FTA feasibility study, <i>there seems to be the following issues to address:</i> <ul style="list-style-type: none"> - <i>Accounting:</i> Application of <i>International</i> 		Requested information and answers to the questions was provided to designated contact person in DG Trade in the beginning of August, 2009.

	<p><u>Financial Reporting Standards</u> (IFRS) is <u>compulsory for the private sector</u> except of small sized entities and non-commercial legal entities which apply simplified IFRS standards as from 2005. In the EU the use of IFRS is compulsory only for consolidated accounts of listed companies; being quite a burdensome exercise, the other companies have to comply with the requirements of the 4th and the 7th Company Law Directives. Also, it <u>remains to be seen how the IFRS are applied in practice</u> in Georgia and <u>whether there is an enforcement system</u> in place.</p> <ul style="list-style-type: none"> - Auditing: The <u>scope of statutory audits seems not to be sufficient</u>. It seems that external audits are mandatory only for "Commercial banks" and their subsidiaries (therefore e.g insurance companies are not subjects of mandatory external audits unless they are subsidiaries of commercial banks, which is usually the case, but not always). Furthermore, Art 13 in the "amendments and additions to the Law on Entrepreneurs" is <u>not clear on what kind of audits will be mandatory</u>. - Auditing - institutional capacities and enforcement: The <u>role and competences of the "Auditory Council"</u> (under the Parliament of Georgia) are <u>not clear</u> either. It seems that the Council only has competences with regard to the approval of auditors (and this competence is shared with the Professional Body - the Georgian Federation of Professional Accountants and Auditors). However, there is <u>not information regarding oversight</u> (inspections, investigations or system of sanctions and penalties) over these auditors. 		
<p><u>7.4. Anti-Money</u></p>		<p>KEY PRIORITIES: NONE</p>	

<p><u>Laundering</u></p>	<ul style="list-style-type: none"> • Georgian <i>Anti Money Laundering law</i> is based on the <i>recommendations of the Financial Action Task Force (FATF)</i>, but for the time being remains <i>only partially compliant</i> with them. • The <i>Third Directive</i> (2005/60/EC) and the <i>Implementation Directive</i> (2006/70/EC) as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis are <i>not fully implemented</i> in Georgia. • <i>A more effective system of the supervision</i> for the purposes of the Anti-Money Laundering Law is <i>needed</i> especially in areas such as postal services and exchange bureaus. There should be also a general clear power for supervisors to compel documents in all cases. The ongoing reform of the financial sector, namely the recent creation of the Georgian Financial Supervisory Agency, which has the same authority and competencies as the National Bank of Georgia, the Insurance State Supervision Service and the Securities Commission unified under the same body should have a positive impact in this area. • The <i>institutional capacities</i> in this area were improved through establishment of the Financial Monitoring Service and the Special Service on Prevention on Legalisation of Illicit Income, but their <i>further strengthening is necessary</i>. 	<p>ADDITIONAL RECOMMENDATIONS:</p> <ul style="list-style-type: none"> • <i>Continue to approximate</i> the <i>legislation</i> in the area of Anti Money Laundering with the EU <i>acquis</i> and FATF recommendations. Further improve <i>implementation</i> and <i>enforcement</i> and <i>institutional capacity</i> building. 	<p>Georgian Anti-Money Laundering Legislation is based on the recommendations of the Financial Action Task Force and Third Directive (2005/60EC) and gradually implements them. Georgia has been working for the further implementation of the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC).</p> <p>The last evaluation of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures was held in 2006 and the Third Round Detailed Assessment Report was approved by the Committee MONEYVAL at its 22nd Plenary Session in February 2007. The First Progress Report was approved by the Committee MONEYVAL at its 27th Plenary Session in June 2008 and it reflected the progress made by Georgian authority since the country's last evaluation in year 2006.</p> <p>Georgia has continued development and strengthening its AML/CFT system and the next step is a preparation of the draft law of amendments to AML/CFT Law. The general purpose of amendments will be the further implementation of Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC). Inter alia, the draft amendments concern the introduction of the new term of "beneficial owner" and the term "politically exposed person" as both of them are defined in the Third Directive (2005/60/EC).</p> <p>Under the last amendments to AML Law the companies performing money remittance services were added as monitoring entities</p>
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			<p>and later in February 2009, by the Decree of head of FMS of Georgia, was approved “The Regulation on Receiving, Systemizing and Processing the Information by Money Remittance Entity and Forwarding to the Financial Monitoring Service of Georgia”.</p> <p>According to the current legislation, companies which carry out money remittance services should be registered at Financial Supervisory Agency and after at Financial Monitoring Service as monitoring entity. In this case company will be authorized to perform money remittances and its activities will be covered by AML/CFT legislation.</p> <p>According to legislation Customs Administration of Georgia is in charge of regulation of cash movement across the border. In 2008 the declared cash amount in various currency was 18 232 735 GEL. In 2009 the declared cash amount in various currency was 18 481 589 GEL. In 2008 cash amount confiscated by the customs authority due to illicit movement of cash was 125 000 US dollars, 175 805 GEL, in 2009 – 117 050 US dollars, 39 358 GEL..</p>
<u>7.5. Investment Policy and Investment Facilitation</u>		KEY PRIORITIES: NONE	
		ADDITIONAL RECOMMENDATIONS:	
	<ul style="list-style-type: none"> It remains <i>unclear whether Georgia is striking the right balance by largely deregulating in order to attract new investments</i>. Further discussions with the Georgian authorities in charge and a deeper analysis of existing legislation and practice will be needed before making final conclusions. At this stage it seems that e.g discretionary margins for local decision makers (landownership, national security measures) - if abused 	<ul style="list-style-type: none"> Provide detailed information on the current investment regulatory framework (existing legislation, its implementation and enforcement, institutional structures and capacities, including the judiciary), with special emphasis on issues of transparency, predictability, accountability, 	<p>Information on the current investment regulatory framework was provided to the designated person in DG Trade on September 11, 2009.</p>

	<ul style="list-style-type: none"> - could present a problem for business. The enshrinement in the regulatory framework of certain fundamental principles (transparency, predictability, accountability, appropriateness) would most probably help to increase investors' confidence. 	<p>appropriateness, and <i>plans for next steps</i> in this area (if any).</p>	
	<ul style="list-style-type: none"> • Georgia has so far <i>not been able to clarify</i> what national legislation and procedures are in place in the country as regards <i>National Security and Public Order considerations</i>. As national security and public order measures/decisions might be abused and provide potential deviation from the non-discrimination generally guaranteed by the Georgian government to foreign enterprises, it will be necessary to clarify this issue during further contacts with the Georgian authorities in charge. 	<ul style="list-style-type: none"> • <i>Provide detailed information on the existing legislation and procedures</i> concerning National Security and Public Order considerations and <i>plans for next steps</i> in this area (if any). 	<p>The scope of the request is not clear therefore clarifications have been requested from the EU commission.</p>
<u>7.6. Other issues related to services and investment</u>		<i>KEY PRIORITIES: NONE</i>	
		<i>ADDITIONAL RECOMMENDATIONS:</i>	
	<ul style="list-style-type: none"> • <i>Property ownership/rights:</i> <ul style="list-style-type: none"> - As regards protection of property rights <i>in general</i>, there have been <i>many cases of arbitrary deprivation of property by the state</i> in the recent past, and the situation is further aggravated by serious deficiencies of the judiciary system. - Concerning specifically <i>land property</i>, despite the recent successful reform leading to creation of an open and transparent system of land property registration, the <i>authorities still have some 'discretionary powers'</i> in deciding on the offering of land for investment purposes. 	<ul style="list-style-type: none"> • <i>Continue reforms aiming at achieving significant improvement in protection</i> of property rights in Georgia. 	<p>The general Law on the Legalization of the Private Property and the Law on Authorisation of the Property Rights of Natural and Legal Persons Holding Land Plots were adopted by the Parliament of Georgia in June-July, 2007. The Laws facilitate the property legalization process.</p> <p>Property legalisation process was launched in 2007, after adopting the new legislation and is on going. The authorised bodies for the property legalisation are the commissions, established in different municipalities. The commission meetings on the issues of the legalization of land plots and the buildings are regularly held. Every registered request on property legalization is considered by the commission members and if the presented documents prove the actual ownership, the</p>

			legal approval of the property takes place. The sessions of the commission are public and every interested party is able to attend it.
8. INTELLECTUAL PROPERTY RIGHTS (IPR)		KEY PRIORITIES:	
	<ul style="list-style-type: none"> • <i>Overall</i>, Georgia has <i>not yet</i> fulfilled its <i>PCA</i> (Art. 42 and 43) obligation to provide the <i>protection of IPRs at the level similar to that of the Community</i>, which is further emphasized and developed in the <i>ENP Action Plan</i>. The major problem related to IPR protection in Georgia lies in a <i>problematic implementation and weak enforcement</i>, especially in the areas of <i>piracy and counterfeiting</i>. This is a complex issue related most probably mainly to lack of capacity of law-enforcement bodies and judiciary system to deal with IPR infringements. There also seem to be a lack of coordination among the different enforcement agencies. Further studies are necessary to clarify situation in this respect [<i>see also the next two bullet points in this sub-section</i>]. 	<ul style="list-style-type: none"> • Achieve tangible progress in the implementation of the relevant <i>PCA and ENP Action Plan's</i> provisions aiming at <i>significantly improving the implementation and enforcement</i> of the existing IPR legislation, notably as regards fight against <i>piracy and counterfeiting</i>, through in particular, launching a study on piracy and counterfeiting in Georgia and ensuring an effective dialogue with right holders as foreseen in the ENP Action Plan. 	<p>In order to meet the key recommendation of the Assessment to launch a study on piracy and counterfeiting, the GoG asked UNDP office in Georgia (this was previously agreed with DG trade) to undertake and finance such a study.</p> <p>The study on piracy and counterfeiting in Georgia is launched with the support of UNDP. A group of foreign and local independent experts is undertaking the Study. It will be completed in the 1st half of 2010.</p> <p>The purpose of this neutral third-party study is to determine the level of counterfeiting and piracy in the country. In particular the study will estimate the share of counterfeited products on the market and determine most common kinds of counterfeiting and piracy on Georgian market. The study will also enable Georgian side to determine the areas where necessary measures are to be taken (i.e. by the government, donors) in order to improve enforcement of IPR and to minimize share of counterfeited products on the market.</p> <p>The presentation of the draft report “Study on Counterfeiting and Piracy” was held by UNDP representatives and team leader in April 27, 2010. The presentation was attended by EU delegation to Georgia, SIDA,</p>

			<p>Sakpatenti and Prime Minister's Office. The Final version of the report was provided to COM services for comments. COM services sent comments on Study. <u>The Study was finalized taking into account the comments of COM services.</u></p> <p>At the Donor Coordination Roundtable held on January 25, 2010, future needs in IPR area were presented by the Government of Georgia to the donors.</p>
	<ul style="list-style-type: none"> • Problems concerning enforcement of IPRs in Georgia: There are very few reported cases of IPR infringement and very few IPR court cases have taken place or raids have been carried out by the police. Both civil and criminal measures are foreseen in the law, but both actions have to be initiated by right holders, while police or prosecutors have no ex-officio rights. No IPR courts or separate IPR units within the police are established. However, the very low number of raids, court cases or complaints could theoretically also be due to a non-significant market for piracy and counterfeit. There is a lack of sufficient information to draw any definitive conclusions and further <i>studies</i> should be made, in particular a study on piracy and counterfeiting foreseen in the ENP Action Plan. 		<p>The issues related to enforcement of IPR will be discussed by GoG after analyzing the results of the study on piracy and counterfeiting in Georgia.</p>
	<ul style="list-style-type: none"> • The <i>customs lack ex-officio powers for IPR</i> which is a source of serious concern. 		<p>According to law of Georgia on Border Measures Related to Intellectual Property Rights customs have ex-officio power for IPR in relation of IP objects that are registered in special register. Up to this moment 73 objects of intellectual property are registered in RS. Based on this there were created risk profiles and they are integrated into ASYCUDA. The information about registered trade-marks, about legal proceedings of registration is published on official website of Ministry of Finance. 5 decisions to suspend the movement of goods</p>

			<p>were taken by customs. Only one case was brought to the court by the trade mark holder.</p>
		<p>ADDITIONAL RECOMMENDATIONS:</p>	
	<ul style="list-style-type: none"> • Currently the <i>Patent Act contains design protection</i>, but work is in progress to have a separate design law, based on the EU acquis. However, it is not likely that non-registered designs will be covered. 	<ul style="list-style-type: none"> • Accomplish drafting, adopt and start to implement the new separate design law approximated with the EU acquis. 	<p>GoG has drafted the new Law on Design. The draft Law on Design were translated into English and sent to EC services for comments. IPR experts of EC have checked Georgia's drafts carefully and concluded that the draft Law on Design is in conformity with the EU laws to a high degree.</p> <p>At the same time, GoG received recommendations from EC side to introduce some provisions of the EU law in the draft Law on Design. According to the recommendations the draft Law was amended, namely the following provisions were added to the draft Law:</p> <ul style="list-style-type: none"> • Grounds for non-registability • Designs which are discriminatory and/or contradict human dignity • Limitation of rights conferred by the design rights • Exhaustion of rights • The form of protection of unregistered design <p>The draft Law on Design is in compliance with DIRECTIVE 98/71/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 October 1998 on the legal protection of designs.</p> <p>The draft Law on Design is already adopted and will be in force by the end of June</p>

			2010.
	<ul style="list-style-type: none"> • <i>Supplementary protection certificate is currently not covered by the legislation</i>, but a draft law on this issue is in the pipe-line and will be submitted to the parliament for approval shortly. 	<ul style="list-style-type: none"> • <i>Accomplish drafting, adopt and start to implement the new legislation concerning supplementary protection certificate.</i> 	<p>Draft amendments to Patent Law is already adopted and will be in force by the end of June 2010.</p> <p>One of the main amendments to the Patent Law is the extension of 20 years term of protection of the patent by 5 years for pharmaceutical products, with the purpose of harmonization with the EC Regulation 1768/92.</p> <p>The draft amendments to Patent Law were translated into English and sent to EC services for comments. IPR experts of EC have checked Georgia's draft and concluded that the draft amendments to Patent Law of Georgia are in conformity with the EU laws to a high degree.</p>
	<ul style="list-style-type: none"> • <i>Patents – Data protection/data exclusivity</i>: Georgia only protects the confidentiality (non-disclosure) of market authorisation for pharmaceuticals and agrochemicals without any time limits. However, they do not protect applications from a non-reliance perspective. This is a source of concern and needs to be reviewed and further examined with the relevant authorisation agencies. 		<p>Amendments to the Law on Drugs and Pharmaceutical Activities was adopted in the beginning of August and came into force from October 15, 2009, according to which data exclusivity and non-reliance clauses is implemented.</p>
	<ul style="list-style-type: none"> • The <i>system of fees applied in the areas of design and patents does not guarantee non-discriminatory treatment</i>, and Georgia is currently considering replacing it with either a system based on GDP level of the origin of the applicant or various levels depending on the status of the applicant (individuals, SMEs or big enterprises). However, a GDP system of collecting application fees may be incompatible with TRIPS 		<p>Amendments to the system of fees in the areas of designs and patents will be approved together with draft legislation on industrial designs and amendments to patent law. New system of fees will not be based on GDP level of the origin of the applicant and will be in full accordance with TRIPS requirements.</p>

	(discrimination) and e.g. in recent WTO accessions (for instance Ukraine) it was agreed that such systems had to be abolished.		
	<ul style="list-style-type: none"> Georgia would like to obtain more information/training in order to <i>establish best practices for the collecting societies in the area of copyrights</i>. Currently, there is only one existing collecting society in Georgia and the functioning of the collecting societies is not regulated in the law. However, as in EU, some limited rights have to be collected by an organisation. Sakpatenti cooperates with the collecting society and other right holders, but there is no formalised advisory board or working group. 		According to copyright legislation in Georgia it is permitted to establish CMOs for all kinds of owners of copyright and related rights. Governmental organizations are open to give consultations or assist in other ways right holders in order to establish collective management organizations.
	<ul style="list-style-type: none"> According to the Law on Protection of New Varieties of Plants, Distinctness, Uniformity and Stability tests should be carried out by a special accredited body according to the rules set forth by the Ministry of Agriculture on the basis of the UPOV Guidelines. However, the relevant rules have not been promulgated so far. Therefore, <i>plant varieties bred in Georgia cannot be confirmed as Novel (New), Distinct, Uniform and Stable</i>. 		
9. PUBLIC PROCUREMENT		KEY PRIORITIES: NONE	
		ADDITIONAL RECOMMENDATIONS:	
	<ul style="list-style-type: none"> <i>Overall, Georgia still lacks a long-term public procurement strategy.</i> 		The procurement legislation of Georgia has recently undergone fundamental reforms. The amended Law on State Procurement has already been adopted by the Parliament and is force since December 22, 2009.
	<ul style="list-style-type: none"> Although the <i>tender system</i> has become more transparent, <i>circumventions of the procurement regulations still exist as well as instances of corruption</i>. 	<ul style="list-style-type: none"> Intensify efforts to <i>rectify the remaining shortcomings of the tender system</i> in terms of circumventions of the procurement regulations on competitive bidding and instances of corruption. 	The main aim of the amended law is to bring legal and regulatory framework in Public Procurement in line with international best

	<ul style="list-style-type: none"> • Enforcement is rather weak in certain aspects due to insufficient training of officials in charge (including judges) and a low level of awareness of the existing legislation. 	<ul style="list-style-type: none"> • Significantly improve enforcement of the existing public procurement legislation, in particular through increased training of the officials in charge and disseminating of information/awareness campaigns. 	<p>practice. Taking into account the current situation and international practice, it envisages establishment of an e-procurement framework (conduct of a tender process by electronic means). Establishment of a common electronic system of state procurement will: a) decrease the time of procurement procedures; b) increase transparency of procurement procedures; c) increase effectiveness of the monitoring system of the procurement process; d) eliminate problems connected with territorial distance between bidders and suppliers; e) make the information on procurement easily accessible for local as well as foreign suppliers that will increase competitiveness and rational spending of budgetary funds for state procurement.</p> <p>This amended law introduces a number of important innovations in the sphere of state procurement. Namely:</p> <ul style="list-style-type: none"> • According to the amended Law on State Procurement, electronic procurement system will be introduced from March 1, 2010 and subsequently, paper-based procurement procedures will be abolished from September 1, 2010. • Single source procurement as a method of procurement will be abolished. • Electronic state procurement will be carried out through 2 types of procurement procedures: the electronic tender and simplified electronic tender. Both of them are open tendering procedures. • In case of electronic tender, tender commission will publish an announcement about the conduct of the electronic tender and the tender documentation (including the rate
	<ul style="list-style-type: none"> • It would be <i>desirable to further increase the knowledge and understanding of the EU public procurement regulatory framework</i> among the officials responsible for policy making in the area of public procurement. 	<ul style="list-style-type: none"> • Further improve knowledge and understanding of the EU public procurement legislation and practices in general and of the EU procurement rules in particular among the officials responsible for future negotiations and implementation of the DCFTA in the area of public procurement. 	

		<p>of the tender charge) on behalf of the procuring organization by means of unified electronic system.</p> <ul style="list-style-type: none"> • Announcements will be published in Georgian language. Based on the decision of the procuring organization, the announcement can be also published in English language. • In order to increase competitiveness in tendering procedures, the price offered by the supplier shall be published in the unified electronic system. • According to the amendments, Electronic Trading is introduced in the course of which supplier may, within the timeframe established by the legislation, change submitted offer for the purposes of winning in the procurement procedures. However in case of change of the submitted offering the price may not be increased, except for the case when the quantity or volume of the procurement object, or quality is changed by the procuring organization. • The amended Law stipulates the new time-limits for tendering. Namely, term for procurement to be implemented under electronic tender shall not be less than 20 days and in case of simplified electronic tender – no less than 3 days. • Complaints review mechanism will be also changed from March 1, 2010 – the Dispute Review Board will be created, comprising the representatives of State Procurement Agency and non-governmental organizations (they shall have equal representation). The composition and operating regulation of the Board will be defined by secondary legislation.
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10. COMPETITION		KEY PRIORITIES:	
<ul style="list-style-type: none"> Overall, Georgia's current legal and institutional framework does <i>not</i> provide for a <i>solid basis for an effective competition policy</i> and is clearly <i>non-compliant with the EU acquis and international standards</i>, <i>contrary to</i> the relevant provisions of the <i>PCA</i> (Art. 43 and 44) and <i>ENP Action Plan</i>. [for details please see the next three bullet points in this sub-section] 	<ul style="list-style-type: none"> Demonstrate a <i>genuine political commitment to establishing a modern competition policy in line with the EU standards through preparing a comprehensive strategy for this area</i> <u>The following components should be taken into account in this strategy:</u> 	<p>As recommended by the Assessment, GoG has drafted a Comprehensive Strategy in Competition Policy. Inter-Agency Task Force for Coordination of Preparatory Works for the Deep and Comprehensive Free Trade Agreement with the EU has worked on the strategy in coordination with relevant ministries, agencies and interested parties.</p> <p>According to the Strategy, in order to bring the competition legislation in line with international standards, amendments to the Law on Free Trade and Competition should be elaborated, which would include the following definitions, regulations and implementation provisions: abuse of dominant position, concentration regulations, restrictive agreements, concerted practices and decisions by undertakings, state aid, terms of relevant market and block exemptions, institutional provisions aimed at institutional strengthening and independence of the competition authority.</p> <p>The Strategy specifies how and in which manner GoG intends to meet this goal.</p>	
<ul style="list-style-type: none"> There is <i>not an independent competition agency with effective investigative powers</i> in Georgia. The existing Agency for Free Trade and Competition is a structural unit of Ministry of Economic Development, has almost no competences in the area of antitrust, in the area of state aids only issues recommendations (advisory role), but does not perform field inspections, and there are not any legal mechanisms ensuring the enforcement of the Agency's decision. 	<ul style="list-style-type: none"> Undertaking of necessary reforms in order to <i>ensure the independence and effective investigative powers of the Agency</i> for Free Trade and Competition, both in the area of antitrust and state aid. Significant strengthening of the Agency's administrative capacities (notably through additional recruitments and enhanced training) and improvement of its functioning in terms of transparency and efficiency. 	<p>In addition, the Strategy outlines enforcement issues related to both investigative and preventive/punitive powers. Finally, the Strategy provides views on further institutional development of the Competition Authority, by suggesting a higher level of institutional independence.</p> <p>The draft Strategy was approved at the EU</p>	
<ul style="list-style-type: none"> In the area of <i>antitrust</i>, a <i>general competition law does not exist</i> in Georgia: <ul style="list-style-type: none"> The law called <i>Competition Law</i> (enforced by the Agency for Free Trade and Competition) covers anti-competitive acts of public bodies and state aids. The main issues of competition law, such as abuse of the dominant position, concerted practices, restrictive agreements, mergers, publicly owned enterprises, and (to a large extent) monopolies are not addressed 	<ul style="list-style-type: none"> <i>Drafting and adopting of a general competition law</i> in the area of antitrust. <i>Taking of steps to ensure swift implementation of the adopted law</i>, including through adequate institutional and capacity building (see also the previous point on the Agency for Free 		

	<p>in the Competition Law.</p> <ul style="list-style-type: none"> - Some sectors (telecoms, energy & water supply, transport, financial services) seem to have competition provisions in the <i>sectoral laws</i> and sector regulators should be competent for enforcement. As English translations of these laws have not been provided, it has not been possible to verify this information and make a deeper analysis. In any event, however, such an approach is incompatible with the EU standards requiring existence of a general competition law covering all sectors. - Apparently some types of abuse of a dominant position (excessively high prices and predatory prices etc) are criminal offences in the <i>Criminal Code</i>, but an English copy of this code has not been provided by Georgia either. Also, it seems that these provisions have never been applied in practice. A follow-up meeting/exchange of information will be necessary to clarify this issue. 	<p><i>Trade and Competition).</i></p>	<p>Integration Commission on September 8, 2009, and submitted to DG Trade on September 10, 2009. Com Services sent comments on Comprehensive Strategy to Georgian authorities on November 5, 2009. Expert meeting between Commission services and Georgian authorities on Competition issues was held in Brussels, on November 26, 2009. During the meeting, Comprehensive Strategy was discussed by the sides in a detailed manner. Operational conclusions of the Expert Meeting.</p> <p>According to the operational conclusions:</p> <ol style="list-style-type: none"> 1. Georgia will apply “block exemptions” in accordance with the EU acquis. 2. The revised draft Strategy will foresee a competition agency equipped with sufficient independence, resources and investigative power 3. The revised draft Strategy will include an operational programme for its future implementation including a timetable of the main milestones 4. GE authorities will ensure that an EU expert provided through a Community technical assistance instrument will check the revised draft Strategy's compliance with the EU competition legislation and procedures before the revised draft is sent to COM services for follow
		<p>ADDITIONAL RECOMMENDATIONS:</p>	
	<ul style="list-style-type: none"> • On <i>state aid</i>, there is a start, in the form of a law (Competition Law) and an enforcement agency (Agency for Free Trade and Competition). Also, statistics exist, so there is good potential for transparency. However, the law is not based on the wordings and definitions of the EU acquis. Also, (as specified above) the enforcement agency just issues recommendations and the aid grantor takes a final decision about what to do, i.e. that the agency does not have power to prohibit aid. 	<ul style="list-style-type: none"> • Start to prepare a reform of the regulatory framework in the area of state aid in order to approximate it with the EU and international standards. 	

			<p>up comments</p> <p>5. Both sides will treat the process as a matter of priority.</p> <p>The GoG prior to the formal adoption of the Strategy and Operational Programme started the implementation of institutional reform in two stages.</p> <p>At the first stage, respective legal amendments to Georgian Law on Free Trade and Competition for establishment of a competition authority were prepared in January-February, 2010. The essence of the amendments is to establish the new competition authority as an independent legal entity of public law, which is not any more part of the Ministry of Economic Development. Parliament procedures on amendments are completed and Presidential Resolution on establishment of new independent competition authority is issued (February 26, 2010). Statute of newly established CA was adopted. Head and management of CA were appointed.</p> <p>As a result of the first step of the reform in competition area, the following conditions are met:</p> <ul style="list-style-type: none"> • The CA is not in subordination of any governmental institution any more • The CA became legally organized (namely an independent legal entity of public law) in such a way to ensure financial autonomy and decision-making autonomy <p>At the second stage, Georgia will continue to</p>
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		<p>undertake necessary legal and implementation measures in accordance with the Operational Programme to ensure the independence of the CA, significantly strengthen the Agency's administrative capacities, improve its functioning in terms of transparency and efficiency and equip it with adequate powers comparable with those in the EU and the present draft Strategy. Necessary legal drafting has started.</p> <p>As a result of the second step of the reform in competition area, the following conditions will be met:</p> <ul style="list-style-type: none"> • The CA will be independent in decision-making process. Neither Executive Government nor Parliament will be able to interfere with its activities and influence its competition enforcement including decision-making process. The CA decisions can be abolished or changed only by the Court • The CA will be empowered with effective investigative powers • Sustainability of the CA management will be achieved through the fixed terms of management • Georgian Law on Conflict of Interests and Corruption in the Public Sector will apply to the employees of the CA. <p>The draft Comprehensive Strategy was sent to the Swedish expert Mr. Christian Blume prior to his visit. The expert made the revision of the draft Strategy as required by the Operational Conclusions of the Expert</p>
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			<p>Meeting.</p> <p>Three meetings were held on 2-4 March, 2010 in Tbilisi between Mr. Christian Blume and Georgian authorities. Georgian side was presented by the representatives of the Office of Prime Minister and Ministry of Economic Development.</p> <p>The expert made the revision of the draft Strategy as required by the Operational Conclusions of the Expert meeting between Commission services and Georgian authorities on Competition issues held in Brussels, on November 25, 2009.</p> <p>Revised final draft Strategy and Operational Programme were submitted to the EU Integration Commission. The final draft Strategy and Operational Programme were approved by the EU Integration Commission and sent to DG TRADE on March 13, 2010.</p> <p>On Donor Coordination Roundtable held on January 25, 2010, future needs in competition were presented by the Government of Georgia to the donors.</p> <p>It should be mentioned that GoG in cooperation with SIDA and the Embassy of Estonia is designing the technical assistance in competition area. Also, TAIEX Workshop on Competition Policy is planned to be held in November, 2010.</p>
11. SUSTAINABLE DEVELOPMENT		<i>KEY PRIORITIES: NONE</i>	

(SOCIAL AND LABOUR ISSUES; ENVIRONMENT)		ADDITIONAL RECOMMENDATIONS:	
	<ul style="list-style-type: none"> • Social and labour issues: During the fact-finding mission, the Georgian government recognised the <i>need to fully implement the ILO's core conventions</i> (in particular for the purposes of its application for the GSP+ in 2009-2011) and agreed to <i>intensify its recently established dialogue with the ILO</i>. It also expressed willingness to <i>intensify a dialogue with social partners but in an informal way only</i> and without specifying any concrete foreseen steps. <i>No changes of labour legislation were planned</i> at that stage. 	<ul style="list-style-type: none"> • Further intensify the cooperation with the ILO. • In case the ILO confirms its reservations over the shortcomings in the Georgian labour legislation and practices and issues recommendations to the Georgian government in this respect (in particular in its next official report on Georgia envisaged for Summer 2009), <i>effectively implement these recommendations.</i> 	<p>In December 2008, a memorandum was signed between the Ministry of Labour, Health and Social Affairs (MoHLSA), Georgian Trade Union Confederation (GTUC) and the Georgian Employers Association (GEA) that established provisions to start institutionalisation of a social dialogue in Georgia. This process was facilitated by ILO expert consultant who participated in most of the meetings held by the parties and streamlined the process in general.</p> <p>The social partners have been holding sessions regularly since December 2008, at least once a month (in some cases several times a month) to discuss issues concerning the labour legislation and other issues of labour relations.</p> <p>During October 21-22, 2009 a tripartite roundtable was held in Tbilisi, Georgia. The roundtable was held between the ILO delegation, representatives of the Government of Georgia (GoG), the Georgian Trade Unions Confederation (GTUC) and the Georgian Employers Association (GEA).</p> <p>Each party of the roundtable was represented by 6 persons.</p> <p>The following issues of Georgian Legislation were discussed during the roundtable:</p> <ul style="list-style-type: none"> • Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) • Right to Organise and Collective Bargaining Convention, 1949 (No. 98) • Current status of labour legislation in

		<p>Georgia</p> <ul style="list-style-type: none"> • How to promote tripartism in Georgia • Contemporary issues and solutions in the application of C.87 and C.98 in Europe • Building consensus, tripartite discussion <p>The roundtable generated an interesting and useful discussion and it clarified some of the issues raised by the constituents.</p> <p>During the discussion, Minister of Labour, Health and Social Affairs of Georgia indicated, that the GoG pays vital attention to the process of strengthening of the social dialogue formats and would like to further develop and institutionalize tripartite cooperation. The GoG decided to engage more actively in social dialogue with all the interested parties and cooperate with them on the relevant issues.</p> <p>The Minister Labour, Health and Social Affairs underlined, that the need to develop a conciliation and mediation mechanism that would help reduce the incidence of disputes.</p> <p>The parties of the roundtable agreed on the following issues:</p> <ul style="list-style-type: none"> • To continue the enhancement of cooperation between the ILO and GoG. • To strengthen social dialogue within Georgia by continuing social dialogue on labour legislation issues to exchange viewpoints between government, employers and employees. • To establish secretariat for support to effective and productive cooperation between social partners. This issue was also touched upon in during the discussion between the Prime Minister of Georgia and Executive Director of the ILO.
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			<p>the social partners and find commonly acceptable solutions. It should be mentioned, that in May, 2010 secretariat of the Tripartite Commission was established to support the effective and productive cooperation between social partners.</p> <p>For the purposes of rapid response to possible labour disputes and preventive measures of such disputes the parties agreed to create a mediator service. Until this institution is established (ILO has expressed the interest to provide necessary funding) the mediation functions will be incorporated into the Commission.</p> <p>It should be emphasised, that all 8 fundamental conventions are ratified by Georgia.</p> <p>The Government of Georgia carefully studies all ILO requests and observations and sends annual reports without any delay. Accordingly, GoG responses to ILO observations and direct requests have been already sent on 1st September 2009.</p> <p>In June, 2010 the 99th Session of the International Labour Conference was held in Geneva. Georgia's case was discussed at the conference. Minister of Labour, Health and Social Protection participated in the conference. Consequently, conclusions on Georgia's case were adopted.</p> <p>The following issues are reflected in ILC conclusions:</p> <ul style="list-style-type: none"> • Reference is made to companies that had concluded collective agreements with trade unions. • The Committee welcomed the steps taken by the Government of Georgia to institutionalize social dialogue in
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			<p>Georgia and urged the Government to intensify this dialogue.</p> <ul style="list-style-type: none"> • The Committee took note of the establishment of Tripartite Social Partnership Commission. • Issues related to protection against anti-union discrimination and promotion of collective bargaining are to be clarified in next observation of the Committee of Experts. <p>The Government of Georgia will continue to closely cooperate with ILO and address issues reflected in the Conclusions. The Government of Georgia will actively work to further promote constructive social dialogue and discuss labour and social related issues with social partners.</p>
	<ul style="list-style-type: none"> • Environment: The Georgian side deplored <i>limited contacts on this issue with the EU</i>. Georgia would appreciate establishment of a closer dialogue with the Commission's services in charge as well as receiving more of the EU TRTA in this area. 	<ul style="list-style-type: none"> • Intensify contacts with the Commission's services in charge of environmental issues. • Prepare and submit requests for specific EU TRTA projects concerning environmental issues. 	<p>The MoE has used several times the TAIEX programme for arranging conferences in Georgia and study tours in different EU countries;</p> <p>The MoE has submitted to EU delegation for approval the ToR for elaboration of a Twinning project Fiche concerning the development and improvement of waste and chemicals management system in Georgia.</p> <p>Planned activities:</p> <p>The regional project “Waste Governance-ENPI East” in the framework of the ENPI Regional Action Programme is under development. The draft Terms of Reference is prepared and the Ministry of Environment Protection and Natural Resources of Georgia plans to endorse the ToR and submit shortly;</p> <p>The Air Quality Governance project is planned to be included under the Environment</p>

			for the ENPI 2009. The MoE currently is working on development of the proposal of the planed project.
	<ul style="list-style-type: none"> • <i>Sustainable development chapter</i> in an FTA proved to be a <i>new issue</i> for the Georgian authorities. During the fact-finding mission, they enquired about the usual structure and content of such a chapter and expressed interest in receiving further information in this respect. 	<ul style="list-style-type: none"> • <i>Increase the level of knowledge and understanding</i> concerning the sustainable development chapter of a DCFTA (structure and content, EU negotiating practices etc) among the officials in charge. 	The appropriate trainings are planed in the framework of GEPLAC (once its activities are resumed).