

## DEEP AND COMPREHENSIVE FREE TRADE AREAS

### EU-GEORGIA / EU-MOLDOVA / EU-ARMENIA

#### QUESTIONNAIRE

##### **Introduction**

In December 2011, the European Commission was authorised to open negotiations with Georgia and Moldova for a Deep and Comprehensive Free Trade Agreement (DCFTA). In February 2012, the EU decided to launch negotiations with Armenia.

The questionnaire includes fairly detailed questions in order to capture all possible issues related to our trade interests in Georgia, Moldova and Armenia. We realise that this choice may lead to some difficulties in filling in all the details in which case you are invited to focus on the questions which are most relevant for you.

The questionnaire is divided into the following sections:

- A. Trade in Goods
- B. Trade in Services and Establishment
- C. Regulatory Issues (Intellectual Property Rights, Competition, Government Procurement)
- D. Sustainable Development

In addition, where possible, we would appreciate receiving quantification of your interest, prioritisation within sectors and your recommendation for solution where you identify a problem.

The questionnaire has been prepared in order to provide the Commission with information to assist it in establishing priorities and taking decisions throughout the negotiating process. The Commission, subject to the application of the EU's rules on access to documents<sup>1</sup>, will treat the information that you provide as confidential. EU rules on access to documents allow the Commission to withhold access to a document where disclosure would undermine the commercial interests of a natural or legal person or harm the EU's relations with third countries, unless there is an overriding public interest in disclosure.

**We would appreciate a clear identification of the country (Georgia, Moldova or Armenia) you are referring to in your responses.**

Please send your replies by 24 April 2012 to the following e-mail address:

[trade-industry@ec.europa.eu](mailto:trade-industry@ec.europa.eu)

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<sup>1</sup> Regulation No 1049/2001

## **A. TRADE IN GOODS**

The Trade in Goods section of this questionnaire is organised in the following manner:

- 1) General goods-related questions
- 2) Questions related to import duties and rules of origin
- 3) Questions related to export restrictions
- 4) Questions related to import and export procedures (included under a chapeau "trade facilitation")
- 5) Questions related to discrimination and transparency in domestic regulation and taxation
- 6) Questions related to trade defence instruments (safeguards; antidumping; anti-subsidy)
- 7) Questions related to Technical Barriers to Trade (TBT) (industrial goods)
- 8) Questions related to Sanitary and Phytosanitary Measures (SPS) (agricultural goods)

### **1) General goods-related questions**

- a) What are the existing trade flows in the sector(s) of interest to you and what is your potential interest?
- b) If possible, could you specify your overall offensive and defensive interest?

*(Note: "Offensive interest" is understood to mean the interest you may have in gaining access to the market of Georgia/Moldova/Armenia. "Defensive interest", is understood to mean competition - particularly unfair competition - from firms from Georgia/Moldova/Armenia in your domestic market.)*

- c) If applicable, could you explain whether you are interested only in import/export activities or also you have an interest in commercial presence/setting up production facilities?
- d) Could you provide your priorities for your sector (ranked) in the countries concerned? Please indicate what criteria you applied for the determination of priorities, both in terms of import duties as well as non-tariff barriers and measures? Trade volume to these countries? Trade volume to comparable countries? Economic cost of a barrier?
- e) How important is it in your sector to be able to give assurances about the sustainability (especially social and environmental) of conditions throughout the supply chain, and what issues arise in relation to these countries?
- f) Do you support a specific mediation mechanism to deal with Non-Tariff Barriers? If so, please motivate.

### **2) Questions related to import duties and rules of origin**

- a) At present, the countries concerned apply a very liberal tariff regime. For the remaining applicable import duties, do you face any problems? If so, please specify (e.g. too high, additional or specific duties, non-transparent structure)
- b) For products where import duties are still applicable, please describe your interests with respect to the envisaged tariff dismantling for these countries: (1) priorities per tariff line for frontloading (i.e. early tariff elimination); (2) backloading (tariff elimination over a transitional period); and (3) interconnections with other trade areas (e.g. rules of origin; safeguards; removal of non-tariff barriers).
- c) Do you have problems of tariff classification? If so, please specify.
- d) What preferential rules of origin should apply in the sector(s) of your interest in the future FTAs with these countries?

### **3) Questions related to export restrictions and prohibitions**

- a) Does your sector have an interest in purchasing raw materials from these countries? If so, please specify what raw material and describe the economic relevance and any environment issues arising.
- b) At present, the countries concerned do not apply export duties. Does your sector nonetheless face any export restrictions in these countries? If so, which ones (export duty; VAT rebate schemes; licensing; discriminatory promotions schemes)? Please specify relevance of their elimination.

### **4) Trade facilitation (import, export and transit procedures)**

Please respond with yes/no and where possible provide comments to expand on the replies to the following issues:

- a) overall problems with import, export and / or transit procedures and requirements in these countries?
- b) Specific problems related to:
  - transparency/publication of and access to trade regulations
  - documentary requirements
  - data requirements
  - fees and charges
  - inspections and controls during clearance
  - other customs procedures
  - discriminatory treatment
  - lack of uniformity in application of procedures
  - customs valuation
  - co-ordination between different border agencies
  - use or non-use of information technology

- application or non-application of relevant international standards
- procedures for legal recourse/appeal

### **5) Questions related to discrimination and transparency in domestic regulation and taxation**

- a) Is your sector faced with discriminatory measures and practices between domestically produced goods and imported goods into these countries? If so, could you describe the nature of this discrimination (is it based on a legal act or a factual discrimination? Concerns a regular domestic regulation and/or taxation regime?) and provide documentation?
- b) Do you encounter problems due to lack of transparency e.g. lack of publication of legislation or other documents relevant for your trade behaviour? Please also refer to the detailed questions under section C) below regarding transparency.

### **6) Questions on trade defence instruments (anti-dumping, anti-subsidy and safeguards)**

The countries concerned only exceptionally made use of trade-defence instruments against the EU in the past (only two safeguard measures in the last 10 years, not targeting directly the EU). Do you have any specific experience in this regard, nonetheless?

### **7) Technical Barriers to Trade**

*Technical Barriers to Trade (TBT) refers to conformity assessment systems, technical regulations, standards, testing and certification procedures.*

Please respond with yes/no, indicating the country you are referring to, and where possible provide comments to expand on the replies to the following issues. Comments are particularly welcome if industry considers that some or any of the areas should take priority in the TBT discussions.

- a) Are TBT a problem in exporting your products?
- b) If you have encountered TBT problems with these countries can these be explained as being specific (specific "cases", i.e. specific obstacles arising from a specific rule for a specific product) and/or more of a systemic nature (anything that would qualify as a systemic obstacle related to technical regulations in general or across broad product boundaries).
- c) Does your sector follow legislative developments in the TBT area? If so, do these countries have a public comments procedure for proposed technical measures, to which industry can submit comments?
- d) Do importers (or domestic industry of these countries) have other opportunities to submit comments during the drafting of new technical measures, before the proposal is notified to WTO Members?
- e) In your experience, are comments made by stakeholders taken into account?
- f) Based on the TBT Agreement do the following issues pose particular problems with regard to export?
  - transparency in the drafting procedure (of new measures)
  - poor alignment to international standards

- short implementation periods
- discriminatory treatment
- labelling
- standards (e.g. burdensome, unnecessary)
- regulations (e.g. burdensome, unnecessary)
- conformity assessment (e.g. burdensome, unnecessary)
- proportionality
- documentation required (e.g. burdensome, unnecessary)

g) In your experience, do you find yourself competing with non-EU industrial products which have entered the local market without any further conformity assessment procedure?

h) Are you aware of any situations where the production of industrial products is carried-out directly by a government entity?

i) In the sectors of industrial goods where you are active, are Soviet-era (e.g. GOST) standards still in force and applied?

## **8) Sanitary and Phytosanitary Measures (Agricultural products)**

*Sanitary and Phytosanitary Measures apply in order to protect human, animal, and plant health.*

Please answer the following questions, specifying the country you refer to. Your answers to specific product questions (a) through (e) will be taken as an indication of interest that might change over time.

(a) List the agriculture products (these include **animals and animal products, plants and plant products or composite products**) you are currently exporting to these countries.

(b) List the fish and fishery products that you are currently exporting to Georgia and/or Moldova.

(c) **List the agriculture products** that you may be potentially interested to export in future to these countries (regardless of whether exports are not currently taking place or have never taken place in the past).

(d) **List the fish and fishery products** that you may be interested in exporting in the future to these countries.

(e) Please specify the major **Sanitary and Phytosanitary Measures (SPS) barriers** you have encountered in the past (or may potentially encounter) when trying to export agricultural products into these countries?

## **B. TRADE IN SERVICES AND INVESTMENT**

a) What are the main barriers that your sector encounters in cross-border services trade?

- b) What are the main barriers that your sector encounters in establishing a commercial presence in the primary, secondary or tertiary sector in these countries?
- c) What are the main barriers that your sector encounters with regard to the temporary movement of natural persons for business purposes in these countries?
- d) Do you observe any self-imposed constraints relating to environmental and social aspects of sustainable development, in the context of establishment or services trade, which it would be to your advantage to see generalised or codified in these countries? And if so, which?
- e) Do you encounter problems due to lack of transparency e.g. lack of publication of legislation or other documents relevant for your trade behaviour? Please also refer to the detailed questions under section C) below regarding transparency.

## **C. REGULATORY ISSUES**

**GENERAL:** To the extent applicable, please also reflect on problems you face due to lack of transparency like lack of publication of legislation or other documents relevant for your trade behaviour, or absence of transition periods for entry into force of legislation, absence of consultation mechanisms with the Government, inadequate/unclear appeal procedures for administration of trade-related procedures, etc. Please specify any shortcomings, which you identify.

Where transparency is of a particular concern in a specific field (e.g. concerning technical barriers to trade – point A) 7 above, sanitary and phytosanitary measures – point A) 8 above, or specific regulatory areas below), please specify this area. Where available, please identify best practices (like existing information and transparency mechanisms preferably in the respective partner countries) that could serve as reference or starting point.

### **1) INTELLECTUAL PROPERTY**

1. Are you satisfied with the current conditions of protection and enforcement of intellectual property rights (IPR) in the country? Please explain briefly nature/scope of problem, if any?

2. Is an adequate and effective protection and enforcement of IPR in the country essential for the prosecution of your trading activities there?

3. Please indicate whether you consider the intellectual property issues as priorities:

- (a) Copyright and related rights
- (b) Trademarks
- (c) Designs
- (d) Patents
- (e) Data protection
- (f) Plant variety
- (g) Enforcement

4. Please indicate one particular aspect of intellectual property protection or enforcement that you would wish to see addressed in a trade agreement.

## **2) COMPETITION POLICY**

a) Have you encountered any anti-competitive practices in these markets (cartels, abuse of dominant position, vertical or horizontal restrictions of competition) that are harming your business? If yes, describe briefly the nature of the practices and the problems encountered.

b) Have you brought these problems to the attention of the relevant authority? If yes, what has been their response/follow up and how have decisions been enforced?

c) Government subsidies to imported products into the EU can be dealt with by trade defence instruments (countervailing measures- Question 6). However, subsidies may have trade effects outside the EU which cannot be addressed by such measures. Are you aware of instances where government subsidies or state aids to firms in the countries concerned have made it more difficult for you to compete, both in their domestic market and in export markets? If so, please describe the nature and the subsidies involved (e.g. export rebates, tax/duty exemptions, below-market loans) and give an estimate of their amount. What steps have you taken to raise this matter, either in the country concerned or with the appropriate authorities in the EU?

## **3) GOVERNMENT PROCUREMENT**

Please respond with yes/no and where possible provide comments to expand on the replies to the following issues.

a) Are you satisfied with the current conditions of access to the national procurement market?

b) Please indicate whether you consider the following possible elements of a procurement chapter as a priority:

(1) Transparency in the tendering process

(2) Easy access to the qualification system

(3) Use of international rather than local technical standards

(4) Effective review mechanisms including the possibility to obtain interim measures

(5) A single point of entry giving an overview of, and access to, all relevant procurement opportunities in a given jurisdiction

(6) National and MFN treatment

c) Please indicate which key sectors and procuring entities are priorities for EU suppliers.

d) Please indicate the key regulatory and market access obstacles faced by EU suppliers when tendering for public contracts. Please specify per country at what level (central, regional and/or sub-federal).

## **D. SUSTAINABLE DEVELOPMENT**

### **1) ENVIRONMENT**

a) What are the main environmentally-related issues that your sector encounters in cross border trade of goods and services with these countries?

- b) Are you satisfied with the current level of implementation of environmental legislation, including on fisheries?
- c) Please indicate whether you consider the following possible elements of an environment chapter as a priority:
  - (1) Membership of multilateral environmental agreements, including on fisheries, or in Regional Fisheries Management Organisations?
  - (2) Effective enforcement of domestic legislation
  - (3) Effective implementation of international environmental agreements
- d) What provisions in a trade agreement would you consider conducive to better local compliance with environmental legislation?

2) **SOCIAL/LABOUR**

- a) What are the main social/labour-related issues that your sector encounters in cross-border trade of goods and services with these countries?
- b) Are you satisfied with the current level of implementation of social/labour-related legislation?
- c) Please indicate whether you consider the following possible elements of a social/labour chapter as a priority:
  - (1) Signature of ILO Conventions on core labour standards
  - (2) effective enforcement of domestic legislation
  - (3) effective enforcement of ILO core labour standards
- d) What provisions in a trade agreement would you consider conducive to better local compliance with social/labour legislation?