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ISSUES OF FREE COMPETITION AND TRADE IN GEORGIA-EU RELATIONS

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Introduction

In June 2014 European Union (EU) and Georgia signed Association Agreement[1]. Deep and Comprehensive Free Trade Agreement is an important part of this agreement, which is considered as a main economic benefit for Georgia achieved as a result of Georgia-EU relations. According to general expectation, formation of free trade space with EU will allow Georgian companies to obtain access to one of the largest markets in the world - EU market. This will be helpful for increasing of competition, implementation of higher standards of service supply and production of goods. Abovementioned process is staged one, implementation of which, with the help of EU, is dependent on the results of reforms in certain spheres. For the support of reforms Georgia will receive 335-410 million Euros from EU in 2014-2017[2].

10th chapter of the Association Agreement between Georgia and EU is about issues of free competition, particularly, articles 203-334. These issues are actual for European integration of Georgia, as well as for the formation of long-term economic competitiveness of Georgian economy.

As it is known, creation of competitive market environment in country and its protection is one of the most important functions among the state functions in any democratic system. State interference and involvement in the protection of competition is justified and this situation is known under the names "market fiasco" and "market failure" when free market itself may not be able to ensure optimal balanced result for the society. Market deals from the

[1] ASSOCIATION AGREEMENT between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part. Source: http://eeas.europa.eu/georgia/pdf/eu-ge_aa-dcfta_en.pdf

[2] http://eeas.europa.eu/georgia/index_en.htm

perspective of social well-being are especially effective only in case of existed competition between suppliers and customers. I.e. when not one of the suppliers or customers can influence market prices for the long period of time. Everybody agrees about necessity of competition, although opinions about ways and methods of competition regulation are different.

Modern society, including extreme supporters of maximal liberalism, agrees on positive sides of free competition and restriction of monopolies, but efficiency of implemented policy is disputable, because of dynamic nature of economy. Substance of the issue is following: because private sector of economy is more rapidly changing than changes in state policy and structures, how much effective are policy instruments used by state? Whether these instruments are increasing efficiency of market or it is mostly bureaucratic mechanism with minor results? Generally speaking, most important and main instruments of competition policy are prohibition of cartels, punishment of unfair usage of market power and control of companies' mergers. These instruments are acting accompanied by general rules of competition policy, as well as by transparency of market and measures of protection from very fast forgery of new products. Abovementioned is relatively general list, and legislative mechanisms of their practical realization are different from country to country. Exactly characteristics of specific features of regulation define creation of competitive environment by the state in particular country and efficiency of its protection.

State efforts towards creation of competitive environment are more effective when there is unified practice of competition regulation with regard to countries' foreign trade partners or in the scale of whole regional economy. In this regard EU is offering interesting experience where unified practice exists with respect to state approaches to competition regulation, except concrete issues which are in the competence of national states. At the same time, it is important that EU is setting certain demands from EU membership candidates. Georgia is also situated in the frameworks of such approach. This country, which signed Association Agreement with EU in July 2014 (full name: Association Agreement between the European Union and the European Atomic Energy Community and their member states, of the one part, and Georgia, of the other part.), thus took certain obligations in the direction of competition regulation. As internal production of the country, produced in competitive, as we can expect, markets is circulating in foreign trade channels, therefore, Association Agreement with EU also envisages issues of foreign trading.

Experience shows that presence of monopolies often causes loss of dynamics of economic development and stagnation, which finally results in decrease of public well-being and increase of impoverishment. Therefore, it is important to analyze situation in Georgia in this regard, also, carrying out comparative analysis of that correspondence which exists between the practices of Georgia and EU.

Given analytical research analyzes issues of free competition and trade in Georgia-EU relations. Initially, instruments of competition regulation and theoretical approaches of economical policy are generally considered. In the second part, national institutional frameworks of competition regulation in Georgia is analyzed, and the last part is dedicated to the analysis of obligations taken by Georgia in Association Agreement with EU, also to the analysis of current trade relations between Georgia and EU, for the purpose to find out those starting conditions which existed at the moment of signing of Association Agreement and what results we should expect from the development of economic relations. The research also analyzes Poland's experience as of the member of EU, in reforming of competition regulation policy. At the end of the article main conclusions and recommendations are given which summarize results of analysis and main findings given in the beginning of the research.

Theoretical Basis of Competition Policy

There are several theoretical approaches which estimate degree of market monopolization by using certain methodology[3]. Evolution of theories about competition actually occurred subsequent to critical remarks expressed in regard to them. From the list of current theories about competition, one of the most common models is a model of Workable Competition which was developed by John Clark (1940). The concept of *Workable Competition* follows from further development of neoclassical theory of price and postulates of dynamic competition theory[4]. Estimation of competition and actual market conditions, usually, is done in the following way: structure - behavior - result method. This approach assumes direct

[3]For more detailed review see: Lefteris Tsoulfidis Department of Economics, University of Macedonia, Classical vs. Neoclassical Conceptions of Competition, Lefteris Tsoulfidis, 2011. The Economics of Competition Policy: Recent Developments and Cautionary Notes in Antitrust and Regulation, Timothy J. Brennan Discussion Paper 00-07 January 2000, Resources for the Future, Washington, DC.

[4] Rainer Klump Wirtschaftspolitik: Instrumente, Ziele und Institutionen (Pearson Studium - Economic VWL) Gebundene Ausgabe, Pearson Studium 2006, seite 98

influence of market structure on market behavior, which, in its turn, is directly reflected in market results.

- ✓ ***Criteria of market structures*** include those market values on which individual entrepreneurs cannot exercise decisive influence in the short period of time. These values include, primarily, number, scale and market share of market participants, also, conditions of quality of market transparency and restrictions associated with market entry.
- ✓ ***Criteria of market behavior*** include strategic values of entrepreneurs involved in the competition, i.e. instruments of policy regarding to product and number and innovative activities where the influence of market structure is very high, for the selection and dosage of abovementioned instruments.
- ✓ And finally, measurement of ***market results*** as a result of market behavior, using data about price, costs, profit, pace of innovations or market security.

According to the Workable Competition Model, by means of criteria existing for market structure, market behavior and market results, empiric tests should define in certain cases, how inconsistently high is the profit of enterprise in the market, how much insufficiently can be considered security of market and how low is the pace of innovation implementation.

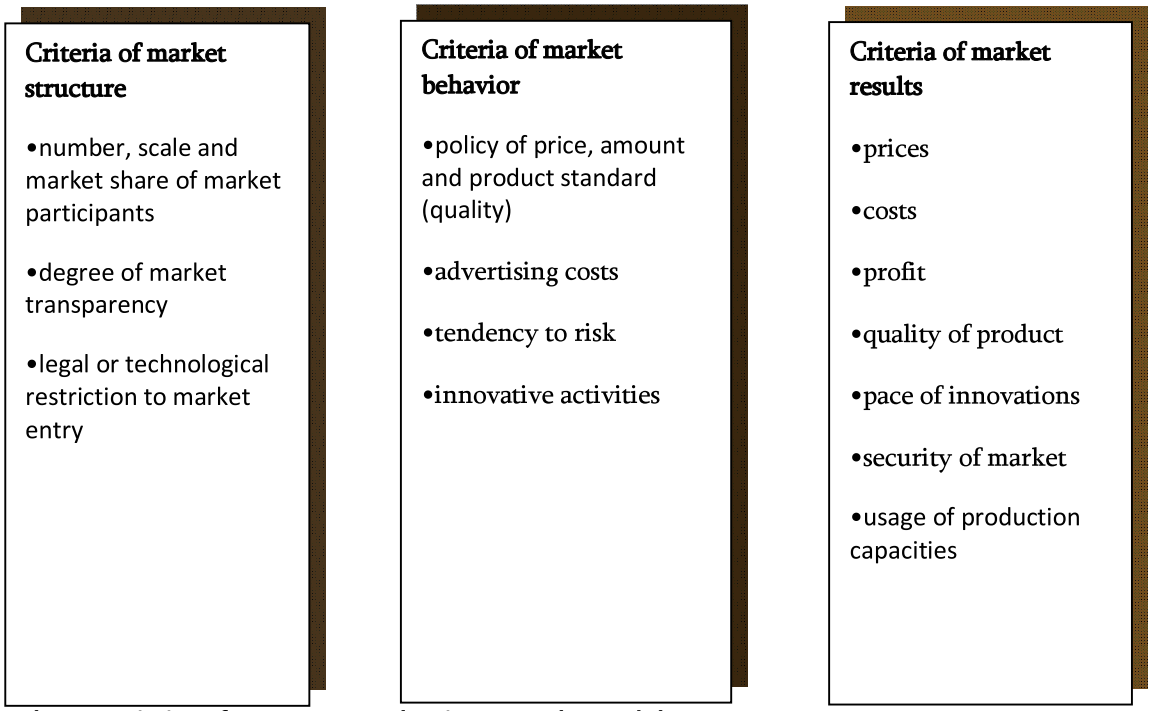

Figure 1: characteristics of Structure - Behavior - Result model

If on the basis of abovementioned tests it will be determined that important functions of competition are not working, market interventions corresponding to the competition policy will be necessary.

Also, there are elaboorated indexes for estimation of possible monopolization of market on the basis of which conclusions are obtained about conditions of certain market. Especially, Concentration Ratios (CR) and Herfindahl-Hirschman Index (HHI) should be noted. These values are calculated using the data of goods sales or supplies, for the defined period of time. At the same time, Concentration Ratios have important limitation. Particularly, they do not take into account the difference between industries where in one of them single company is dominating while in another - several large companies more or less equally hold the market. Herfindahl-Hirschman Index is more adequate characteristic of the level of monopolization because it takes into account total number of companies active in the industry and their comparative sizes. HHI is calculated as the sum of squares of market percentage shares of economic agents active in corresponding goods market. Shares itself are calculated on the basis of production volumes, sales volumes, capacity or other indicators of economic activity[5].

No doubt that large number of assessment criteria and uncertainty of desired market conditions which should be achieved through the competition policy, are a weakness of Structure-Behavior-Result method. Considering the dynamics of all competition processes, certainly it would be difficult to define it in the form of single warning recommendation. Attempt of more accurate definition of competition policy model is associated with Erhard Kantzenbach (1967) and his concept about Optimal Competition Intensity. For obtaining desired market result, he, in the first place, considered management of production factors in their most productive usage, rapid implementation of innovations associated with product and methods and flexible adaptation of production to the market conditions.

Criticism towards Workable Competition Model is mainly directed, in one hand, against dependent, markedly one-sided causal connection between market structure, market behavior and market results. It is possible that usage of price policy instruments purpose of which is to press competitors, may imply saturation of market structure by market behavior. Coordination

[5]Shalva Gogiashsvili, Economic Policy of Competition and Legislative Practice in Georgia, Tbilisi, 2009. p. 48

of price policy, considering high profits of market participant, on the contrary, causes reverse reaction on market behavior from the side of market results. On the other hand, uncertainty of assessment criteria for workable competition will cause large-scale interference of competition policy in market processes which, in total, will be the reason of eventual paralysis of dynamic competition.

Market imperfection caused by technological external factors would be completely avoided if there are clearly defined rules of legal responsibility in case if there is impact on third parties activities exercised by own actions. For example, legal responsibility, widespread and executed in any given time, would rid us of negative effects associated with exploitation of natural resources, and it would be possible to develop basics of timely halting of damage infliction to the ecology. During the formulation of legal responsibility two different principles are distinguished:

- ✓ *in case of a threat or danger, the principle of legal responsibility* is based on the universal obligation to compensate all damages inflicted, and therefore, increases the motivation for timely avoiding the damage among persons causing such damage.
- ✓ *in case of committing crime or having indebtedness, the principle of legal responsibility* envisages obligation to compensate damage only in case of damage inflicted knowingly or as a result of negligence and, therefore, creates less motivation for timely avoiding the damage.

Antitrust legislation usually includes three main measures/procedures for the regulation of monopolistic activity and unfair competition: restricting, warning and halting[6]. If it is not possible to submit claim against person or entity inflicting damage, it doesn't mean that overcoming of problem arisen as a result of external effects is not possible at the level of personal relationship. As was shown by Ronald Coase (1960) effective internalization of external effects, by the solely interpersonal negotiations, is not dependent on distribution of property and consumption right. The only precondition is that justice should be unambiguously brought to the party suffered as well as to the one that inflicted damage, and the fact is that it is not associated with any costs.

[6]Shalva Gogiashsvili, Economic Policy of Competition and Legislative Practice in Georgia, Tbilisi, 2009

Instruments of competition policy which facilitate to the creation of competition and its preservation are divided into 6 groups. By the elaboration of *rules of competition policy,* formation of those frameworks is carried out according to which processes of competition are implemented in the economy. This first group of measures of competition policy includes legislation provisions prohibiting unfair and immoral behavior of market participants. Second group is consists of *instruments eradicating non-arbitrary restriction of competition.* This includes measures facilitating to the increase of market transparency and supportive to small and medium enterprises. Their purpose is to balance defects of competition which are not related to the deliberate discrimination of certain market participant from the side of another participant or institution. In contrast of this, third group of measures, particularly, *competition policy instruments in the form of restrictions of competition spontaneously established by state*, initially creates conditions favorable for liquidation of rivals or impeding them. No doubt that the core of competition policy strategy consists of three groups of instruments purpose of which is to liquidate spontaneously created restrictions of competition. Instruments of cartel policy attempt to thwart a deal of two or more entrepreneurs when cancellation of competition is carried out using the ballot for one or more acting business parameters. Mentioned instruments are related to thetotal prohibition of cartels, as well as to the cancellation of market entry limitation, which, in its turn, simplifies emergence of new competitors and, accordingly, complicates process of making a monopolistic deals.

Control instruments of Antitrust Office have a purpose to prevent unfair usage of dominant position by the certain enterprise, or, in case of cartel agreements, by the whole group of entrepreneurs. Along with setting criteria for confirmation of fact that dominant position exists on the market, special importance is attached to the prohibition of price discrimination and realization of boycott in regard to supplies for certain clients.

And finally, instruments of *merger control (Antitrust Control)* should prevent the situation that large associations created by the implementation of merger control agreements and share participation in capital, did not produce limitations for competition. Except direct measures impeding merger of enterprises, it is possible to activate criteria for determining of dominant position on the market and unfair usage of it.

Specialized institutions exist on theoretical basis in all developed countries of world, obligation of which is to ensure competitive environment in a national economy. For example,

Federal Trade Commission in the US, Federal Cartel Office in Germany or European Commission in the EU are such institutions. They have an authority to block merger or acquisition if there is a danger of monopoly creation. These institutions can also penalize companies which are misusing their dominant position on the market. For example, European Commission (which is conducting policy of international scale) blocked several merger operations (Alcan-Alusuisse-Pechiney in 2000; GE-Honeywell in 2001) because these mergers were considered dangerous for competition. The Commission also penalized those companies behavior of which was found as impeding competition. In 2004 Microsoft was fined by 497 millions of Euros, for misusing its grip on market in the EU[7].

Compared to international experience, competition policy and especially, its institutional mechanisms are at lower level of development in Georgia, which is understandable in conditions of transitional economy. In this regard it is important, first of all, to ensure the existence of appropriate legislative basis for competition regulation, and, on the other hand, existence of appropriate institutions which would ensure implementation of law and conduction of flexible and effective policy. In the subparagraph below we will consider exactly institutional mechanisms of competition regulation in Georgia.

Regulation of Competition - National Institutional Mechanism in Georgia

State institutions have a decisive role in functioning of main stimulation mechanism for proper performance of market economy - competition order. Essentially, competition order is the main component of economic system. In this regard, formation of institutional mechanisms and legislative base in Georgia started after the gaining of state independency.

However, it should be noted that despite of broad coverage of separate components of economic activity by the Civil Code, regulation of competition by it is historically limited and insufficient. This, in its turn, led to the separate formation of the legislative base for competition law which is based on the arguments of economic expediency. If we consider the history of competition policy until today, we will come to conclusion that the policy was

[7]Economic Policy Theory and Practice, Agnès Bénassy-Quéré, Benoît Cœuré, Pierre Jacquet, and Jean Pisani-Ferry Oxford University Press, 2010 p 26

inconsistent for many years and had almost nothing with the primacy of economic efficiency. Often it was turning into unnecessary bureaucratic mechanism and afterwards a regulation was reduced to the minimal level, according to opinions favoring maximal market liberalization. From 2012 approaches to competition policy have changed, reflecting widespread beliefs in society that there were high levels of monopolizationin certain industries.

From the day of independence gaining until today, we should name following legislative acts adopted in the sphere of competition policy:

In the law from 1996 "On Monopolistic Activity and Competition", main directions of economic competition policy, mechanism of formation and protection of competitive environment were defined, which ensured consideration of interests and rights of broad circle of customers at a declaration level. The law had some role in implementation of economic demonopolization in parallel with privatization process.

With the law from 2005 "On Free Trade and Competition" the development of new direction of economic policystarted - liberalization of market. As a result, functions and powers of the Competition Agency were reduced. With implemented changes Georgia had distanced itself from European legislation. The Competition Agency had no more ability to carry out analyze of goods market according to legislation, to determine the level of market concentration and monopolization without which it is completely impossible not only to prohibit monopolistic activities but even serious reasoning on this subject.

According to the law from 2005, private business players in fact were dropped out from the list of objects of competition policy. The institution with limited authority, LEPL "Competition and State Procurement Agency" was tasked to ensure competitive environment mainly in the sphere of state procurement. Particularly, goals and functions of the Agency were defined in the following way:

- ✓ Support of free enterprise and competition development;
- ✓ For the purpose of market liberalization, prevention of (from the side of state and/or local authorities) the existence of administrative, legal and discriminative obstacles to the market entry;
- ✓ Maximum amount of openness, transparency, objectivity and non-discriminative approach during decision making;
- ✓ Prevention of state aid programs and earmarked programs impeding competition;

- ✓ Monitoring and supervising of state procurement procedureslegality;
- ✓ Protection of principles of openness, transparency, justice and non-discriminative approach during executing state procurement, ensuring precise implementation of legal procedures and accounting, healthy competition and the opportunity to make rational and free choice for the participants of state procurement;
- ✓ Ensuring proper functioning of unified electronic system for state procurement and increase confidence in it among the society strata;
- ✓ Improvement of regulating legislation related to the competition and state procurement, ensuring its compliance to the internationally recognized standards and best practice.

Second chapter of the Law from 2005 which is dedicated to the subject of prohibition of restrictions on competition, sets certain limits for state and local authorities but doesn't consider at all the possibility of competition restriction by the activities of some economic agent and mechanism of prohibition of this (or reaction to this situation). Thus, the list of "Regulated Economic Spheres" indicated in the Law is unclear, because it does not include subjects of market monopoly.

In parallel with negative factor of refusal from private sector regulation, the Law from 2005 exerted strong influence on the increase of competition in public sector. Particularly, important success was achieved in regard to ensuring the existence of openness and competition in state procurement which was reflected in reports and assessments of international organizations[8]. Beyond this important achievement, the private sector was left without regulation where detection of possible facts of market monopolization and appropriate reaction had not been carried out[9]. Increase of state procurement transparency resulted in important consequences in Georgian economy, particularly, played important role in overcoming of informational asymmetry. According to the theories of LaffontandTiro (1986) and Tirole (2000), it is possible to arrange contracts which will stimulate private agents to give publicity to

[8] For additional information see: Dzagania M. Kikvadze O., Reform of State Procurement in Georgia, p. 103-119in the publication: European Integration Issues - Visegrad Coutries and South Caucasus. : [collection of articles] / Caucasian Institute for Economic and Social Researches; worked on the publication: Temur Tordinava, Elguja Khokrishvili, Giorgi Kuparadze [al.]Tbilisi, 2013. (On Georgian and English)
http://dspace.nplg.gov.ge/bitstream/1234/26460/1/EvroIntegraciebis_Sakitxebi.pdf)

[9] See Khaduri at al. Development of Economic Regulatory Institutions in Georgia. Economic Policy Research Center. Tbilisi, 2009.

unknown production costs. In this regard, openness of state procurement increased the number of companies operating on the market, especially among small and medium enterprises.

Starting from 2014, state policy has become more active in the direction of competition. In the "Strategy 2020 for social and economic development of Georgia"[10] adopted by the government of Georgia, which is a main conceptual document of economic policy of the country, priorities of competition policy are clearly emphasized. If we summarize approaches given in this document, we may say that policy planning is based on the analysis of previous period and possible responds to the future challenges. For the period before 2012, the weakness of competition environment regulation is considered main reason for the slowdown of innovations in production industry. According to the government statement, there will be transition from the non-existent practice of regulation to the building of institutional mechanisms for competition regulation. According to the same document, implementation of institutional mechanisms will be carried out in compliance with the best European practice and the Deep and Comprehensive Free Trade Agreement (DCFTA) between Georgia and EU.

By the government decree №288 about the approval of provision of LEPL "Competition Agency", its authorities were broadened. Main objectives for the Agency were defined as such: implementation of competition policy, creation of favorable conditions for competition development in Georgia and their protection and, for this purpose, prevention, detection and eradication of anti-competitve agreements and activities of all types. Wider discretion of the Agency was added to the Law: article 3. Functions and powers of the Agency: implementation of Agency decisions and other legal acts are mandatory for state authorities, autonomous republics authorities, local self-governance bodies and economic agents. From the increased powers of the Agency following should be noted: 1. On the investigation stage of the case, invite corresponding persons for obtaining explanations from them and arrange meetings with them; 2. According to rules and conditions set by legislation, issue conclusion about competitive effect of enterprises concentration; 3. For the purpose of investigation, carry out in place checks of involved economic agent, with the consent of court; 4. Apply to the court with reasonable motion to stop some action of economic agent temporally, until final decision of the Agency; 5.

[10] http://www.mof.ge/images/File/saqartvelo_2020.pdf, date of last visit: 2.09.2015

In case of expediency, carry out research for determining scales of hidden economy, for the purpose of defining market share causing dominant position on the corresponding market;

International researches and ratings are interesting source for the estimation of efficiency of country's competition policy and degree of market monopolization. Currently, several international surveys are published, among them the Global Competitiveness Report of World Economic Forum is the most reliable source. World Economic Forum is collecting data about ratings of countries from 2005. According to the explanation from authors of the study, competitiveness of certain country is defined by the complex of those institutions, effective policy and other factors, which determine production volumes in that country[11]. In its turn, the latter directly determines return on investment as a result of investing in a given country. Competitiveness Index includes static and dynamic components and is based on 12 main determinants of competitiveness: institutions, macroeconomic environment, public health and system of unofficial education and trainings, efficiency of goods markets, efficiency of labor markets, development of financial markets, level of technologies' development, size of market, level of business sector development, existence of innovation. World Economic Forum divides all countries into three main groups in accordance with abovementioned characteristics: countries having economies with production factors - countries with effective economies - countries based on innovation economies. Source of data, for the estimation of mentioned components, is presented by IMF, World Bank, also respective data from statistical offices of certain states is used. „Executive Opinion Survey“ of top-managers and directors of companies is also an important source for the data.

From the components of Index the 6th component - efficiency of goods markets - is interesting for us which, in its turn, combines: intensity of local competition, volume of market domination, efficiency of antitrust policy. etc. (see table 1 below). If we look at the estimation of the efficiency of antitrust policy, in this sense Georgia has important results of progress, from 2009 to 2015. These results should be attributed to the institutional reform of the national mechanisms of competition regulation described above. However, volume of market monopolization and domination of certain entities on the market is still an important problem. This latter is relatively long-run process within the frameworks of which, on one hand, those

[11] The Global Competitiveness Report2014–2015, World Economic Forum, pp 3-83
http://www.weforum.org/reports/global-competitiveness-report-2014-2015

subjects who already executed important investments should not encounter obstacles, and on the other hand, emergence of new competitors should be stimulated.

Summarizing reforms started since 2005, we can conclude that reforms carried out in 2005-2012 were aimed at full deregulation of the economy. Despite the fact that theoretically Georgian Government declared European orientation at that time, competition policy was developed in the absolute opposite direction. Starting from 2013, reform is aimed at strengthening of institutional mechanism of regulation of competitive environment which was successfully implemented by adopting corresponding legislative changes. Results of reforms were reflected in international assessments - positive assessment of the efficiency of Georgian antitrust policy was increased. Although, achieving of main objective - functional institutional mechanism and obtaining of result, i.e. high level of market demonopolization and competition - is still a challenge (See Table below).

6 Efficiency of goods markets	Score 2008(2009)	Rank in therating from 134 countries 2008(2009)	Score 2010(2011)	Rank in therating from 139 countries 2010(2011)	Score 2011(2012)	Rank in therating from 142 countries 2011(2012)	Score 2013(2014)	Rank in therating from 148 countries 2013(2014)	Score 2014(2015)	Rank in therating from 142 countries 2014(2015)
Score and Rating	4.2	71	4.2	64	4.2	74	4.3	67	4.4	60
1. Intensity of local competition	x	114	x	124	3.9	128	4.3	123	4.6	105
2. Volume of market domination	x	95	x	113	3.2	112	3.2	119	3.3	103
3. Efficiency of antitrust policy	x	111	x	135	2.9	135	3.1	138	3.3	127
4. Volume and impact of taxes	x	24	x	24	3.9	35	4.4	24	4.4	22
5. Full tax rate*	x	52	x	7	15.3	8	16.5	10	16.4	10
6. Number of procedures to start of a business *	x	9	x	6	3	8	2	3	2	3
7. Number of days to start of a business *	x	19	x	3	3	3	2	2	2	2
8. Costs agrarian policy	x	75	x	114	3.3	115	3.2	125	3.5	99
9. Volume of trade obstacles	x	28	x	33	4.9	37	5.1	10	5.3	6
10. Trade tariffs *	x	4	x	3	0.7	3	1.1	32	1.1	32
11. Level of spreading of foreign property	x	53	x	89	4.1	110	4.1	106	4.2	100
12. Impact of regulations set for FDI on business	x	60	x	44	4.9	53	4.8	49	4.9	28
13. Burden of Customs procedures	x	65	x	39	4.9	27	5.3	12	5.6	7
14. Import as a GDP share *	x	X	x	X	52.2	52	58.2	46	57.8	45
15. Quality of orientation on customers	x	103	x	127	3.9	118	3.8	127	3.8	121
16. Maturity of customers	x	86	x	87	3.1	93	3.2	94	3.1	96

Review of Georgia-EU Relations: in the Sphere of Competition and Antitrust Regulation, with Regard to Convergence of Georgian and EU Practices

Chapter IV of the Association Agreement (Trade and issues related to trade) and Chapter X (Competition) are related to the issues of competition and Antitrust Regulation in relations between Georgia and EU. Generally, European legislation in the sphere of competition regulation is aimed at development of non-discriminative trade inside European Union and its partner countries. In legislations about competition in most countries (including legislation of EU) monopolistic market power is a legal category and legislation defines a rule of dominant market power determination.

Till we will proceed to the consideration of Georgia-EU Associations Agreement articles in regard to competition and antitrust regulation, let's review those general approaches which lie in the basis of EU legislation in this sense. European model of legislation on competition is directed against misuse of monopolistic position and, generally, monopolistic activities, towards ensuring supervision on monopolies and control of them. At the same time, monopolies itself are not prohibited. Legal norms on unscrupulous competition in European model are separated as independent part / sphere of regulation of separate law.

It is acknowledged that during the practical realization of legislation on competition two groups of procedures were formed - administrative and judicial procedures. Within the frameworks of administrative procedures which are primarily used in such countries as Germany, France, Belgium, disputes between economic agents are scrutinized in specially created competent body decisions of which may be appealed in court, while in other countries (such as US, UK, Sweden, Spain) where judicial procedures have a priority, decisions are made directly by courts. Administrative bodies are examining complaints, offering (urging) respondent party which committed breach, to voluntarily put an end to unscrupulous practice, initiating cases in courts. These bodies are eligible to issue recommendations, non-compliance with which may be the basis for trial, also they have an authority to arrange negotiations between opposite parties to settle disputes. On the basis of Rome Agreement from 1957 unified competition rules were adopted by all countries of this Union, and appropriate organizational basics were created for their realization. Responsibility for implementation of competition rules at common European level was passed to the European Community's Commission. This

Commission is closely cooperating with corresponding competitive bodies of countries - members of the Union. In addition to this, it carries out methodical and consultative support to the concerned bodies of any other countries.

Association Agreement between EU and Georgia considers issues about competition in following articles: Article 203 - Principles; Article 204 -Antitrust and merger regulating legislation and its implementation; Article 205 - State monopolies, public entities and enterprises with special or exclusive rights. Article 206 - Subsidies; Article 207 - Settlement of disputes; Article 208 - Relations with WTO; Article 209 - Confidentiality. General direction of these articles is related to the recognition of a principle agreed between Georgia and EU that monopolistic structures are decreasing benefits obtained from trade, and Georgia takes responsibility to ensure protection of competitive environment in its own economy, in accordance with principles given in the Agreement. Also, these articles emphasize necessity of control on state subsidies. Agreement envisages creation of enhanced corresponding legislation for Georgia, as well as presence of effective body for implementation of these laws. In regard to state subsidies parties took responsibility to ensure openness and transparency: "Each party should ensure openness in the sphere of subsidies. For achieving this objective, each party should present report to other party once in 2 years, about legal basis, form, amount and where it is possible, recipients of that subsidy which is issued by its government or any public body in regard to production of any goods. Report is considered presented if appropriate information is placed by each party on publicly available web-site".

Thus, we can conclude that Association Agreement ratified between EU and Georgia envisages relatively general requirements on regulation of competition but these requirements are focused on the existence of national mechanisms, institutional building of which is still not completed in Georgia, and this is important challenge for the country. In this regard, it is interesting to consider foreign experience, particularly, main approaches to the regulation and institutional units which already exist in the countries - members of EU. Consideration of this issue is especially actual in regard to relatively new member of European Union - Poland.

Analysis of Foreign Experience - Analysis of Poland's Experience

After the transition to the market economy and obtaining of EU membership, competition policy became one of the most important issues to the policy of reforms. In Poland, as well as in all European countries, starting point in competition policy is a protection of companies from unfair actions of other companies which breach the principles of free market. Important experience and basis in the practice of competition regulation are behind those general principles.

Policy on competition in Poland is mainly based on the law adopted on February 16, 2007: "Law on competition"[12] which regulates control of monopolistic agreements between companies, misuse of their dominant positions by these companies and control of merger and acquisitions. In its turn, this law is based on regulation adopted April 16, 1993: "Act on unfair competition" which determined what should be considered unfair behavior of market players. Also, supervision on state aid or supervision on any aid issued with the use of public resourcesis one of the important aspects of the regulation of competitive environment because such aid increases the risk to unfairly strengthen some market participant and thus facilitate to the irregular competition.

Polish legislation in the field of competition can be divided into three parts: antitrust regulation, control of merger and concentration and state aid. The sixth article of the law on competition prohibits all those agreements (contracts, hidden agreements or reservations in any form) which even potentially can become restrictive factors for competition. Special attention in the Law is paid to the use of "market dominance". According to the Law, this means to have such economic power when one subject doesn't take into account reaction of competitors, intermediate or final consumers, because of its market position. It is assumed that ownership of 40% market share or more exceeds usual norm and indicates dominant position on the market. However, there also should be considered characteristics of the given market itself.

Control of merger and acquisition of companies is another important issue during exercising of protection of competitive environment. Those united corporations which potentially will have important impact on the aspects of market functioning, are under the

[12]Antitrust Private Enforcement – Case of Poland, Agata Jurkowska, Universuty of Warsaw, 2008 p 61

supervision of corresponding state body. Poland's legislation requires from companies to have clearly argued position and reasons showing objectives and necessity of merger, during large-scale operations of merger. Presentation of such explanation is necessary in case of following circumstances:

- ✓ during the merger of two or more companies
- ✓ gaining control over one or more companies
- ✓ creation of joint capital by several legal entities
- ✓ acquisition of actives of another company

For the purposes of law, calculated regulation affects those agreements where amount of deal is more than10 millions of Euros. Office of Competition and Consumers Protection in Poland is in the role of national regulator and decisions of its president can be appealed only in court (see below about special court).

European Union issues special directives to the member countries about state aids in those countries[13]. The charter directly prohibits subsidies to the private companies from state which can place some companies in advantageous position compared to their competitors. The category of aid itself can include[14]:

- ✓ state grants
- ✓ exemption from state fees
- ✓ tax exemptions
- ✓ guarantees issued by state
- ✓ supply of goods and services by state holding in preferential regime.

However, legislation of Poland considers exceptions for abovementioned cases - especially in regard to state subsidies. Latter is defined by the law on state aid from April 30, 2005, which, in its turn, is based on corresponding regulations of European Union.

As we mentioned, Office of Competition and Consumers Protection performs the role of national regulatory mechanism of competition in Poland. Decisions and directives of President of this Office are officially published and are mandatory for the objects of regulation. Appealing the decisions of President is possible only in special court - Regional Court of Warsaw - Court

[13] Agreement on Functioning of European Union, article 107

[14]POLISH COMPETITION LAW – COMMENTARY, CASE LAW AND TEXTS, Mateusz Błachucki, Warsaw 2013 p 33

of Competition and Consumer Protection[15]. Further appealing mechanism is related to the Tribunal of Civil Proceedings of Appeal Court, and next higher authority is the Supreme Court.

Conclusions and Recommendations

In accordance with studied issues we may conclude that for the purpose of overcoming of challenges existing in Georgia in regard to competition and antitrust regulation, it is advisable to implement following measures of policy:

- ✓ National legislation should cover not only issues of competition regulation in the private sector but in this context it isalsoimportant to regulate directions of state subsidies by means of the legislation;
- ✓ Changes and amendments to the legislation on competition should be carried out in accordance of corresponding EU regulations and directives;
- ✓ Additional resources should be put in the direction of increasing of institutional capabilities of national regulator - LEPL Competition Agency;
- ✓ Decisions about competition and antitrust regulation adopted by the corresponding body should meet high standards of openness and transparency;
- ✓ For the purpose of the efficiency of law implementation, it is expedient to establish special judicial chamber which will concentrate on consideration of the issues related to competition and antitrust regulation, as it is adopted in many countries in European Union.

At the same time, it is important that policymakers distinguish from each other short-term, mid-term and long-term effects during executing the policy. In the short-term and mid-term prospects we consider that increase of institutional capabilities of Competition Agency should be priority, and in long-term prospect it is important to ensure coverage of public sector by the measures of competition regulation, especially in regard to state subsidies.

[15]EU Commission, Poland Report – Competition and Antimonopoly Regulation. 2010. p 7

References:

1. Shalva Gogiashsvili, Economic Policy of Competition and Legislative Practice in Georgia, Tbilisi, 2009
2. Eka Lekashvili, For the study of competition issues in conditions of globalization, URL: http://www.gdi.economics.tsu.ge/pdf/2.konkurentunarianoba.pdf last visit - 27.08.2015
3. Shorena Kurdadze, Issues of Competition and Antitrust Regulation in Georgia-EU Relations, electronic scientific journal "Caucasian Economic Triangle", v. 1 # 1 (2013), URL: http://journalciesr.org/index.php/CET/issue/view/3/showToc last visit - 27.08.2015
4. Slava Fetelava, Evolution of Competition Theory and Antitrust Regulation in Georgia, thesis... for obtaining of degree of doctor of economics, Robakidze State University, Tbilisi, 2008
5. Hotelling, H. (1929), "Stability in Competition", The Economic Journal, 39, pp. 41–57.
6. Lefteris Tsoulfidis Department of Economics, University of Macedonia, Classical vs. Neoclassical Conceptions of Competition, Lefteris Tsoulfidis, 2011.
7. Timothy J. Brennan The Economics of Competition Policy: Recent Developments and Cautionary Notes in Antitrust and Regulation, Discussion Paper 00-07 January 2000, Resources for the Future, Washington, DC.
8. Rainer Klump Wirtschaftspolitik: Instrumente, Ziele und Institutionen (Pearson Studium - Economic VWL) Gebundene Ausgabe, Pearson Studium 2006
9. EU Commission, Poland Report – Competition and Antimonopoly Regulation. 2010
10. POLISH COMPETITION LAW – COMMENTARY, CASE LAW AND TEXTS, Mateusz Błachucki, Warsaw 2013
11. Antitrust Private Enforcement – Case of Poland, Agata Jurkowska, Universuty of Warsaw, 2008

TRADE REMEDIES

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Introduction

International Trade gives a chance to the developing and developed countries to increase export opportunities, having a great influence on the economic development and trade enhancement of the country. It is known, that country's welfare is significantly based on the trade provisions and country's general attitude towards the trade. Each country involved into the International trade has an opportunity to export goods and service, engage in a strong competition, raise country's reputation and quality of exported goods (country's image significantly determines demand on its product, especially on the market were already is presented brand production), bring in the goods not produced by itself, or produced in few amounts owning the expanses required and etc. The main reason, on the bases of which the country takes decision to involve in the international trade is diversified production opportunities of countries.

It is not surprise that smaller countries cannot tackle with the situation existing in the international trade. It can be said, that hardly any country, in the world, can produce as much as it consumes and moreover, the production is always in compliance with the diversity of goods and service presented in the international trade. That refers existence of producing potential limit and acts as a country's will to produce only such goods in which it owns absolute or relative advantages; Draw attention to the export or import diversification and import the goods that is not presented on its own market, or is presented in a small amounts and in high price.

Diverse producing opportunities determines rational application of the resources existing in the country and presumable price and quantity of the goods the country can actually produce. In theoretic bases, income derived for exports shall ensure imports payment, that is not easy task and Georgia is obvious example of that, where imports has increased by 7% in 2014 and comprised 8 596 million USD, while exports has declined by 1.6 % and comprised 2 861 million USD, negative trade balance was 5 735 million USD, that itself held 50% of External Trade turnover.[16]

Such figures are typical for developing countries, due to the fact that production of such countries is lower than that of developed ones, small and medium-sized businesses are developing slowly as well and moreover, for most of them it is hard to meet with requirements of quality control etc. therefore, when goods, which meets every demand, is importing into the country, consumer prefers to buy that one, and hereby domestic product remains beyond the attention. Though there are a number of cases when the price of imported goods is such low than that of local ones that it becomes serious competitor of domestic production. All these factors have an effect on the domestic production, which may significantly decrease in a short-term period and in a long-term period it may disappear from the market at all. The reason, domestic product shall compete imported goods and maintain accessibility to the international market, "forces" it to produce goods in compliance with required standards and resist to produce such product that is perceived to be loose, and the country shall ensure relevant conditions for trade development and care for domestic production.

The state owns corresponding group of instruments to reach the mentioned goal, including the strongest one, which implies pursuing of proper order policy, e.g. introduction and adoption "game terms", which is common for every interested parties. Proper instruments are elaborated for domestic production defense, application of which is allowed by the international institutions, namely while using trade remedies instruments the parties act according the agreements of the World Trade Organization (WTO), which regulates rules of application of trade remedies, anti-dumping and anti-subsidy measures. In case of revealing dumping imports, overwhelming import and subsidy import, the parties are able to act under

[16]National Statistics Office of Georgia (GEOSTAT), External Merchandise Trade of Georgia, 2014: http://www.geostat.ge/cms/site_images/_files/georgian/bop/FTrade__2014_GEO.pdf

the WTO procedures and use trade remedies. The parties shall ensure transparency of procedures while referring to the trade remedies.

Domestic production remedies

From the 1st September of 2014 Agreement on Free Trade Area between Georgia and entered into force (DCFTA), which offers the contractor parties trade liberalization on goods and service with full abolishment of tariff barriers.[17]

In accordance with the Agreement, none of the parties has a right to impose or maintain customs or other relevant duty on exports of goods. As for imports, provisions are defined below:

1. **Entry Price in EU - Ad Valorem free**

   On 28 tariff lines (0.3% (9383) of full tariff listing, will be imposed Entry Price in EU (Fixed price of imports). In mentioned case, if invoice price of products produced in Georgia to import in EU is lower than fixed price established by the EU, Importer will pay the difference between the invoice and fixed price, and if it is same or higher, the product will be free of "Entry price". Moreover, Ad Valorem customs duty will be removed from the products made in Georgia, which in normal trade mode is added to the abovementioned group of 28 types of goods.

2. **Anti-circumvention mechanism**

   277 tariff lines of Agricultural and food processing products (3% offull tariff listing(nomenclature) are subordinated to the anti-circumvention mechanism. The Mechanism operates as follows: when from the beginning of the year, import of one or more products, subordinated to the anti-circumvention mechanism, reaches 70% of the fixed quantity, the EU reports Georgia concerning the amount of imports of specific product. Georgia has an opportunity to submit to the EU reasoned justification (i.e.

[17] Association Agreement between the EU and Georgia, http://www.mfa.gov.ge/%E1%83%94%E1%83%95%E1%83%A0%E1%83%9D%E1%83%9E%E1%83%A3%E1%83%9A%E1%83%98-%E1%83%93%E1%83%90-%E1%83%94%E1%83%95%E1%83%A0%E1%83%9D-%E1%83%90%E1%83%A2%E1%83%9A%E1%83%90%E1%83%9C%E1%83%A2%E1%83%98%E1%83%99%E1%83%A3%E1%83%A0%E1%83%98-%E1%83%98%E1%83%9C%E1%83%A2%E1%83%94%E1%83%92%E1%83%A0%E1%83%90%E1%83%AA%E1%83%98%E1%83%90/Association-Agreement.aspx

increase of production volume, high-yielding year etc.) concerning the presumable exaggeration of imports. In such case, Georgia may import more products to the EU than it is stipulated by the mechanism, customs duty free.

3. **Tariff Quota**

   Tariff quota (liberalization of customs duty within the fixed rate frames) is imposed only on garlic with 220t in amount. Within the mentioned quantity frame, garlic produced in Georgia, will be imported to the EU duty free.

In accordance with the Article 38 of Section 1 of Chapter 2 of the Deep and Comprehensive Tree Trade Area Agreement are determined measures of transparency, in particular: "The Party initiating a safeguard investigation shall notify the other Party of such initiation provided the latter has a substantial economic interest and it shall provide immediately ad hoc written notification". For the purposes of this Article, a Party shall be considered as having a substantial economic interest when it is among the five largest suppliers of the imported product. Moreover, when imposing safeguard measures, the Parties shall endeavour to impose them in a way that affects their bilateral trade the least.

In accordance with Article 41 of Section 2 of Chapter 2, of the Deep and Comprehensive Tree Trade Area Agreement, the Parties agree that anti-dumping and countervailing measures should be used in full compliance with the requirements of the Anti-Dumping Agreement and the SCM Agreement, respectively, and should be based on a fair and transparent system[18]. Provided it does not unnecessarily delay the conduct of the investigation, each interested Party shall be granted the possibility to be heard in order to express their views during anti-dumping and anti-subsidy investigations.Should a Party decide to impose a provisional or a definitive anti-dumping or a countervailing duty, the amount of such duty shall not exceed the margin of dumping or the total amount of countervailable subsidies, and the duty shall provide to remove the injury to the domestic industry caused by the application of dumping or subsidy. Taking into account all abovementioned, three important issues shall be discussed, in particular: domestic production trade remedies, anti-damping and anti-subsidy measures.

[18] Agreement on Deep and Comprehensive Free Trade Area, chapter 2, part 1-2: http://www.economy.ge/uploads/dcfta/teqsti_danarti/GEO_2_1.pdf

Domestic production trade remedies

Defense of domestic production from the increased imports on the customs area, causing significant injury or threatening to do so to the competitive domestic producers, should be regulated under the proper legislation. To this effect, discussion of Georgian Draft law "concerning Introduction of Trade Remedies" is planned, meanwhile we would like to overview the fundamental dimensions, which will be further regulated by the mentioned draft law, hereinafter referred as – law, in case of its adoption. Upon the mentioned draft law the following is determined, namely:

Draft law "concerning Introduction of Trade Remedies" establishes basic provisions and rules concerning the introduction of defense measures in case of increased import.

Trade remedies include import quota or special tariff, but before introduction of special defense measures, investigation shall be carried out to determine the significance of the injury caused due to the imported goods or service on domestic industry. Investigation is executed by the PPL (Legal Entity of Public Law) "Competition and State Procurement Agency", which is entitled to require necessary information, including confidential one, from administrative bodies, interested ones and other individual and legal entities.On the grounds of obtained information, report is prepared and introduction, renegotiation or cancellation of the special defense measures will be determined. Within 30 calendar days after submission of the report, government of Georgia is entitled to make decision on introduction, overview or cancellation of the special trade remedies. In case of necessity to introduce special defense measures valid for a year, consequence liberalization planof the mentioned measures should be presented[19].

As it was mentioned, before introducing trade remedies and determining its term of action, all objective factors and circumstances connected to the domestic industry shall inevitably be estimated by the Investigating authority and expresses in figures afterwards, including:

1. Speed and volume of imports of investigated object in absolute and relative growth rates;

[19]Draft law of Georgia "concerning the introduction of trade remedies", Article 6. Decision on Introduction of Remedies.

2. Specific share of increased import of investigated object on domestic market;
3. Indices of sales, production, market share, manufacturing capacity load, profit and loss, return in investment, prices, employment in domestic industry etc. of domestic production alike or direct competitive goods.
4. Other factors, having negative influence on the domestic industry[20].

On the grounds of the draft law, investigating authority shall make the results of investigation publicly available referring the factors studied. In addition, preliminary and specific defense measures are determined. Below is discussed each of them:

Preliminary defense measures[21]. According the draft law – "concerning the Introduction trade remedies", government of Georgia, on the grounds of the report submitted by the Investigating authority, is entitled to introduce preliminary defense measures only in case of emergency situations, duration of which shall not exceed 200 calendar days.

Introduction of such measures, like preliminary tariff, shall be administrated in accordance with the rules of Revenue Service, LEPL.

Amount payed as a preliminary tariff will not be transferred into the state budget unless positive decision on introducing defense measures is made. In case of negative decision made by government of Georgia concerning the introduction of special defense measures, the amount payed as a preliminary tariff will be returned to the payer in accordance with Georgian Legislation.

[20]Draft law of Georgia "concerning the introduction of trade remedies", Article 7. Ascertainment of causing serious injury or threatening to do so.
[21]Draft law of Georgia "concerning the introduction of trade remedies", Article 8. Introduction of Preliminary Trade Remedies.

Special Remedies[22]. Special remedies will be introduced in case of ascertainment, by the investigation, that import of investigated object is implemented in increased amount and in such ways that is causing injury and threatening to do so to the domestic industry.

Special remediesare applied towards the imported goods of investigation despite the origin of country, however the mentioned is not referred to those International Trade Organization member developing countries, imported goods of which on the customs area of Georgia does not exceed 3% of total import.

On the grounds of the draft Law, it is determined that Revenue Service shall administrate special tariffs and import quotas. However, imposition of import quota shall not have a negative impact on the average index of import. Once the government of Georgia makes decision on introducing import quotas, agreement shall be reached with the supplier countries concerning the distribution of shares of import quotas.

The duration of the special remedies shall not exceed 4 years under the draft law. In case of necessity it may be extended to 4 years and Investigating authority shall be informed in written form about this 6 months earlier before expiration the date of the remedies. On the grounds of written contest, if the terms of extension of measures is considered more than a year, the government of Georgia shall verify sequential liberalization plan presented by the Investigating authority[23].

It is available as well to repeat the measures with duration of 180 days or less, if the interval between completion date of the remedies and the new one is minimum a year and if the measures have not been used more than twice (in 5 years term) towards the same object of investigation.

The Investigating authority starts to investigate on the grounds of written application of domestic industry. Within 30 days from the submission of the mentioned application, the Investigation Body shall make a decision concerning the commencement of the investigation,

[22]Draft law of Georgia "concerning the introduction of trade remedies", Article 9. Introduction of Special Defense Measures.

[23]Draft law of Georgia "concerning the introduction of trade remedies", Article 10, Section 2, Terms of duration and overview of Special Remedies.

however duration may be extended by 10 days, if there is a necessity to receive additional information from the applicant. If the Investigating authority repudiates to start investigation, the decision about this shall be made within 5 days. If the application is denied, the applicant shall be informed about the reason. In addition, Trade Remedies Committee of The World Trade Organization shall be informed about the serious injury caused on the grounds of imported goods on domestic production; Introduction of special remedies; necessity of introduction of preliminary defense measures etc.

The present draft law was prepared in 2013 by the Ministry of Economy and Sustainable Development of Georgia upon the active cooperation with relevant organizations of Georgia and foreign experts. However, It probably will be amended, according the changes which have been made since 2013 up to date, including, in accordance with the Georgian legislation №2163-II dated March 21, 2014, instead of LEPL Competition and State Procurements Agency, which is referred as the Investigating authority upon the Draft Law, is created and functioning Legal Entity of Public Law – State Procurement Agency[24].

Anti-dumping measures

Countries having Market Economy give special attention on using anti-dumping measures, i.e. means and instruments ensuring protection of country's market from the dumping prices. As it is known, existence of dumping on the market causes many negative impacts and Georgian Market is not exception from this point of view. The specialists always name 90th period[25] as one example of dumping action, when countries like Turkey and Iran were importing goods in Georgia in dumping prices, due to the fact, Agricultural sector suffered significant loss.

[24]Ordinance of Government of Georgia №306, concerning reorganization of State Procurement Agency, Legal Entity of Public Law (PPL) and on endorsement of provisions and structure of the State Procurement Agency, PPL, 2014. http://procurement.gov.ge/getattachment/AboutAgency/debuleba.pdf.aspx

[25]„The Georgian Business & Political Insight" - http://bpi.ge/index.php/qartuli-bazris-sashishi-mteri/

The working force refused to compete with the goods imported in dumping price, therefore suppling the market with the goods produced by them declined and the sector suffered a big loss.

Dumping – selling products at a price less than normal market value, i.e. at a cutting price, when it is sometimes less than production cost.

To avoid the mentioned fact, developed and developing countries take actions against the dumping and refer to introduce anti-dumping legislation. As for Georgia, anti-dumping law, which would restrict dumping prices in Georgian market, has not yet entered into force.

Adoption of Anti-dumping legislation is crucial to settle market problems derived from the dumping prices in one hand, and in another, it is obligatory, under the commitments undertaken by Georgia which implies approximation regulations and legislation of Georgia to that of the Union. Activation of the mentioned legislation, which implies imposition of restrictions on subsidy, will promote domestic industries and defend them from the risks caused by the entering of foreign companies into the domestic market.

Despite the fact that dumping is not desirable factfor the country, it is absolutely admissible for importers, due to the fact that products produced by the high technological equipment is imported and realized at a price less than domestic product in small countries such as Georgia, that endangers creation of dumping which itself causes disappearance of competitors form the market and promotes establishment of monopolistic market system.

As it was mentioned, in case of applying trade defence measures, the parties act in accordance with the relevantagreement of The World Trade Organization (WTO). Since Georgia became member country of the World Trade Organization (WTO), it willfully repudiated to introduce and adopt anti-dumping legislation, due to the solid expenses. In addition, it should be emphasized that utilization and protection of The World Trade Organization regulations is meaningful and effective (economical) instrument. Below is discussed “General Agreement on Tariffs and Trade”, in particular, Article VI – Anti-dumping and Countervailing Duties.

The contracting parties recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry. A product is to be considered as being introduced into the commerce of an importing country at less than its normal value, if the price of the product exported from one country to anotheris less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.

In order to offset or prevent dumping, a contracting party may levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping in respect of such product or not less than either the highest comparable price for the like product for export, or the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

In accordance of mentioned Article,[26] no product of the territory of any contracting party imported into the territory of any other contracting party shall be subject to both anti-dumping and countervailing duties. The term "countervailing duty" shall be understood to mean a special duty levied for the purpose of offsetting any bounty or subsidy bestowed, directly, or indirectly, upon the manufacture, production or export of any merchandise. No contracting party shall levy any anti-dumping or countervailing duty on the importation of any product of the territory of another contracting party unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry. Once the Draft law is adopted, we will be able to discuss the basic dimensions determined under the mentioned legislation.

[26]World Trade Organization (WTO) Agreement, "General Agreement on Tariffs and Trade" (GATT), Article VI, Anti-dumping and Countervailing Duties.

Anti-subsidy measures:

Georgia is a country with transitional economy and like other countries, high speed of growth of export volume is very important factor, ensuring improvement of country's economic environment, growth of employment and production, as well as its active participation in process of globalization. For the growth of export, it is important to regulate export and elaborate measures to encourage it, as far as the opportunity received from the results of exports shall be used in full fledge to reduce margins between the export and import. Georgia has not used export subsidies actively, often due to the limited budget, however it should be mentioned that rules of The World Trade Organization significantly restricts use of subsidies, including export subsidy, by its member states. Below is given quotation from the Article XVI of "General Agreement on Tariffs and Trade" of the World Trade Organization (WTO), according of which subsidies are defined as follows:

> If any contracting party grants or maintains any subsidy, which operates directly or indirectly to increase exports, or to reduce imports, it shall notify the contracting parties. In any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threatened by any such subsidization, the contracting party granting the subsidy shall, upon request, discuss with the contracting parties[27].

Received results on the grounds of using subsidies is reflected on the exports and imports and is increased or reduced according the Trade member states and causes disturbance of trade interest and implementation trade agreements. Accordingly, contracting parties should seek to reduce subsidies on the exports of primary products. If, however, the mentioned shall not or could not be maintained due to the existing reasons, it shall be taken under control, due to the reason of not taking the significant place by the concrete country into the world export, than it really deserves. Primary products imply agricultural, wood or fishery products, natural mineral materials.

[27]"General Agreement on Tariffs and Trade" (GATT) of World Trade Organization (WTO), Article XVI – Subsidies.

Issues of Import are defined on the basis of the Article XII, of "General Agreement on Tariffs and Trade"[28]. Any contracting party, in order to safeguard its external financial position and its balance of payments, may restrict the quantity or value of merchandise permitted to be imported, however Import restrictions instituted, maintained or intensified by a contracting party shall not exceed those necessary: to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or in the case of a contracting party with very low monetary reserves, to achieve a reasonable rate of increase in its reserves. Contracting parties applying restrictions undertake: to avoid unnecessary damage to the commercial or economic interests of any other contracting party; and not to apply restrictions which would prevent the importations of commercial samples or prevent compliance with patent, trade mark, copyright, or similar procedures.

As it is known, it is very important for contracting parties to reach the balance of payment and rational application of resources by the enterprises, requiring to impose such measures which act towards the growth of international trade, but If there is a persistent and widespread application of import restrictions, indicating the existence of a general disequilibrium which is restricting international trade, the contracting parties shall initiate discussions to consider whether other measures might be taken. All interested contracting parties may participate in the mentioned discussion.

Foreign Experience - EU: The United Kingdom of Great Britain

While liberalization has affected on the world trade system and the free competition, there have recently been more national measures used by individual countries in order to protect domestic markets, but they got blocking market access. Nowadays developing countries and transition economies have been increasingly subject to such measures - known as "trade remedy actions". The system can stop government's measures from abusing actions. Trade remedies are exceptions to the WTO principles of free trade. The procedures are also unique in

[28]"General Agreement on Tariffs and Trade" (GATT) of World Trade Organization (WTO), Article XII – Restrictions to safeguards the balance of payments.

the WTO system in giving an active role to the business community. The WTO identifies three main types of import restraints as trade remedies[29]:

1. Antidumping measures[30];
2. Countervailing duties[31];
3. Safeguard measures[32].

To help national officials and business leaders in these countries to understand the workings of the trade remedies system, ITC's (International Trade Center) World Tr@de Net[33] programme organized regional workshops in Asia and Eastern and Central Europe, focusing on national regulations and practices in the United States, the European Union (EU) and Canada, and their implications for business. Participants in these workshops cited these main business concerns:

1. ***Heavy procedural requirements***. During antidumping investigations, the EU gives exporters only 37 days to complete its questionnaire, which participants do not think is sufficient time to complete it in detail. Also, accounting and yardsticks can differ significantly from their home countries.
2. ***Use of "sampling"***. When the EU investigates a group of companies, it may choose certain companies as a sample group for in-depth investigation. It uses findings from the sample as the basis to calculate whether or not the entire group has been dumping goods. Because this system lacks precision, exporters not included in the sample may consider that they are unduly penalized.
3. ***Simultaneous actions***. Exporters from developing countries are sometimes subject to simultaneous antidumping actions and countervailing duties. Such practices are too burdensome for companies from developing countries. Participants suggested that

[29] Trade Remedies –What Business Needs to Know. See more at: http://www.tradeforum.org/Trade-Remedies---What-Business-Needs-to-Know/

[30] See more at.: https://www.wto.org/english/tratop_e/adp_e/adp_e.htm

[31] See more at.: https://www.wto.org/english/tratop_e/scm_e/scm_e.htm

[32]See more at.: https://www.wto.org/english/tratop_e/safeg_e/safeint.htm

[33]ITC's World Tr@de Net – In July 1999 ITC launched the World Tr@de Net programme, which is funded by the governments of Germany, India, Norway, Sweden, Switzerland and the United Kingdom. The idea was to bring together - nationally and later regionally - government officials, companies, trade lawyers, consultants and private individuals including academics, economists and even specialist journalists to pool experiences on WTO affairs. The aim was to help establish sustainable, if informal, networks to exchange ideas and information, and serve as a platform for the voice of the business community. They were also a focus for ITC activities to promote dialogue between business and government on trade development issues of concern to them. - See more at: http://www.tradeforum.org/World-Trde-Net-Networking-on-Trade-Talks/

developed countries should consider pursuing just one trade remedy action at a time against exporters from developing countries.

4. ***Rules not transparent***. Certain national authorities have discretionary power in their operations. Participants called for more transparent rules regarding investigations.
5. ***Lack of expertise and resources***. Participants stressed the lack of expertise and resources of developing countries, which cannot afford to hire foreign law firms specialized in WTO law. They also expressed the need to strengthen the relationship between business and government in order to better cope with trade remedy proceedings initiated by other national authorities.
6. ***"Non-market economies"***. A common concern among transition economies - that is, former centrally-planned economies - is that the Agreement on Antidumping does not offer sufficient guidance on how it should be interpreted. So the treatment of "non-market economies" varies greatly, depending on how importing countries interpret the agreement. As a result, an exporting country may be given a different status in different markets. If investigating authorities are unsure whether to consider a country a non-market economy, they may require exporters to fill in two questionnaires, one designed for market-economy countries and the other for non-market economy states. This represents a significant effort and financial cost. Also, being classified as a non-market economy leads to an almost automatic assumption of dumping against exporters.

Trade remedies fall within the scope of the EU's common policy and are exclusively the competence of the EU and not of the individual member states.

The EU has a Basic Anti-Dumping Regulation (Regulation 1225/2009[34], as amended), which applies to all countries that are not members of the EU.

The Basic Anti-Subsidy Regulation (Regulation 597/2009[35]), also applies to all third countries

As regards safeguard measures, the EU has three different sets of legislation:

1. Regulation 260/2009[36], which applies to third countries that are members of the WTO;
2. Regulation 625/2009[37], which applies to third countries that are not WTO members; and

[34]See more at:: http://trade.ec.europa.eu/doclib/docs/2010/april/tradoc_146035.pdf
[35]See more at:http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:188:0093:0126:EN:PDF
[36]See more at.: http://trade.ec.europa.eu/doclib/docs/2009/april/tradoc_142728.Reg-260.en.L84-2009.pdf

3. A transitional product-specific safeguard Regulation, Regulation 427/2003[38], set to expire on 11 December 2013, permitting the imposition of safeguard and trade diversion measures on Chinese imports.

For more information about the European Union Trade Remedy Laws, Regulations and Rulessee the table #1[39]:

Table #1.

European Union Trade Remedy Laws, Regulations and Rules

Table #1 Title	Date of Issuance	Effective Date	WTO Notification
ANTIDUMPING			
Council Regulation (EC) No. 384/96 on protection against dumped imports from countries not members of the European Community.	*6 March 1996*	*2 July 1996*	G/ADP/N/1/EEC/2
		23 July 1996	G/ADP/n/1/EEC/2/Corr.1
Commission Decision No. 2277/96/ECSC on protection against dumped imports from countries not members of the European Coal and Steel Community; Council Regulation (EC) No. 2331/96 amending Regulation (EC) No. 384/96	*28 November 1996 and 6 December 1996*	*1 April 1997*	G/ADP/N/1/EEC/2/Suppl.1
Council Regulation (EC) No. 2238/2000, which amends Regulation (EC) No. 384/96; Commission Decision No. 1000/1999/ECSC and Commission No. 434/2001/ECSC, both of which amend Decision No. 2277/96 ECSC		*3 August 2001*	G/ADP/N/1/EEC/2/Suppl.2
Council Regulation (EC) No. 1972/2002, which amends Council Reg. (EC) No. 384/96	*5 November 2002*	*14 November 2002*	G/ADP/N/1/EEC/2/Suppl.3
		21 January 2003	G/ADP/N/100/EEC
Council Regulation No. 452/2003 on measures that the Community may take in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguards	*6 March 2003*	*14 April 2003*	G/ADP/N/1/EEC/2/Suppl.4
Council Regulation (EC) 461/2004, which amends Council Regulation (EC) 384/96 and	*8 March 2004*	*28 April 2004*	G/ADP/N/1/EEC/2/Suppl.5

[37] See more at: http://trade.ec.europa.eu/doclib/docs/2009/august/tradoc_144178.codified.en.L185-2009.pdf
[38]See more at: http://trade.ec.europa.eu/doclib/docs/2003/december/tradoc_112291.pdf
[39]European Union Trade Remedy Laws, Regulations and Rules.See more at:http://enforcement.trade.gov/trcs/downloads/documents/eu/index.html

Council Regulation 2026/97			
Information received from the new Member States concerning their anti-dumping legislation.		*19 October 2004*	G/ADP/N/1/EEC/2/Suppl.6
Council Regulation (EC) No 2117/2005 which Amends Regulation (EC) No 384/96	*21 December 2005*	*30 December 2005*	G/ADP/N/1/EEC/2/Suppl.7
Information concerning the legislation of Bulgaria and Romania	*1 January 2007*	*7 February 2007*	G/ADP/N/1/EEC/2/Suppl.8
Regulation (EU) No 765/2012 of the European Parliament and of the Countil of 13 June 2012 amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community	*13 June 2012 ƒ.*		G/ADP/N/1/EU/1
Regulation (EU) No 1168/2012 of the European Parliament and of the Council of 12 December 2012 amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community	*12 December 2012*	*15 December 2012*	G/ADP/N/1/EU/1
SUBSIDIES & COUNTERVAILING MEASURES			
Council Regulation (EC) No. 2026/97 on protection against subsidized imports from countries not members of the European Community	*6 December 1997*	*19 January 1998*	G/SCM/N/1/EEC/2
Commission Decision No. 1889/98/ECSC on protection against subsidized imports from countries not members of the European Coal and Steel Community	*3 September 1998*	*6 November 1998*	G/SCM/N/1/EEC/2/Suppl.1
		9 December 1998	G/SCM/N/1/EEC/2/Suppl.1/ Corr.1
Guidelines for the Calculation of the Amount of Subsidy in Countervailing Duty Investigations (98/C 394/04)		*8 January 1999*	G/SCMN/N/1/EEC/2/Suppl. 2
Council Regulation (EC) No. 1973/2002, whicl amends Council Regulation (EC) No. 2026/9	*5 November 2002*	*18 November 2002*	G/SCM/N/1/EEC/2/Suppl.3
Council Regulation (EC) 452/2003 on measure that the Community may take in relation t the combined effect of anti-dumping or anti subsidy measures with safeguard	*6 March 2003*	*14 April 2003*	G/SCM/N/1/EEC/2/Suppl.4
Council Regulation (EC) No. 461/2004, whicl amends Council Regulation (EC) No. 384/9 and Council Regulation (EC) No. 2026/6	*8 March 2004*	*28 April 2004*	G/SCM/N/1/EEC/2/Suppl.5
Information received from the new Membe States concerning their anti-subsidy legislation		*9 October 2004*	G/SCM/N/1/EEC/2/Suppl.6

Source:http://enforcement.trade.gov/trcs/downloads/documents/eu/index.html

Antidumping measures - The Anti-dumping Agreement is one of 3 World Trade Organization (WTO) principal trade defense agreements. The European Community (EC) is party to the agreements, which are applied across all EU member states. EUconditions for imposing an anti-dumping measure[40]:

1. **Imports must be dumped:**A product is considered as being dumped if its export price to the EU is less than its normal value. The normal value is usually the market price for the product in the exporting country. The export price is the sales price to the EU. In order to establish the dumping margin, a fair comparison must be made between the export price and the normal value.
2. **Injury:**The determination of injury requires an examination of the volume and prices of dumped imports and their consequent impact on the Community industry. In this regard, the Commission verifies whether there has been a significant increase in dumped imports, either in absolute quantities or in terms of market share. Determining the impact on the Community producers requires analysis of various typical economic factors: market share, output, profits, productivity, return on investment, ability to raise capital, growth, magnitude of dumping, etc.
3. **Causal link:**The dumped imports must be a cause of the injury. They need not be the only cause - other factors might also contribute.
4. **Community interest**: Anti-dumping measures must not be against the Community interest. Although this test is not required by WTO rules, it ensures that account is take of the overall economic interests in the EU – including the domestic industry producing the product concerned, importers, Community industries that use the imported product and will ultimately pay a higher price and, where relevant, the end consumer of the product.

Anti-subsidies and countervailing measures[41]:

The Agreement on Subsidies and Countervailing Measures (ASCM) is one of 3 WTO principal trade defense agreements as the antidumping

A subsidy is a financial contribution by a government or a public body which confers a benefit to a recipient.

[40]Condition.See more at: http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_151016.pdf

[41] See: https://www.gov.uk/anti-dumping-duty-to-protect-eu-businesses-against-cheap-imports#introduction

measures. EC are party to all the agreements, which are and can be applied across all EU member states:

1. Anti-subsidy measures allow importing countries to take banning action against certain kinds of subsidized imports.
2. Subsidy that are 'actionable' , means that the importing country must investigate and be able to demonstrate how the subsidized imports have caused damage to domestic industry before it imposes any countervailing duties on the subsidized products.

The issue of subsidies is complex and is handled at government level with disputes being settled by the WTO. A system of notification and reviews of measures allows for transparency. The agreement does not apply to trade in agricultural products, where export subsidies are common in some countries.

The legal conditions for imposing measures are more stringent e.g. the standard of injury.

Safeguard measures[42]**:** The Safeguards Agreement is one of 3 WTO principal trade defence agreements. The UK and the EC are party to all the agreements, which are and can be applied across all EU member states. This agreement differs from the other 2 as countries are entitled to take action in cases of unfair foreign competition arising from either anti-dumping, anti-subsidy, or both. Safeguards restrict imports of a product to protect a specific domestic industry. Measures can be applied under the Safeguards Agreement providing that all the following conditions prevail.

The Directorate General for Trade (DG Trade) of the Commission conducts trade defence investigations. Any proposal by the Commission to impose measures is adopted by the Council as a Regulation and is published in the Official Journal of the EU, pursuant to which measures come into effect[43].

Investigation [44]**:** Anti-dumping and anti-subsidy investigations can be initiated pursuant to written complaints lodged by EU producers of the like product or by their representative trade or national association. The complaint has to be formally lodged with the complaints office of DG Trade and must contain sufficient evidence on the existence of dumping of the

[42]See: https://www.gov.uk/anti-dumping-duty-to-protect-eu-businesses-against-cheap-imports#introduction
[43]Official Journal of the European Union. see : http://eur-lex.europa.eu/oj/direct-access.html
[44]European Union Edwin Vermulst and Juhi Sud VVGB ALTRA Advocaten / Avocats.see: http://www.vvgb-law.com/wp-content/uploads/2013/09/TC2014_-2_EU.pdf

particular product or subsidisation of exporting producers and the resulting injury. Complainants also generally include information on EU interest in case of possible imposition of measures. To be considered admissible, the complaint has to be filed by or on behalf of the industry, implying that the complaint should be supported by producers accounting for 25 per cent or more of the total EU production of the like product, and the supporting producers represent more than 50 per cent of the production of producers that either support or oppose the complaint. The Commission has 45 days from the date of filing of the complaint to review and accept or reject it. A complaint has to be rejected if it concerns imports from countries having less than 1 per cent of the EU market share unless collectively these countries account for 3 per cent or more of the market share. The Commission has to consult the Anti-Dumping or AntiSubsidy Committees (which have an advisory function and consist of representatives of the 28 EU member states) before accepting or rejecting a complaint. The complainants will be informed about the rejection of a complaint. Anti-dumping investigations have to be completed within 15 months and anti-subsidy investigations within 13 months from the date of their initiation.

If the Commission decides to initiate an anti-dumping or antisubsidy investigation, a notice of initiation is published in the Official Journal of the EU, which marks the date of the official commencement of the investigation and all deadlines start from this date. This document contains a description of the product subject to the investigation, the countries concerned and a summary of the allegations made in the complaint. Through this public notice the Commission invites potentially interested parties, such as exporting producers, non-complainant EU producers, EU importers, distributors, retailers, users and their associations as well as any other upstream or downstream companies and consumer associations that may have a link with or economic interest in the product, to participate in the investigation. The sampling information listed in the notice of initiation must be provided within the 15-day period by the Commission. The deadline for the completion of the questionnaire starts from the date of publication of the notice of initiation.

Registering as an interested party is the most crucial and essential step and failure to do so results in two negative consequences. First, the exporting producer is considered as not cooperating with the Commission and has no right to participate in the investigation or to

defend its interests. Second, it becomes automatically subject to the higher residual anti-dumping or anti-subsidy duty rate.

Sampled exporting producers receive their individual duty rate, but for the duty to be calculated, detailed information and data must be provided in the anti-dumping or anti-subsidy questionnaire, which must be completed within 37 days and is subsequently verified by the Commission. Non-sampled exporting producers wishing to obtain an individual duty may request individual examination. Exporting producers that duly register themselves and cooperate in the investigation have several opportunities to defend their interests by using written comments and notes. Written submissions can be made and hearings can be requested on initiation-related issues including the allegations of dumping or subsidisation and resulting injury in the complaint and the product scope. Throughout the investigation, exporting producers can submit supplementary comments, and pursuant to written requests to the Commission and their acceptance, inspect the non-confidential files and have hearings with the Commission on procedural and substantive issues. These documents are sent by the Commission to the exporting producers, who have a minimum 10 days to submit comments.

Anti-dumping investigations may result in anti-dumping duties to offset injurious dumping. The EU may choose to impose one or more of three basic formsof anti-dumping duties[45]:

1. ad valorem duty- a percentage of the net, free-at-EU frontier (CIF) price;
2. specific duty – a fixed value for a certain amount of goods, e.g. €100 per tonne of a product;
3. variable duty – a minimum import price (MIP). Importers in the EU do not pay an anti-dumping duty if the foreign exporter's export price to the EU is higher than the MIP;

Anti-dumping duty (ADD) and countervailing duty (CD) can be either:

1. **Provisional** - imposed when preliminary investigations indicate that dumping has occurred. It can be imposed no earlier than 60 days from initiation of proceedings but no later than 9 months from initiation and provides protection to Community industry while a full investigation is conducted. These duties are payable either by cash too.

[45]See: http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_151017.pdf

2. **Definitive** - normally last for 5 years and are imposed if a full investigation of the facts confirms earlier findings of dumping. Duties payable on importation.

With respect to safeguard investigations, a shorter time frame of nine months applies but, in exceptional circumstances, the period can be extended to 11 months. Exporting producers have 10 days from the initiation of the investigation to make themselves known and request a questionnaire, the response to which must be submitted within 21 days of the initiation of the investigation.

EU anti-dumping and anti-subsidy legislation both offer review and refund possibilities. Provisional anti-dumping or countervailing duty may be charged while suspected dumping is investigated. If definitive duty is not imposed at the end of the investigation, any provisional duty paid is refunded automatically. In some circumstances, a full or partial refund can be claimed on any additional duty that has been paid.

1. A full refund can be claimed if it can be shown that the goods on which duty was charged were not in fact dumped.
2. If it can be shown that too much duty was charged, a partial refund can be claimed.

Exporting producers can request an interim review on the basis of a duly substantiated request to have the duty rate or form reviewed. The request must be filed with the Commission and should contain sufficient evidence demonstrating the existence of changed circumstances of a lasting nature such that the continued imposition of the duty is no longer necessary to offset dumping or subsidisation and injury is unlikely to continue or recur if the duty were to be removed or varied. For the review proceeding to be initiated, a reasonable period – at least one year – must have passed since the imposition of the definitive duty. An interim review initiated by the Commission must be completed within 15 months and the amended duty rate or form is applicable prospectively once the amended measure is enforced.

A refund application must be submitted in writing to the customs authority of the EU member state where the duties were paid and the goods were released into free circulation, within six months of the imposition of the definitive duty or from the date when the duty to be levied was determined by the competent customs authority. The member states' authorities then transmit the application to the Commission. The refund application has to be duly supported by evidence concerning, among other things, the dumping or subsidy margin for a

representative period, the amount of refund of duties claimed and all related customs documentation.

The Commission must take a decision on the refund of duties within 18 months but this period starts to run only when the application is considered duly supported by evidence and not from the date when the application is filed. If the Commission makes a positive decision, the concerned member states' authorities must grant the refund within 90 days from the date of notification of the refund decision by the Commission. The possibility of claiming interest on amounts refunded after 90 days is subject to the national laws of the member states.

EU: The United Kingdom of Great Britain[46]- If a UK trader wishes to make a complaint about any products which they feel are being 'dumped' in the EU, they should contact the BIS[47]-ს (Business Innovation and Skills), which will notify the European Commission. If a complaint is deemed to contain sufficient evidence to warrant further action, then the Commission may issue a 'Notice of Initiation' Regulation. This allows the European Commission to make further enquiries. Once concluded, a decision will be made by the Commission as to whether the imposition of definitive ADD/CD is justified.

It is important to remember from a control perspective that goods exported from one particular country do not necessarily originate in that country. For example, ADD may apply to bicycles from China. In order to avoid this, traders may send the parts to Vietnam for simple processing and then claim Vietnamese origin. Circumvention takes place when the normal pattern of trade between an exporting country and the EU is altered specifically to avoid paying ADD/CD. If there is any doubt as to the correct origin of a given product, then a **Certificate of Origin** showing the name of the manufacturer and/or the exporter should be requested.

Refund[48]:Refunds under Article 11 (8) of EC Regulation 1225/09. In instances where an importer claims that their goods were either not dumped or that the margin of dumping is less than the rate set by the EU, the following procedure applies:

[46]ADCD-Anti-dumping and countervailing duties: main contents.
see:http://www.hmrc.gov.uk/manuals/adcdmanual/Index.htm
[47]Department for Business Innovation and Skills (BIS) see more at:
https://www.gov.uk/government/organisations/department-for-business-innovation-skills
[48]ADCD02400 - Control: Refunds under Article 11 (8) of EC Regulation 1225/09. see:
http://www.hmrc.gov.uk/manuals/adcdmanual/ADCD02400.htm

1. Importers should be advised to apply (in writing) to the EU (via BIS) for the appropriate refund;
2. Applications must be made within 6 months of either the date of entry into free circulation or the date when the amount of definitive ADD payable was advised to the importer;
3. For information regarding refunds, importers should contact BIS.

Other claims for the refund of ADD/CD should be processed in accordance with the standard repayment procedure. The circumstances may include:incorrect amount of duty paid; ADD paid, although the relevant ADD measure had been terminated andshort shipment of goods.

In the case to fill form of undertaking and banker's Individual guarantee - A person qualified to make declarations on Customs entries must sign the undertaking/guarantee. (see:Appendix 1 andAppendix 2). The Bank underwriting the guarantee must be one approved for this purpose by the Commissioners of Her Majesty's Revenue and Customs.

Risks[49]**:** Many ADD measures are specifically intended to prevent cheap imports from countries with lower material and labor costs, in particular the Far East and Eastern Europe, from damaging EU industry. For this reason, goods from these regions often attract high rates of ADD/CD.

The 'free at frontier price' for such goods is often considerably lower than equivalent goods produced in the EU.

ADD and CD risks from all sources are assessed by ESCM[50] and disseminated to Regional risk teams and frontier staff. The following are suggested as the Top 10 ADD/CD risks:

1. goods misdescribed by traders to avoid a tariff heading that attracts ADD or CD;
2. incorrect Country of Origin declared by the trader to avoid ADD or CD;
3. incorrect Country of Consignment/Despatch declared by trader to avoid ADD or CD;
4. technical specification of goods misdescribed to avoid ADD or CD within a specific tariff heading or obtain a lower rate;
5. incorrect supplier's name given to avoid ADD or CD, or to obtain a lower rate they are not entitled to;

[49]ADCD03000 - Risk analysis. see: http://www.hmrc.gov.uk/manuals/adcdmanual/ADCD03000.htm

[50] ESCM - Excise, Customs, Stamps and Money

6. components imported for assembly in EU to avoid ADD on finished article. The components could be liable to ADD if the assembled article enters into the EU;
7. goods overvalued on invoice in order to exceed a Minimum Import Price (MIP) to avoid ADD or CD;
8. under-declaration of weight when ADD or CD is levied at a specific rate based on import weight;
9. satisfactory security not held subject to provisional ADD or CD and;
10. retrospective revenue not secured once measure is made definitive.

It is difficult to keep up to date information available on extant ADD measures. This is because the European Commission notifies Member States of new measures and amendments on a daily basis. The Tariff or List of ADD measures may be checked for up to date information on extant measures. The most common country affected is China.

Conclusion

Agreement on The Deep and Comprehensive Free Trade Area (DCFTA) between Georgia and European Union implies a wide range of matters regarding with trade and foresees removal of existing trade barriers. It will create better opportunities for Georgia to access to the EU internal Market and to improve products and service quality of domestic industry through fully adjustment with the international standards. To this extant, one of the major dimension is activation of the trade remedies, ensuring defense of domestic and foreign production and offering them equal trade conditions.

While using trade remedies the parties act under the agreements of the World Trade Organization (WTO), which regulates use of provision of trade remedies, such as anti-dumping and anti-subsidy. Nowadays, Georgia prepares Trade Remedies (Preliminary and Special defense measures defined under the draft law), which are more effective and economical compared with the Anti-dumping measures. However, to avoid Anti-dumping measures, legislation base is created in several countries which ensures safeguard and regulates measures concerning the levy of anti-dumping and countervailing duties. Georgia does not owns such legislation yet, but the government of Georgia plans to discuss and make decision concerning the anti-dumping legislation and fundamental issues connected with it thereon. As for the Subsidies, it is

regulated under the "General Agreement on Tariffs and Trade" of The World Trade Organization (WTO), in particular according with Article XVI and is defined under the agreements on probable restrictions of subsidies between the contracting parties.

There is not any legislation base in Georgia, which will regulate measures to levy anti-dumping and countervailing duty, however this does not impede trade processes in the country, due to the fact that Georgia is allowed to use regulations of The World Trade Organization (WTO) voluntarily, referring not only anti-dumping/countervailing duty, but also subsidies and Trade Remedies, on the grounds of which the country has an opportunity to have a control on the trade-related matters.

Appendix:

Appendix 1: Form of undertaking and banker's Individual guarantee[51]:

To the Commissioners of Revenue and Customs

In consideration of your releasing the under-mentioned goods in respect of which provisional anti dumping/countervailing* duty has been imposed, I/we* undertake to pay to you on demand the whole or such proportion of the provisional duty, at the appropriate rate, as may be required to be definitively collected. This undertaking shall expire twelve months after the date on which the provisional anti-dumping/countervailing* duty was imposed.

(*delete as necessary)

The total amount of provisional duty guaranteed under this guarantee is not to exceed £.....**

**May be included if required

Description of goods .....

Entry number and date.....

Date and port of importation .....

Marks and numbers .....

Duty value of Good .....

Signature ..... Dated .....…….

Full Name (BLOCK CAPITALS).....

Status .....

Name and address of importer.....

or authorized agent giving the undertaking .....

We join in the above undertaking as guarantors

Signature ..... Dated .....

Full Name (BLOCK CAPITALS).....

Status .....

Name and address of Bank .....

.....

.....

[51]See: The importer of the goods, or a duly authorised agent, and the Bank of the importer must complete this(Word 25kb).

Appendix 2: Form of undertaking and banker's Standing guarantee[52]:

Commissioners of Her Majesty's Revenue and Customs

In consideration of your releasing the goods from time to time imported by me/us* in respect of which provisional anti dumping/countervailing* duty has been imposed, I/we* undertake to pay to you on demand the whole or such proportion of the provisional duty, at the appropriate rate, as may be required to be definitively collected.

(*delete as necessary)

This undertaking shall, in its application to any particular importation, expire twelve months after the date on which the provisional duty was imposed in respect of that importation.

The total amount of provisional duty guaranteed under this guarantee is not to exceed £..... **

(** May be included if required)

Signature ..... Dated .....

Full Name (BLOCK CAPITALS) .....

Status .....

Name and address of importer .....

or authorized agent giving the undertaking .....

We join in the above undertaking as guarantors

Signature ..... Dated.....

Full Name (BLOCK CAPITALS).....

Status .....

Name and address of Bank .....

.....

.....

[52] See:This must be completed by the importer of the goods, or a duly authorized agent, and the Bank of the importer (Word 25kb).

References:

1. Ordinance of Government of Georgia №306, concerning reorganization of State Procurement Agency, Legal Entity of Public Law (PPL) and on endorsement of provisions and structure of the State Procurement Agency, LEPL, 2014.
2. World Trade Organization (WTO) "General Agreement on Tariffs and Trade": http://www.economy.ge/uploads/kanonmdebloba/sagareo_vachroba/GATT_-_tarifebi.pdf http://procurement.gov.ge/getattachment/AboutAgency/debuleba.pdf.aspx
3. Draft Law on "Introducing Trade Defence measures in Georgia": http://economy.ge/ge/media/news/momzadda-kanonproeqti-quotvawrobasi-dacviti-ronisziebis-semorebis-sesaxeb
4. National Statistics Office of Georgia (GEOSTAT), External Merchandise Trade of Georgia, 2014:http://www.geostat.ge/cms/site_images/_files/georgian/bop/FTrade__2014_GEO.pdf
5. Agreement on Deep and Comprehensive Free Trade Area, chapter 2, part 1-2: http://www.economy.ge/uploads/dcfta/teqsti_danarti/GEO_2_1.pdf
6. ADCD - Anti-dumping and countervailing duties: main contents. see: http://www.hmrc.gov.uk/manuals/adcdmanual/
7. Conditions, European Commission. see: http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_151016.pdf;
8. European Union Trade Remedy Laws, Regulations and Rules.see: http://enforcement.trade.gov/trcs/downloads/documents/eu/index.html;
9. European Union, Edwin Vermulst and Juhi Sud VVGB ALTRA Advocaten / Avocats, J.Trade & Customs in 19 jurisdictions worldwide, 2014 წ. see: http://www.vvgb-law.com/wp-content/uploads/2013/09/TC2014_-2_EU.pdf ;
10. Guidance: Anti-dumping duty, 'countervailing' and other trade defense measures. see: https://www.gov.uk/anti-dumping-duty-to-protect-eu-businesses-against-cheap-imports#introduction ;
11. Trade Remedies –What Business Needs to Know, International Trade Center.see: http://www.tradeforum.org/Trade-Remedies---What-Business-Needs-to-Know/;
12. Trade Defence Instruments: anti-dumping anti-subsidy safeguards, – Guide for EU exporters. see : http://trade.ec.europa.eu/doclib/docs/2010/october/tradoc_146701.pdf

Deep and Comprehensive Free Trade Agreement – Issues OF TRANSPARENCY

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Introduction

One of the significant part of Association Agreement between EU and Georgia is the Agreement on Deep and Comprehensive Free Trade Area (DCFTA), that envisages the economic integration mechanism that will promote the opening up the internal market of EU to Georgia. DCFTA envisages the liberalization of trade with goods and services and staged approximation of Georgia legislation towards EU legislation.

One of the most important chapters of DCFTA is the "Transparency", "Provisions of General Application" of which include laws, regulations, court decisions, procedures and administrative rules that may have an impact on any issue envisaged by Chapter IV of this Agreement (Trade and Related Issues).

The Agreement ensures transparency of system that is regulating trade issues, by ensuring public accessibility to the legislative and normative acts and their drafts, also defines mechanism for ensuring of effective communication between Parties. In addition to this, the Agreement envisages existence of judicial, arbitrage or administrative bodies where appealing of adopted measures will be possible. Each party ensures that provisions having general application (laws, regulations, court decisions, procedures and administrative rules) are quickly and easily accessible through official channel, by electronic means so that any person can become familiar with them. Objective should be argued and explained and sufficient period of time should exist between publication of these provisions and their entry into force.

According to the Agreement, each party, for the purpose of simplification of communication, defines contact person, also each party will establish or maintain of appropriate mechanism, for answering questions of any interested person.

Abovementioned issue will ensure functioning of transparent and predictable legislative-regulating system in the country.

Analysis of the obligations defined by the Agreement and the existing situation - Chapter 12 "Transparency"

Association Agreement was signed on June 27, 2014, in Brussels, by the prime minister of Georgia. Ratification of the Agreement was done on July 18, 2014 by the Parliament of Georgia. From September 1, 2014 activation of provisions related to trade, including DCFTA, has started.

For the purpose of successful implementation of DCFTA, on July 28, 2014 Action Plan for 2014-2017 was approved that was composed on the basis of measures that should be carried out, provided by departments (see Table 1 - Transparency).

On January 26, 2015, National Action Plan for implementation of Association Agreement between Georgia and EU, and agenda of association was adopted on the basis of Georgian government decree №59. This Plan includes the Action Plan for 2015 related to the Deep and Comprehensive Free Trade Area (DCFTA) part of the Association Agreement.

Georgian Action Plan for implementation of Deep and Comprehensive Free Trade Area agreement, 2014-2017

Transparency

Table 1

Preparation to the implementation of transparencyobligation during elaboration of policy related to trade and consideration of necessary mechanisms in this sense	Establishment of DCFTA Council of Advisers with the participation of all interested parties	Ministry of Economy and Sustainable Development	2014	State budget
	Appointment of contact person that will act as a coordinator for any issues arisen from the use of DCFTA	Ministry of Economy and Sustainable Development	2014	State budget
	Increase of capabilities on communication mechanisms and consultations with interested parties in appropriate state institutions	Ministry of Economy and Sustainable Development	2014-2015	Needs additional financing
Carrying out seminars and other events for broad public that are aimed at explanation of the Association Agreement and approximation process implementation	Launching and maintenance of web portal dedicated to the issues related to DCFTA, including ongoing and planned reforms	Ministry of Economy and Sustainable Development	2014-2017	State budget, needs additional financing (web portal is already functioning)
	Carrying out campaign for the informing of the society about DCFTA related issues	**Ministry of Economy and Sustainable Development**	**2014-2015**	**State budget Campaign is already underway in Tbilisi (thematic meetings), as well as meetings in regions are held with participation of the representatives of business, NGO, local authorities and academic circles**

http://economy.ge/uploads/dcfta/DCFTA_action_plan_GEO.pdf

Document of Implementation for 2014 was prepared and discussed in accordance with Action Plan for 2014-2017 of Deep and Comprehensive Free Trade Area (DCFTA) agreement.

According to the Implementation Document for 2014, main emphasis is done on the informational campaign and thematic meetings, also web portal is launched. Establishment of DCFTA Council of Advisers with the participation of all interested parties, implementation of which was determined 2014, is still not fulfilled at current stage; however, the draft of advisers group's provision is prepared. Also in 2014 a contact person was to be determined as a coordinator for any issues arisen from the use of DCFTA. However, in the Implementation Document for 2014, this issue is not indicated.

Within the framework of the informational campaign, for the purpose of increasing of awareness of population about issues related to DCFTA, an informational campaign was carried out by the Ministry of Economy and Sustainable Development during 2014 in Tbilisi and regions, within the framework of which meetings with the representatives of civil and private sectors, as well as academic circles and local governing bodies were held (Tbilisi, Kutaisi, Telavi, Batumi). During these meetings spheres of regulations of the Agreement were discussed, as well as obligations taken by Georgia and benefits expected from every direction.

Within the framework of the informational campaign, on April 14, 2014 Ministry of Economy and Sustainable Development organized the meeting about trade with goods (tariffs) and customs issues that was attended by the representatives of non-governmental and business sectors. Also, on December 26, 2014 thematic meeting was held with the representatives of private sector and civil society organized by Ministry of Economy and Sustainable Development, with the support of USAID governance development project. This meeting was dedicated to the review of obligations and planned reforms in regard to food security within the framework of DCFTA.

At this stage, special web portal is integrated in the web-site of Ministry of Economy and Sustainable Development (see link: http://economy.ge/ge/dcfta) where information related to the Agreement is placed. With the help of this web-portal, interested persons can become familiar with the text of the Agreement on English and Georgian languages. Short review of each chapter of DCFTA is placed on the portal but complete information about implemented, ongoing and planned reforms is not present in relation to each subchapter. Also, proper

functioning of web portal is necessary, in accordance with the terms of the Agreement, as well as easy accessibility to provisions of general application, however, not all information is collected in mentioned address, and updating of information is not happening so necessary time between publication of these provisions and their entry into force is not ensured. However, at the initial stage, information placed on the web-portal is sufficient for the increasing of awareness of interested parties.

National Action Plan of 2015 for the Implementation of Association Agreement and the Agenda of Association between EU and Georgia

Table 2

Preparation to the implementation of transparency obligation during elaboration of policy related to trade and consideration of necessary mechanisms in this sense	Development and maintenance of DCFTA web portal DCFTA	Ministry of Economy and Sustainable Development	2015	State budget
Carrying out seminars and other events for broad public that are aimed at explanation of the Association Agreement and approximation process implementation	Meetings related to DCFTA with the representatives of business sector, NGOs and other interested parties in Tbilisi.	Ministry of Economy and Sustainable Development	2015	State budget
Meetings related to DCFTA with the representatives of business sector, NGOs, local authorities and academic circles in regions.		Ministry of Economy and Sustainable Development	2015	State budget

First Quarter Report of National Action Plan (2015) for Implementation of Association Agreement and the Agenda of Association between Georgia and EU

Table 3

Development and maintenance of DCFTA web portal DCFTA	Ministry of Economy and Sustainable Development	2015	State budget	Update of information on DCFTA web portal is regularly carried out. Also, selection of donor is underway.
Meetings related to DCFTA with the representatives of business sector, NGOs and other interested parties in Tbilisi.	Ministry of Economy and Sustainable Development	2015	State budget	On February 19 of current year in Tbilisi, Mikheil Janelidze, Deputy Minister of Economy, Zaza Dolidze, Head of National Food Agency and representatives of Ministry of Agriculture introduced the draft of legislative approximation program envisaged by the DCFTA, to the members of "Civil Forum"

It is indicated in the Report for the 1th quarter of 2015 that updating of information on the DCFTA web portal is regularly carried out although there is no progress in this direction, at present stage. Part of Provisions of General Application of Chapter 12 (laws, regulations, court decisions, procedures and administrative rules) is not published in the web portal and is placed only in the web-site of Ministry of Agriculture.

List of legislation that should be approximated to the EU legislation was elaborated in Ministry of Agriculture (program of legislative approximation in phytosanitary; program of legislative approximation in food security; program of legislative approximation in veterinary) that includes the list of EU legislation regulating spheres of food security, veterinary and plant protection, and terms of approximation. The definition of EU legislation in years by years was carried out based on their priority. In particular, importance of legislation that should be

developed in regard to food security, veterinary reliability and plant protection was taken into consideration.

At first stage, already acting legislation in Georgia was reflected that needs revision for the purpose of approximation to the EU legislation (approximation of Georgian legislation to the EU legislation will be carried out by stages, from 2015 to 2030. Before the approval of specific normative acts, the consideration should be carried out with participation of all interested persons, to ensure maximum protection of public and private interests).

In accordance with the implementation document for the first quarter of 2015, on February 19, 2015 in Tbilisi, Deputy Minister of Economy, Head of National Food Agency and the representatives of Ministry of Agriculture introduced the draft program of legislative approximation envisaged by DCFTA to the members of "Civil Forum".

On March 23 in Ozurgeti and on March 24 in Poti, informational meetings about DCFTA were held with the representatives of business sector, civil society and local self-government bodies. Within the framework of mentioned meetings, informational booklets about DCFTA were distributed that were prepared with the initiative of Ministry of Economy and Sustainable Development and with the support of G4G project.

Issues that are not defined in the Action Plan for DCFTA

According to the Agreement, each party:

(a) Establishes a goal to make publicly accessible at the early stage all proposals related to the approval or amendment of provision of general application, including the purpose of this proposal and its rationale;

(b) Ensures reasonable opportunities to make comments on such proposals for interested persons, in particular, give enough time for such opportunities;

(c) Establishes a goal to take into consideration the comments made in relation of such proposals by the interested persons.

It is indicated in the Implementation Document for 2014 of 2014-2017 Action Plan for implementation of DCFTA that special web portal is integrated in the web site of Ministry of Economy and Sustainable Development (link: http://economy.ge/ge/dcfta) where all information related to the Agreement is placed.

As we mentioned above, on the said web site, despite executed changes, some news and information are not reflected although it should be noted that the date of each information placing is not indicated that arises questions whether opportunities for interested persons to make comments will be ensured, and how they can express their position or how much the time interval for such opportunities is protected;

Also, it is envisaged in the Agreement that each party will establish or maintain appropriate mechanisms to answer questions of any person in relation to proposed or valid provisions of general application and their action. Reaction on the questions may be carried out with the help of contact person (coordinator) between parties or with the use of another mechanism, if needed. Mentioned issue is still not fulfilled and specific date and mechanisms in this sense are not defined.

Issues of revision and appeal are envisaged in the Agreement, in particular:

"Each party will establish or maintain judicial, arbitrage or administrative tribunals or procedures related to the issues of administrative actions envisaged in Chapter IV of this Agreement (Trade and Related Issues), for the purpose of quick revision and, in case of necessity, amending of them. Such tribunals or procedures will be unbiased and independent from those offices and authorized organs that are tasked with administrative execution, and those, who are responsible on this issue, should not have essential interest in relation to result to be obtained.

Each party ensures that participants of judicial proceedings will be equipped with following rights, during such tribunals and procedures:

(a) Reasonable opportunity to defend their respective positions;

(b) Decision that is based on proof and presented data or where law requires data composed by the administrative bodies.

Each party ensures that such decision that is a subject of appeal or revision envisaged in legislation should be implemented in practice by that office or authorized organ that is responsible on this administrative action".

Mentioned issue is not defined in the 2014-2017 and 2015 Action Plan and a document does not exist in which it is scheduled in long-term prospect.

It is defined by the Agreement:

"The Parties agreed to collaborate for the facilitation of regulation quality and implementation, including by means of information exchange and best practice sharing on regulation policy and assessment of regulation impact.

The Parties acknowledge importance of principles of good administrative behavior and agree to collaborate for the facilitation of such principles, including by taking into account information exchange and best practice".

Not any from above mentioned issues are scheduled in time. Therefore, it is desirable to develop mechanisms of information exchange and sharing of best practice that also should be scheduled in time.

Conclusion and recommendation

As it was mentioned above, in contrast to other agreements on free trade, DCFTA envisages harmonization of Georgian legislation with the legislation of EU that actually should be done by implementing some changes in Georgian laws during next 10 years. Obligations defined in the Chapter 12 (Transparency), development of the forms of information supply and timely presentation have most important role in the mentioned process.

It is desirable that Council of Advisers should be formed in the shortest possible time, with the participation of all interested parties. Also, it is necessary to carry out informational saturation of integrated web portal and publish news where complete information about all subchapters of the DCFTA will be indicated, about ongoing and planned reforms.

Harmonization process does not envisage copying of EU legislation but it provides a space to adjust latter to the local reality. In the given context, it is necessary to assess impact of main legislative amendments, accessibility of all information so that interested parties would have an opportunity to reveal possible alternatives and select optimal among them. For the purpose of informing interested parties, until approving laws and regulations, it is desirable to timely define and schedule in time the issue of existence and establishment of judicial, arbitrage

or administrative tribunals and procedures, and appropriate responsible authorities, in case of possible legal disputes.

According to the Association Agreement, Council of Association should be formed with the participation of EU and Georgia that will ensure political dialog between parties and development of respective policy. Generally, Agreement of Deep and Comprehensive Free Trade Area, as a part of Association Agreement between EU and Georgia, is an important step for Georgia towards European integration. The Agreement will help economic development of Georgia in regard to creation of business environment, increase of country's attractiveness (especially in agriculture) and, among others, increase of export's amount, for the achievement of which obligations taken in the Transparency subchapter of DCFTA have an important role.

References:

1. www.economy.ge – Webpage of the Ministry of Economy and Sustainable Development of Georgia;
2. www.moa.gov.ge – Webpage of Ministry of Agriculture of Georgia;
3. Open Society Georgian Foundation "Georgia EU Agreement of deep and comprehensive free trade area": Economic Policy Research center 2014
4. Eastern Partnership: Roadmap for the Autumn Summit of 2013;
5. Fulfillment of the tasks of EU Neighborhood action Plan in Georgia on relation to trade and trade related issue for 2012. Assessments of the Civil Society Representatives. Tbilisi January, 2013
6. Action Plan for 2014-2017 Years on the EU Georgia Association Agreement;
7. Fulfillment Description Document for 2014-2017 Years Action Plan.
8. 2015 National Action Plan for EU Georgia Association Agreement Agenda.

ANALYSIS OF THE COMMITMENT IN THE STATE PROCUREMENT AREA DEFINED BY THE ASSOCIATION AGREEMENT RATIFIED BETWEEN THE EU AND GEORGIA

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Introduction

Risk of Corruption is one of impeding factors in progress of economic development of country and welfare of its population. It can be appeared at all level of economic relations and poses a threat to the healthy competition. Process of spending public finances, expressed in State Procurements, bears the highest risk in corruption. Therefore, there always has been high social interest concerning the State Procurement process.

Effectiveness of consumption the public finances via the state procurement is depended on how the system of these processes are organized. The system itself implies legislative framework on the one hand, which defines the rules of game, and the institutions on the other hand, participating into the processes of the state procurements.

Fundamental reforms carried out in Georgia during the last five years, made its state procurement system as one of the most transparent throughout the world, which is ascertained by the high assessment made by numerous international organizations.

According to the World Bank's evaluation "Georgia broke the myth that the corruption is the phenomenon of the culture. Georgia was able to prove, that the success can be achieved in a relatively short period of time, if there is a firm political will and the coordinated action made by the governments"[53] According to the outcomes of the Global Corruption Barometer of Transparency International 2013, only 4% of Georgian population had to give a bribe during the last 12 months[54] Hereby, 70% of respondents consider that the level of corruption has been

[53]The World Bank, "Fight corruption in public sectors: Narratives of reforms carried out in Georgia", 2012.
[54]Transparency International, "Global Corruption Barometer", 2013.

reduced during the last two years[55]According to the business bribery risks index 2014, of "Trace Inetrnational", Georgia ranks the 11th place among 198 countries worldwide and precedes countries such as Norway, Holland, France, Switzerland, UK and Austria. Business Interactions with government is assessed as the lowest bribery risk for Georgia, as well as the components of State Services Transparency[56].

Georgia improved its position significantly in the rating of the World Bank's Doing Business. According to the report 2015, Georgia holds leading position in the region of Europe and Central Asia, concerning the ease of doing business[57] Moreover, Georgia holds 1st place in Registration Estate, 3rd place – in issuing construction permits, 5th place - in launching business and 7th place – in granting credits[58].

Notwithstanding the abovementioned, Georgian State Procurement System is not fully developed yet. There are some defaults both in legislative and institutional viewpoint. To eradicate the drawbacks and refine the system it is inevitable to share an international experience. Implementation of the undertaken commitments is foremost precondition to achieve this process. In such case, we will discuss the part of the Deep and Comprehensive Free Trade Area Agreement with EU (DCFTA), which refers directly to the State Procurement Process.

Brief overview of the current situation

In 2010, Georgia introduced an Electronic System of the State Procurements, which was recognized as one of the best in the nomination "Prevention of corruption and fight against it" at the public service contest conducted by the United Nations[59] Number of announced electronic tenders reached to 123,438 since the activation of the system until 2015. In contrast with this, in 2007-2009 only 8,000 so called "paper tenders"[60] were announced. Since December 1st2010 until 2014, amount allocated for the state procurement via the electronic tenders was6,779,041,549 GEL, and as a result of electronic trade, the balance between the presumable

[55]Ibidem
[56] Corruption risks index for business 2014., see: http://www.traceinternational.org/trace-matrix/#11
[57] The World Bank, Doing Business 2015, see: http://www.doingbusiness.org/rankings
[58]Ibidem.
[59]The **United Nations Public Service Awards**See:
http://unpan.org/DPADM/UNPSDayAwards/UNPublicServiceAwards/tabid/1522/language/en-US/Default.aspx
[60] "paper tenders" - Non-electronic form of tender

value of procurement and the value of the agreement was 870,104,759, accordingly, economy of the state funds compared with the presumable value was 13%. Growth of average number of tender participants indicates significant growth of competition in the state procurement area. In 2011, average number of participants in one tender was 1.71, in 2012 – 1.75, and in 2013-2014 it was 2.01. Based on the current data, number of the suppliers registered in the electronic system exceeds 20,040[61].

Moreover, during the last years the state procurement procedures have become simply and transparent, quality of accessibility of information concerning the state procurement for interested people within the electronic system of procurement was improved, training was provided for the consumers of electronic system and the guide was issued for the consumers of the system[62] Hence, fundamental reforms in the procurement area is already conducted, however, it requires additional effort to refine regulatory legislation of the state procurement, develop procedures to discuss disputes and ensure high level of transparency of the process.

Action Plan for Georgia, for the implementation of the Agreement on Deep and Comprehensive Free Trade Area (DCFTA) 2014 – 2017.

In the Table 1 is given Action Plan, which represents measures and obligations, undertaken by Georgia upon the Agreement on Deep and Comprehensive Free Trade Area (DCFTA), to be implemented in Georgian state procurement system.

[61]Anti-Corruption Council, "Assessment report of Georgian 2010-2013 Anti-Corruption Action Plan" , P 25-26., 2014

[62]Ibidem.

Table 1. Action Plan

Priorities	Action	Responsible authority	Terms of execution	Financing resources	Comments
Commencement of development of comprehensive Action Plan of legislative approximation under the Association Agreement	1.Update of negotiations with the European Commission due to overview the content of the following Annexes: XVIC;XVI-E; XVI-G; XVI-J;XVI- H; XVI-Land XVI-M. Including overview of the indicative terms for each stage of legislative approximation	State Procurement Agency	2014-2015	Budget of State Procurement Agency	Negotiations shall be inevitably updated, due to the fact that after the negotiations EU legislation was amended concerning the State Procurement issue.
	2. Development of the comprehensive Action Plan for implementation of legislative approximation, under the Appendix XVI-8 of the Association Agreement	State Procurement Agency	2015	Budget of State Procurement Agency; Support from the Donors	State Procurement Agency will be supported by SIGMA in the process of development the comprehensive Action Plan.
Commencement of gradual approximation in accordance with the Association Agreement	Legislative approximation to the basic contracting standards envisaged in to the article 144 of the Association Agreement	State Procurement Agency	2016	Budget of State Procurement Agency; Requires additional financing	
Enhancement of opportunities of	1. Providing Trainings for the	State Procurement	2014-2017	Budget of State	

interested parties.	staff employed in the state procurement area in state agencies within the EU countries and Georgia.	Agency		Procurement Agency; Requires additional financing	
	2. Providing trainings for suppliers who are interested to take parts in State Procurement.	State Procurement Agency	2014-2017		
	3.Best experience, information and regulations in state Procurement area.	State Procurement Agency	2014-2017		

Part of the activities envisaged into the abovementioned Action Plan is already implemented, which will be discussed in next sub-chapter.

Implemented and current reforms

For further development of Public Procurement Policy and approximation to the relevant regulations of the EU, meaningful reforms had been implemented, which aimed to ensure more transparency and equality:

- ✓ Number of amendments have been made and activated in the Law;
- ✓ New services have been activated on the Unified Electronic System of State Procurement, which aims to simplify State Procurement procedures and ensures more transparency and accessibility to the information concerning the State Procurement.

The Agency, together with the supporting program of monitoring of reforms in management of the public finances and with the staff of the PMC group, elaborated long-term strategy for agency for 2013-2017[63].

Moreover, the Agency maintains cooperation with the Program of Support for Improvement in Government and Management (SIGMA), whereupon SIGMA and the Agency have organized the following business meetings:

- ✓ Concerning the management of Contract, 1-2 October 2013;
- ✓ Concerning the system of electronic Catalogues and dynamic electronic procurement, 17-18 October 2013;
- ✓ Concerning the Planning of the State Procurement, 12-13 December 2013;
- ✓ Concerning the Technical Specifications in State Procurement, 9-10 January 2014.

National Action Plan of 2015 of the Association Agreement between the EU and Georgia and Implementation of the Association Agenda, which implies as well the Action Plan of 2015connected with the Deep and Comprehensive Free Trade Area with EU (DCFTA), envisages the following priorities in the public procurement area:

- ✓ Commencement of development of the Comprehensive Action Plan of Legislative approximation, according to the Association Agreement;
- ✓ Enhancement of opportunities of the interested parties (provide trainings for the contracting entities and suppliers).

For the purpose of implementation the Action Plan, State Procurement Agency has carried out the following events:

Commencement of development of the Comprehensive Action Plan (Roadmap) of Legislative approximation

Due to the request of the State Procurement Agency technical support of "SIGMA" (Joint initiative of the EU and the OECD) was initiated, considering facilitation of development of the comprehensive Action Plan, analysis of existing system, practice and legislation of the State Procurement and make recommendations concerning the presumable legislative and

[63]Long-term strategy for agency for 2013-2017, See: http://www.procurement.gov.ge/getattachment/ELibrary/StrategyActionPlan/CSPAStrategic_Plan_Final.pdf.aspx

institutional modification, to bring them in conformity with the principle standards of the Association Agreement.

Implementation of technical support was initiated in 2014, particularly, at the first phase analysis of legislative and institutional frames of the State Procurement regarding its compliance with the basic standards of the EU's state procurement and corresponding acquis is under process.

Within the frames of technical support, the following business meetings were conducted in October and December of 2014:

- ✓ Workshop about the new directives of the EU was conducted on October 22, 2014. The workshop was attended by the staff of State Procurement agency, as well as by the representatives of ministries and Prime Minister's economic advisory council;
- ✓ Business meetings were held in October and December of 2014, where institutional and legislative defaults were discussed.

Development ofthe Comprehensive Action Plan to make the implementation of legislative approximation requires update of negotiations on the corresponding appendixes of the European Commission Agreement, due to the amendments made in the relevant legislation of the EU. Bilateral negotiations, about the appendixes to the Public Procurement section of the Agreement, were updated on December 2, 2014.

Amendments to the Legislation

On September 25, 2014 amendments were made in State Procurement Agency concerning the submission of complaint to the disputes resolution board related to the procurement and its permission. Taking into consideration the requirements of the EU directives, amendments were made to the legislation, in accordance of which, decision made by the contracting entities can be appealed at the mentioned council within the 15 days from its adoption. The legislation did not consider such time-frames before its modification,.

Enhancement of opportunities of the interested parties

For the purpose of raising qualification of relevant staff of contracting entities (Apparatus of Tender commissions and its members), training center was established in the

State Procurement Agency. To the extent of uniqueness of the State Procurement course, it is intended for those who are carrying out state procurement at any contracting entities and are willing to raise their qualification; As well, for those, who are going to work at the contracting entities on the position and post executing state procurement. In 2014 the training course was attended by 92 employees of local self-governing bodies and different contracting entities in regions of Georgia.

On September 19, 2014, with the help of USAID EPI program, State Procurement Agency organized a meeting with the representatives of private sector and trade representatives of councils and embassies accredited in Georgia. The meeting was attended approximately by 120 participant. Objective of the meeting was to motivate entrepreneurs doing their business in Georgia, in particular, small and medium sized ones, to involve in the state procurement via the transparent and fair electronic system of state procurement. It also aimed to inform them about the public procurement market and get private sector acquainted with the new business opportunities.

In May and June of 2014, field meetings were arranged in five regions of Georgia for the staff of contracting entities. The aim of the business meetings was raising qualification of the relevant staff of contracting entities throughout the regions, analysis of frequently made mistakes identified according to the regions and making practical and legal recommendations for the contracting entities.

On November 14, 2014, a meeting was held between the staff of State Procurement Agency, construction companies and representatives of contracting entities. Main objective of the business meeting was requiring information from both immediate participant parties in State Procurement – either from contracting or supplier entities, as well as identifying problems during the procurement processes in construction sector and familiarize with proper recommendations of Agency concerning the problem issues.

To carry out qualified state procurement, improve knowledge and competence of the relevant staff of the contracting entities, State Procurement Agency drafted and with the support of program (G3) USAID Democratic governance in Georgia, issued methodological indications for the preliminary preparation phase of State Procurement, namely: concerning (1) the management of preparatory phase of procurement, (2) qualification requirements, (3)

requirements referred to the procurement object. Moreover, User Manual for the Unified Electronic System of State Procurement, Dataof Frequently Asked Questions about State Procurement and Special informational booklet about Agency and Training Centre were issued.

In order to raise qualification of the relevant staff of Georgian governmental bodies and local self-governing procurement organizations, trainings were conducted in the Training Centre of State Procurement Agency in the first half of 2015. 12 working groups of 4 flows of the mentioned trainings were presented byrepresentatives of 14 ministries, Parliament of Georgian, Prosecutor's office of Georgia, High Council of Justice of Georgia, Tbilisi City Hall, Government of Autonomous Republic of Abkhazia, Administration of temporal administrative-territorial unit of Autonomous district of South Ossetia, The Central Election Commission and other state authorities (including PPL and NCL) and self-governing bodies. On the basis of data prepared in May 2015, total 238 public workers were trained, including 148 employees of local self-governing bodies from 71 municipalities of Georgia and 90 employees of state authorities.

On May 8 of 2015, training, organized by the Training Centre, was conducted for the suppliers interested in participating in the State Procurement, which was financed by the World Bank and supported by the Trade-Industrial Chamber of Georgia. It was attended by 45 representatives of business organizations. Except the intensive "state procurement courses" conducted by the Professors of the Training Centre, the issues concerning the standard tender documentation of the World Bank and financed projects via the electronic procurement system was discussed as well.

Reforms which shall be implemented

In the schedule of implementation of undertaken commitments under the Agreement on Deep and Comprehensive Free Trade Area (DCFTA) with EU, activity that must be implemented in 2016 is referred in the Article 144. In the Article 144 of the Association Agreement is discussed basic standards for the award of contracts[64] , which must become orientation of the Georgian legislation in the procurement area. In Article 144 is emphasizes that no later than three years from the entry into force of this Agreement, the Parties shall comply with a set of basic standards for the award of all contracts as stipulated in paragraphs 2

[64] Agreement on Deep and Comprehensive Free Trade Area with the EU; http://www.economy.ge/ge/dcfta

to 15 of this Article. These basic standards derive directly from the rules and principles of public procurement, as regulated in the Union public procurement acquis, including the principles of non-discrimination, equal treatment, transparency and proportionality[65]

In the viewpoint of the awarding of contracts and their management, as well as mechanism of assessment in the State Procurement system of Georgia, namely, in its legislative section, appears particular defaults. After the Agreement about the State Procurement is singed, it may be modified only in limited exceptions, by mutual agreement of the parties. In particular, the law indicates, that the subject matter of the Agreement cannot be modified, if it causes growth of total value of the agreement or subject matter is deteriorated for the contracting entity, except the case, when the circumstances, on the basis of which was signed the agreement, were obviously changed after its entry into force, and the parties would not sign this agreement or would sign it with another conception, if they had anticipated these changes, in that case, the agreement shall be modified according to the changed circumstances. Except the modification of time-limits of the agreement, growth of value of the agreement appears frequently as well. Despite the fact that the current legislation partially envisages prevention of such practice (growth of value may be permitted in limited exceptions, not more than 10%), mentioned mechanism is not sufficient to minimize the risks of unjustified growth of value of agreement and for efficient management of contracts. Unjustified modifications made to the agreements on the State Procurement cause growth of costs of state procurement and delays fulfillment, which in itself negatively effect on the activity of the contracting entities.

Mentioned problem may occur due the circumstances that the contracting entities do not use mechanisms approbated internationally, necessary for efficient management of the contracts[66].

For providing efficient improvement of processes in State Procurement, existence of the assessment system at different levels (contracting entities, agency) is one of the meaningful instrument. Upon the initiative 127 of the EU and OECD, within the project "Support for Improvement in Government and Management" (SIGMA), document has been prepared, where

[65]Ibidem.

[66]Performance ensuring in the state procurement system: transparency, accountability and modern approaches of development." http://sao.ge/files/auditi/efeqtianobis-angarishi/2014/sheskidvebi-geo.pdf

methodology of assessment of the State Procurement System is inscribed. The mentioned document defines that assessment system is expedient to exist either at central (coordinating body), or contracting entities level. For rational consumption of state resources it is inevitable to exist sufficient information about the supplier and contracting entities. Without the constant monitoring and evaluation of the suppliers, it is hard to define efficiency of processes related to the procurement, conducted by the organization. The following positive sides of the assessment system of the suppliers are mentioned in the report of SIGMA:

- ✓ Existence of sufficient information about the suppliers enables assessment productivity and efficiency, either of the procurement implemented within the specific project's frame, or of the procurement system as a whole;
- ✓ Simplifies detection of defaults and errors occurred during the processes of procurement;
- ✓ Assists in defining the right priorities and elaborating the strategy.

In addition, in the methodology of international "Organization of Economic Cooperation and Development" (OECD) is referred, that development of the indicator and introduction of the assessment system is necessary for measuring the efficiency of the procurement system and for seeking the means and ways for its improvement[67].

Conclusions and Recommendations

According to the assessment of the United Nations, Asian development Bank, TI – Georgia, European Parliament and other international organizations, Georgian Procurement System is recognized as one of the transparent system throughout the world. Notwithstanding the fact that the system has number of defaults, which as a whole, have a negative impact on the efficient consumption of the public resources. These implies the points, where the risk of corruption deals are high and poses a threat to the competitive environment.

Weak sides of Georgian State procurement System are as follows:

- ✓ **Conducted deals without any tender** (cases envisaged upon the Sub-Paragraph "e" of the Paragraph 1, of the Article 1, of the Georgian Law on the State Procurement);
- ✓ **Incondite assessment system** (evaluation according to the price is dominated);
- ✓ **Incondite Agreement management procedures;**

[67] Ibidem.

- ✓ **Lack of experience of contracting entities in market research;**
- ✓ **Low awareness of society.**

Elimination of above defaults shall be provided against the background of the undertaken commitments of the Agreement on Deep and Comprehensive Free Trade Area with the EU. Deals conducted from so called "released funds" shall be minimized. Inevitable components shall be involved in the process of their consumption and shall be strictly regulated. Methodology of assessment and awarding shall be refined, taking into consideration experience of the EU. Article 144 shall be implemented under the plan, which will facilitates optimization of processes of awarding and management of contracts. Qualification of the contracting entities shall be raised regarding the market researches. To raise social interest and awareness concerning the state procurement processes, it is compulsory to provide initiation of social forums and support of research and training centers.

Improvement of the State Procurement processes in Georgia is uppermost precondition in administrating of public resources. In itself, improvement and refinement of these processes is impossible without the share of international experience. Therefore, implementation of the articles of the Agreement on Deep and Comprehensive Free Trade Area with the EU (DCFTA), 1namely about the State Procurement Area, is the precondition of economic development of Georgia and its integration with the EU.

International experience in State Procurement

Optimization of State Procurement by minimization of costs; ensuring equal conditions of competition in the process of awarding the contracts; As well as, ensuring equal competition, both on national and on the whole EU markets; consideration of requests of publication; Supporting transparence business; supporting small and medium-sized enterprises in the process of taking governmental orders. Those are the motives, on which state procurement system of European leading countries are founded.

The EU official Journal shall publicize those basic informational resources, which provides procurement process, contains data of awarded contracts, as well as other data concerning the procurement proposals. Printed version of the mentioned issue was suspended

in 1998. Today its official version is "Tender Electronic Daily" (TED)[68]. Database of the TED is issued via CDs and is available on the internet. It is filled with 500-700 applications about state procurement and provides some information concerning the already signed agreements. More detailed information about the contracts and contracting parties is provided in the national informative systems of particular countries. Moreover, exists more than 200 informational centers, providing state procurement participants with the retrieval and consultative services.

State Procurement schemes/strategies

There are two schemes of organizing State Procurement in European countries: centralized and decentralized. Within the terms of decentralized scheme, all governmental organization independently conducts procurement according to theirown, essential requirements. To this purpose, specialized procurement department or other independent institution are created in the specific governmental structure. Centralized scheme implies establishment of procurement center, where applications concerning the necessary procurement are allocated by the subordinated organizations. In terms of high level of centralization, special agency is created, which will be responsible for all type of state procurement[69].

Advantages and disadvantages is clear for both schemes: decentralized scheme is very flexible, but far expensive, while centralized scheme provides low prices at the expense of large-scale orders, is less flexible and does not always consider important nuances during the placement of request on goods and service. Both of abovementioned schemes have been utilized in civil sociality long since.

Combined scheme is effectively approbated in the EU, when common governance on state procurement (development of normative-legal database, planning, monitoring and coordination) is implemented by the Ministry of Finance or Economy, in particular, by the formation of the budget, while the specific procurement is performed by the specialized procurement structures (departments).

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[68] State procurement schemes, See: http://ted.europa.eu/TED/main/HomePage.do

[69]Central Public Procurement Structures and Capacity n Member States Of The European Union, Pg – 9, 2007. See: http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=gov/sigma(2007)4

Analysis of international experience of procedural issues in state procurement shows that one of the efficient form of large-scale procurement of goods and service is conduction of the open competitions (tenders).

Tender

During the performance of state procurement, most of developed countries use tender. It is clear, since the UN and the World Trade Organization have made recommendations for their member states concerning the matter. The UN International Trade Law Commission (UNISTRAL) has drawn-up document concerning the purchase goods and service, which is a potential foundation of National Legislation on State Procurement. Multilateral agreement, where draft regulations concerning the state procurement is recorded, is provided for the member countries of the World Trade Organization. Procurement-related activity throughout the EU area is regulated by the corresponding directives of the EU.

Common Principles

Already fostered base principles exist in the European practice of state procurement, which imply as follows:

- ✓ Transparency – Publicly available and accessible information concerning the State Procurement;
- ✓ Accountability and due process;
- ✓ Open and effective competition – exclusion of discrimination;
- ✓ Fairness – equal opportunities for all participants in procurement process[70].

National legislations and number of international agreements of many states are based on these principles, regulating state procurement related processes.

Procuring Object

The objects of the state procurement in European countries are: **goods, service and construction works.** According to the classification given by the UNISTRAL "goods" implies raw material, finished products, equipment and other objects in solid, liquid or gas condition, electricity, as

[70] Jorge Lynch, Public Procurement: Principles, Categories and Methods, Chapter 2: Basic Principles of Public Procurement, P 8-16. 2013

well as services accompanying the supply of goods, provided the value of these services do not exceed the value of goods. Construction works imply any activity related to construction, reconstruction, demolition, repair or renovation of a building, as well as the services accompanying construction, such as design works, geodesic works, aerial and satellite photography, drilling and etc., provided their value of such services do not exceed the value of construction works[71]. The "Service" implies any type of service other than "goods" and "construction works".

Their legislative regulation is varied by the different categories of state procurement, stipulated by the contest procedures and awarding the contracts.

Procurement procedures

Except the open and closed, one or two-phased contests, quotation and negotiations with one person, in many countries there are used methods of proposal inquiry and competitive negotiations. Method of proposal inquiry implies participation of at least three suppliers. The procuring entity imposes criteria for assessment of proposals, which is composed of the comparative value of these criteria and order according their importance, during the assessment process. These criteria are referred to the comparative competitiveness of supplier in governance and technical area, efficiency of offered proposal regarding the fulfillment of particular task, as well as prices and in numerous cases potential expenses of exploitation, service and rehabilitation. In such cases, negotiation is permitted, as well as request or permission towards the potential supplier to overview his proposal. Negotiations are confidential, however, anyone, who has a claim to participate in such type of contest and whose proposals were not rejected, can participate in it. After the negotiation the procuring entity offers suppliers to represent their latest versions at specific time-frames and selects the best version.

Supporting of local business

In some EU countries preferences are defined for local suppliers and sub-contracting parties, mainly at the level of 5-10%. Thereto, the level of preferences reaches up to 20% in limited exceptions (for instance in Hungary). In some countries, part of the state procurement is

[71] Procurement procedures, See: http://www.uncitral.org/pdf/english/texts/procurem/ml-procurement/ml-procure.pdf

"stored" for specific category of suppliers, in particular, for small business. For this reason, sometimes big Lots are divided relatively into small orders. Except the special restrictions for foreign suppliers to access the state procurement, customs tariffs and non-tariff restrictions (standards, certificates, licenses etc.) are frequently used. Nowadays, this practice is being gradually reduced by the international organizations, including the World Trade Organization. However, its full eradication, for number of reasons, is not expedient yet.

Experience of Germany

Germany holds leading position among the EU countries in organizing electronic system of state procurement. Federal Republic of Germany, as a member state of the EU, is strictly obliged to undertake all commitments envisaged into the EU acquis while conducting process of state procurement, otherwise, the risk of disciplinary measures and use of farther trial procedures by the European Commission is high. Germany managed comparatively easily to bring its legislation in conformity of the EU requests concerning the allocation of state procurement. By establishing of competitive environment and inadmissibility of discrimination in this area, it was available to spent state procurement resources rationally. In the case of Germany, European Legislation on state procurement area was reflected not on the special law, but on the part of the German Law "about inadmissibility of restriction on competition" (Antimonopoly Legislation) – which is pursuant to the records of the EU Constitution, where satisfaction of state needs is discussed in context of the market economic principles. Procedural Control System of German state Procurement is in compliance with the EU requirements, with defined specification. The Control System in itself implies two instances.

1. Appeals–in the form of independent institution;
2. Court – in the form of judicial body.

Opportunity to appeal decisions on state procurement was successful innovation in German Legislation. Resolution/ordinances/rulings passed by the both instance is publicized and assist in developing legislation concerning the state procurement. As far as accelerated order of examination appeals is defined by the law of these instances, the process of appeal does not hinder the process of investing resources.

Necessary procurement process to meet the needs of the state is decentralized in this country. Federal, regional and local governmental bodies, as well as privet structures operating in the domestic sector, allocate orders upon the current legislation and at their own responsibility. Segregated system of allocation of state procurement with upper and lower monetary threshold is operating in Germany, which is in compliance with the EU acquis. Accordingly, different rules to supervise contractor and appeal its activity is used. Perfection of the state procurement process is ruled by the Ministry of Economy and its success is organization of the forum, where opinions are regularly changed by the participant of this processes concerning the problematic issues, which ensures preparation of offers and remedies to the defaults. This is "the State Procurement Forum", which imposes annual premium for the best work into the state procurement area[72].

Experience of Estonia

Legislative and Institutional framework

Following the accession to the EU, number of reconstruction and institutional reforms have been carried out in Estonia, aiming at share of experience established in countries of euro zone and harmonization with it. The only area, where reform was carried out, within the European integration of Estonia, is state procurement system. Object of the reform was to eradicate corruption in the system and to reach maximal results with the efficient consumption of the limited resources.

The processes of reforms were initiated by establishment of legislative frames. In particular, in May 2007, new law about the state procurement came into effect. Implementation of the new law implied making several editions to the body text, and on the basis of this law affirmation of other regulations. The Law of Estonia on state procurement is based on national

[72] OECD reviews of regulatory reform: Germany; Box 4.2. General principles for public procurement in Germany. P. 117-125., 2004

specification of the country on the one hand and the EU regulations (directives) on the other hand[73].

From institutional point of view, state procurement office of Estonia, which is subordinated to the Finance Ministry, is responsible for leading the process of state procurement. State procurement office provides electronical working environment[74], in the form of electronic web-portal, which actually represent the meeting place of state procuring entities and suppliers. The portal has a strong informational and graphical support, which enables all interested parties to register absolutely free of charge. The electronic portal has the following technical supporting capabilities:

- ✓ Formation of tender documentation and prepare it for publication;
- ✓ Publication of electronic tender documentation;
- ✓ Organization of electronic tender (as well as dynamic procurement system and electronic auction);
- ✓ Preparation of terms and conditions for state procurement, which is regarded as a base of formation documentation about procurement;
- ✓ Submission of electronic tender in real timeframes;
- ✓ Conduction electronically important procedures related to the state procurement, such as: checking the qualification of participants; checking the tender regarding its conformity and recognition of successful tender;
- ✓ Set out the procurement protocol and applying the decision made by the procuring entity;
- ✓ Providing communication between the interested parties and the procuring entities;
- ✓ Addition of documentation related to the contract;

General principles of organizing state procurement

While performing state procurement, the procuring entity is obliged to envisage the following:

[73] Khi V. Thai. International Handbook of Public procurement.; Florida Atlantic University, P.410.,2009, see: http://sate.gr/nea/international%20handbook%20of%20Public%20Procurement.pdf

[74]Electronical working environment, See: https://riigihanked.riik.ee/register/HankedOtsing.html

- ✓ Use financial resources in economical and meaningful way as much as it is possible, to reach the goal in reasonably minimal price. For this reason, it must use competition environment, arising in terms of discussion several offers.
- ✓ The procuring entity is obliged to ensure transparency, publicity and supervision of the state procurement process.
- ✓ The procuring party is obliged to provide with equal conditions any party, which is represented as a resident of Estonia, or a resident of other EU country, or resident of the country of Euro zone, which has ratified principles of the agreement on the state procurement of World Trade Organization (Government Procurement Agreement – GPA). The procuring entity shall behave them in non-discriminatory way.
- ✓ The procuring entity is obliged to ensure that all restriction and criteria, imposed during the procuring process towards the interested parties, are derived from the interest of the state and is proportional, explicable and objective.
- ✓ While organizing the state procurement, the procuring entity is obliged to support efficient use of existing competition that means to prevent the participants of the procurement process to abuse resources.
- ✓ The procuring entity is obliges to avoid conflict of interest if it bears a damage to the competition.

Contracts on procurement

Contract on state procurement is conducted after the process of state procurement, between one or several procuring entities, of the one part and one or several interested persons (suppliers), of the other part. Each party undertake commitments towards each other, object of which are goods, service or construction works[75];

Contract on state procurement shall be awarded in consideration of the regulations and provisions relevant to the Legislation of Estonia on state procurement. (However, capability of the contract is not effected in case if some provisions, envisaged into the law, are not taken into consideration, unless otherwise is considered by the law).

[75]Estonian Public Procurement Act see: http://www.lexadin.nl/wlg/legis/nofr/oeur/lxweest.htm

The procuring entity is obliged to form contract on procurement itself in written form if the value of this contract, excluded the value of the turnover payment, exceeds minimum EUR 10 000. If the value of the procurement does not exceed EUR 10 000 the procuring entity may submit its terms to the supplier concerning the form of the contract.

Draft Agreement

Draft Agreement is conducted between one or several procuring entities, of the one part and one or several interested persons (suppliers), of the other part for relatively long-term frames. On the basis of this agreement, taking into account its terms and provisions, new agreement is conducted, where only the price and amount/volume of the supplied object is changed.

Dynamic system of procurement

Dynamic system of procurement is an electronic process of awarding the state procurement contracts. During this process, all interested parties, having relevant experience and representing an initial offer which is coincidence of the technical description established by the procuring entity, may join in this process of state procurement, whereas the procuring entity draws up the contract with the candidates of offers involved into the dynamic system, in a simplified way. Within the timeframes, defined for the dynamic system of procurement, contracts are awarded with inceptive candidates of offers. Dynamic system of procurement may be defined by up to four years, if there is not any necessity to extend it derived from the specifications of the procuring object. From procedural point of view, during the establishment of the dynamic system or awarding the contracts on its basis, the procuring entities are guided by the relevant articles of the law about the procurement. Hence, decision on establishing and using the dynamic system of procurement is taken by the relevant state authorities. During the Dynamic process of procurement, interested parties (potential suppliers) represent initial offers, implying expression of desire of person to join the dynamic system of procurement, and not the expression of their confirmation on awarding the contract about procurement.

The procuring entity may be:

1. State or state institution;
2. Local self-governing entities, municipal institutions and community of local self-governing entities.
3. Other LEPLs (Legal Entity of Public Law) or their institutions;
4. Funds, one of the cofounders of which are state or more than half of the cofounders are persons noted in the points 2 and 3 or more than half of the composition of their advisory board are appointed by the persons noted in the points 1-3;
5. Non-commercial communities, more than half of members of which are the persons mentioned in the points 1-3.

Candidate of Offers and Applicant

Candidate of Offers is a person submitting an Offer for tender and an inception Offer – in case of dynamic system;

Applicant is a person submitting tender proposal in the following cases: Limited tender, tender with announced negotiation or competitive dialog;

Candidate of Offers andApplicant may be any person submitting goods and service on the market or rendering the construction works; the persons may submit an offer, inception offer or tender proposal simultaneously unless otherwise is considered by the law. Joint Candidate of Offers and Applicants appoint authorized representative, which is responsible to provide conduction of activity defined by the procurement process, as well as drawing up and further performance of the contract.

Consolidation of state procurement and distribution of authority during its organization

The procuring entities may together perform state procurement by over passing an authority on one of the procuring entity. During organizing state procurement together terms and conditions are defined from the estimated value of procurement. Any procuring entity may overpass an authority to another procuring entity, to ensure performance of commitments derived during the process of state procurement upon the legislation. Moreover, the procuring

entity may overpass its authority to another procuring entity for the purpose of performing the activity envisaged in tender; overpass of an authority shall be conducted in written form;

The procuring entity shall submit the state **procuring plan** if it is foreseen to procure goods and services of value more than EUR 80 000 during one budgetary year of the relevant institution or order of construction works of value more than EUR 500 000. State procurement plan implies the following issues:

1. Planning of state procurement; as well as annual plan and timeframe of state procurement.
2. Person or persons having responsibility on state procurement, as well as person or persons which are obliged to comply terms and conditions of the agreement on state procurement.
3. Rules of organizing state procurement having lower values than threshold amounts.
4. Rules of orders of service subordinated to the simplified procurement.

The procuring entity may not comply the rules envisaged in the law on state procurement in case of internal transaction. I**nternal transaction** is an agreement between the procuring entity and *commercial society*, 100% of stocks and shares of which is under possession of the procuring entity itself or with another procuring entity, or with the *fund,* only founder or co-founder with another procuring entity of which is the procuring entity itself[76].

Monetary threshold

Monetary threshold defined for announcement of state procurement, submission of concession on construction works and organizing contests for projects are as follows:

1. In case of state procurement commenced in 2007 – for the agreements about procuring goods and service, as well as for conduction contests on projects amounts EUR 30 000; In case of performance construction works, as well as in case of concessions on construction works – EUR 190 000;
2. In case of state procurement commenced in 2008 – for the agreements about procuring goods and service, as well as for conduction contests on projects amounts EUR 40 000; In

[76]Estonian Public Procurement Act, see: http://www.lexadin.nl/wlg/legis/nofr/oeur/lxweest.htm

case of performance construction works, as well as in case of concessions on construction works – EUR 250000;

3. Monetary threshold for simplified procurement in case of procuring goods and service is EUR 10 000, in case of procuring construction works – EUR 30 000; Monetary threshold of simplified procurement in Defense and Security area in case of procuring goods and service is EUR 40 000, in case of procuring construction works- EUR 250 000.

Open and Limited Tender

In open tender, tender proposals may be submitted by any person, who is in compliance with the legislation. They are called "interested parties".

Limited is a tender, where any interested party may submit tender proposals, however, offers are submitted by only those nondiscriminatory and relevant applicants selected by the procuring entity.

The procuring entity is obliged to conduct the tender in form of open or limited tender, unless otherwise is considered by the law.

Competitive dialog is a tender, when all interested parties can apply an announcement. The procuring entity conducts negotiation with selected nondiscriminatory and relevant applicants to choose one or more decision, which will be admissible derived from functional and economic objectives of state procurement. The procuring entity receives an offers form potential suppliers and then chooses an optimal offer derived from objective criteria of specific state procurement.

Conclusion and Recommendations

Sharing of international and European experience in administration process of state procurement is essential precondition for counties of developing economy. Procurement system of the EU is based on the following principles:

- ✓ **Principle of equal conditions:** Prohibits discrimination of companies.
- ✓ **Principle of transparency:**In case of weak control and balance system and insufficient resources for many governmental institutions, high level of transparency will promote

reduction of risks of corruption, fraud, preliminary agreements and politically motivated expenditure.

- ✓ **Removal of restrictions on access to the market:** It is a technical detail that may cause reduction of number of participant companies, transparency of procuring process and limit of time.
- ✓ **Evaluation of the value of money:** As the most important objective of procuring system, effective consumption of value of money is the most difficult. Following, procuring implies spending of payer's money, it is crucial to reach the best value of spent money.

The processes of state procurement performed under these principles ensure competitive environment, exclude risk of bribery agreements and finally gives guarantee for efficient consumption of public finances, which itself is preconditions for country's economic development.

References:

1. Anti-Corruption Council, "Assessment report of Georgian 2010-2013 Anti-Corruption Action Plan" , P 25-26., 2014
2. Agreement on Deep and Comprehensive Free Trade Area with the EU; http://www.economy.ge/ge/dcfta
3. Long-term strategy for agency for 2013-2017 See: http://www.procurement.gov.ge/getattachment/ELibrary/StrategyActionPlan/CSPAStrategic_Plan_Final.pdf.aspx
4. Performance ensuring in the state procurement system: transparency, accountability and modern approaches of development." http://sao.ge/files/auditi/efeqtianobis-angarishi/2014/sheskidvebi-geo.pdf
5. The World Bank, "Fight corruption in public sectors: Narratives of reforms carried out in Georgia", 2012.
6. Transparency International, "Global Corruption Barometer"(2013).
7. Corruption risks index for business 2014., see: http://www.traceinternational.org/trace-matrix/#11
8. The World Bank, Doing Business 2015, see: http://www.doingbusiness.org/rankings

9. The **United Nations Public Service Awards** See: http://unpan.org/DPADM/UNPSDayAwards/UNPublicServiceAwards/tabid/1522/language/en-US/Default.aspx
10. Central Public Procurement Structures and Capacity n Member States Of The European Union, Pg – 9, 2007. See:http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=gov/sigma(2007)4
11. Electronical working environment, See:https://riigihanked.riik.ee/register/HankedOtsing.html
12. Estonian Public Procurement Act, See:http://www.lexadin.nl/wlg/legis/nofr/oeur/lxweest.htm
13. Jorge Lynch, Public Procurement: Principles, Categories and Methods, Chapter 2: Basic Principles of Public Procurement, P 8-16. 2013
14. Khi V. Thai. International Handbook of Public procurement.; Florida Atlantic University, P.410.,2009, See:http://sate.gr/nea/international%20handbook%20of%20Public%20Procurement.pdf
15. OECD reviews of regulatory reform: Germany; Box 4.2. General principles for public procurement in Germany. P. 117-125., 2004
16. Procurement procedures, See: http://www.uncitral.org/pdf/english/texts/procurem/ml-procurement/ml-procure.pdf
17. State procurement schemes, See: http://ted.europa.eu/TED/main/HomePage.do

INTERNATIONAL TRADE REFORMATION BEFORE HUNGARY'S EU ACCESSION AND RECOMMENDATIONS FOR GEORGIA AND UKRAINE

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Introduction

This paper analyses the effects of the Association Agreements between Hungary and the European Community signed in 1991. It is rather difficult to compare the current - and much broader - DCFTA signed between Georgia and the EU to an agreement more than two decades ago, however, there might be certain lessons to be drawn from the Hungarian experience. Analytical papers had been written about the EU Accession Agreements and the DCFTA, but the comparisons here are also somewhat artificial: the DCFTA, when fully implemented, will realize only three out of four freedoms on which the internal market is based. Goods, services and capital will move freely between Georgia and the European Union, but full EU-membership - with the free movement of people - is not on the agenda.

The political importance of the DCFTA is however, comparable to the Accession Agreements. In the context of recent events in Ukraine - where the Yanukovich-government's last minute decision in 2013 about not to sign the DCFTA led to massive and violent protest and ultimately to the fall of the government - the political significance of the DCFTA is evident. This trade pact, originally viewed as a technical project, is also considered as a clear sign of western orientation for countries like Georgia, although without a clear European perspective.

The Hungarian case

The political background: a clear European perspective from the beginning

Hungary joined the EU in 2004, after 14 years of intense negotiations. It was a long process; many experts expected a much faster accession. Hungary signed an association agreement with the EU in December 1991, only two years after the political transition. Although the member states of the European Community were cautious to promise full membership as a direct consequence of the association agreement, it was an undeniable success

for the Hungarian negotiating team that the foreword of the agreement stated: Hungary's final aim is to become full member of the Community and according to the Partners ' opinion the association helps achieve this aim.[77]

Despite the initial resistance of the old members states, it became soon clear that the political (and the economic) pressure was growing on the Western countries in order to offer some kind of a European perspective for the countries in transition. Already in 1992 , in the Lisbon Summit, there had been talks about the acquis communautaire and the possibility of the Central European countries accepting and implementing the basic laws and regulations of the European Community , as a prerequisite of full accession[78]. Just a year later, in 1993 there were clear signs that the Central Europeans could count on becoming full members if they accepted certain conditions (the Copenhagen criteria). In this sense, the transformation of the Hungarian economy and its trade relations had been accompanied - and supported - by a very clear perspective of becoming a full member state of the European Community in the foreseeable future. The association agreements were not just a goal in themselves, but a stepping stone into the later European Union, and a preparation phase to have a more competitive and modern economy and a real European trading network.

It was also quite clear from the Western European perspective, that the goal of the Central European countries was full integration. The EU issued the White Book (suggestions for the preparation to the common market) in 1995 and the AGENDA 2000 in 1997 about the necessary reforms, accompanied by the country assessments. The actual negotiations started in 1998 with five + one countries (Poland, Czech Republic, Slovenia, Estonia, Hungary, Cyprus) with the screening, followed by the negotiations of 31 chapters. The other six countries joined the first group in 2000, making the accession a "big bang". The negotiations were completed in 2002, followed by a referendum in every country, except Cyprus. In the case of Hungary, 83,8 % of the votes favored the accession (although the turnout was surprisingly low, only 45%).

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[77]"CONSIDERING Hungary's firm intention to seek full integration in the political, economic and security order of a new Europe.
HAVING IN MIND that the final objective of Hungary is to become a member of the Community and that this association, in the view of the Parties, will help to achieve this objective."
http://wits.worldbank.org/GPTAD/PDF/archive/EC-Hungary.pdf

[78] Meisel Sa´ndor -Moha´csi Ka´lma´n
Az Euro´pai Unio´hoz valo´csatlakoza´s ne´ha´ny e´lelmiszer-gazdasa´gi o¨sszefu¨gge´se
Ko¨zgazdasa´gi Szemle, XLIV. e´vf., 1997. ma´rcius (217-232. o.)

The economic landscape: fast orientation towards the West

The years following the political transition - even well before the EU accession - had caused fundamental transformations in the Hungarian economy and in the country's trade relations. Hungary has become a very open economy, with a strong export sector, which is largely responsible for the country's economic growth. Economic reforms had been undertaken as early as the 1980s, to pave the way for the necessary changes after the transition and for market economy.

The transformation of the Hungarian economy and trade relations started in the early 1980s and got consolidated with the signing of a Trade and Cooperation Agreement with the European Economic Community. Hungary was the first country to sign such an agreement with the West among all CMEA countries. The agreement stated that the European Community (EC) would gradually phase out all dispreferential restrictions concerning Hungarian goods. However, there were special clauses attached, saying that if the increase of imports would damage the local producers, the partners could renegotiate the deal. The special clauses had been attached at the request of the EC, being not sure whether the agricultural, steel and textile products coming from Hungary would not be detrimental to its local market. Finally nobody made use of those special clauses, but they could be interpreted as a "warning" of what was to be expected during the membership negotiations - where agriculture proved to be the single most sensitive area.

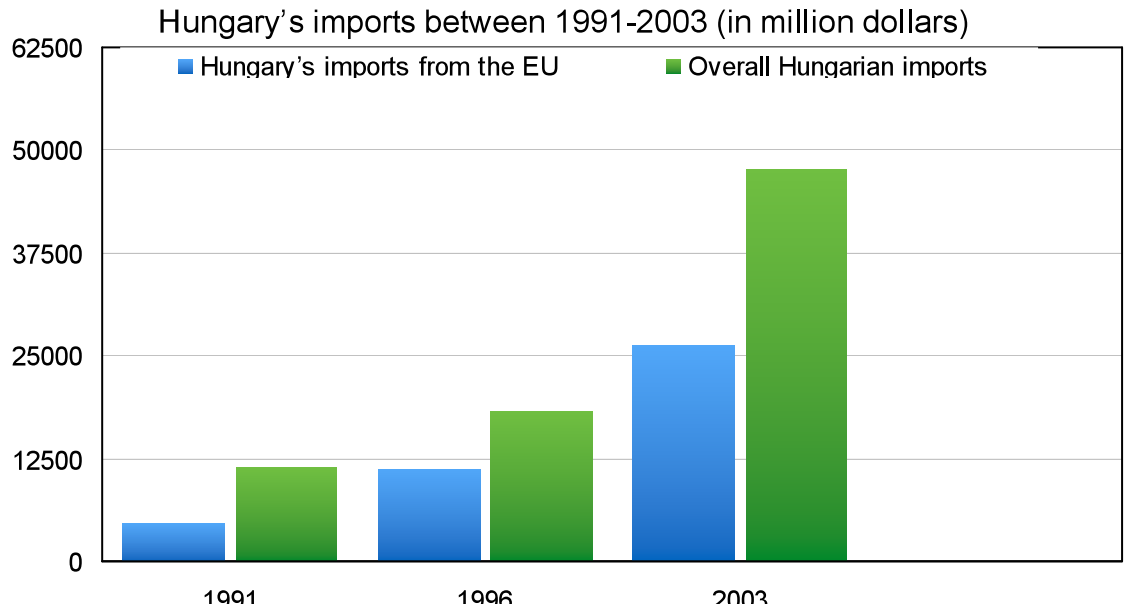
The 1990s were a very dynamic era for Hungarian trade relations. Hungarian exports grew fourfolds, from 10,1 billion dollars in 1991 to 43 billion dollars in 2003, imports increased from 11, 3 billion dollars in 1991 to 47,6 billion dollars in 2003.[79]

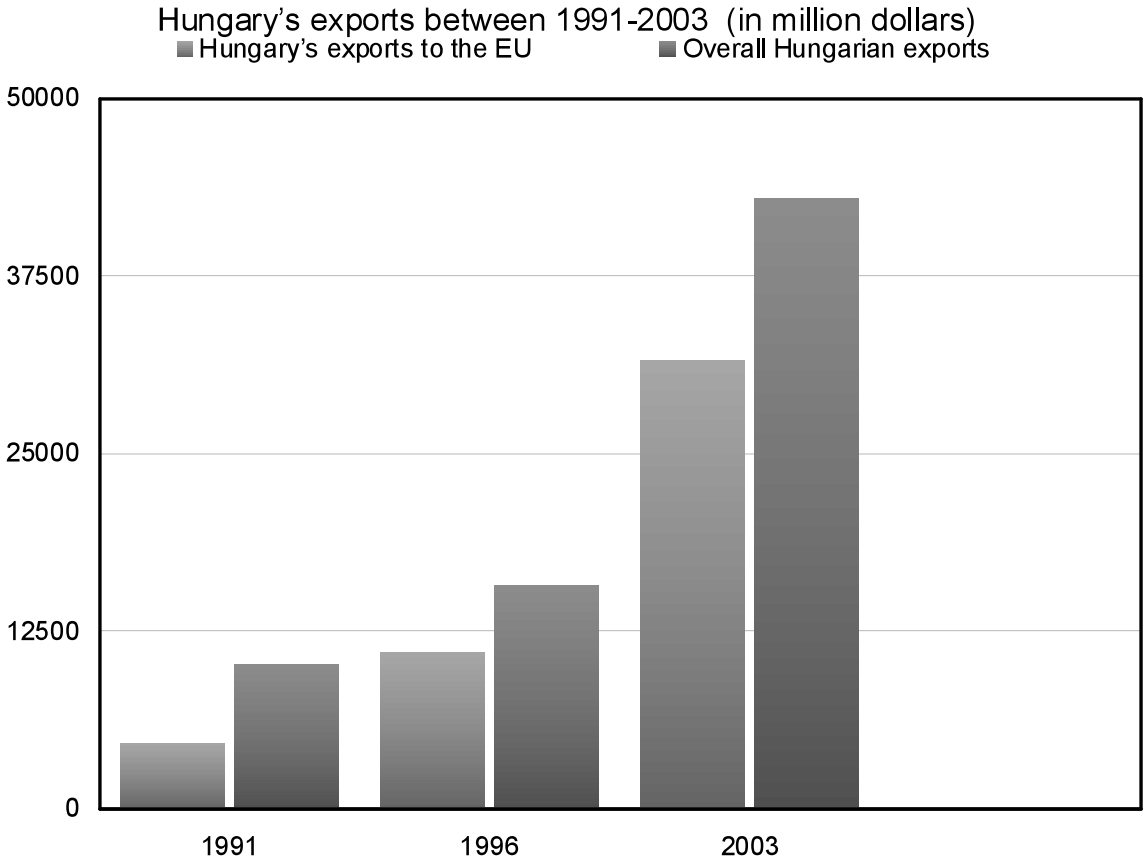
The complete reorientation of Hungarian trade relations took place in less than two years: as early as in 1989, 25% of our exports went to the EC and 29 of our imports came from the Western economic alliance[80]. However, in 1991, almost half of our imports (4,6 billion dollars) came from the EU member countries, and the ratio grew to almost 60 % (26 billion dollars) by 2003. The tendency is even stronger on the export side: almost half of the exports went to the

[79]KSH STADAT Külkereskedelmi termékforgalom dollárban, országcsoportok szerint 1991-2003

[80] Németh Orsolya: Az EU kereskedelempolitikája és az EU-Magyarország közti kereskedelmi kapcsolatok fejlődése http://elib.kkf.hu/edip/D_9946.pdf

EU countries even in 1991 (4,6 billion dollars) but the ratio grew to 70 percent (31 billion dollars) by 2003.





It has to added here, that - partly due to political reasons - the first Hungarian democratic government turned its back on the Russian market, sacrificing our market share and

competitive advantages there (especially in agriculture). This is an example not to be followed by any Georgian government, since it has cost millions of dollars to the Hungarian economy.

On the positive side, one may say, that even years before the actual EU accession Hungary had been - as for its trade relations - almost a member of the community. The dependency of the Hungarian economy on the EU market was already higher than the dependency of most of the older member states. The accession in 2004 did not change this situation fundamentally, but contributed to the increase of trade among the so-called new member countries. The Central European countries, competing with each other on the road towards EU-accession, rediscovered each other only in the late 2000s. In Hungary's case, Slovakia has become one of the most important trade partners after Germany.

The transformation of the Hungarian economy was most visible in two aspects: geographically and structurally. Geographically our trade oriented basically towards Germany, Austria and Italy (the latter later losing ground). The export structure has changed as well. Whereas in 1989 21% of all our exports were of agriculture, it had been reduced to 14% by 1997. In the meantime, the ratio of machinery grew from 30 to 45 %. This tendency was even stronger in respect to the EU: there, the agricultural exports shrank from 27% to a mere 8% , whereas machinery grew from 15% to 54%. [81] This is a clear consequence of the massive privatization and the success of the country in attracting FDI. Foreign capital and multinational companies tied Hungary to the EU (and they clearly pushed for membership) even before accession in 2004. But it is also a sign that Hungary adapted well and incredibly fast to the new world order. However, there is a growing criticism in the last years concerning the fast pace of opening up of the economy and the speed of the privatization: the critiques point out some national industries and more jobs could have been saved. Unfortunately this debate is conducted more on a political than on the economic level, therefore exact and reliable data is difficult to be found.

[81] Németh Orsolya ibid.

The Association Agreements: asymmetric and reciprocal opening

What is surprising in the Hungarian case, is the almost immediate transition in the economy. Many experts - especially from the West - warned that the country would go bankrupt if we opened up our markets for Western goods. There was a great concern that Western products would flood our internal market, and we would not have enough and compatible products to export to the West. They were proved wrong, the transition was a success, although some mistakes were also committed. As Péter Mihályi points out in his book, there were a number of Hungarian companies which were sold well under their value (Mol, the half of the big hotels, and part of the energy companies), yet he disagrees with the widespread view that a slower pace of privatization could have saved many jobs and offer a "softer landing" for the 50+ generation in the beginning of the 1990s. Mihályi argues that the massive loss of jobs (over 1 million) were the result of the globalization and not privatization.[82]

The 1991 Association Agreement foresaw a gradual opening up of the market and the establishment of a free-trade zone with the EU. It was a so-called asymmetric but reciprocal agreement: the West had to phase out duties in 5 years, whereas Hungary had 10 years to do so. By December 31st 2000, a free-trade area was to be formed between Hungary and the European Community - as far as industrial products were concerned. No tariffs and non-tariff restrictions would apply. From the EC side all industrial products would be traded freely after January 1996, and by December 31st 1997, all remaining restrictions to textile would also disappear.

Hungary was offered the possibility to move slower: all industrial products proceeding form the EC were listed in groups depending on the year when Hungary was ready to phase out and abolish tariffs. The products with the highest tariffs were reduced between 1995-1997 and the rest between 1995-2000.

The complete structure of Hungary's export sector changed: before the transition Hungary used to export mainly machinery, and manufactured goods to the CMEA countries, and mainly raw materials, steal, food and goods of low added value, like textiles, clothes, shoes or chemicals to the West. Textiles and steal basically disappeared from our exports, and agricultural products remained, but to a limited extent.

[82] Mihályi Péter: A magyar privatizációenciklopédiája (2011)

The free-trade agreement with the EC excluded agricultural products. Only mutual preferential agreements were signed. The EC obliged itself to grant the previously obtained preferential treatment to Hungarian agricultural goods in the future.

The products that were not part of these preferential agreements - pork, poultry, beef, cheese, wheat, vegetable and fruits - could enjoy either lower tariffs or a double zero treatment (no tariffs, no quotes). Separate agreements were negotiated on wine and on fisheries. The omission of the agricultural products from the free trade agreement was by no means an exception: any country signing a free-trade agreement with the EU has to bear in mind that it cannot count on full free trade unless it becomes a full member of the EU. Agriculture is always considered a special area in the EU where restrictions do and will apply.

Tariffs

Due to the free trade agreement, 80 % of the tariffs on Hungary's industrial exports and imports had been abolished by 2001. The overall industrial tariff level decreased from 9,6% (1994) to 6,9% (2001).

Quantitative restrictions on Hungarian industrial export products were abolished already on 1 March 1992. "About 75-80% of trade in these products became exempt from customs duties. The Agreement regulated trade in the remaining industrial products (with respect to a total of 93 "sensitive" industrial products groups) through customs quotas and customs ceilings. Free trade entered into force in the case of the 93 product groups in Hungarian exports as early as 1 January 1995. As to products subject to the Treaty establishing the European Coal and Steel Community (ECSC) (…) quantitative restrictions and customs duties were abolished on 1 March 1992 and on 31 December 1995, respectively.

In the case of textile and textile clothing products, free trade took longer to become reality: quantitative restrictions were abolished on 31 December 1997; in the meantime, however, the quantitative quotas were continuously expanded (…) Processing was exempted from customs duties on 1 March 1992 and textile and textile clothing products were made exempt from 31 December 1996.

Customs duties in Hungary on imported industrial products originating from the EC have been dismantled in three rounds while classifying goods into three groups. For about 15%

of goods, duties were abolished by 31 December 1994 and for another 25% by 31 December 1997. With respect to the remaining product groups, the dismantling of customs duties began on 1 January 1995 and completed on 31 December 2000." [83]

After the EU accession, tariffs had be lowered even further: for industrial goods to 4,5 %. This is a factor which one has to bear in mind when planning a national budget: as tariffs are lowered, not only the domestic producers have to become more competitive, but budget revenues are also reduced. (This had been compensated by a tax reform, including the introduction of the VAT in Hungary.)

Hungary established 120 custom free areas in the 1990s, where altogether 72 companies employed 50 thousand people. Out of the ten most profitable companies four were producing in a custom free zone, they were responsible for the 43 % of the Hungarian exports and for the 30 % of the Hungarian imports. They could still flourish under the association agreements, but when Hungary finally joined the EU, they had to be renegotiated, since the country became part of a customs union.

The Association Agreement also stated that Hungary had to make its laws compatible with the Community's legislation in several other fields: legislation had to be introduced to give the same protection for intellectual, industrial and commercial property rights as in the Community. Hungarian companies gained access to public procurement contracts in the Community under the same conditions as Community companies. Reciprocity applied to companies originating in the EC for Hungary's public contracts at the end of transition period, in 2000.[84] The legislative changes were viewed as a necessary step to prepare Hungary for full membership of the Community.

Recommendations to Georgia and the Ukraine from a Hungarian perspective

Signing the DCFTA with the EU can have beneficial consequences when carried out with caution. It must be taken into consideration that the EU is a very strong and competitive trade partner. Opening up the domestic market from one day to another can backfire, thus it should be implemented with a lot of caution. This is also the long-term interest of the EU: if its

[83]European Community-Hungary Free Trade Agreements
http://intl.econ.cuhk.edu.hk
[84]Europe Agreements
http://europa.eu/rapid/press-release_MEMO-94-7_en.htm

products flood that Georgian/Ukrainian markets, they can enjoy a short term success, but could destroy companies and small farmers, destroy employment on the long run, and contribute to the surge of anti-EU feelings. A gradual opening of the domestic market is advised, while the Georgian/ Ukrainian products should get access to the EU markets without restriction.

It must also be kept in mind, that the EU can be very restrictive regarding agricultural imports, so it would be unwise to build an economy and an export sector mostly on agriculture. There should be at least a complementing industry or service sector, with some special Georgian products. Georgia's agricultural sector employs around 50% of the total employed population. "A large percentage of socially vulnerable population are employed in this sector. Although Georgia is traditionally considered an 'agricultural country' (this corresponds to the old, traditional vision of Georgia), agriculture has not been the driving force of economic growth and has not benefited from the impressive growth rates of Georgia's economy in the past 10 years. Other sectors, such as the financial, communication, manufacturing, and tourism sectors have performed in a much more sustainable and impressive way"- as stated in a previous CEID research paper. [85] There is a clear dilemma between the successful restructuring of the economy and the large share of the work force employed in the agricultural sector: a way forward could be a specialization on some agricultural products benefitting from the Caucasus climate and creation of a service sector upon it, offering job opportunities for people previously employed in agriculture.

The Hungarian experience shows that foreign investment and the presence of multinational companies can help a lot. They can bring the necessary capital and the know-how into the country, and help participate in the international retail chains. The latter can thus support the market entry of the Georgian/Ukrainian products in Western-Europe. A lesson learnt in Hungary is that if those international retail chains open up their supermarkets in the countries, it is wise to negotiate with them to include a certain contingent of domestic products in their selection. This is far from being evident and could cause a lot of tension. However, attention must also be given to small and medium-size companies, which could suffer in the shadow of the multinationals. Yet these are essential for enhancing competitiveness and

[85] Lessons learned for Georgia: the experience of Visegrad countries in economic approximation with the EU http://www.ceid.hu/wp-content/uploads/2014/11/Report-Georgia_-ENG.pdf

preserving social stability. Finding a healthy mix of big and small enterprises is a real challenge for every country.

Another challenge for Georgia and the Ukraine is to establish themselves as regional hubs. It would be especially beneficial for Georgia, a stabile country of 3,7 million, sharing borders with Turkey, Russia, Armenia and Azerbaijan. Multinational companies plan in regional terms, they invest in countries where there is a potential to export in the neighborhood. Hungary and the other V4 countries had the special geographic advantage of being situated in Central Europe, where transport costs are minimal - Georgia and the Ukraine should come up with a comparable geographical advantage.

All in all, Georgia has a lot of potential. The country has already begun to emerge as a regional hub. "In the period between 2004 and 2012 Georgia's GDP grew by 86%, cumulative FDI – by 474% and trade turnover – by 310 %. This remarkable growth took place despite the global financial crisis and the Russian trade embargo that was unilaterally introduced by Russia in 2005. According to the Doing Business 2014 report by the World Bank Group, Georgia is number 8 worldwide in terms of ease of doing business. According to the 2014 Index of Economic Freedom by the Heritage Foundation, Georgia is the 22nd freest economy in the world"- as published in CEID's previous research paper. [86]

As for Georgia's trade relations, the European Union is already the country's largest trade partner. Georgia's trade turnover with the EU-member states amounted to USD 2.87 billion in 2013, accounting for 27% of the country's total trade turnover. It is still not comparable with the clear "dependency" of Hungary on the EU (with over 70 percent of its entire trade), but in Georgia's case it would be advisable to keep up the diversity of its economic relations, with the perspective to become a commercial and energy hub between Europe and Asia. Taking advantage from the Silk route and the gradual return of Iran into the international community, the closeness to Turkey, and even the vast Georgian diaspora worldwide, Georgia could become a magnet to international investors - if the country can offer future-oriented industries or service sectors, a well-formed human capital and an innovative society. There are, however, no ready-made recipes for those, not even in the V4 countries, themselves struggling to find new industries and technologies to create a sustainable future.

[86] CEID, ibid.

References:

1. Europe Agreements
   http://europa.eu/rapid/press-release_MEMO-94-7_en.htm
2. European Community-Hungary Free Trade Agreements
   http://intl.econ.cuhk.edu.hk
3. Free Trade Agreement between the European Communities and their Member States and the Republic of Hungary
   http://wits.worldbank.org/GPTAD/PDF/archive/EC-Hungary.pdf
4. KSH STADAT Külkereskedelmi termékforgalom dollárban, országcsoportok szerint 1991-2003
   http://www.ksh.hu/docs/hun/xstadat/xstadat_eves/i_qkt003.html
5. Lessons learned for Georgia: the experience of Visegrad countries in economic approximation with the EU
   http://www.ceid.hu/wp-content/uploads/2014/11/Report-Georgia_-ENG.pdf
6. Meisel Sa´ndor -Moha´csi Ka´lma´n: Az Euro´pai Unio´hoz valo´csatlakoza´s ne´ha´ny e´lelmiszer-gazdasa´gi o¨sszefu¨gge´se (Ko¨zgazdasa´gi Szemle, XLIV. e´vf., 1997. ma´rcius (217-232. o.)
7. Mihályi Péter: A magyar privatizáció enciklopédiája (Pannon Egyetemi Ko¨nyvkiado´– MTA Ko¨zgazdasa´gtudoma´nyi inte´zet, Budapest, 2010)
8. Németh Orsolya: Az EU kereskedelempolitikája és az EU-Magyarország közti kereskedelmi kapcsolatok fejlődése
   http://elib.kkf.hu/edip/D_9946.pdf

Country in transition: increasing competitiveness of the Slovak Republic.

Sharing reforms & EU accession experience.

Vladimír Benč[87] *& René Matlovič*[88]

Foreword

Once upon a time, the Ireland was called "the Economic Tiger". Slovakia is currently being called by some politicians and economists as "the Tatra Tiger[89]". But we all know, what happened in the Ireland during the World economic crisis (2009-2011), so we would be careful with any simile, even Slovakia's economic progress in the last decade, esp. on the eve and after the EU accession is remarkable.

The Slovak Republic has been one of the most dynamic economies in the EU. Over the past decade, it has continued to converge towards the living standards of advanced countries at a fast pace. Its gross domestic product (GDP) per capita growth was the highest in the OECD between 2001 and 2011 and still is one of the highest. The income gap relative to the upper half of OECD countries narrowed from over 60% in the early 2000s to close to 40% in 201390.

With the financial crisis, the Slovak Republic experienced one of the steepest declines in real GDP, but also one of the fastest recoveries. The evolution of the Slovak economy mirrored developments in world

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[89] The High Tatras (Vysoké Tatry) are the highest mountains in the Slovakia. According to the 'World Bank Doing Business' survey, Slovakia was ranked the top reformer in the business environment in 2005 and according to BusinessWeek, 'Slovakia earned the title of Tatra Tiger' (BusinessWeek, 2006).
[90] OECD, 2013.

trade as the country is highly dependent on exports. GDP contracted by 5.3 % in 2009, but rapidly picked up again, with GDP growth reaching 4.8% in 2010. Growth slowed down between 2010 and 2014, but still being one of the highest among the EU countries and is projected to accelerate in 2015-2016 thanks to stronger export markets, investment and domestic demand.

At the beginning of the transition process, Slovakia was labelled as "a late comer". But it seemed to become a kind of a "star performer" in the first decade of the 21st century. Although the pace of reforms has slowed down in the last years, the Slovak economy provides a good example of a relatively successful transition that is esp. related to EU accession process. However, the Slovak Republic today is still faced with a number of economic challenges which will need to be addressed in order to ensure durable and sustainable economic growth which benefits everyone in the long run. Some economists call it as a "3rd stage of reforms", shifting from "manufacturing" to "knowledge" economy, shifting from "wage competitiveness" to "technology competitiveness". This stage will be very demanding on the quality of the labour force and on ability to cope with smart specialisation of the economy. This must be done in the situation of the ageing population, high regional disparities in the Slovakia, a persistently high unemployment rate, skills deficit and, as the economy heavily relies on the inflow of foreign direct investment and an increasing vulnerability to the intensifying global competition for mobile capital.

Transition towards market economy is an unprecedented process with a relatively clearly defined starting point, but a more difficult definable "end". Transition of the economy ends when[91]:

- a functioning market mechanism has been build,
- the economy is able to generate a strong and sustainable growth and,
- distortions have been eliminated, which enables an equal interaction of the economy with more advanced market economies without any stronger protection.

At the present time, not all of the markets work sufficiently well in the Slovak economy, e.g. the capital market. Prior to the global financial and economic crisis, economic growth had been relatively strong, however, the next years will fully examine in what extent it is also sustainable. As regards the third condition, one of the weaknesses of the Slovak economy consists in the fact that it is competitive only in

[91] Morvay, 2005.

a relatively few types of goods. Low labour costs are still the main competitive advantage of the Slovak economy, while technology gap remains large.

Box 1: Transition stages in Slovakia

1990 – 1992: Shock therapy - transition strategy within Czechoslovakia

- Deep transition recession during 1991-1992,
- Swift privatization along three fronts (restitution, small-scale privatization, voucher privatization),
- Price liberalization,
- Peaceful break-up of Czechoslovakia and foundation of two independent states

1993 – 1998: Independence and the stalled transition

- On January 1, 1993 foundation of the independent Slovak Republic,
- Foundation of Slovak currency and the National Bank of Slovakia
- Expansionary fiscal policy
- Fixed exchange rate
- Liberalisation of the foreign trade and minor liberalisation of regulated prices
- Crowding – out effect, high interest rates due to suboptimal policy mix- macroeconomic instability

1999 – 2002: Macroeconomic stabilisation & implementation of first reforms before the EU accession

- Managed floating exchange rate (October 1998),
- Restored short-term macroeconomic stability
- Gradual liberalisation of prices in network industries
- Restructuring and privatisation of the banking sector incl. bank system reform
- Restrictive fiscal policy
- Accession to the OECD (2000)

2003 – 2006: Structural reforms and EU accession

- Significant reforms implemented (tax reform, pension reform, social insurance, labour market)
- Public finance reform, pension system reform, labour market reforms
- High inflow of FDI, expansion of the automotive industry, privatisation.
- Accession to the EU, NATO, ERM II and EMU
- Accelerating growth of GDP

2007 – 2011: Eurozone accession & World economic crisis

- Impact of the economic crisis, first recession since the 1993.
- Euro adoption in 2009
- Rising unemployment, structural problems
- Deterioration of budgetary balances. Fiscal expansion in 2009, after 2009 consolidation of general government deficit.
- Gradual deconstruction of flat tax system, changes in the pension systems, labour market policies (especially the labour code)

Source: Authors.

Slovakia – today

Slovakia, population 5.4 mil., is according to OECD high income country, today. According to UNDP, it belongs to 49 countries of the World with very high human development (ranked 37). Thanks to the reforms and the growth in the last decade, Slovakia is reaching 76.2 % GDP per capita (in PPS) to EU28 average, while in the year of the EU accession (2004) it was just 53.3 % and before the reforms done in 1995 it was 47.0 %. However, distribution of growth is uneven at the regional level, while Bratislava (capital) region became 6th richest region in the EU in 2013 with 184 % GDP per capita in PPS (EU28 = 100 %), while the Eastern Slovakia is among the poorest with 52 %[92].

Slovakia's economic freedom score is 67.2 according to the Heritage Foundation[93], which ranks the freedom from corruption, business freedom, labour freedom, monetary freedom and the management of government spending. Slovakia is ranked 22nd out of 43 countries in the Europe region, and its overall score is higher than the World average. Slovakia's basic economic environment still needs improvement. The rule of law is weak, allowing corruption to flourish, and there is a lack of transparency in the government and state-owned sector. Despite some progress, business regulations remain inefficient, and labour market rigidity has prolonged the downside of business cycles. The financial crisis and the weak regional environment have undermined public finances.

Table 1: Slovakia – key indicators

Indicator	Value
Population total / females by 31.12.2014 (Eurostat)	5 421 349 / 2 779 021
Life expectancy at birth, years, males / females (EU 28 in bracket), 2013 (Eurostat)	72.9 (77.8) / 80.1 (83.3)
Urban population, in % (Eurostat)	53.6
GNI per capita in US$ in 2014 (IMF)	17 390

[92] Eurostat (2015) – see more at: http://ec.europa.eu/eurostat/documents/2995521/6839731/1-21052015-AP-EN.pdf/c3f5f43b-397c-40fd-a0a4-7e68e3bea8cd

[93] Heritage Foundation (2015) – see more at http://www.heritage.org/index/pdf/2015/countries/slovakia.pdf

GDP per capita in EUR in 2014, market prices, PPS, Slovakia / EU28, (Eurostat)	20 800 / 27 300
Labour productivity per hour worked (ESA95), Slovakia / EU 28, in EUR, 2013 (Eurostat)	13.2 / 32.1
Energy intensity of the economy, in % of GDP, (kg of oil equivalent per 1 000 EUR), Slovakia / EU 28, 2013 (Eurostat)	337.2 / 141.6
Employment rate 2014 / nat. target EU2020 in % (Eurostat)	65.9 / 72.0
Gross domestic expenditure on R&D, 2013 / nat. target EU2020, % of GDP (Eurostat)	0.83 / 1.2
Share of renewable energy in gross final energy consumption, in %, 2013 / nat. target EU2020 (Eurostat)	9.8 / 14.0
Tertiary educational attainment of age group 30-34, in % of total population, 2014 / nat. target EU2020 (Eurostat)	26.9 / 40.0
People at risk of poverty or social exclusion, in % of total population, 2014 (Eurostat)	18.4
Human Development Index 2014 (UNDP, out of 187 countries)	Rank 37, score 0.83
Index of Economic Freedom 2015 (Heritage Foundation, out of 178 countries)	Rank 50, score 67.2
Global Competitiveness Index 2014-2015 (out of 144 countries)	Rank 75, score 4.2
Doing Business 2015 (World Bank, out of 189 countries))	Rank 37, score 71.8
Corruption Perception Index 2014 (Transparency International, out of 174 countries)	Rank 54, score 50.0

Source: Authors, data from several resources, mostly from Eurostat.

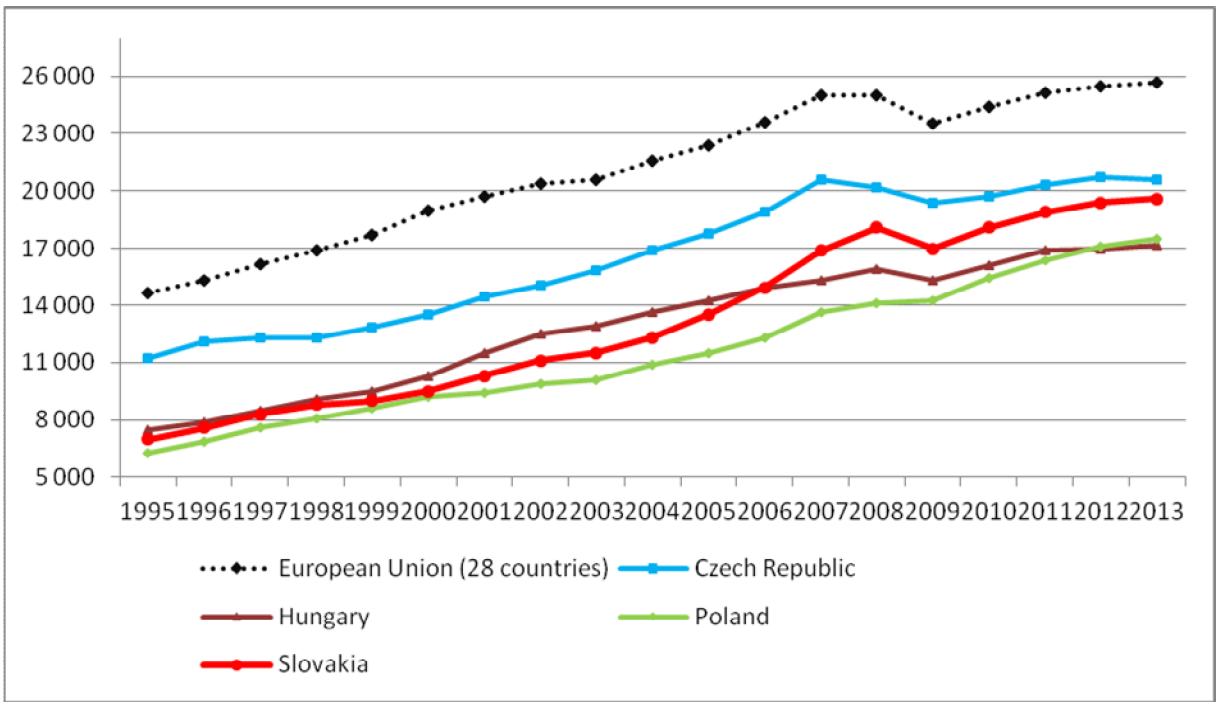
The most problematic factors for doing business in Slovakia are identified in the Global Competitiveness Index[94], and are as follows: Inefficient government bureaucracy (17.0 %), Corruption (16.1 %), Restrictive labour regulations (14.5 %), Tax rates 10.3 (%), Tax regulations (10.1 %), Inadequate supply of infrastructure (9.3 %), Policy instability (7.7 %), Inadequately educated workforce (6.3 %), Access to

[94] World Economic Forum (2015).

financing (2.8 %), Poor work ethic in national labour force (2.0 %), Insufficient capacity to innovate (1.8 %) and other 1% (e.g. Inflation 0.2 %).

Slovakia has been definitely one of the fastest growing economies among the EU countries. Strong and persistent rise in labour productivity led to economic growth without increasing employment in Slovakia. Labour productivity per hour worked in relation to the EU28 average has been higher only in Slovenia, when comparing former socialistic countries (now members of the EU). At the same time, performance of the Slovak economy in 2013 for the first time in history has overtaken one of the economies of the "old" EU Member States (EU-15). Slovakia achieved higher GDP per capita in PPS than Greece, which, due to badly hit by the debt crisis experienced declining economic performance in recent years.

Chart 1: V4 – EU 28, GDP at market prices in PPS per inhabitant (1995 – 2013)



Source: Authors, data from Eurostat (2015).

Since 1993 till 2013, the level of real GDP per capita in Slovakia has increased around 125 %, average nominal wage about 363 % and consumers price level about 202 %. It is interesting that the employment rate (15-64 years) was in 2013 at the same level (59.9 %) as it was at the beginning of its measurement in

1994. However, this cannot be interpreted as stability of employment rate: there was a phase of increase and decrease. The current employment has different features than before: it swept through structural changes and considerable part of it moved from not perspective activities to competitive activities. Nevertheless, this does not change the merit of the problem. Even after 20 years of transition, it is still reaching the same insufficient level as years before and is distant from the EU average (72.0 % in 2014)[95].

Transformation process reduced the share of agriculture and industry, esp. the manufacturing industry in the economy, on the one hand and increased share of services on the other. This principle applies to the entire transition period, before the EU accession, and after. An exception is non-market services, whose shares decreased gradually, but are coming back to the same shares in the recent years. Interesting in this respect is the construction sector that was heavily influenced by the very favourable development after the EU accession (also thanks to the EU cohesion policy and infrastructure building and modernisation) and could maintain a decent position in the structure of the economy even after the several recession years during the World economic crisis.

Table 2: Share on selected sectors in economy (added value & employment)

Sector	1995	2000	2004	2008	2013	Change 1995 - 2013
Share on added value, in %						
Agriculture	5.7	4.5	4.1	4.1	3.0	-2.8
Industry	31.1	28.8	30.0	28.8	26.7	-4.4
Construction	5.3	7.2	6.4	10.0	7.6	2.3
Services	58.0	59.5	59.5	57.1	62.8	4.9
- of which non-market services*	14.1	14.4	13.6	12.1	13.5	-0.6
Share on employment, in %						
Agriculture	9.6	6.2	4.7	3.6	3.2	-6.4
Industry	29.8	28.2	27.0	26.3	23.6	-6.2

[95] Eurostat (2015).

Construction	6.5	6.0	6.8	8.1	7.6	1.1
Services	54.1	59.6	61.5	62.0	65.6	11.5
- of which non-market services*	22.5	22.4	21.9	20.0	20.4	-2.0

Note: * - such as public administration, army, education, health sector …

Source: Authors, data from the Statistical Office of the Slovak Republic (2015).

When comparing the competitiveness of the Slovakia with some other EU economies, it is clear that is based on other factors than the knowledge economy. Slovakia is very export dependent and is becoming depended on some key sectors such as a car industry. Slovakia ranks first in the World with the production of 183 cars per 1,000 citizens, while the Czech Republic followed in 2014 second with 118 cars per 1,000 citizens. Slovakia's three carmakers (Kia Motors Slovakia, PSA Peugeot Citroën, Volkswagen Slovakia) made 973 370 cars in 2014. And the carmaker Jaguar Land Rover signed in August 2015 memorandum with Slovak Government to open their new plant in Slovakia[96], starting the production in 2018. However, further transformation of the economy towards the knowledge one will be very difficult, cost-demanding and probably very long.

Narrowly specialized export manufacturing has been a major pillar of Slovakia's development model. The share of the three important export classes – cars, electronic consumer goods and machines – increased from 26.0% to 53.2% between 1995 and 2012. The export production is highly reliant on imported inputs and technology. Transnational companies producing in Slovakia have hardly been engaged in research and development activities and low wages remain the major attraction of FDI.

Narrowly specialized export manufacturing was strongly affected by the steep decline in export demand in 2008/2009 and, thus, proved highly vulnerable to the crisis. In 2009 the contraction of exports was stronger in Slovakia than in the other EU countries and subsequent recovery highly reliant on the performance of the German export industry; while manufacturing employment has recovered much more slowly than production.

[96] See e.g. http://fortune.com/2015/08/11/jaguar-land-rover-slovakia/.

In view of these structural limitations and vulnerabilities, the competitiveness of the Slovak industrial model, established on low wages and low taxes is not sustainable in the long run. In addition, the regional concentration of manufacturing in the Western Slovakia is key to the nation's uneven regional development patterns. Past industrial growth has not significantly contributed to reducing high unemployment levels in the Central and Eastern parts of the country.

Reforming the country in between 1989 – 1999

After the fall of the "Iron Curtain" in 1989, Slovakia used the opportunity for regaining its independent statehood since 1st January 1993. It faced a double challenge: 1. to introduce economic reforms leading to a market economy, 2. to build the basic economic institutions needed for managing an independent state economy (e.g. ministries, central bank, own currency, capital market institutions etc.).

Until accession to the EU, but especially in the first stage of transition (years 1990-1996), a number of fundamental economic reforms had to be implemented in (Czecho-)Slovakia.
These reforms were related to:

- liberalisation (of prices, trade and foreign exchange),
- macroeconomic stabilisation (to deal with the external and internal imbalances),
- restoration of private property and setting the conditions and the legal and institutional framework needed for an economy based on private enterprises and economic activities (including privatisation of state-owned property and enterprises),
- repayment or renegotiation of the accumulated foreign debt and, in general,
- capitalisation of the national economy (including the reform of the banking and financial sectors and the attraction of foreign capital and investments),
- the reform and development of public finances (to make an effective use of fiscal policy in support of the other economic reforms and in order to maintain and further develop an appropriate level of public services).

Czechoslovakia's political power in the early years of transition decided for very radical reforms (the so-called "shock therapy"), despite its big negative impact in the short-term (output fall, unemployment growth and recession). The starting point of the economic transition was represented by one-shot price liberalisation, which was followed by further rapid liberalisation steps including abandoning of wage regulation, introduction of internal convertibility of the currency (Czechoslovak Koruna) and opening of the domestic market to international competition, which gave an impulse to beginning of production restructuring. In addition to the liberalisation package, stabilisation measures were adopted in order to contain inflation and a negative development in the balance of payments. The key elements of stabilisation policy included restrictive monetary and fiscal policy.

Devaluation of the currency resulted in significantly undervalued exchange rate, however, in a long term a sustainable one. The undervalued exchange rate helped to maintain competitiveness of majority of production in the Western markets and partially replace exports to the COMECON[97] countries that almost collapsed. On the other side, the undervalued currency decreased motivation of enterprises for product innovation. Re-institutionalisation of foreign trade was enabled when Visegrad countries signed the Central European Free Trade Agreement (CEFTA)[98].

In Slovakia as well as in the Czech Republic, it was inevitable to accomplish conversion of armament production, reduction or closing of inefficient mining and over-equipped metallurgical production, restructuring and modernisation of several traditional industries in engineering and consumer industries.

Economic policy in Czecho-Slovakia in between 1990-1992 preferred macroeconomic stabilisation to economic growth. Although macroeconomic stabilization programmes in the first stage of transition were temporary successful, they did not lead to a sustainable growth of the economy. In Slovakia a high price had to be paid for reducing inflation and for lower budget deficit. Due to disintegration of COMECON, price liberalisation and restrictive monetary policy, the Slovak GDP fell significantly. The cumulative loss of GDP reached more than 25 % of GDP in between 1989-1993 and it took Slovakia 10

[97] The Council for Mutual Economic Assistance established in 1949 by socialists countries.
[98] Signed on 21st December 1992 by Poland, Hungary, and Czecho-Slovakia. Slovenia joined in 1996, Romania in 1997, Bulgaria in 1999, Croatia in 2003. CEFTA helped to prepare for the EU accession and internal market.

years to get to the same GDP level as it was in 1989 (but in a different quality in 1999: 85% of GDP was already created by private institutions). Transition recession was deeper than expected and caused increase in unemployment and poverty as well as awareness of the existing regional disparities.

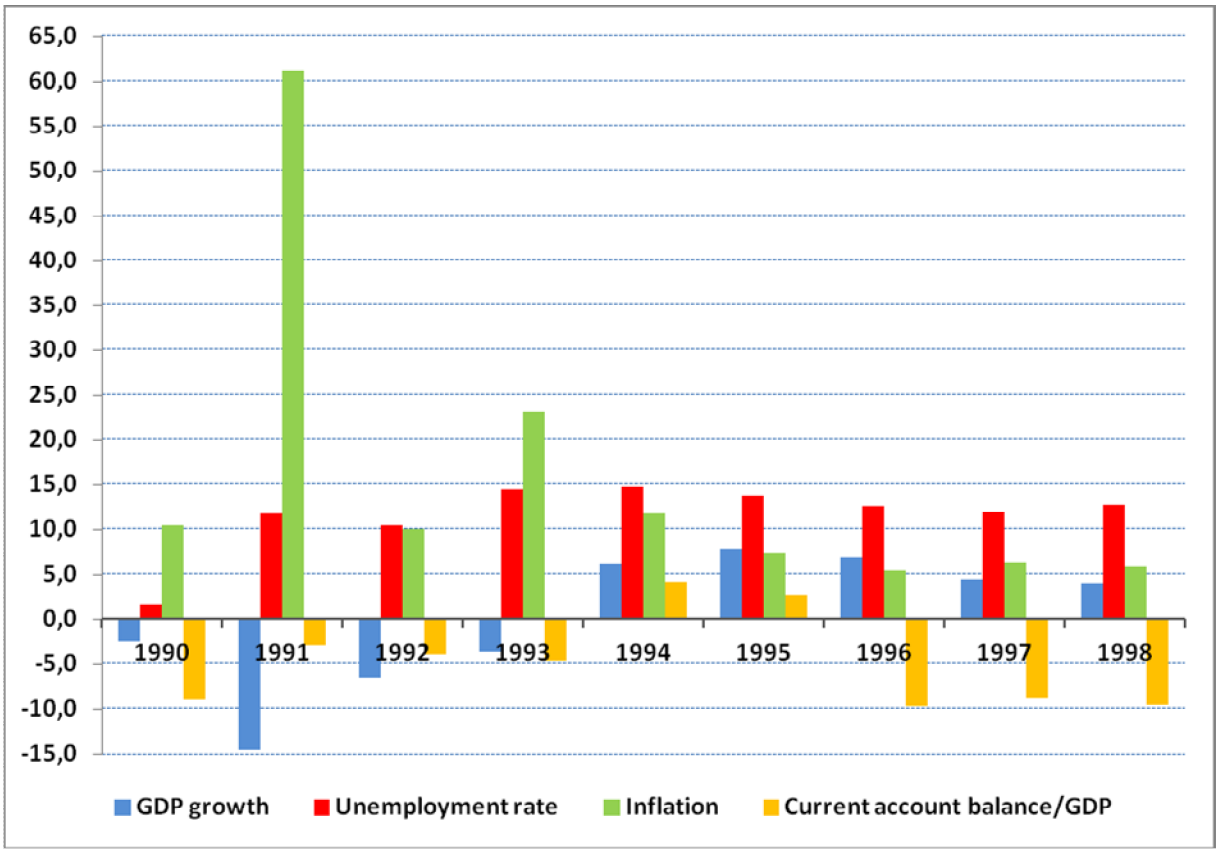
Gaining the independence, the first changes of the transition strategy started to be implemented at the end of 1993. Although becoming a part of the European integration process was one of the most important priorities of the government, the actual outcome was quite the opposite. The existing democratic deficit excluded Slovakia from joining the first wave of post-socialist states, which opened accession negotiation to the EU and NATO. The conclusion of the EU Luxemburg summit and the Madrid NATO summit in 1997 stated[99], that although Slovakia is basically fulfilling the economic criteria for accession, the existing democratic deficit and insufficient application of democratic principles are major obstacles for opening accession negotiations. With the exclusion of Slovakia from the first wave of EU accession talks, Slovakia was in less favourable position to attract FDIs and was perceived as less reliable partner than the rest of the transition countries – esp. all other Visegrad countries.

Paradoxically, in this period Slovakia experienced rather high GDP growth rates. The average economic growth in 1994 – 1998 reached 5.9 % (in 1995 the annual GDP growth reached even 7.9 %). However, the rapid economic growth was not sustainable due to the dominant role of the government consumption.

The expansive fiscal policy (e.g. financing of large infrastructure projects by short term loans with high interest rates) was accompanied by the restrictive monetary policy of the National Bank of Slovakia, which resulted in rapid increase of interest rates and significant crowding-out effect in the economy. In 1996 the annual real growth rate of government consumption went up by 17.4 %. Furthermore the volume of general government debt grew by 111.6 %, which represented and increase by 12.4 percentage points relative to GDP.

[99] The US Secretary of State Madeleine Albright under President Clinton called Slovakia „the black hole in the heart of Europe“ in 1997 due to undemocratic and authoritarian behaviour of the government led by prime minister Vladimír Mečiar.

Chart 2: Key macroeconomic indicators 1990 – 1998, in %



Source: Authors, data based on the IMF - The World Economic Outlook database (2015).

It can be concluded that the 1st stage of reforms till the end of 1998 failed and Slovakia was exclude from the EU integration process. The unsustainable fiscal policy, stagnating restructuring of the economy, the lack of momentum to implement further structural reforms and growing external and internal imbalances resulted in significant macroeconomic imbalances in the next period. The privatisation process was highly influenced by political decisions, with the objective to create the so called "Slovak capital stratum", composed of enterprises owned solely by the Slovak entrepreneurs. However, the majority of enterprises under control of these entrepreneurs were knowingly led into bankruptcy (so called "tunnelling"). The lack of relevant legal procedures and laws, the existing links between politicians and entrepreneurs made this behaviour possible, without any significant legal sanctions. As a result, the low inflow of FDI, international isolation of the Slovak Republic, expansive fiscal policy and restrictive monetary policy created significant macroeconomic imbalances.

Key problems of the 1st stage of the transition can be summed up to: focusing on short-term aims, not solving institutional problems and generally "no structural reforms performed", very bad regulatory framework, corruption, privatisation that didn't lead to good governance of companies, high share of public expenditures and destabilised fiscal policy, and conservation of socialistic industrial structure of economy.

Success story of the EU accession from 1999 till 2007

The crucial turning point, which led to implementation of standard macroeconomic policies in the next stage of Slovakia transition, was the result of the parliamentary elections in 1998. A huge political coalition against the current prime minister and his party was organised and the new left-centre-right government had been appointed.

New government implemented several measures in 1999 – 2001 with focus on macroeconomic stability:

- introduction of hard budgetary constraints on so called "strategic" state owned enterprises,
- measures towards a more transparent accounting of revenue and expenditure in the public finances,
- implementation of necessary institutional reforms: bankruptcy laws, changes in the position of natural monopolies (mainly network industries), increase of transparency of company ownership etc.,
- partial elimination of price distortions (price liberalisation),
- changes in the regulation of financial markets,
- depreciation of the Slovak koruna against the US dollar,
- the National Bank of Slovakia abandoned the fixed exchange regime in favour of managed floating exchange regime,
- increase of the reduced VAT rate from 6 to 10 %,
- introduction of import fees at 7 %,
- gradual abolishment of state guarantees to enterprises,
- abolishment of Specific State Funds and their integration into the general government budget,

- realisation of bank system reform, incl. consolidation and privatisation of state owned financial institutions,
- wage freeze in public sector,
- and many other.

However, these measures were not accompanied by deeper structural reforms in some areas (social security reform, healthcare reform, justice sector reform, education system reform etc.) due to the opposing views in the government on the need of further structural reforms.

As a result of the economic policy and the restructuring of enterprises, the average unemployment rate reached 18.1 % in period 1999-2002. The highest unemployment rate in Slovak history of 19.2 % was recorded in 2001. The employment rate oscillated close to 48.5 %. However, the labour productivity per worker employed increased from 53.9 % in 1999 to 60.4 % of EU27 average in 2002. The implementation of macroeconomic policies helped to reduce the general government debt from 47.8 % of GDP to 43.4 % in 2002. In 2000 the share of general government debt reached even 50.3 % of GDP. This rapid increase was caused by the need to undertake the restructuring of financial sector, which was highly under-capitalised and suffered from significant volume of non-performing loans. The total cost for restructuring of banking sector reached approximately 5 % of GDP in 2000.

Box 2: Bank system reform (1999-2001)

Key measures

- Securing the independence of National bank of Slovakia
- Strict regulation of banks esp. in the area of loan supervision
- Paying off "bad" loans in amount if 4.5 bil. EUR
- Bankrupting "bad" banks and privatisation of the whole banking sector based on international tenders - foreign investors (esp. Austrian, German and Italian banks) entered into the recovered banks

Source: Authors.

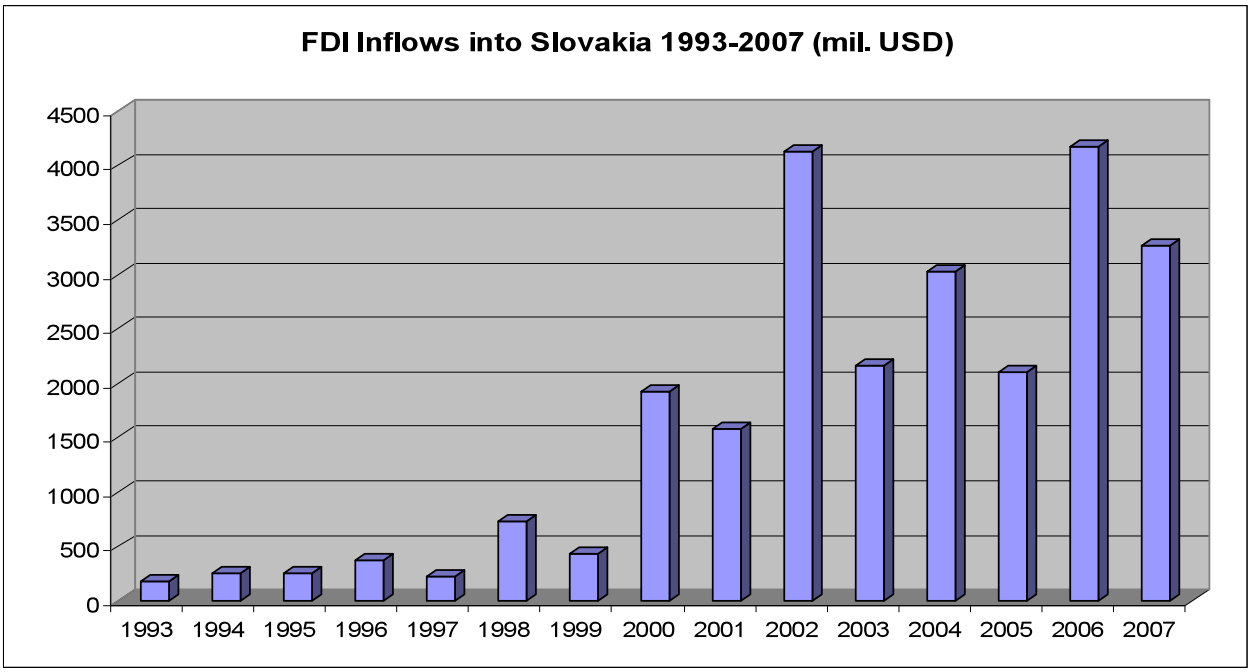
The large scale privatisation of state owned enterprises increased the inflow and stock of FDI, helped to recapitalise the economy and provided the necessary financial resources for the stabilisation of general government budget.

Thanks also to improvements in the political sphere, the EU members states during the Helsinki summit on 10th December 1999 decided to open accession negotiations with Slovakia. On 9th October 2002, the European Commission approved the accession of Slovakia to the EU in 2004.

Huge FDI inflows into Slovakia between 1999 and 2007 were also affected by these factors:

- Changed political climate – accession into NATO and EU
- Improving economic situation and business environment
- Interesting economic reforms – especially the "famous tax reform"
- Low labour costs – the lowest in V4 countries
- Generous investment stimuli provided by the government to strategic investors
- Improving performance of the SARIO – agency responsible for the FDI inflow and promotion of Slovakia abroad

Chart 3: FDI inflows before and after EU accession



Source: Authors, data from the National bank of Slovakia

After the 2002 parliamentary elections, a more coherent government has been formed with the dominant position of centre-right parties. This provided unique opportunity for continuation of previous economic policy and implementation of more thorough economic reforms. Significant efforts have been made in this period to catch-up with the Visegrad countries and conclude negotiations for EU accession.

The average annual GDP growth in period 2003-2006 reached 6.2 %, which contributed to reduction of unemployment rate from 17.4 % in 2003 to 13.3 % in 2006. The employment rate grew by 1.6 percentage points since the beginning of the period and reached 51.2 % in 2006. The rapid economic growth combined with relatively sound budgetary policies (the average general government deficit reached 2.8 %) resulted in decrease of public debt from 42.4 % to 30.5 % of GDP. Positive tendencies have been also recorded in labour productivity, which increased by 4.6 percentage points. Despite the implementation of large scale reforms in various sectors of the economy and public sector, some sectors have been omitted. The reform of education system as well as R&D and innovation support has not been implemented. The share of total R&D expenditure on GDP went down from 0.57 % in 2003 to 0.49 % in 2006.

Significant reforms in between 2002 – 2005 have been implemented in the field of public finance, especially in the tax system, which later became a "symbol" of economic reforms of Slovakia. Slovakia introduced a flat tax rate with 19 % on personal income as well as corporate income taxes. The uniform VAT tax rate at 19 % was introduced and most of the excise duties had been increased. The main idea was to shift from income taxation to consumption taxation.

Further measures included the implementation of fiscal decentralisation, creation of the State Treasury and the Debt and Liquidity Management Agency. These two institutions have improved the public finance management with following effects:

- Increase of the state budget revenue.
- Cost reduction of state debt management.
- Increased transparency and quality of information on the development of public finance management.
- More efficient financing of the state budget deficit during the fiscal year.

- Reduction of transaction costs among the individual public sector organisations etc.

Aim: to increase the effectiveness of the use of public financial resources

Transparency of expenditures

- Limitation of state guaranties to private and state owned companies
- Implementation of EU standards to public administration (ESA 95 + IPSAS, budgeting, reporting, accounting)

Strengthening of the strategic planning

- Midterm framework of public finances (multiyear budgeting at least for 3 years), programming in budgeting (aims>activities>budget)

Joint prognosis for public administration

- New analytical centre of the government - IPF
- Macroeconomic and tax prognosis system using independent experts and private sector

Centralisation of financial flows of public administration

- System of state treasure-house - one account for whole public administration (except municipalities and higher self-governing units)
- Creation of the Agency for management of debt and liquidity (ARDAL)

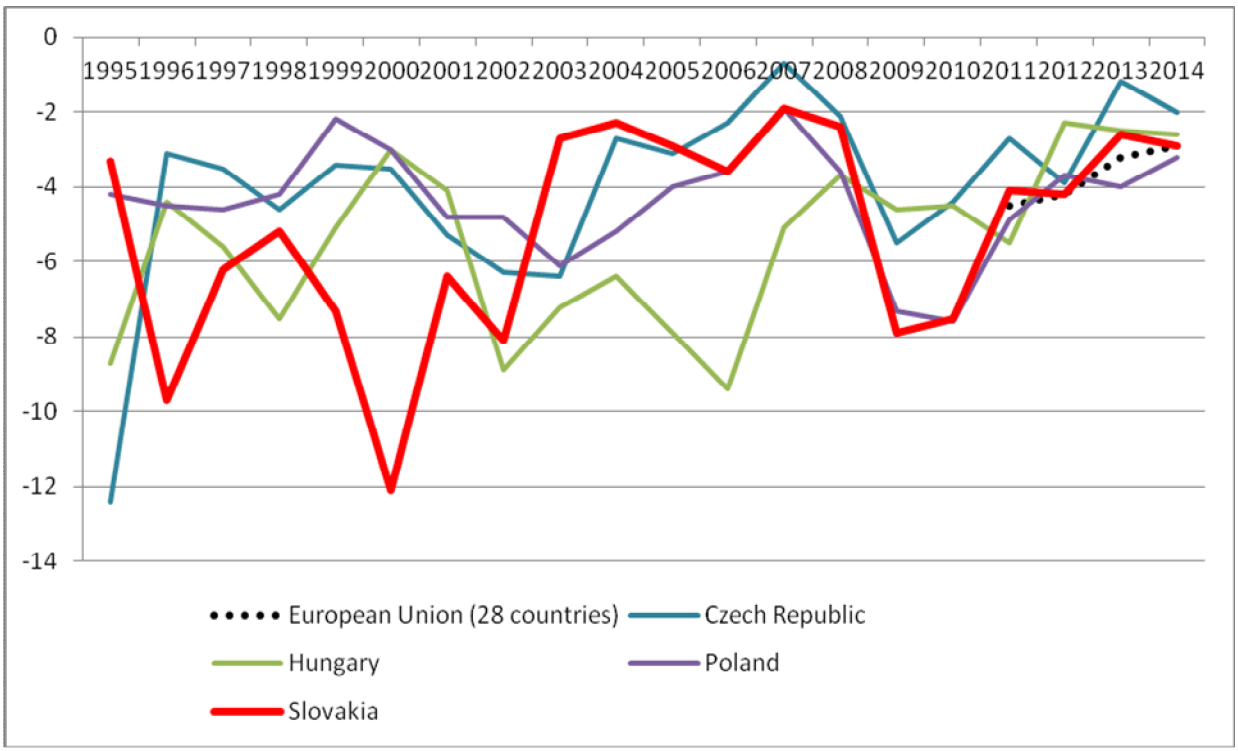
Box 3: Fiscal reform (2002 - 2005)

Source: Authors

Implementation of common methodology ESA 95 was the key factor in increasing of public finance transparency. Government completely stopped offering state credit guarantees and eliminated almost all state funds contributed to transparency increase and implementation of tough budget restrictions. Program budgeting (budget planning for 3 years ahead) have strengthened strategic planning and effectiveness control of public resource usage.

In fact, between 2000 and 2008, public finances improved markedly with the budget deficit dropping from levels as high as 12.1 % of GDP in 2000 to 1.9 % in 2007. Reflecting positive developments in the budget balance, gross debt as a share of GDP also declined noticeably, reaching 28.2 % of GDP in 2008.

Chart 4: Annual Government deficit/surplus as percentage of gross domestic product (GDP)



Source: Authors, based on the data from Eurostat (2015).

Furthermore, a complex reform of the social system has been implemented, based on three principles: motivation of citizen, activity of citizen and benefit for citizen. Changes realized in social, tax and pension system as well as in public administration were mutually interconnected. The framework of the pension reform conducted in the 2003-2005 period included three pillars (two compulsory and one voluntary) of future pension income. The first compulsory pillar, performed by the Social Insurance Company, is based on the pay-as-you-go system and has a strong solidarity aspect. The second pillar represents an old-age pension saving performed by the pension funds management companies. It is based on compulsory savings and is strongly income-oriented. The third pillar, based on voluntary savings, is supplementary pension insurance performed by the supplementary pension companies. The pension age was increased to 62 years for both men and women.

Box 4: Social system & pension system reforms

Social system reform

Aim: increasing targeting of social system and motivation to work

- Help to working families (children allowances: single whole territory allowance and tax incentive > motivation for parents to work)
- Supporting working mobility
- Targeted social benefits (decreasing the basic social benefits and introduction of work incentive benefits)
- Changes in unemployment allowance (e.g. tightening the conditions for applicants, reduction of time for support etc.)
- Changes in health support allowance (e.g. first 10 days of inoperability are paid by employer)

Pension system reform

Aim: sustainable public finances, introduction of 3-pillar system

1. Changes in 1st pillar (continuous system)
    - increasing the working/retirement age till 62 years, valorisation of pensions based on combination of inflation and wage growth
    - increasing the meritoriousness (increasing maximum pension limits)
    - contributions at 18% of the assessment base payable solely to the PAYGO system
    - (early) old-age pension paid exclusively by the Social Insurance Agency
    - recommended option particularly for people who will not be able to accumulate sufficient pension savings to purchase life annuity at the time of retirement
2. Introduction of new 2nd pillar (capitalisation/saving system) since January 1, 2005
    - change of ownership: individual pension accounts managed by private pension funds, the contribution ratio - 9% DB : 9% DC, possibility to choose from conservative, balanced and growth saving strategies, survivors' pensions (widow's, widower's and orphan's pensions)
    - minimum 15 years' period of saving
    - designed primarily for people who will be able to contribute to their pension accounts for at least 20-25 years
3. 3rd pillar (supplementary pension saving)
    - special-purpose saving and the life insurance with tax incentive (400 EUR annually)

Source: Authors

The government also implemented in 2004 a unique public administration reform and fiscal decentralisation that created dual system of public administration in Slovakia since January 1st, 2005. Main aim was to have more effective functioning of the public administration and support subsidiarity. More than 300 competences were transferred from the government and ministries to municipalities and higher self-government units in the first stage. Later on, another 100 competencies were transferred. The key areas of decentralisation were: transport (e.g. roads of 2nd and 3rd class, local roads), social affairs,

regional schools (kindergartens, basic and secondary schools), agriculture, health, construction, culture, regional development and many others.

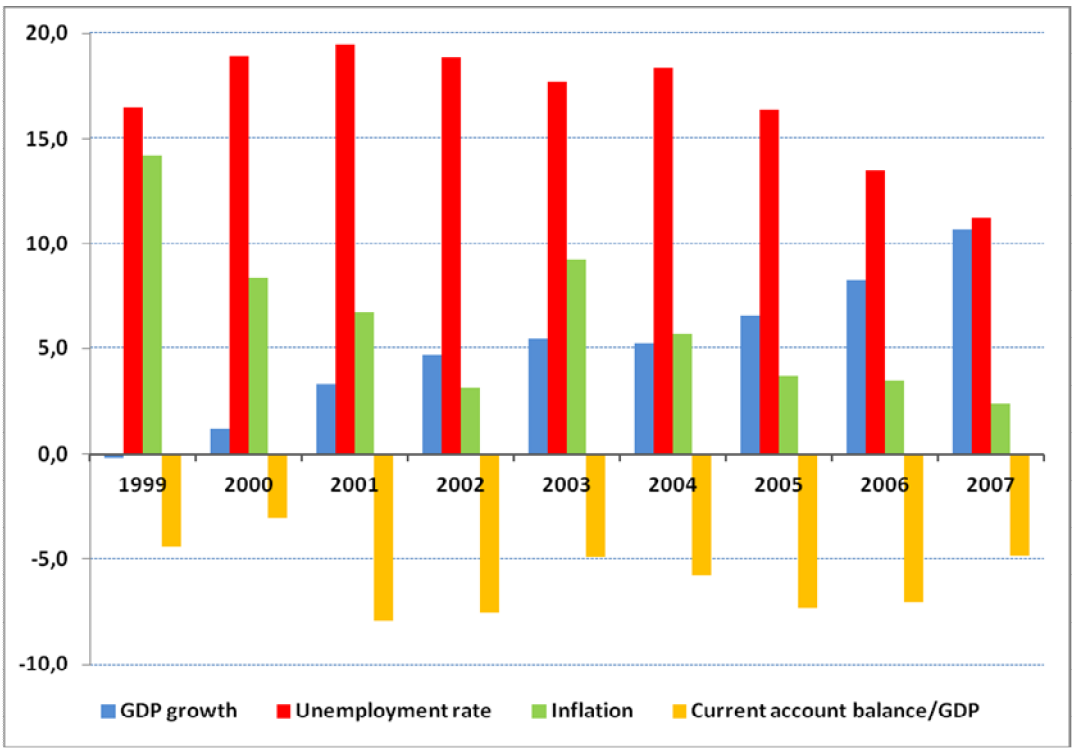
Decentralisation was connected with fiscal decentralisation that included:

- Right to have and manage own taxes of municipalities and higher self-governing units.
- New distribution mechanism for several taxes e.g. income tax of private persons.
- New fiscal rules (balanced current budget, limitations for loans).

The key problem of the reform was that it was implemented at the end of period of ruling government and it was not finished. One of the problems was unfinished "municipalisation" – uniting small villages into bigger administrative units. So, until today there are plenty of small villages (not economically effective) in Slovakia, concretely 2 933 municipalities, of which only 138 are the towns. Furthermore, 1 145 municipalities have less than 500 inhabitants.

This transition period (1999 – 2007) clearly pushed Slovakia to liberal market economies. The reform and principles of the social system, the tax reform, privatisation of state owned enter-prises and the generally negative attitude toward state interventions and state ownership were the most prominent features of the economic policy. Despite the liberal market orientation, the importance of attracting foreign direct investment and competition among the Visegrad countries in this area forced the government to provide substantial investment aid from public sources (see sub-chapter on the state aid).

Chart 5: Key macroeconomic indicators, in %, 1999-2007



Source: Authors, data based on the IMF - The World Economic Outlook database (2015).

EU accession process & reforms

As written above, unlike its Visegrad neighbours, the European Union excluded Slovakia from starting accession talks after the Luxembourg summit in December 1997. Slovakia became side-lined principally due to non-compliance with the Union's political criteria outlined by the EU summit held in Copenhagen in June 1993. Although the country managed to produce relatively good economic results, and in terms of living standards stood above some other candidate states, such as Estonia or even Poland, it was relegated to the second wave of applicants due to a lack of domestic political stability and major inconsistencies in democratic practice[100].

Slovakia, in its attempt to reignite the process of preparation for accession to the European Union after the political changes at the end of 1998 cooperated closely with the European Commission. To foster

[100] The Commission's report prior to the decision at the EU summit in Luxembourg summarized Slovakia's political deficits together with its economic development. See European Commission, AGENDA 2000 – For a stronger and wider Europe, (Luxembourg: Office for Official Publications of the European Communities 1997).

Slovakia's efforts, the European Commission created a unique institutional tool: The European Commission–Slovakia High Level Working group, which met five times between November 1998 and September 1999. The group consulted on several specific political, economic, and legal issues. One of the concrete outcomes of the group's work was Slovakia's pledge to close two blocks of nuclear reactors that formed a part of the nuclear power plant located in Jaslovske Bohunice. Slovakia managed to sign up to some of the biggest concessions vis-à-vis the EU (like the closure of the nuclear power plant) even before the official start of negotiations.

Slovakia's place at the negotiating table for EU membership created a strong impetus for reforming Slovakia's economy. The European Commission's 1999 Composite Paper described Slovakia, together with Lithuania, as "close to being functioning market economies." This report also stated that "if the reforms, which have been decided or are in the pipeline, are consistently implemented in the coming year, both countries should fulfill this sub-criterion in the course of next year"[101].

In February 2000, Slovakia began official accession talks with the European Union and proved capable of completing the accession talks by December 2002. Together with nine other countries, Slovakia signed the accession treaty with the EU in April 2003. Bratislava was thus able to catch up in negotiations with the more advanced countries of the Luxembourg group and entered the EU together with Slovakia's Visegrad neighbours on May 1, 2004.

The accession negotiations shifted the principal focus on Slovakia's legislative compatibility with EC/EU law and created incentives for a speedy adoption of new laws and changes in the functioning of public institutions. Slovakia faced the task of implementing standards that had been in place in EU member states for decades. Yet the country was unable to influence these standards. ***Lesson learned was that Slovakia did not contribute to the process of EU integration. It "merely" took over the prescribed rules as the country's bureaucratic structures played the crucial role in technical adaptation and in monitoring Slovakia's gradual compliance to EU standards.***

[101] European Commission, 1999.

Second lesson learned was that the relationship between the EU and Slovakia was largely characterized by a one-way transfer of EU rules and norms into the domestic Slovak legislative and political setting. The main task for Slovakia was to adapt to EU conditions. In some respects, negotiations are an exercise in efficiency rather than legitimacy. What is clear from the Slovak experience is that it was an exercise dominated by the executive. Not so much by the government as whole, but rather by concentrated bureaucratic elements within the executive. The more efficient the setup, the better your ability to perform in this very technical aspect of completing your commitment to the adoption of the EU legislative (acquis). This is also the reason why Slovakia was able to negotiate EU membership within three years.

The coordination of accession negotiations was in the hands of the Ministry of Foreign Affairs (MFA). The MFA through the Chief Negotiator and his team coordinated the preparation of domestic ministries for negotiations in each of the 31 substantive negotiating chapters. At the same time, the MFA and the departments headed by the Chief negotiator, together with the country's Mission to the European Communities, coordinated Slovakia's communication and negotiations with the European Commission and member states in Brussels. The Deputy Prime Minister's Office was responsible for domestic legal adaptation and implementation of EU compatible laws through the work of the Institute of Approximation, as well as for domestic coordination of pre-accession aid and public communication of EU issues. The Ministerial Council for European Integration was a formal communication and advisory mechanism composed of the Deputy Prime Minister and the Ministers for Foreign Affairs, Economy, Finance, Agriculture, and Interior as well as the Chief Negotiator.

Slovakia' Parliament – the National Council of the Slovak Republic – adopted legislation that was indispensable to Slovakia's EU accession. However, the space for discussion over EU compatible rules was rather limited, as the parliament largely took over already existing directives or guidelines. There was no particular need for the parliament to maintain its own independent expert background regarding the issue of European integration. Parliament's communication with the Cabinet was determined instead by the needs related primarily to the harmonization of Slovakia's legal system with that of the EU. While the parliament also created its own internal structure of communication on EU issues and the European Parliament, the main task of this institutional setup was to ensure expedient adoption of new laws, rather than offer space for broad public discussion on details of European integration.

In fact, negotiations on accession were about the country's commitment to adapt to EU rules and norms as quickly as possible and in ways that were the least painful both for the EU, and for the domestic public and domestic structures. In terms of measures of success, Slovakia had to adopt commitments on some big issues such as the closure of the nuclear power plant in Jaslovske Bohunice, but also had to commit to the adoption of EU compatible laws, which today comprise more than 100,000 pages of legislation[102]. More importantly, Slovakia had to commit to when it would implement those laws. Today, Slovakia is in the EU, but actually is still implementing those commitments and is being closely watched by the European Commission and by other EU member states. This process creates pressure, although technically it is carried out by a small group of people. It creates pressure for the structures at large, and for society at large.

Third lesson learned was the importance of bilateral dialogue and negotiations with individual EU member states. There were arguably three kinds of issues that the member states brought to the negotiating table. One, they focused on agendas of high political salience within a specific country. The example for Slovakia is the closure of the nuclear power plant. Austria brought it to the table repeatedly. Another example is the competition policy. The subsidies provided to the Volkswagen plant located outside Bratislava became a very sensitive issue. Spain blocked the closure of the competition policy chapter with Slovakia for several weeks because they wanted assurances it would not affect negatively their Seat plant in Spain. As can be seen, there are specific issues of political salience particular to each member state. Candidate countries simply have to deal with them, and deal with member states using the Commission as your ally and while looking at EU rules and norms.

Second, there are horizontal issues. Concerning horizontal issues, there was not much that Slovakia was able to negotiate because these horizontal were sensitive for the majority of EU member states – specifically the 'four freedoms.' The freedom of movement of persons is probably the most sensitive. Goods and capital were settled quite fast. But Slovakia had to accept an agreement made between the older member states that up to seven years after entering the EU, the EU labour market was not entirely

[102] One technical aspect that helped Slovakia: Czech Republic being ahead of the negotiations already translated a lot of EU legislation into the Czech language that is very close to Slovak language and therefore it was easier and faster to work with the EU legislation. V4 countries also provided Slovakia with other negotiations „know-how".

open to the new member states. And it was closely watched and monitored by the member states and the European Commission.

Third, each EU member state and European Parliament have to approve a new candidate's entry into the Union. Slovakia did fairly well in lobbing and finding friends in the EU. Other countries had more difficulty where certain questions were raised in the European Parliament. This is to be expected when at the stage of ratifying the accession treaty. It will end successfully only if you have friends not only in EU member states, but also in the European Parliament.

Generally, there was not a direct link between the EU accession and the economic reforms initiated before and even after EU accession. However, Slovak governments used the EU accession period very wisely to communicate reforms with the inhabitants of Slovakia. Reforms are painful. They are also costly. There are a lot of groups in society that are losing at the beginning of reforms and many are afraid of changes. The government often initiated reform with saying that "the EU accession requires such reform". We believe that the real problem with initiating the reforms is a domestic politics. Therefore, some reforms in Slovakia are not finished yet (e.g. health sector reform, justice sector reform etc.). It is also important to underline that each round of enlargement is different. Slovakia asked the Austrians, the Swedes, and the Finns what they did in their 1995 enlargement. Some of their experiences were useful, but not much, because they had a much higher level of integration with the European Community prior to joining, as compared to Slovakia.

Tax reform

According to Slovak economists[103], the tax reform realised in 2004 was the key reform that increased Slovak economy competitiveness on the eve of the EU accession. A fundamental tax reform in 2004 introduced, among other changes, a single rate of 19% for personal income tax (PIT), corporate income tax (CIT) and value added tax (VAT). Before the tax reform, the PIT system had five income brackets, with marginal tax rates varying from 10% to 38%. The CIT rate was at 25% and the VAT had a standard rate of 20% and a reduced rate of 14%. The main objectives of this reform were to support growth,

[103] INEKO survey 2009, www.ineko.sk.

strengthen work incentives and send positive signals to investors. With this reform, the Slovak Republic became the first OECD country to have a flat PIT. The tax reform also broadened the PIT base by eliminating almost all tax reliefs, but increased the basic allowance to offset the tax rate increase for low-income workers. At the same time, the Slovak government reduced social assistance benefits and shifted the tax burden from direct to indirect taxation.

Box 5: Tax reform 2004 - summary

Aim: support of the production side of the economy, simplicity and effectivity of the tax system

Direct taxes:

- introduction of flat individual tax for private persons and companies (19%)
- elimination of dividend, inheritance, gift taxes, and real estate transfer tax
- elimination of virtually all exceptions, exemptions, deductions, special rates, and special regimes

Indirect taxes

- introduction of one single rate of 19% (before: 20% and 14%), 2007 – introduction of decreased VAT rate 10% for pharmaceuticals and health material, 2008 - books and newspapers
- harmonisation of excise taxes with EU

Results:

- shift from direct to indirect taxes
- radical simplification of the tax system
- introduction of low nominal rates (at that time lowest in the EU) - 19% flat individual income tax, 19% corporate tax,19% unified VAT on all goods and services - without any exception

>>> transparent tax system that motivates investments

Tax rates changes in 2004

Changes in income tax rates		
(in %)	2003	2004
Personal income tax	2; 2,25; 2,5; 2,75; 10; 20; 28; 35; 38	19
Corporate income tax	15; 18; 25	19
Allowance tax	1; 5; 10; 15; 20; 25	19

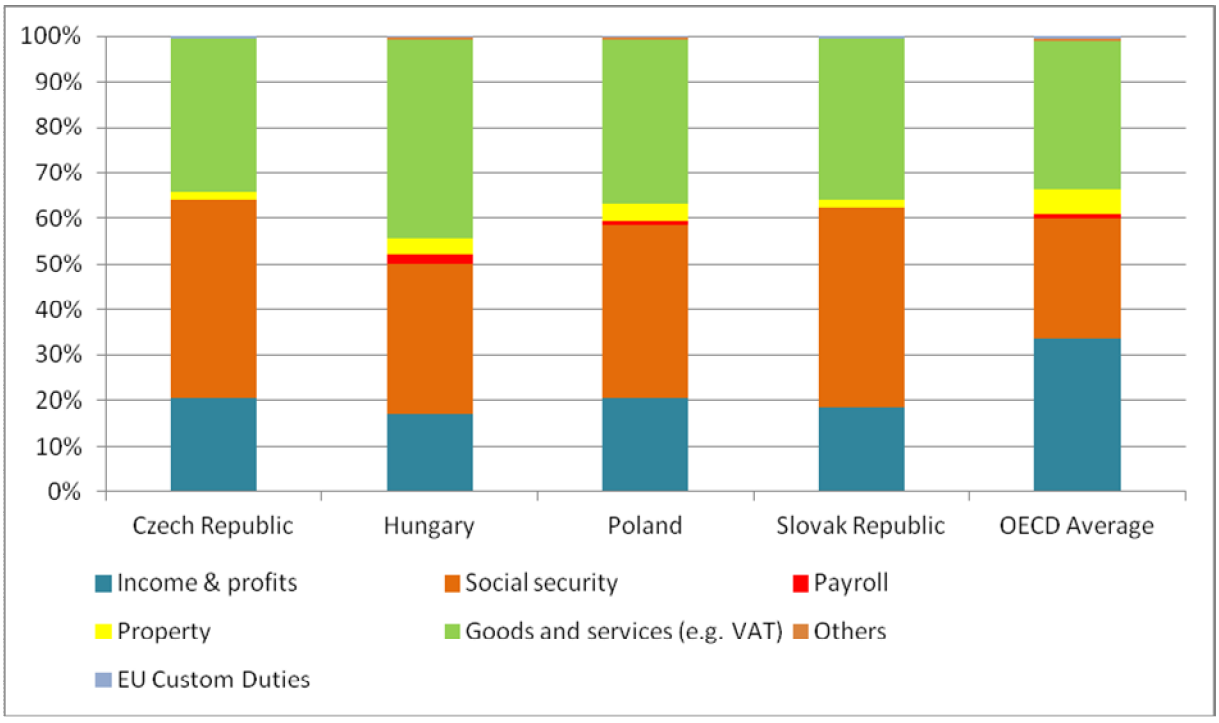
The reform succeeded in making the tax system simpler, transparent and in enhancing economic efficiency. In addition, the introduction of the flat tax contributed to preserving the attractiveness of the Slovak Republic as a business location for domestic and foreign investors. However, the tax system continued to suffer from a number of weaknesses. Because social security contributions (SSCs) remained high, the overall tax burden on labour remained substantial. The tax wedge for low-income workers was particularly burdensome in light of the low skills of a large part of the labour force.

The Slovak Republic's tax-to-GDP ratio and tax mix diverge from OECD patterns. In particular, the Slovak Republic relies substantially more on SSCs than other OECD countries. In 2013, revenues from

SSCs amounted to 13.3 % of GDP against an average of 9.0 % in the OECD. Revenues from PIT, on the other hand, were considerably below the OECD average, accounting for only 2.5 % of GDP. Taxes on goods and services as a share of GDP were somewhat below the OECD average, but constitute the Slovak Republic's second largest source of tax revenues. CIT revenues accounted for about 2.6 % of GDP, which is close to the OECD average of 2.9 %.

The Slovak Republic's tax structure is similar to tax mixes in V4 countries. Tax mixes in other V4 countries are also characterised by a high reliance on SSCs and VAT and more limited revenues from PIT as a share of total tax receipts in comparison to the OECD average. Some differences nevertheless exist between the Slovak Republic and other V4 countries. For instance, CIT revenues account for a greater share of total tax revenues in the Slovak Republic than in Poland or Hungary.

Chart 6: Tax revenue of main headings as % of total taxation, 2012



Source: OECD Revenue Statistics (2014).

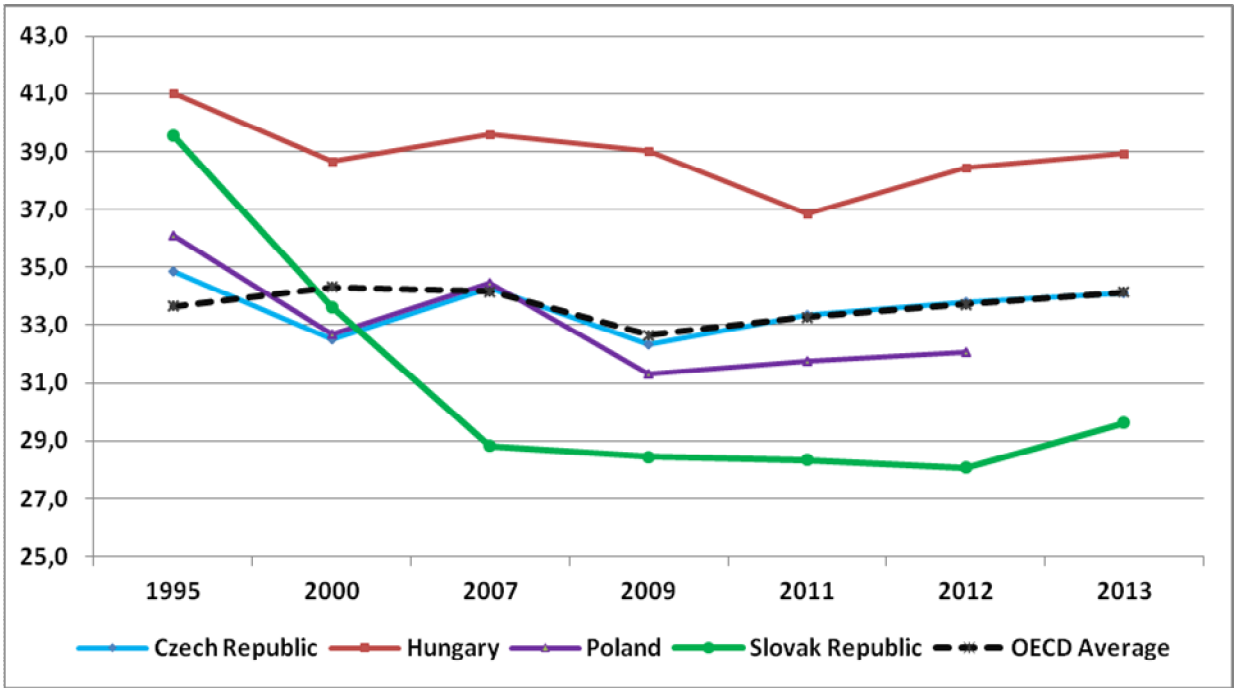
The Slovak Republic does not collect any revenues from recurrent taxes on net wealth, inheritance and gift taxes or taxes on financial and capital transactions. Transaction taxes – unlike recurrent real property

taxes are considered as detrimental to growth and should generally be avoided. A real estate transfer tax, for example, increases the costs of relocation and likely decreases labour mobility. However, taxes such as inheritance taxes do not negatively affect growth.

While this reform has contributed to the Slovak Republic's strong economic performance, less

than ten years later, weaknesses in the tax system – especially the low level of tax revenues, the relatively distortive tax mix, the system's limited progressivity, the poor levels of tax compliance and the high tax wedge for low-income workers – became apparent. The country's overall tax burden remains well below the OECD average. In 2013, tax revenues in the Slovak Republic equalled 29.6 % of gross domestic product (GDP), 4.5 percentage points below the unweighted OECD average of 34.1% and several percentage points below the other Visegrad countries. One noteworthy aspect of the Slovak Republic's overall tax burden is the extent to which it has declined: its tax-to-GDP ratio fell from 39.6 % in 1995 to 29.6 % in 2013.

Chart 7: Total tax revenue as percentage of GDP



Source: OECD Revenue Statistics (2014).

High SSCs contribute to a high overall tax burden on labour. Average tax wedge for single taxpayers earning the average wage amounted to 41.1 % of total labour costs in 2013. OECD average is 35,9 %. Employer SSCs in particular accounted for about 24% of total labour costs in the Slovak Republic against an average of 14.3 % in the OECD.[104] High compulsory payment wedge may be particularly problematic in light of the country's low level of skills. If labour costs are set too high relative to workers' productivity, the demand for labour will decrease. High employer SSCs are likely to price low-skilled workers out of the labour market and this effect will be even more pronounced in countries where skills levels are low.

Labour force productivity, particularly at low skills levels, should be increased through reforms and investments in education and training. These efforts would require structural changes and only have effects over the longer run. In addition to the government, the business sector plays an important role in raising the skills of the labour force..

At the same time, Slovakia's industrial production is extremely reliant on external demand, while credits are sustaining its domestic housing demand. Slovakia's real wage growth lags behind productivity growth, while its wage share is significantly lower than the wage shares of western European countries. The average wage in 2014 was EUR 858, however, average gross monthly earnings differs in Slovak regions, while in Bratislava region the average wage is EUR 1 205, and Prešov region just EUR 736.

Table 3: Slovakia's real wage growth and real productivity

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Real Average Wages	1,8	1,4	6,4	3,4	6,2	0,9	3,2	3,7	-1,3	-0,9	0,4
Real Labour Productivity	4,3	5,5	4,8	6,1	8,4	2,2	-3,4	6,4	0,9	1,6	2,2

Source: National Bank of Slovakia (2014).

[104] OECD Taxing Wages (2014).

To tackle these issues, the Slovak Republic introduced a series of tax reforms in 2013. These reforms included the introduction of a second PIT bracket and rate to increase the progressivity of the PIT system as well as an increase in the statutory CIT rate to raise additional tax revenues. More recently, the Slovak Republic introduced measures to counter VAT fraud, a minimum corporate income tax as well as a targeted social security contribution (SSC) exemption for the long-term unemployed.

Box 6: The main tax reforms introduced in 2013 and 2014

Corporate income tax

- The CIT rate was increased from 19% to 23% in January 2013.
- In 2014, the CIT rate was lowered to 22%.
- In 2014, a minimum corporate income tax was introduced. The minimum tax is either EUR 480, EUR 960 or EUR 2,880, depending on the company's turnover and whether it is registered for VAT.
- In 2014, tax loss carry forward rules were tightened. Under the new rule, tax losses may only be carried forward for a period of up to four years (as opposed to seven previously).

Personal income tax

- A second tax bracket and tax rate of 25% was introduced in January 2013. This rate is applicable to taxable income exceeding 176.8 times the valid subsistence minimum (for 2013 the threshold amounts to EUR 34,401.74 a year). Taxable income up to that threshold is taxed at a rate of 19%.
- As of 2013, the conditions to be entitled to the spouse allowance were made more restrictive. The spouse allowance is limited to a spouse who takes care (not necessarily personally) of a child up to 3 years old (or 6 years old if the child is disabled), or who receives a nursing allowance or who is unemployed or disabled.
- As of 2013, the possibility of deducting 40% of expenses without any bookkeeping for self-employed workers was limited to EUR 5,040 per year or EUR 420 per month.

Social security contributions

- As of January 2013, the assessment base to calculate SSCs for self-employed workers was adjusted by increasing its minimum level. It is also gradually being broadened by reducing the coefficient that previously lowered the base.
- In January 2013, SSCs were introduced for temporary workers to match those of regular employees.
- In January 2013, the SSC ceiling was raised for all employment types.
- In November 2013, an SSC exemption was introduced for the low-paid long-term unemployed for the first 12 months of employment.
- As of January 2014, the health contribution rate from dividend income increased from 10% to 14%

Source: Authors (2015).

The 2013 reforms have increased the tax burden on high-income earners. Indeed, the introduction of a second tax bracket (25 %)[105], combined with the increase in the SSC ceiling[106] and the restrictions to the spouse allowance have resulted in higher compulsory payment wedges for high income individuals.

Many VAT counter-fraud measures were adopted as part of the 2012-2016 Action Plan to Combat Tax Fraud. Key measures adopted in the first stage aimed at cleaning up the VAT registry as well as fighting internal corruption and detecting major tax fraud cases. Efforts in the last stage of the Action Plan are focusing on improving tax collection, in particular through a better collection and centralisation of information and the introduction of an Electronic Registry of Insolvent Entities. For instance, joint teams of representatives from the tax office, the police and prosecution services, known as the 'tax cobra', were set up to detect major fraud cases. The last stage measures were approved in October 2014. These measures include the introduction of a taxpayer risk-rating system and the obligation to indicate the risk-rating on tax documents, the establishment of a register of persons previously acting in fraudulent companies, the establishment of an insolvency register, and the introduction of more stringent conditions in the Bankruptcy and Arrangement with Creditors Act. Finally, the obligation to use cash registers was extended to doctors and other professions (experts, scientific and technical activities and accommodation services).

In September 2013, the government also launched a VAT receipt lottery through which citizens can win prizes if they register valid cash receipts. It may be assumed that the positive effect of the lottery on customers would be mostly in areas where the benefit of non-compliance is not distributed to customers (e.g. restaurants, small groceries). The lottery may have a more limited impact when the benefit of noncompliance is distributed between both sellers and consumers (e.g. services such as cars repairs, additional furnishing services). Nevertheless, the lottery has the potential to make all citizens aware that VAT evasion is illegal. From its launch up to the 26th draw in September 2014 (1 year), more than 450,000 consumers had registered nearly 87 million of receipts.

[105] As of 2013, the 19% flat PIT that was introduced in 2004 was replaced by a progressive tax. Annual income of up to four times the average wage (EUR 40,441 in 2014) continues to be taxed at the rate of 19% while income above this threshold is now taxed at the rate of 25%.

[106] In 2013, ceilings of 1.5 times the average wage for sickness and guarantee contributions, 3 times the average wage for health contribution and 4 times the average wage for remaining contributions were replaced with a single ceiling equal to 5 times the average wage.

Competition policy and the State Aid system (incl. EU accession negotiation)

Competition policy – institutional and legislative background

The Antimonopoly Office of the Slovak Republic (Antimonopoly Office[107]) was established already in 1990. The task of the Antimonopoly Office is to promote and protect economic competition in the markets for products, performance, work and services against prevention, restriction or distortion as well as to create conditions for its further development in order to promote economic progress for the benefits of consumers. The Office intervenes in cases of cartels, abuse of a dominant position, vertical agreements, it controls mergers that meet the notification criteria and assesses actions of state and local administration authorities if they restrict competition.

Slovak competition law is regulated by the Act No. 136/2001 Coll. on Protection of Economic Competition as amended , which is supplemented by two regulations of the Antimonopoly Office, that outline the requirements for merger notifications and calculations of turnover. The Slovak Competition Act entered into force on 1 May 2001 and it replaced the Act No. 188/1994 Coll. on Protection of Economic Competition and provided a completely new legislative basis for the competition policy in line with the EU standards. For the sake of completeness, it is necessary to mention that the new era of the competition law has begun with the approval of the Act No. 63/1991 Coll. on Protection of Economic Competition from March 1991, through which the competition protection rules were implemented into the Slovak law system again as a reaction to the gradual economy transformation and return to the free market economy.

The Competition Act applies to all undertakings active in all sectors of the economy. Its purpose is "to protect competition in the market for products, performance, work and services from any restriction and to create conditions for its further development with a view to promoting economic development to the benefit of consumers and regulating the powers and the scope of activities of the Antimonopoly Office".

[107] http://www.antimon.gov.sk.

On 1 May 2004 substantial amendments to the Slovak Competition Act came into force due to the Slovak Republic's accession to the European Union, in line with EU antitrust and competition policy and rules (and especially in light of the new EU competition regulations). The amendments aimed to create a legal framework for the fulfilment of tasks resulting from the Council Regulation (EC) No. 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty establishing the European Community and further approximation of the Slovak Republic's competition law to the acquis communautaire in the area of competition law.

The other area of the competition policy is the state aid (see the special sub-chapter below). Slovak Republic has harmonised the rules on providing state aid with the European Community (EC) legislation after its accession to the European Union on 1 May 2004. In Slovakia, the Ministry of Finance in accordance with the Act. 231/1999 Coll. on State aid, as amended is coordinating aid in relation to state aid providers in the Slovak Republic and in relation to the European Union. Slovakia is obliged to cooperate with the Commission on the State aid approval procedure, keep a record on the State aid granted under the "de minimis rule" and send the Commission annual reports on all existing aid schemes.

Generally, state aid may be provided on an individual basis or within a scheme of state aid. State aid is subject to the approval of the European Commission pursuant to Articles 87 and 88 of the EC Treaty. However, the above mentioned EC regulations contain a number of exemptions from the approval of the Commission. The exemptions include e.g.: 1) De Minimis Aid, 2) Aid to Small and Medium Enterprises provided that it fulfils all the conditions of the respective EC Regulation, such as the maximum of participation of aid in the investment (that differs depending on the economic development of the region), types of investment (e.g. investment to tangible and intangible assets, consultancy and other services), etc., 3) Training Aid - the exemption shall not apply if the amount of aid granted to one enterprise for a single training project exceeds EUR 1 million, 4) Aid for Employment of disadvantaged and disabled workers or for covering additional costs of employing disabled workers.

Applications for the aid from the state budget funds whether under certain scheme or individual are filed with the competent Ministry or to other competent entity entrusted with providing state aid. There is no legal title to the provision of state aid and its granting remains upon sole discretion of the government authorities.

Competition policy – EU accession negotiations

Already in 1993, when Slovakia signed the European Union Association agreement (came into force in 1995), the article 64 was dealing with the competition policy. Association process required implementation of the „Copenhagen criteria" (political criteria, economic criteria, acceptance of the acquis communautaire) and Slovakia was negotiating 31 chapters, of which no. 6 was on competition policy.

The accession negotiations on competition policy started in 2000 and finished in december 2002. The key issue was the need for the acceptance of the acquis communautaire – Commitment of the Slovak Republic to harmonize its competition policy with the law of the European Union (incl. art. 64 of the Association agreement, and White paper – preparation of the associated countries of central and Eastern Europe for integration into the internal market of the Union). The obligation of the Slovak Republic was to ensure the effective enforcement of harmonized competition rules in practice and to ensure the consistent application of the competition rules in the area of the „internal market".

Negotiation Chapter 6 was divided into these topics:

- Competition policy: Antitrust; and Public undertakings and monopoly rights
- State aid

Screening of the competition policy generally focused on approximation of legislation (basic provisions and secondary legislation), its enforcement and institution building.

The attention of the European Commission in the area of ***Antitrust policy*** focused on compliance with the basic competition provisions (art. 85 and 86 EC Treaty, current art. 101 and 102 TFEU), on agreements restricting competition, abuse of dominant position and merger control. Furthermore it focused on approximation of the secondary legislation (block exemptions, exemption regulations in place or planned and on the existence and functioning of the competition authority to implement the law (The Antimonopoly Office – independence and sufficient powers, sufficient and trained staff). Required information was also in the area of enforcement practice (e.g. number of cases per year, type of cases, competition culture, private enforcement, problematic cases etc.).

After the screening process and several negotiation meetings, Slovakia started to implement measures, mostly before the EU accession. Such examples are:

- Harmonization of basic provisions (new Act on Protection of Competition no. 136/2001 Coll.)
- Setting the legal rules concerning "de minimis" and "block exemptions"
- Abolition of the exemption for the agricultural sector from the general ban of agreements restricting competition
- Harmonization of legal rules concerning merger control with actual EU legislation
- Increasing the independence of the Antimonopoly Office by creation of „the Council of the Office" – the collective body of the Antimonopoly Office involving the independent experts, who participate in the decision-making process.

In the area of ***public undertakings and monopoly rights***, the focus of the European Commission was on prohibition for public authorities to infringe competition provisions in the case of public undertakings and undertakings to which special or exclusive rights are granted (art. 90 (1) EC Treaty – current art. 106 (1) TFEU) and exemptions (art. 90 (2) EC Treaty- current art. 106 (2) TFEU), on general liberalisation measures esp. in telecommunications and postal services, on gradual adjustment of national monopolies of a commercial character (art. 37 EC Treaty- current art. 37 TFEU), on competences of competition authority and separation between public regulator and public enterprise functions, as well as on the regulatory system to ensure conditions of fair competition between existing operators and new entrants (access to networks etc.). Slovakia also provided information on existing enforcement in practice (individual cases, competition culture, competition advocacy...).

Important part of negotiations in Chapter 6 was related to undertakings with special or exclusive rights esp. in selected sectors: railway transport, postal services, telecommunications, insurance, radio and television broadcasting and other. EC was also interested on the actual situation in particular sectors in regards of state monopolies of commercial character and e.g. on the system of authorizations and licences in the Slovak Republic (licences for export and import).

The outcome of the negotiations in the area of public undertakings and monopoly rights resulted in description of needs to be tackled, e.g.:

- Elimination of discrimination ensuing from the exclusive rights related to imports and exports of goods, their retail and wholesale distribution – creating of equal conditions for an establishment of undertakings and for a performance of entrepreneurial activities
- Abolition of the state monopoly for the foreign trade, export and import of goods
- Abolition of state monopolies for the production and sale of salt, tobacco and alcohol products
- Regulation of natural monopolies (telecommunications, postal services, insurance, water economy, transport, energy sector, radio and television broadcasting)
- Enhancing the transparency of financial relations between the Slovak Republic and public undertakings
- Railway transport – unbundling of activities relating to operation of the infrastructure and commercial services
- Postal services – limitation of the scope of the postal reservation for the Slovak Post
- Insurance – the abolition of exclusive rights of Slovak insurance company to provide the motor vehicles compulsory insurance

Most of the measures taken to tackle these issues were implemented before the EU accession.

In the area of the ***state aid***, the EC focused on the general principles of the state aid control (legislative framework, overall compliance with the acquis – art. 92, 93 EC Treaty- current art. 107 and 108 TFEU), transparency of the state aid system (state aid inventory, submission of state aid reports etc.), enforcement (monitoring authority – legal basis, status, resources) and on the implementation of the

state aid acquis (the extent of the compliance with the acquis, present situation regarding the implementation of the acquis, timetable for the adoption).

There were several challenges that Slovakia needed to focus on:

- creation of national state aid co-ordinating authority – The State Aid Office
- establishing a comprehensive state aid inventory
- need to bring into line with Europe Agreement aid measures which were granted contrary to EU criteria (notably in case of state aid into steel sector)
- the power of the State Aid Office to align all existing aid measures with the Europe Agreement
- preparation and enforcement of the legislative changes (the Act on State Aid) esp. in the area of prohibition of granting state aid where it may distort competition and has an adverse effect on the trade between the Slovak Republic and the European Union
- the extension of the scope of application of the Act on State Aid to all already existing aid measures (i.e. those programs which were already in the process of realisation in time when the new Act entered into force)

Two exemptions regarding the state aid were negotiated and approved by the EC for the Slovak Republic: 10-year corporate income tax exemption granted to one beneficiary in the automobile industry until 2008 and 10-year corporate income tax exemption granted to one beneficiary in the steel industry until 2011.

State Aid and investment incentives in the Slovakia

The total volume of state aid granted in Slovakia in 2014 was EUR 322,14 million, of which EUR 189.86 million EUR was provided from national sources and EUR 132.28 million were provided by the European Union funds.

In 2014, state aid was mainly provided in the form of grants, non-repayable financial contributions (88.09 %) and tax credits (11.91 %), particularly for the development of regions (34.06 %), for energy production, transmission and distribution (21.78 %) and for the promotion of culture and preservation of cultural heritage (19.95 %).[108]

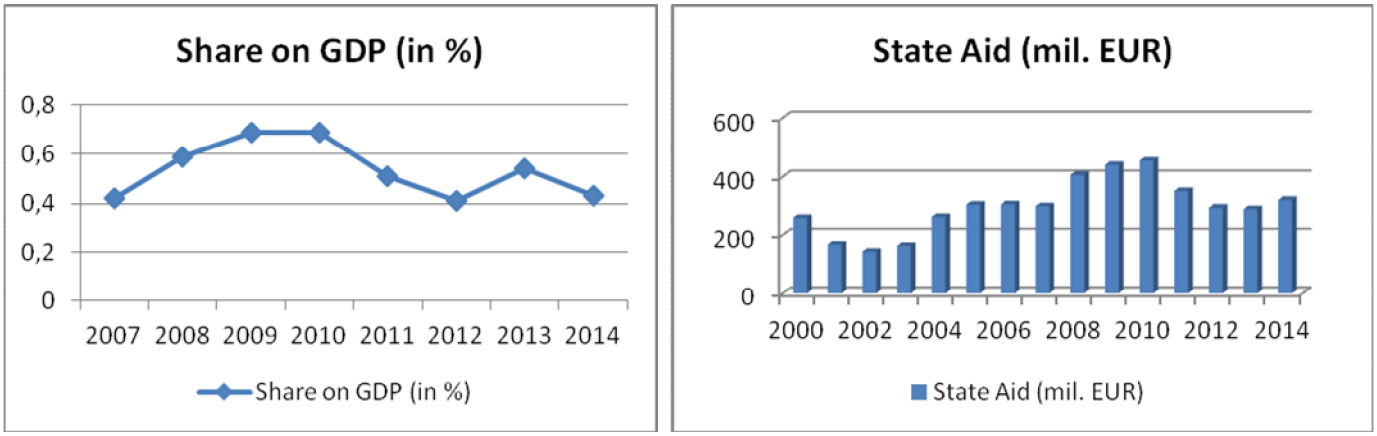


Chart 8: State aid provided in the Slovak Republic

Source: Authors, based on the statistics from the Ministry of Finance of the Slovak Republic (2015).

Investment incentives[109] (or state aid) are one of the tools which are used to motivate investors to place their projects also in the less developed regions, i.e. the regions with higher unemployment, lower infrastructure quality, etc. The connection with a certain region is one of the fundamental characteristics of the incentives and their provision shall serve to support not only foreign, but also Slovak investments. Investment incentives are provided on the basis of the Act No. 561/2007 Coll. of 29 October 2007 on investment aid and amendments.

Four categories of projects that can be supported by the investment incentives in Slovakia:

- industrial production
- technological centres
- shared service centres

[108] For more information see the web site dedicated to State Aid in Slovakia: http://www.statnapomoc.sk/

[109] See more at http://www.sario.sk/en.

- tourism

Each category has specifically defined conditions which shall be met in order to apply for the investment incentives. The incentives are provided in the form of:

- a subsidy for the acquisition of material assets and immaterial assets (cash grant),
- an income tax relief,
- a contribution for created new jobs,
- transfer of immovable property or exchange of immovable property at a price lower than a general asset value

For the purposes of investment aid, the following long-term assets shall be considered as eligible costs:

- costs of land acquisition
- costs of buildings acquisition and construction
- costs of technology equipment and machinery acquisition
- intangible assets – licences, patents, etc.
- wage costs of new employees for the period of 2 years

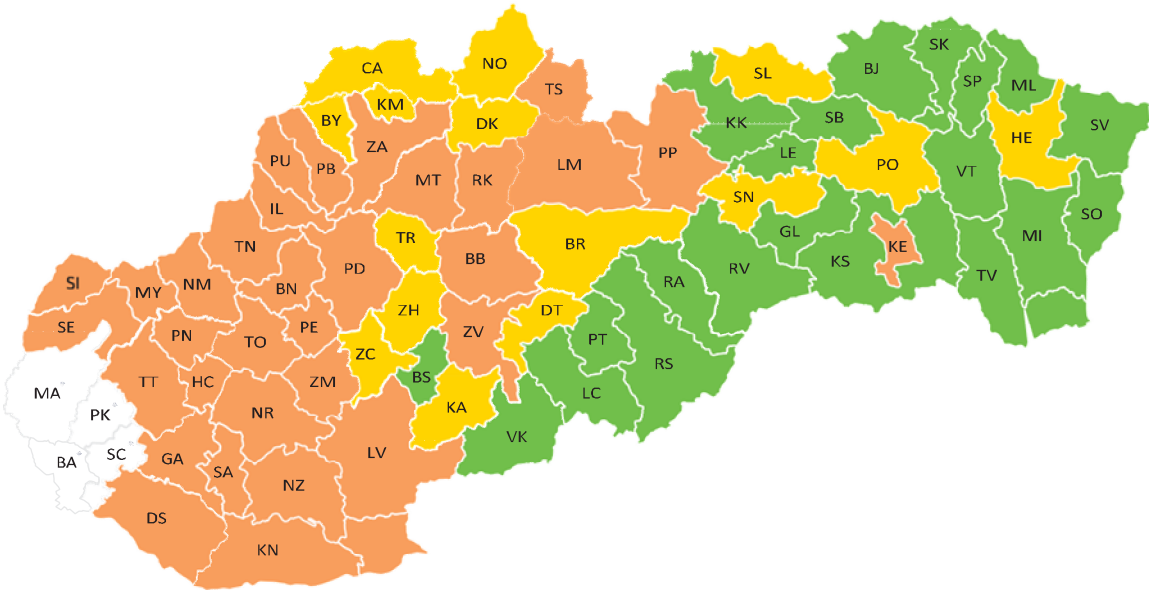
All production and technology equipment which is to be included in the eligible costs must be new (never depreciated), acquired under market conditions and manufactured not more than two years prior to its acquisition.

Box 7: Investment incentives in the Slovakia – case of industry

Minimum amount of investment for industry is subject to the unemployment rate in the selected district. Industrial investment projects must also lead to the creation of at least 40 new jobs (all districts). In case of expansions of existing establishments, the investment has to lead to an increase in the production volume or turnover by at least 15%.

Maximum Intensities of Investment Aid

	Zone A	Zone B	Zone C
Maximum intensity	35%	35%	25%
Cash grant	15%	10%	—
Income tax relief	35%	35%	25%
Contributions for new jobs (in EUR)	6 000	4 000	—
Transfer of property	35%	35%	25%



Source: SARIO (2015).

Facing the impacts of the World economic crisis (2008 – onwards)

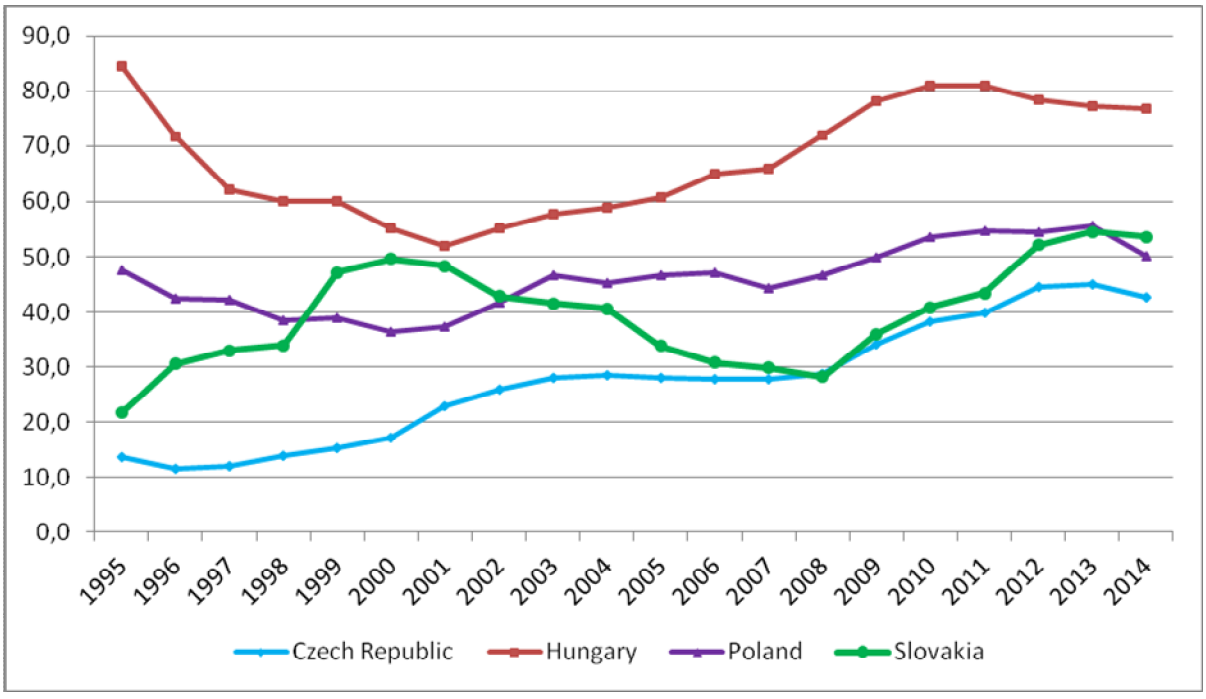
This period has been significantly affected by the economic crisis. The main factors, which contributed to the first recession experienced since the start of the transition, were rapid

decline in external demand and gross fixed capital formation. The impact of the crisis resulted in:

- Annual decrease of real GDP by 4.9 % in 2009.
- Annual growth of unemployment rate by 2.5 percentage points to 12.1 % and even to 14.4 % in 2010.
- Deterioration of general government balance. The general government deficit went up to 8 % of GDP in 2009 and 7.7 % in 2010. Consolidation efforts supported by the recovery of economic growth reduced the general government balance deficit to 4.9 % in 2011.
- High growth of general government gross debt. In the pre-crisis period, the gross general government debt was steadily declining to 27.9 % of GDP, the lowest level since the beginning of the transition. Since 2009 to 2011 the general government debt went up by 15.4 percentage points to 43.3 % of GDP.

The gross general Slovak government debt is still well below the EU average, which was in EU28 at 80.9 % (2011) and 86.8 % (2014) level. Eurozone average level is even worse: 85.8 % (2011) and 91.9 % (2014).

Chart 9: Government consolidated gross debt as percentage of gross domestic product (GDP)



Source: Eurostat (2015).

Being in the EU doesn't mean that it is the end of reforms. The pension reform is still one of the most discussed reforms in Slovakia. The most problematic issue is the high deficit in the Social Insurance Company, which is responsible for the pay-as-you-go sys-tem. For this reason, the participation rate in the second pillar has been decreased from 9 % to 4 % of gross wages. Government also several times open the possibility for people to leave the 2nd pillar and register only for the 1st pension pillar, with the aim to raise money for the 1st state managed pillar.

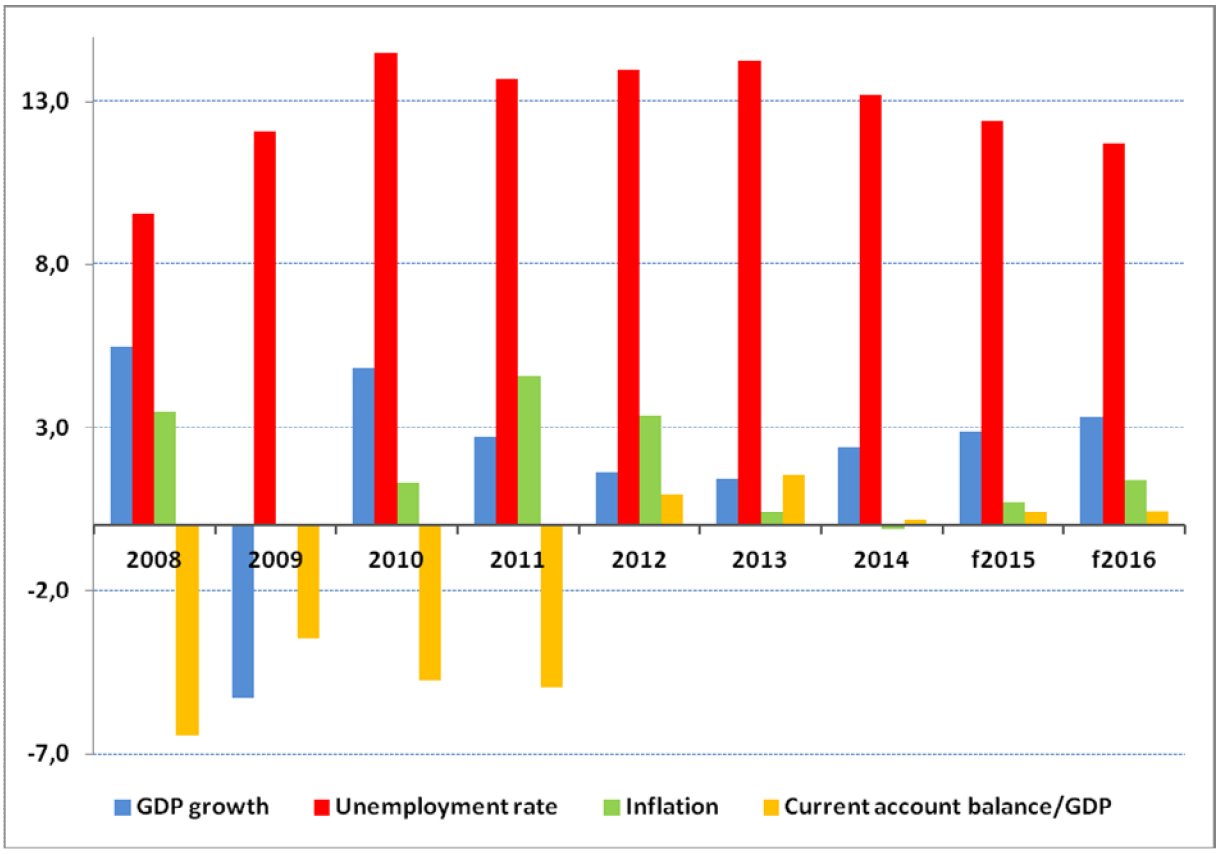
The economic growth of SR in the times of recessions (esp. y. 2009) was very specific: it has been accompanied with unfavourable development of domestic demand. Economic growth was connected with decrease of household consumption and was exceptionally dependent on growth of external demand – so, on the export. Weak domestic demand makes economic growth a vulnerable one. The share of export and also import of goods and services on GDP increased to record values since 2010 to 2013, while export performance and also import intensity came close to 100 % of GDP.

Another negative factor of the period was the 2009 gas crisis between Ukraine and Russia (claimed loses of Slovak companies was 150 mil. EUR, however the total loss of the economy was more than 1 milliard EUR). Out of gas, the Slovak government decided in cold winter to protect inhabitants, so all companies that are using gas in the production had to stop its production for 2 weeks in January 2009. It resulted in dramatic fall of GDP in 1Q 2009: -5,4%, industrial production felt by 23%, construction by 13,6%, wholesale trade felt by 25%, export felt by 28,2%, rapid growth of unemployment to 11,1% (72 ths. new unemployed within first 5 months of the year).

Actions taken by Slovak government (increased EU funds drawing, PPP projects - roads, new nuclear plant), scrapping contribution for old cars, support for Exim bank and SQDB, supporting energy efficiency of companies and houses, increasing tax-less amount of income tax, shortening of VAT refund to 30 days, micro-loan program for SME etc.) tried to decrease the negative impact. There was also EUROzone membership effect: stable and predictable exchange rate, but huge shopping activities of

inhabitants in neighbouring V4 countries that devaluated their currencies as one of the anti-crisis measures and also worsening the position of Slovak exporters on international markets.

Chart 10: Key macroeconomic indicators, in %, 2008-2016



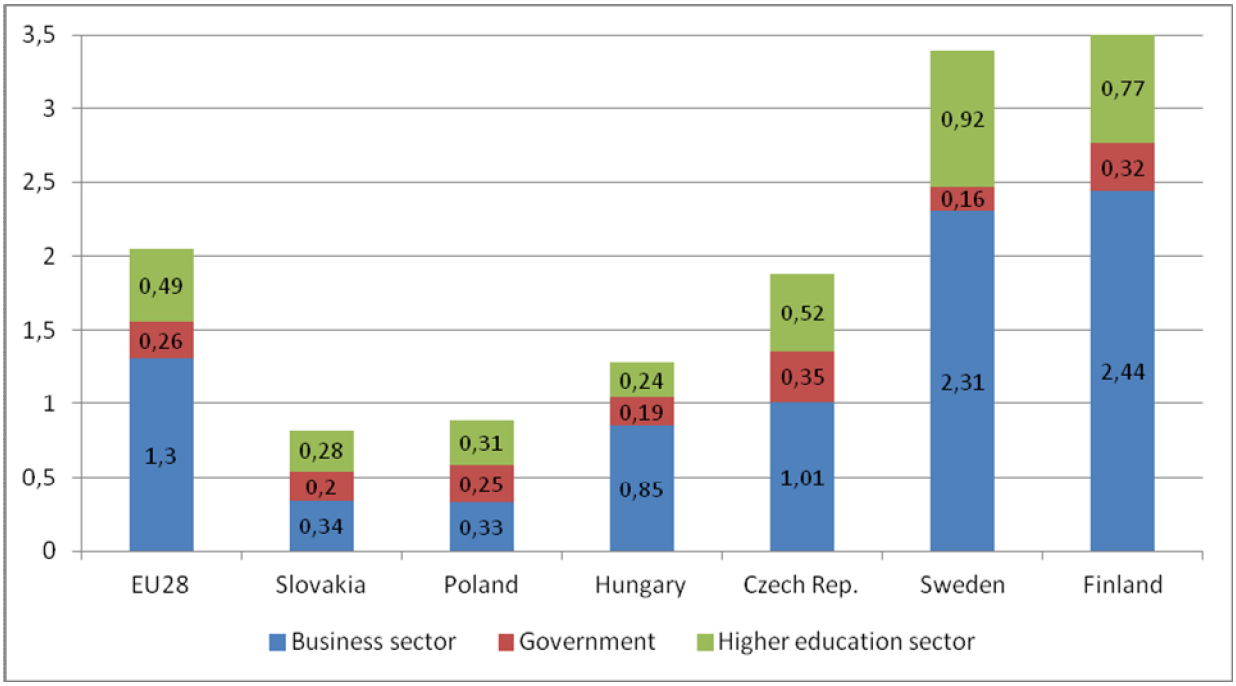
Source: Authors, data based on the IMF - The World Economic Outlook database (2015). Years 2015 – 2016 are IMF forecast.

In the period of 2009 – 2014, Slovakia started to use the available resources from EU Cohesion policy in more vivid manner (approximately 11.5 billion EUR was allocated for 2007-2013 period). Without EU funding, national regional policy would lack the necessary resources for regional development. Especially in times of fiscal consolidation and impact of the global economic crisis, the Cohesion Policy provided significant amount of financial resources for regional development in all policy areas. The areas, which are benefiting from the progress in implementation of operational programmes are mainly transport infrastructure, research and development, environment, support of enterprises, healthcare and regeneration of public infrastructure. However, the financial implementation of Cohesion policy programmes is not optimal. Significant efforts are needed to fully utilise the potential of the financial

resources allocated in the operational programmes to improve the absorption and more importantly to achieve the objectives.

Slovakia lags in total expenditure on R&D not only compared to innovative advanced small economics of the EU, but also to its neighbours (Poland, Czech Republic and Hungary).

Chart 11: Structure of Gross Expenditure on R&D in 2012 by Sector of Performance in Slovakia and Selected EU Economies (% GDP)



Source: Authors, based on Eurostat data (2015).

From innovative performance and its prerequisites point of view, there is continuous negative tendency in absolute and relative (number of patents per 1000 of R&D employees) patent performance. Patent performance measured by number of patent applications mildly decreased in 2012 to 223 domestic patent applications. That led to lower patent performance, which decreased from 8.4 in 2010 to 7.8 domestic patent applications per 1000 R&D employees. Lower patent performance is indicated by significant drop of Slovak patent applications in European Patent Office (EPO).

Table 4: Patents

	2007	2008	2009	2010	2011	2012
Domestic patent applications	240	167	176	235	223	168
Number of patent applications per 1,000 R&D employees	10.2	7.1	6.9	8.4	7.8	5.8
Number of EPO patent applications	44	54	41	53	85	51

Source: Patent Office of the Slovak Republic (2014).

Regional disparities – potential source of development problems in Slovakia

The last fifteen years have brought positive changes and economic growth across all Slovak regions, making Slovakia converge upon the EU countries average. However, the ratio of growth is influenced by north-eastern gradient, whilst Bratislava region belongs to the most progressively developing EU regions, Eastern Slovakia shows the slowest growth of all Slovak regions. Being compared to many other European regions, Eastern Slovakia growth is nevertheless positive.

Table 5: Comparison of GDP contribution per capita to EU28 countries average in %

Region NUTS 2 / year	1996	2000	2004	2007	2008	2009	2010	2011	Growth
Prague (CZ)	128	139	163	177	175	176	173	171	**+43**
Middle Moravia (CZ)	65	58	62	64	64	67	66	67	**+2**
Chemnitz (GE)	81	77	81	83	81	80	84	86	**+5**
Stuttgart (GE)	n.a.	143	139	141	142	133	145	152	***+9***
Észak-Magyarország (HU)	36	35	41	39	40	40	40	40	**+4**
Wien (AT)	n.a.	182	170	161	162	164	165	165	***-17***
Mazowiecke (PL)	n.a.	74	78	87	89	97	103	107	***+33***

Podkarpackie (PL)	34	34	35	37	39	41	42	44	+10
Malopolskie (PL)	n.a.	42	43	47	49	52	54	56	*+14*
Slaskie (PL)	n.a.	52	57	58	61	66	68	70	*+18*
Bratislava region	***104***	***109***	***129***	***160***	***167***	***178***	***179***	***186***	***+84***
Western Slovakia	***48***	***47***	***54***	***66***	***69***	***68***	***69***	***72***	***+24***
Central Slovakia	***41***	***41***	***47***	***54***	***59***	***58***	***61***	***59***	***+18***
Eastern Slovakia	**38**	**38**	**42**	**46**	**51**	**49**	**50**	**51**	+13

Source: Authors, calculation based on EUROSTAT (2015) statistics.

The regional disparities in Slovakia are characterised by a significant west – east and north – south divide, with the Bratislava region being the most developed region in terms of GDP per capita. The main factors underlying the existing regional disparities are the following:

- Lack of high quality transport infrastructure, low regional interconnection and accessibility.
- Institutional quality of regional and local administration.
- Low inter-regional as well as intra-regional mobility of labour force.
- Difficult access to affordable housing in areas providing employment opportunities.
- Environmental burdens related to previous heavy industrial activity.
- Low level of economic development in border regions, especially in the east and south of Slovakia – proximity to low developed regions of Ukraine, Poland and Hungary.
- Restructuring of "traditional" industry sectors.
- The quality of human resources (education attainment, entrepreneurial spirit).

Reasons why e.g. Eastern Slovakia lags behind vary. The first one reflects the territory character and location influencing the territory development for a long time. Until socialistic industrialisation, Eastern Slovakia used to be predominantly agricultural country without large or important industrial plants. Later the differences disappeared, but time showed that establishing large industrial plants to create employment for entire districts was a big disadvantage after transition to market economy. Moreover,

Eastern Slovakia is typical of low density of large urban areas and disintegrated settlement structure created by a large number of small villages.

Another influential development element arises from melancholy character of the neighbouring countries´ border regions. Those ones are the least developed regions of Hungary, Poland and Ukraine so their economic power, potential and cooperation have a very little capacity to be economic development stimuli. The existence of Schengen border as a considerable barrier, an eccentric, remote location and lack of transport infrastructure (logistic market connection) make Eastern Slovakia non-competitive and lagging behind.

The highest unemployment rate in Slovak Republic has been for last 2 decades in Banská Bystrica region, Prešov and Košice. In recent years, unemployment rate has been ranging from 17 % to 22 % on average in these regions. Unemployment rate in Prešov region reached 19.35 % in December 2013, the highest of all Slovak regions. Banská Bystrica region reached the rate of 18.26% and Košice region 17.23 %. They are the only three regions exceeding the entire Slovakia average of 13.50 % in December 2013.

The situation positively changed in 2014, while both regions – Košice and Prešov – experienced decrease of unemployment, mostly caused by positive economic development, new investment into the region and also by public works and employment measured taken by the government.

Table 6: Rate of registered unemployment (in %)

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Slovak Republic	18.63	17.45	15.56	13.07	11.36	9.40	7.99	8.39	12.66	12.46	13.59	14.44	13.5	12.29
Eastern Slovakia	24.74	23.62	20.84	18.19	16.62	14.41	12.52	13.17	17.81	17.28	18.85	20.14	18.32	16.72
Prešov region	23.96	23.00	19.57	17.50	15.77	13.68	12.05	12.86	18.29	17.75	18.95	20.66	19.35	17.45
Košice region	25.55	24.26	22.16	18.89	17.5	15.18	13.02	13.50	17.30	16.78	18.76	19.58	17.23	15.92

Source: Statistical Office of the SR (2015).

Besides high unemployment rate, also a high proportion of long-term unemployed (more than a year) in the total number of unemployed is another negative fact. Long-term unemployed made up more than 53.6 % proportion of all registered unemployed in the SR in December 2013. Long-term unemployed proportion in Košice region is higher than the average in the SR, namely at the level of 60.8 %, in Prešov region as many as 61.1 %. From this point of view, higher attention to marginalised socially excluded population groups must be paid. Their inclusion in society (and mainly in labour market) is the most difficult long-term task especially in the regions of Košice, Prešov and Banská Bystrica where majority of them lives.

To change these negative tendencies, the productive capacity – both in industry and agriculture in the peripheral regions of the country – Eastern, Southern and Central – should be strengthened. This production would be primarily geared towards domestic, local markets.

Conclusion – lessons learned & prospects for future development

Although the transition of Slovakia, other Visegrad and post-communist countries towards the market economy represents a unique process, identification of its successful sides as well as problems and shortcomings may be useful for other transition processes, e.g in EaP countries. However, given the differences in initial conditions, in historical, political, economic and social background as well as in the final goals and character of reforms, it should be kept in mind that the story of economic transition of Slovakia from the centrally planned to the market economy, with its positive as well as negative features, cannot serve as a pure guide for conducting any transition in any country.

Anyway, as has the Slovak experience with transition and EU accession shown, it is crucial to build functioning institutions, in particular the formal ones, already in the initial stage of any transition. In addition, both too slow and too fast implementation of reforms can result in a slow-down or even stoppage of the transition process. At the same time, the high speed of reforms should not be achieved at the expense of their quality and long term sustainability.

Moreover, the experience of Slovakia shows how markedly reform strategies and the parameters of adopted reforms are linked to the political cycle. The way of managing transition in Slovakia is characterised by several mistakes which resulted in economic losses as well as decreasing confidence in transition process. Transition process has created foundations of the market economy in Slovakia, however, its design is still not satisfactory. The global financial and economic crisis has revealed even more shortcomings of transition. Continual legislative and institutional changes and political controversies have been typical features of transition. The way of implementation of some welfare reforms makes their long term sustainability doubtful. Frequent changes of reforms, law amendments and sudden changes in the welfare system (e.g. the pension system reform in Slovakia) may increase fears about the final results of the reforms.

During transition, regional disparities in Slovakia have sharpened significantly, which has reflected in particular in increasing unemployment rate and growing number of receivers of social benefits. Long term unemployment as well as unemployment of young people has become a serious social problem. Long term unemployment raises the risk of permanent dependence on social benefits, the risk of falling into poverty and transfer of poverty to the next generations.

Nowadays, the Slovak economy, similarly as the whole Europe, faces another two transitions, namely transition towards knowledge based economy and transition towards low carbon economy. The future development of the Slovak economy will depend on a new set of reforms aimed at changes in the education system, R&D and innovation support, domestic SME support and implementation of extensive reforms in the public sector (especially the judiciary system and public administration).

The Slovak Republic's main economic challenges are:

- Come back to good, competitive business environment and reduce corruption
- Move to knowledge based economy
- Diversification of industry and export territories

- Increase the quality of education and life/long learning
- Increase the quality and quantity of R&D and need for higher interlacing with business sector
- Need to tackle long-term unemployment and need to come back to flexible labour market
- Need to deal with social exclusion (esp. minorities like Roma people)
- Reduce the impact of demographic tendencies (ageing)
- Energy security and others.

Furthermore, Slovakia needs to strengthen its domestic production base and expand its sources of growth. There is a need to boost employment, particularly long-term and youth employment. Improving workers' skills levels and labour market outcomes will require broadbased education and up-skilling, labour market and tax reforms. There is a need to strengthen active labour market policies. Active labour market policies spending, which compares unfavourably with that in other EU countries, should be raised and its effectiveness improved through more tailored activation incentives and services as well as increasing the share of spending allocated to training. Strengthening jobseekers' activation, especially on training and job-search support, removing obstacles to labour mobility and encouraging female labour force participation would increase overall labour utilisation. Reducing barriers to competition, especially in non-manufacturing industries, and strengthening innovation and education outcomes would increase productivity. Activation programmes and more inclusive education policies would reduce income inequality by improving employability and integration of most vulnerable groups, in particular the Roma and youth. Those policies would also reduce the relatively high regional income disparity.

Slovakia needs to support new drivers of growth. Economy has relied to a large extent on foreign investment in low-value added, wage-cost sensitive and export-oriented activities. The objective for the Slovak Republic will be to diversify and upgrade its supply capacity which will ultimately require investments in skills and innovation. Low research and development (R&D) expenditure and innovation activity in the business sector constrain the capacity to adopt new technology and hamper productivity growth. It is important to strengthen the business climate and reduce regulatory barriers to competition. Slovakia's regulatory burden compares unfavourably with other EU countries. In addition, corruption challenges are perceived as widespread and have involved e.g. EU Funds. Strengthening contract enforcement (e.g., to address payment delays that particularly affect small firms), improving administrative procedures and public procurement, as well as enhancing the legal system and strengthening anti-corruption efforts would create more favourable conditions for doing a business.

Bibliography

Bilčík, V. (2004): Institutionalisation of Integration Policy. In: ed. Brezáni P., Yearbook of Foreign Policy of the Slovak Republic 2003. Bratislava: Research Center of the SFPA.

Bilčík, V. (2015): The coordination of EU policies in the V4 countries: the case of Slovakia. In: Improving the Coordination of European Policies in Georgia Based on the Practices of Visegrad Countries. Tbilisi: Georgia's Reforms Associates (GRASS).

European Commission. (1999): Composite Paper. Reports on Progress Towards Accession by Each of the Candidate Countries. Available from

http://ec.europa.eu/enlargement/archives/pdf/key_documents/1999/composite_en.pdf

European Commission. (1998): Regular Report. Slovakia's Progress towards Accession. Available from:

http://ec.europa.eu/enlargement/archives/pdf/key_documents/1998/slovakia_en.pdf

European Commission. (2000): Enlargement Strategy Paper. Reports on Progress Towards Accession by Each of the Candidate Countries. Avalable from

http://ec.europa.eu/enlargement/archives/pdf/key_documents/2000/strat_en.pdf

Figeľ, J., Adamiš, M. (2003): Slovensko na ceste do Europskej unie. Kapitoly a suvislosti. Slovakia on its way to the European Union. Chapters and context. Bratislava: UV SR, CEP, SFPA.

Matlovič, René; Klamár, Radoslav; Matlovičová, Kvetoslava (2008): **Vývoj regionálnych disparít začiatkom 21. storočia na Slovensku vo svetle vybraných indikátorov**. Development of regional disparities beginning of the 21st century in Slovakia in the light of selected indicators. Prague: Regionální studia, 2, 2-12.

Matlovič, René; Matlovičová, Kvetoslava (2011): **Regionálne disparity a ich riešenie na Slovensku v rozličných kontextoch. Regional disparities and addressing them in Slovakia in different contexts. Prešov: Prešovská univerzita. In: A**cta Facultatis Studiorum Humanitatis et Naturae Universitatis Prešoviensis, Folia Geographica, 18, 2011, 8-88.

Morvay, K. et al. (2014): Economic Development of Slovakia in 2013 and Outlook up to 2015. Slovak Academy of Sciences, Institute of Economic Research, Bratislava, 128 p., e-ISBN 978-80-7144-227-1.

Morvay, K. et al. (2005): Transformácia ekonomiky: skúsenosti Slovenska (Economic Transition: Lessons from Slovakia). Bratislava: Ústav slovenskej a svetovej ekonomiky SAV, 330 p.

Šikulová, I., Frank, K. (2013): The Slovak Experience with Transition to Market Economy. Ekonomický ústav SAV, Bratislava 2013, ISSN 1337-5598 (electronic version).

Remeta, J. et al. (2015): Moving Beyond the Flat Tax – Tax Policy Reform in the Slovak Republic, OECD Taxation Working Papers, No. 22, OECD Publishing. Available from: http://dx.doi.org/10.1787/5js4rtzr3ws2-en

OECD (2013): "Revenue Statistics 2013", OECD Publishing.

OECD (2014): "Economic Survey of the Slovak Republic 2014", OECD Publishing.

FOREIGN TRADE OF UKRAINE IN CONDITIONS OF IMPLEMENTATION THE ASSOCIATION AGREEMENT BETWEEN UKRAINE AND THE EUROPEAN UNION

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This article analyzes the principles underlying the European integration processes of foreign trade of Ukraine and highlights the results of the present stage, it appears the problems and prospects of Ukraine's integration into the European space.

Foreign integration of Ukraine into the world economy plays an important role in the development of the national economy, which is why Ukraine is interested in a favorable environment, that simplifies access to foreign markets and ensure stable trade flows based on constant improvement of the competitiveness of domestic production.

Association Agreement between Ukraine and the European Union is a new format of relations aimed at establishing a deep and comprehensive free trade zone Ukraine - the EU and the gradual integration of Ukraine into the EU market. It is worth noting the following main benefits of the Association Agreement between Ukraine and the European Union on a free trade zone:

- ✓ improve the conditions of export of Ukrainian goods to the EU is primarily due to cancellation importable fees and reduce non-tariff barriers to trade in agricultural products;
- ✓ accelerate pace of economic growth. Additional growth is expected mainly due to kinds of economic activity such as agriculture and food industry, textile and leather industry, metallurgy and metal processing, transportation;
- ✓ increase the number of the employed: gain of relative to baseline growth is expected mainly due to kinds of economic activity such as agriculture and food industry, trade

and repair, transport. At the same time expected slight decrease in the number of employees in the chemical industry, manufacture of machinery and equipment;

- ✓ expansion of the revenue of the state budget. Given the international experience of the FTA, short-term losses in budget revenues due to liberalization of customs tariffs will be offset by growth in other articles revenue from domestic taxes;
- ✓ encourage foreign direct investment in Ukraine: FTA + with the EU will be a powerful additional argument in favor of foreign direct investment in the production of goods or services, focused on exports to the EU by using existing competitive advantages of the Ukrainian economy;
- ✓ improving the business and investment climate for domestic business operators: the process of legal approximation within the FTA + and quality of its implementation will result in better conditions for doing business in Ukraine as a whole;
- ✓ benefits for Ukrainian consumers: the gradual elimination of existing customs tariffs and normative legal barriers will increase the diversity and quality of products and services available to consumers. In addition, competitive pressures that it would continue the liberalization of market access, will encourage specialization, in this way stimulating innovation and reducing the cost of production;
- ✓ refusal EU of the use export subsidies in trade with Ukraine.

Analysis of the situation in Ukraine's foreign trade shows that in 2014 exports of goods amounted to 53913.5 million USA, imports - 54,381.8 mln. Compared to 2013 exports declined by 13.5% (to 8,392.4 mln.), Imports - by 28.3% (by 21,452.8 mln.). The negative balance was 468.3 million. (in 2013 negative - 13,528.7 mln.).

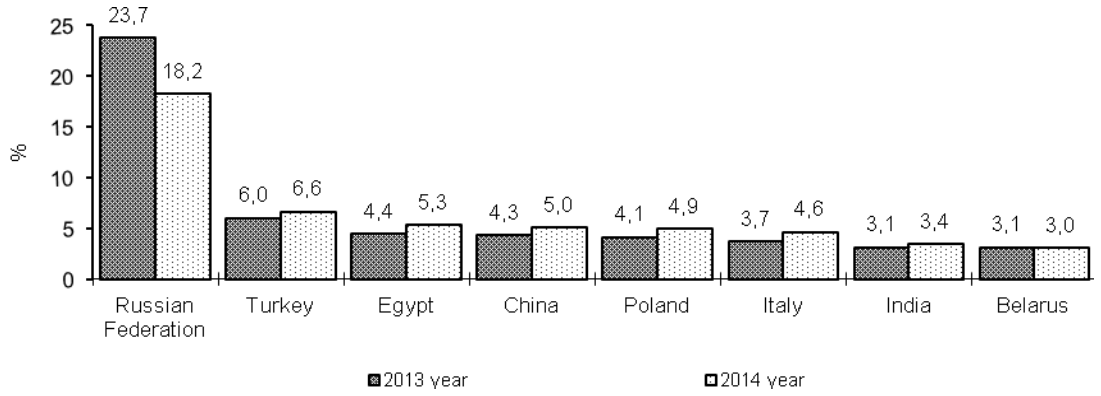
The formation of the negative balance have influenced on some product groups: fuel, oil and products of their distillation (13,103.7 mln.), plastics, polymers (2,462.9 mln.), pharmaceutical products (2,217.1 million.), ground transport vehicles, except railway (2,157.8 mln.), mechanical machinery (1,936.4 mln.), electrical machinery (1,124.2 mln.). Foreign trading contracted with the partners from 217 countries.

Exports of goods to EU countries amounted to 17,004.7 mln., Or 31.5% of total exports, and increased compared to 2013 at 431.2 mln., Or by 2.6% (in 2013 - 16,573.5 mln., or 26.6%). In particular, it is increased volume of deliveries of fats and oils of animal or vegetable origin to 58.4%, wood and wood products - 21.8%, electrical machines - by 10.6%, mechanical machines - by 5.5%, cereal crops - 5%.

The most significant exports were carried out among the EU countries to Poland - 4.9% of total exports (ferrous metals, ores, slag and ash, electric cars), Italy - 4.6% (metals, grains, fats and oils of animal or plant origin), Germany - 3% (electrical machinery, clothing and clothing accessories, textile, mechanical machinery) and Hungary - 2.8% (electrical machinery, ferrous metals, mineral fuel, oil and products of their distillation); among other countries to Russia - 18.2% (mechanical machines, ferrous metals, products of inorganic chemistry), Turkey - 6.6% (black metals, seeds and oleaginous fruits, fertilizer), Egypt - 5.3% (metals, grains, fats and oils of animal or vegetable origin), China - 5% (ore, slag and ash, cereals, fats and oils of animal or vegetable origin), India - 3.4% (fats and oils of animal or vegetable origin, ferrous metals, mineral fuel, oil and products of their distillation) and Belarus - 3% (ferrous metals, residues and waste from the food industry, mineral fuel, oil and products of their distillation).

Among the major partner countries commodity exports increased to Italy by 5.7%, Egypt - 5.3%, Poland - 3.9% and Germany - 2.5%. At the same time Russia was reduced to 33.7%, Belarus - 16.7%, India - 7.1% and Turkey - by 5.1%.

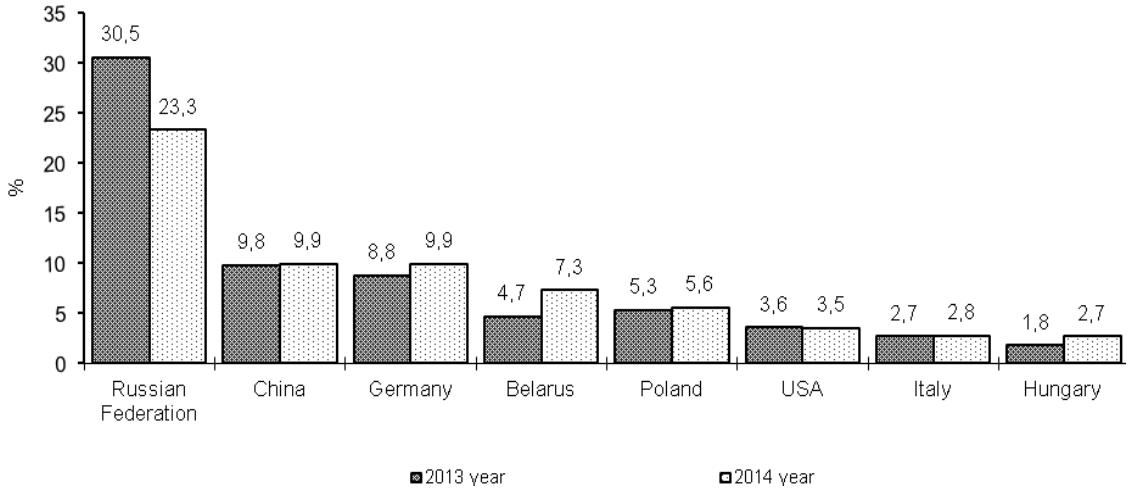
Main partner countries in exporting goods



The basis of the commodity structure of Ukrainian exports constituted non-precious metals and ware from them - 28.3% (13.1% less against 2013), including ferrous metals - 23.9% (less than 9.8%). Plant products accounted for 16.2% (1.3% less), including cereals - 12.1% (up 3%), mineral products - 11.3% (15.1% less), including ores, slag and ash - 6.4% (less than 8.5%) and mineral fuel, oil and products - 3.7% (less by 25.2%), mechanical and electrical machines - 10.5% (less than 17.1%), fats and oils of animal or vegetable origin - 7.1% (up 9.3%), food products - (less than 11.5%) and chemicals and related allied industries (less than 23.8%) - by 5.7%.

Imports of goods from the EU countries amounted to 21,059.8 mln., Or 38.7% of the total, and decreased against 2013 to 5,707.1 mln., or 21.3% (for 2013 the volume of imports amounted to 26766.9 million respectively. and 35.3%). Reduced supply vehicles of land transport, except rail, at 56.5%, paper and paperboard - by 34.6%, mechanical machines - by 32%, various chemical products - by 28.9%, pharmaceutical products - by 21.1% , electrical machines - by 20.6%, plastics, polymer materials - by 17.4%. The largest revenues among the EU countries were carried out from Germany - 9.9% of total imports (mineral fuel, oil and products of their distillation, mechanical machinery, means of land transport, except rail), Poland - 5.6% (mineral fuel, oil and products of their distillation, electrical machinery, plastics, polymers), Italy - 2.8% (mechanical machines, pharmaceutical products, plastics, polymers), Hungary - 2.7% (mineral fuel, oil and products of their distillation, electrical machinery, plastics, polymeric materials); other countries from Russia - 23.3% (mineral fuel, oil and products of their distillation, mechanical and electrical machinery), China - 9.9% (electrical and mechanical machines, plastics, polymers), Belarus - 7.3% (mineral fuel, oil and products of their distillation, transport means, except rail, mechanical machines) and the United States - 3.5% (mechanical machinery, mineral fuel, oil and products of their distillation, transport means, except railway).

Main partner countries in import goods



Compared to 2013 imports increased only 10.7% of Belarus and Hungary at 4.6%, from the rest the largest partner countries decreased: from Russia - 45.1%, USA - 29.9% , China 27.4%, Italy 26.9%, Poland 24.3% and Germany 19.5%. The supply of mechanical and electrical machinery accounted for 16% (less on 26.4%), including mechanical - 9% (less on 27.8%) and electric - 7% (less on 24.5%), chemical products and related industries - 12.5% (less on 19.4%), including pharmaceutical products - 4.5% (less on 20.1%), polymeric materials, plastic and products from them - 6.7% (20.4% less), including plastics, polymer materials - 5.4% (less on 17.2%), base metals and products from them - 6.1% (less on 32.9%), including ferrous metals and products from them - 3.9% (less on 37.2%), ground transportation vehicles, aircraft, floating means - 4.9% (less on 54.7%), including vehicles ground vehicle, except railway - 4.5% (less on 54.7%), finished food products - 4.8% (less on 18.2%), products of plant origin - 3.7% (less on 22.3%), textile materials and textile products - 3.5% (less on 21.6%) of the amount of the value of imports.

In Ukraine for 2014 received foreign customer-supplied raw materials to 3,027.1 million. (less than 16.4% compared to 2013). Major supply were carried out from Germany, Poland and Hungary. Exports of finished products from imported raw materials amounted to 4,243.9 million. (less than 15.6%).

Exports of raw materials amounted to 127.7 million dollars. (19.6% increase over 2013). At the same time, Ukraine imported finished products made from raw materials, to 143.4 million (up 9.1%). Major supply were carried out from Sweden, Switzerland and Germany.

Implementation of the European legislation, provides the economic part of the

Association Agreement, is extremely important in the context of reforms since the Agreement can and should be the basis for a new model of socio-economic development of Ukraine. Therefore, the development concept and program of sectoral economic reforms must immediately consider the basic requirements of EU directives, harmonization which provides for the agreement.

Deep and comprehensive free trade area should be created for 10 years from the entry into force of the AA. In general, to deep and comprehensive free trade area launched, Ukraine has implement about 200 regulations of the EU, international treaties and standards. 2015 should be used to prepare and discuss draft laws which harmonize national legislation with basic EU Directives regulating relations in key areas of trade.

Today Ukraine has fulfilled a significant amount of measures in the field of technical regulations envisaged by the Association Agreement. Implementation of these measures will increase the competitiveness of Ukrainian products, gradually reduce technical barriers to trade between the parties, and will increase exports of Ukrainian industrial products.

In early 2015 it was adopted an extremely important law - "About the technical regulations and conformity assessment", which is one of key European integration projects. This law actually complements a number of legislative acts, namely - the laws of Ukraine " About the Standardization", " About the metrology and metrological activity", the adoption of which will eliminate legal barriers and technical barriers to trade in industrial goods and will promote Ukrainian industrial goods discovery for EU market and the other developed countries.

The main objectives of the adoption of technical regulations is to protect the lives and health of people, animals and plants, the environment and natural resources, energy efficiency, protection of property, national security and preventing the sale of low-quality products. In practice, the technical regulations are the most severe form of non-tariff regulation. All products are manufactured and supplied to the market of Ukraine (with few exceptions) must meet the requirements of relevant technical regulations.

Thus in the EU and other developed countries, these standards are developed, adopted and applied on the basis of the principles established by the Agreement of the World Trade Organization (WTO) on Technical Barriers in trading (Annex to the Marrakech Agreement establishing the World Trade Organisation 1994, that is mandatory for all WTO members,

including Ukraine).

Also, the current Ukrainian legislation does not comply with the directives of the New and Global Approach of the European Union in the field of technical standards, which determine the requirements for the development of similar acts of the European Union. The products of the country can not get to the respective markets if the existing technical standards in the country do not meet these requirements, where these standards are adopted, particularly the EU market.

Law "About the Technical Regulations and Conformity Assessment" creates a legal framework and mechanisms for the adoption of EU Directives, which will begin the process of transition to European standards and fulfilling all obligations of Ukraine in the industrial field. Unimpeded circulation of goods between Ukraine and the EU will encourage by adjustments to mandatory technical regulations.

The adoption of this law will positively affect both the Ukrainian producers and consumers. First of all, it will help to open EU markets and developed countries for Ukrainian industrial companies and thus will mitigate the effects of a trade war with Russia and the loss of the Russian market.

Installation of a new technical regulation system based on European standards will cause not only improve the safety of goods and services, but also contribute to a better institutional consumer protection in case of defective products. At the same time the highest security level manufactured goods means that such products that are probably cheaper but do not meet safety requirements, to be driven from the market. This will affect both domestic producers of goods that can not adapt to new requirements and less secure imports, and could negatively affect consumers with lower incomes. In the long term use of safer products will improve health of the population reduction of injuries that can compensate for the purchase of safer products.

The main task of this section is adjusting the special measures to protect domestic producers as a result of the FTA with the EU. 2015 year can be used to implement institutional requirements, including the establishment of expert-level dialogue on trade measures as the forum for cooperation in the field of trade measures. The urgent establishment of a permanent public body will make it possible to monitor legislative changes and to be an active participant in the procedures of trading protect domestic producers. This body should be established to

ensure credibility and transparency of decision-making with relevant experts with a good reputation and lack of "corruption loop". The purpose of its activities defined in the Association Agreement - improving knowledge and understanding of the parties laws, techniques and approaches used by the parties in respect of trade measures, improving cooperation between the relevant authorities, discussing international trends in the field of trade protection and others.

The basic legal framework concerning the protection of of trade in Ukraine the laws "About protection of domestic producers against dumped imports", "About protection of domestic producers against subsidized imports", "About application of special measures on imports to Ukraine." Most laws and amendments adopted during Ukraine's accession to WTO instruments which meet EU acquis.

One of the most anticipated changes that will bring Association Agreement, is the reducing tariffs on European cars, but it will be no earlier then 2025, when it applied the zero rate of duty. A major task in 2015 is to develop a plan for the use of special measures concerning imports to Ukraine passenger cars from Member States of EU.

The approximation of national legislation to European regulation of sanitary and phytosanitary measures require substantial revision. The authorities should establish institutional and legislative changes to comply with European standards, which will help Ukrainian exporters to sustain competition on European markets. The implementation of the Association Agreement drastically effect on the state of Ukrainian agriculture and its infrastructure, which could improve product quality and governance in agriculture.

The basic principles of the system of sanitary and phytosanitary measures (SPM) with EU quality and safety of foods defined in Council Regulation EU № 178/2002 of 28 January 2002 and № 852/2004 of 29 April 2004. More information and requirements for a product contained in the relevant regulations and EU directives. This approach and permit procedures in the EU differ depending on the type of imported goods, which can be roughly divided into three main groups: food of animal origin (that include live animals intended for slaughter); food products of plant origin; mixed products (which consist of as components of plant, animal and so).

This year, it is important to lay the foundation for further reform in agriculture: the institutional and legislative changes should ensure the establishment system of standards and effective mechanism of control over the products in order to avoid trade barriers and

implementation of the state of implementation of commitments under the AA. Achieving these goals will help to change the Soviet command-administrative system of regulatory standardization to market-oriented system with the creation of conditions for the protection of health of consumers and ensure the interests of domestic producers.

Institutional changes in 2015 should aim for the creation the competent authority for Regulation of Sanitary and Phytosanitary Measures. Firstly, it is necessary to create a single control body for food, animals and other products that are objects of the above measures. Secondly, reform of the competent authority should be directed at changing public policy on consumer protection and convergence of standards for producers to European requirements. Getting permits only defined by European legislation and required for implementation in Ukraine should be mandatory for manufacturers.

Conducting these activities is updated due to the fact that the first meeting of the subcommittee on management of sanitary and phytosanitary measures Ukrainian authority must inform on the structure, organization and division of responsibilities between the competent authorities and subsequently provide information on changes. The greatest resistance to reforming the system of standardization will make the government representatives that ensure regulation since the reform will lead to inevitable reduction of positions and powers as a result of a more effective system. It must be considered, because changes require immediate action in the short term.

Regarding customs issues and trade facilitation, the Association Agreement with the EU requires the implementation of certain provisions of the customs legislation of the EU. In particular, the customs legislation of Ukraine should be implemented 70-80% of Customs Code provisions of the EU. During 2015 in this direction required the implementation of customs reform, which should include the following items in particular:

- ✓ simplification of procedures and customs automation;
- ✓ reducing the time of customs clearance;
- ✓ developing a mechanism of enabling the public to the management of the customs authorities of the business community and the public;
- ✓ introducing of effective information exchange between customs authorities and companies;

- ✓ establishing the structure of the customs authorities of the customs post audit departments and the role of the relevant area of customs authorities;
- ✓ establishing a system of rapid response to violations in the area of customs;
- ✓ ensure the effective implementation of "public control";
- ✓ taking measures to prevent and preventing corruption among employees of customs authorities.

During 2015 you must create and establish smooth functioning of the Consultative Council, which will include experts of business community leaders and the main directions of state customs (customs value declaration and customs control, risk analysis, etc.).The functions of the council will be the adoption of strategic advisory guidelines in the field of customs reform in Ukraine, making the discussion of practical recommendations for customs reform and improvement of customs legislation. Implementation together with the Internal Revenue Service to develop the concept of automated control systems, designed for early detection of risks commissioning trade turnover of smuggled goods exclude the possibility of using shadow schemes the importation of goods.

Also, the business community should publicly provide public assessment of the officials who occupy senior positions in customs. The introduction of such an assessment will improve the personnel policy of the customs authorities, will help them clean from corruption.

Signing Association Agreement allows for the development of investment and trade cooperation with the EU through the implementation of the changes on the establishment of entrepreneurship, cross-border provision of services, licensing, telecommunications, transport, financial services and e-commerce.

2015 should be the year of amending legislation for the gradual harmonization of Ukrainian legislation with the European one concerning the establishment and operation of subsidiaries, branches and representative offices of legal entities. The first priority in 2015 was the development of business strategy that takes into account all the requirements of AA and provide insight for future legislative and institutional changes that apply to the business environment.

Regulatory reform has become a necessity now in Ukraine, especially regarding the permit system, which in most cases are administrative-command system, not the market.

Although in 2014 there was a significant reduction of the regulatory functions of (56 to 26), but this should be only the beginning of the optimization of public bodies. Particular attention should be paid to improving licensing activities to build a system of mutual recognition of licenses in certain sectors of economic activity between Ukraine and the EU.

Introducing changes to provide services in different areas identified UA should be in accordance with the EU acquis. Here is a guide the implementation plan approved by the AA, which refers to the need to develop a roadmap of reforms to align Ukraine's legislation to EU law in the field of postal and courier services, modernization of postal network in order to improve the quality of postal services, drafting the Law of Ukraine "About access to infrastructure facilities construction, transportation, energy for the development of the telecommunications network," draft Law of Ukraine on facilitating access to the market of electronic communications, development Procedure provision of transfer of subscriber numbers, development of the Regulation on the quality of telecommunications services which should be implemented in 2015.And items such as "analysis of legislation of Ukraine in the telecommunications sector in terms of market analysis of certain telecommunications services in accordance with the EU for their previous (expected) regulation taking into account national peculiarities and preparation of relevant draft legislation" had to be long ago realized.

An important measure, which was implemented in early 2015, began selling licenses to use 3G-technology on the Ukrainian market. The introduction of modern telecommunications technology promotes competitiveness and creating additional incentives for GDP growth. World practice has confirmed the following relationship: 1000 broadband users create 88 new jobs, increasing broadband to 10% increases GDP by 1%, increasing the speed of broadband doubling GDP by 0.3%. Despite statements by the President on the need for rapid reform in the telecommunications sector, the situation with the introduction of 3G has not yet found its logical conclusion.

2015 should be directed to the development roadmap of reform of the transport sector, in particular the regulation of international maritime transport for the approach of the administrative, technical and other regulations; Aircraft services for the ensuring the coordinated development and progressive liberalization of transport.

The objective of 2015 is a law "On electronic commerce", which should provide the legal

regulation of electronic commerce, electronic signatures and lay the foundation for the further implementation of e-government in Ukraine. According to estimates of industry experts, the volume of the market of online trade in 2013 amounted to about $ 2 billion. According to the forecasts, the market for e-commerce will grow and its volume will increase to $ 10 billion by 2020. The main problem in Ukraine is the lack of the necessary legislative support in this area.

Ukraine must ensure the free movement of capital between Ukraine and the EU. Implementation of these commitments should be considered as part of the comprehensive reform of financial markets, without which, in turn, will be impossible full pension and medical reform. The main emphasis in the reform of the financial sector include the liberalization of capital movements ensure effective prudential supervision, development tools stock and currency markets, the development of financial infrastructure, improving corporate governance, ensuring the implementation of international standards of regulation and supervision of financial services, including basic principles of effective banking Supervision of the Basel Committee; Recommendations of the development of the Financial Action Task Force on Money Laundering (FATF), to ensure the full functioning of electronic money.

The liberalization of capital movements requires significant changes in the policy of the National Bank of Ukraine, deregulation of exchange controls first of all. The strategy of capital account liberalization in the legal aspect requires, above all, the adoption of a new law on currency regulation, which may take place during 2015.Current legislation in this area, first of all, Decree of the Cabinet of Ministers "About the Currency Regulation and Currency Control" in 1993, clearly unable to restrain capital flight from the country and is too bureaucratic and economic processes hinders rather than helps their development.

In the banking sector to the priority tasks for the current year should be attributed conducting capitalization of commercial banks and the consolidation of the banking system, which will improve its overall competitiveness and stability, combating bad assets - raising standards of quality bank assets, introduction of modern risk-management systems.

An important reform in the context of harmonization of national legislation with the European one is the reform of the public procurement system. The key challenge in this area is improving the transparency of national procurement and open access for suppliers and service providers from the EU.

This reform began in 2014 with the adoption of the Law "On Public Procurement". However, based on past statistics, this law has not led to the intensification of the long-awaited public procurement.

A striking example of the failings of the law and the inability to properly use its provisions were purchasing procedure on the defense industry was that instead used the simplified procedure is complete, which provoked the delays in about 60 days. This law needs revision. Also relevant authorities of procurement should be conducted training courses for local governments on its use.

Institutional reform of government procurement must be accompanied by reform of the central executive body responsible for policy on public procurement, which is charged with approximation of Ukraine to EU legislation. Cabinet of Ministers program of implementation AA determines that 2015 will be drafted regulations to implement the basic provisions of Directive 2004/18 / EC of the European Parliament and of the Council of 31.03.2004 p. These regulations the coordination of orders granting public contracts for works, goods and services, developed a road map for the implementation of EU Directive (the definition phases of implementation, milestones, deadlines and responsible persons) in public procurement, and conducted institutional reform in public procurement.

It should be noted that in 2014 the authorities carried out actions for approximation of national legislation to European tax. According to the report of the Government Office for European Integration, the main changes are the following measures: Law of Ukraine on December 28, 2014 № 71 "About Amendments to the Tax Code of Ukraine and laws of Ukraine (about tax reform)"which provides rules that facilitate the balancing of interests controlling authorities and taxpayers. In particular, the law harmonized accounting and tax records and determined taxable income of companies, namely by accounting rules; and also introduced a new mechanism of VAT administration.

Optimized number of groups of single tax payers to four with increased maximum amount of income that allows you to stay in the simplified tax system (for the first and second groups) reduced single tax rate for small businesses.

Also taken steps to control the use of electronic CODENTIFY (electronic excise marks) that will enable regulatory authorities and manufacturers to monitor the real-time production,

completeness calculation and payment of excise tax route products. In turn, the improvement of the trade turnover will eradicate illegally produced or imported products in Ukraine.

The main purpose of reforms in the energy sector - creating a transparent and efficient energy market, integrated into a single European energy system, initially among tasks - reorganization of "Naftogaz Ukraine".

In the context of this area is the most anticipated and necessary to the implementation in 2015 are the following events. One of the primary steps is to reform the gas and electricity markets in accordance with the requirements of the Third Energy Package, including a comprehensive reorganization of "Naftogaz Ukraine" and certification operator GTS for the purpose of separation of extraction, transportation, storage and supply of natural gas and ensure transparent and unimpeded access to the transmission infrastructure.

It is important to take concrete measures to change the tariff policy. This implies a departure from the cross-subsidization of energy that is all categories of consumers establish a single price for gas and electricity. This will reduce the price of energy for businesses.

The legislation must fixing clear measures that restrain monopoly on the energy market. First, it is necessary to provide a market mechanism for establishment of the prices electricity. The state should make funding for infrastructure projects in the energy sector and prevent leaching of public funds in private companies. It is mandatory the implementation of the diversification of gas supply sources and establishing limits for the supplier to energy consumption - no more than 30%.

It is necessary to legislatively oblige enterprises-monopolists publish the information about their activities of the investment programs, tariff value of goods and services and their compliance with established standards.

We need to involve Ukraine to participate in international initiatives transparency to achieve compliance Extractive Industries Transparency Initiative EITI: publish payment data of mining companies and income of government of works related to the development of natural resources; ensure surveillance system by the interested parties on how the revenue is spent from the development of resources.

One of the requirements of the Association Agreement is to ensuring transparency in the disclosure of information relating to changes in economic policy, is. These rules allow

interested parties to comment on draft legislation, request and receive information about any measures of general application which are proposed or in force, how they could apply, and provide due process proceedings, decision-making, including the revision or appeal.

Increasing transparency of government is possible through the introduction of electronic systems in management, judicial reform and continuous consultation with stakeholders. E-government should be implemented in the long term perspective in all forms - G2G - «government to government"(where G / government - the government 2 / to - to), G2B - «government business" (where B / business - business), G2C - «government to citizen" (where C / citizen --com may arise). The practical implementation of the e-government will enable to ensure the implementation of the basic principles of cooperation between the state and society - the principle of transparency and the principle of subordination.

According to the UN report on e-government by 2014 (United Nations E-Government Survey 2014) Ukraine is on the 87 place of 193 countries on the index of e-government. Index of e-government is composed of three indices: the index of online services, the index of telecommunications infrastructure and the index of human capital. The general index of e-government was in Ukraine - 0.5032 in 2014, in 2012 - 0.5653, so for two years Ukraine has lost much of its positions. Ukraine should expand online services for all segments of the population that help to restore the previous position in 2015.

We need the introduction of the system of international promotion of Ukrainian producers, including through international exhibitions. Ukraine must be an external production site for global markets and research platform for high-tech multinational corporations. The promotion of domestic agricultural products and foodstuffs on external markets, in particular, their participation in international exhibitions is also one of the important condition.

Thus, the main result of the activities described above will be:

- ✓ improving the international image and investment attractiveness of Ukraine;
- ✓ improving the tax system to VAT;
- ✓ compliance with the European classification of alcoholic beverages and their corresponding excise tax;
- ✓ increasing tax revenue;
- ✓ ensuring effective fight against smuggling of excisable products;

- ✓ incentives to reduce consumption of tobacco products by the public.

Particular importance for our country is the Agreement between Ukraine and European Union on the Ukraine's participation in EU Framework Programme for Research and Innovation "Horizon 2020". The program will be the basis for the restoration of Ukrainian science and its full integration into the European Research Area. Ukraine became one of the 11 world's leading research countries which identified key strategic partners of the EU in the EU program "Horizon 2020" and recognized as the only strategic partner of the EU in Eastern Europe.

25 March 2015 the European Commission published the report "Implementation of the European Neighbourhood Policy in Ukraine. Progress in 2015 and recommendations for action ", which contains information on the progress of reforms in Ukraine and recommendations for next year. In the document stated that Ukraine achieved significant progress in deepening and strengthening democracy, human rights and fundamental freedoms, marked conduct of the presidential and parliamentary elections in accordance with European and international standards; the adoption of anti- corruption package laws; start work on reforming the judicial system and law enforcement, as well as the decentralization process. However, the European Commission expressed a number of criticisms and provided recommendations for constitutional and judicial reforms, reform of the electoral law, public administration and police, the proper implementation of anti-corruption legislation, energy sector reform.

References:

1. Report on the implementation of Association Agreement between Ukraine and European Union Access mode: http://reforms.in.ua/Content/Download/tasks-performance-status/AA_impl_report_02_2015_GOEI.pdf
2. Henderson J., Dicken P. And others. Global Production Networks and the Analysis of Economic Development. Review of International Political Economy. 2002, p. 444.
3. Updated Plan of the Association acnivities from, March 16, 2015. AssociationCouncil between Ukraine and EU.

   Access mode:

http://www.kmu.gov.ua/control/uk/publish/article%3fshowHidden=1&art_id=243281941&cat_id=223345338&ctime=1266423569791

4. Plan about the implementation of Association Agreement between Ukraine and European Union Access mode: http://www.kmu.gov.ua/kmu/control/uk/publish/article?art_id=247984208&cat_id=247984327
5. Report of the European Commission and the High Representative of European Union for Foreign Affairs and Security Policy "Implementation of the European Neighbourhood Policy in Ukraine. Progress in 2015 and recommendations for action" Access mode:http://eeas.europa.eu/enp/pdf/2015/ukraine-enp-report-2015_en.pdf
6. Yurchyshyn V.V. Post-kryzove ekonomichne vidnovlennya i perspektyvy dlya Ukrayiny. [Post crises economic renaissance and perspectives for Ukraine] Analitychna dopovid'. Lyutyy 2011, 48 p. – Access mode: http://uceps.org/ukr/article.php?news_id=874
7. Ostashko T. O. Vnutrishniy ahroprodovol'chyy rynok Ukrayiny v umovakh SOT[Internal Ukraine's agricultural market in the WTO conditions]/ Ostashko T.O., Voloshchenko L.Yu., Lyenivova H.V.; vidpov. red. V. O. Tochyli; NAN Ukrayiny; In-t ekon. ta prohnozuv. – K., 2010. – 208 p.

EXPERIENCE OF POLAND IN REFORMATION OF TRADE RELATED ISSUES WITH THE EU INTEGRATION ASPECT

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Introduction

European Union countries integration (EU-15 with EU-12) – is the biggest undertaking realized in the most recent history of Europe. Dilatation with 12 new countries was supposed to be an event with historical as well as political significance and should have brought meaningful increase in political power in the world globalization.

28 countries belong nowadays to the European Union (EU): Austria, Belgium, Denmark, Finland, France, Greece, Spain, the Netherlands, Ireland, Luxembourg, Germany, Portugal, Sweden, the United Kingdom and Italy, since 1 May 2004 – Cyprus, Czech Republic, Estonia, Lithuania, Latvia, Malta, Poland, Slovakia, Slovenia and Hungary, since 1 January 2007 – Bulgaria and Romania as well as since 1 July 2013 – Croatia.

Research presented in the article cover the years after Poland joined European Union, so from 2004 until 2012 (with small exception in 2013), without Croatia (which joined EU in the middle of 2013).

„United in diversity", which is the official motto of the European Union (EU) adopted in May 2000, shows two of the main characters of EU: the desire for integration and the diversity. That European diversity is undeniable and inescapable as EU is an economic and political union of 27 member States (Bucciarelli, Alessi, Persico, 2012), with millions people - inhabitants and the home market. It is evident, that there are economic and social differences in such a large territory between the states and 268 regions, while the process of convergence is very slow and problematic (Kilijoniene, Simanaviciene, Simanavicius, 2010; Stec, et.al., 2014).

The EU arose from member states desire to achieve complete integration. In fact, one of the basic principles of the European Governance is the commitment to promote integration by also making reference to the idea of conditionality (Bucciarelli, Alessi, Perlico, 2012; Fillip, 2006; Frejtag-Mika, Mika, 2011; Krupa 2011; Pierścieniak, 2014; Smith, 1998).

Main aim of the article is to present experience of Poland in reformation of trade related issues with the EU integration aspect. Achieving this aim required dividing the article into several parts:

- ✓ presenting the history of Poland in European Union,
- ✓ showing the positive and negative aspects of mentioned membership,
- ✓ presenting the directions and the structure of trade exchange with another countries, including Georgia and Ukraine as well as,
- ✓ assessing Poland's membership and recommendations for Georgia and Ukraine.

The history of Polish accession to the European structures

An intensive political and economic transformation in Poland since 1989 (the so – called Balcerowicz Plan) and subsequent changes in the countries of Central and Eastern Europe became reasons to strengthen the cooperation between these countries and European Communities. The result of this was the European Agreement signed in December 1991, i.e. an agreement to affiliate Poland with the European Communities. At that time, only its part concerning trade was put into effect. It took place a week after the Dissolution of the Soviet Union. Strengthening the bonds between the countries of Central Europe and the European Communities took place in the very special international circumstances. The aims of this affiliation were of political and economic nature. They came down to appropriate frameworks for political dialogue, supporting trade and a development of economic relations between the parties, for instance, establishing the free trade area product turnover, respecting competition rules, establishing bases for financial and technological support for Poland as well as promoting a cooperation in the area of culture. It was all done to gradually prepare Poland to integrate with the EU (Płowiec, 2011, p. 626).

Formally in February 1994 the European Agreement came into effect and a bit earlier, in November 1993 the Maastricht Treaty was signed. The European Union was established, which was involved not only in economic issues (1st pillar), common foreign and security policy (2nd pillar) and police and judicial cooperation in criminal matters (3rd pillar). A very crucial element of the Maastricht Treaty, from the perspective of the Central European countries, is the

right for all European countries to become a member state of the EU according to the set procedures.

The countries of the Eastern and Central Europe had various reasons to join the EU. Poland had political, economic and cultural reasons. The political reason was mainly to liberate from Russian domination, to reduce its influence on the activities of political and economic institutions in Poland and therefore to secure the realization of democratic freedoms and the rule of law. These values were to be strengthened by an improvement of the country's military security due to Poland's membership in NATO (Poland acceded in March 1999). The economic reasons concerned regulatory and real area. The regulatory aspects aimed at taking over the ready-made solutions on economic governance and running the country applied by the economies of developed markets. The achievement in integration of this group was well-developed: a customs union was functioning, there was the Common Agricultural Policy and guaranteed free movement of goods and the majority of services, free movement of persons and capital; there had been already the economic and monetary union, which was marked by the presence of common currency – Euro. It seemed that taking over these achievements may be swift and rather painless. The Polish Members of the European Parliament estimate that 60-80% of governing regulations in Poland are directly enacted or adjusted from the acquis communautaire.

The additional benefit from being an EU member state was also a perspective to develop the regional policy, which could create favorable conditions for strengthening self-governance. Among the economic reasons in real area, there were expectations that Poland, as Spain, Portugal and Ireland before, would receive financial support reaching sometimes 6% of GDP and farmers would receive direct subsidies equal to those given to farmers from Western Europe. It was also expected that a membership in the EU would contribute to the faster inflow of foreign capital to Poland, both in a form of direct investments and loans obtained on favorable terms (Kawecka-Wyrzykowska, 2001). Cultural reasons were expressed in striving to open and complete return to the world of Mediterranean culture and traditional values that are represented mainly as a respect of human being and what results from this – freedom, human rights and human dignity (Płowiec, 2011, p. 627-628).

On 1 May 2004 Poland, after six years of starting accession negotiations, became European Union member. Joining EU was perceived by many Poles as unavoidable consequence of system changes which originated at the end of the 1980s. Simultaneously mentioned events can be treated as the capstone of the whole process of changes as well as the confirmation of Poland's place in Europe.

During the meeting of the European Council in December 1997 the decision was made to commence negotiations with the first group of countries applying to the EU. These countries were: Cyprus, Czech Republic, Estonia, Poland, Slovakia and Hungary. The Accession Partnership was a document in which all priorities – short-, medium- and long-term (mainly of economic character) were established for each country. To help to realize the partnership, each country prepared the National Programme for the Adoption of Acquis which was divided into annual plans till the time of accession negotiations was over. The first stage of negotiations began on the 31st of March 1996 from a review of the Polish legislation in order to compare it with the Community law (the so-called Screening) and it lasted till the mid-1999. It was a difficult stage, as the European legal regulations comprised the documentation amounting to 80,000 pages. The second stage of negotiations involved establishing the bargaining positions pertaining to 29 thematic groups, mainly economic, which were defined by the European Commission, and the exact negotiations of positions. The negotiations finished in December 2002. The terms and conditions that were negotiated for Poland in the EU were widely criticized. Many commentators of this event did not see that thanks for these terms Poland would enter this mainstream of civilizational changes in Europe more easily, that there would be an inevitable change in economic governance and that the Common Agricultural Policy would come into force. It was emphasized that Poland did not receive any reduction for membership fee paid to the European budget, and had difficulties negotiating the direct subsidies for farmers, which turned out to be significantly lower than those granted for the EU-15. Moreover, the process of negotiations and its results showed the immense Polish backwardness in many areas of social and economic life (Płowiec, 2011, p. 626).

Based on the mentioned notes it is worth mentioning that since Poland joined European Union an important growth factor are transfers from EU budget which from 1 May 2004 until 31 March 2013 came out to 79 255,59 mln euros. Simultaneously in the same time Poland paid

into the EU budget 28 180,19 mln euros as membership contribution as well as 141.47 mln euros for repayment. To sum up financial transfers balance from EU budget after 107 month molded at + 50 030,07 mln euros (Socio-economic …., 2013).

Tabela 1. Poland's way to European union – the most important dates

Date	Event
June1988	Establishment of diplomatic relations between Poland and the EEC
16.12.1991	Signing of the Europe Agreement between Poland and the European Communities
01.01.1993	Establishment of the Single Market
01.11.1993	Enforcement of the treaty on European Union (Maastricht treaty)
08.04.1994	Submission of the official application for the EU membership by Poland
01.01.1995	Accession of Austria, Finland and Sweden to the EU
26.03.1995	Complete abolition of border controls in the Schengen Area
31.03.1998	Opening of Poland's accession negotiations
01.01.1999	Establishment of the euro area by Austria, Belgium, Finland, France, Ireland, Spain, Netherlands, Luxembourg, Germany, Portugal and Italy Introduction of the euro In non-physical form
01.01.2001	Entry of Greece into the euro area
01.01.2002	Introduction of the euro in physical form
13.12.2002	Closing of Poland's accession negotiations
01.05.2004	Accession of Poland to the EU, along with Cyprus, Czech Republic, Estonia, Lithuania, Latvia, Malta, Slovakia, Slovenia and Hungary
13.06.2004	First European Parliament elections in Poland
01.01.2007	Accession of Bulgaria and Romania to the EU. Entry of Slovenia into the euro area
21.12.2007	Poland in the Schengen Area
01.01.2008	Entry of Cyprus and Malta into the euro area
01.01.2009	Entry of Slovakia into the euro area

01.12.2009	Enforcement of the treaty of Lisbon
01.01.2011	Entry of Estonia into the euro area
01.07.2011- 31.12.2011	Polish Presidency of the Council of the European Union
01.07.2013	Accession of Croatia to the EU
01.01.2014	Entry of Latvia into the euro area
01.05.2014	10th anniversary of Poland's accession to the European Union

Source: Based on: Poland in European Union, Central Statistical Office of Poland, Warsaw 2014, p.10-11

Positive and negative aspects of joining European Union by Poland

Realization of the rules of European Agreement brought many advantages for Poland as well as disadvantages. In this coverage problems when it comes to the most important areas of economic and social life will be presented. Those problems and conclusions can be used by different countries, eg. Georgia and Ukraine.

One of the biggest benefits are: big inflow of foreign direct investments and restructuring, upgrading many areas of life connected with mentioned investments. Moreover, we can mention here inflow of modern technology, know-how and knowledge, stimulation of economic initiative among polish society as a result from competition coming from enterprises with European countries, big influx of financial sources as part of pre-accession period, significant improvement in the quality of services and vicariously establishing of visa-free movements with EU countries.

Taking into account all mentioned advantages it can be accessed that the most important factor for Poland after joining European Union was the inflow of foreign capital. At the beginning, so in the first period of system changes, inflow of the mentioned capital was relatively small. In 1989 came to 100 mln $, while in 1992 to 924 mln $ in order to be able to successively increase in the upcoming years, which proved significant credibility of our country on the international scale.

The biggest amount of foreign capital was invested in automotive industry, electrical engineering, banks, construction, food processes, pharmaceutical industries and in investment funds as well as in agriculture, insurance and infrastructure. For Poland it means

restructuring of mentioned areas, technology and organizational upgrade as well as significant increase of competitiveness of its products.

Overall amount of foreign direct investment (eng. FDI stock) came out to 160,5 billion euros at the end of 2013. The value of net FDI in Poland in 2012 (inflows reduced by outflows) was 2,7 billion euros, which makes a drop of 80% in comparison with 2011 (13,6 billioneuros). Foreign capital located in Poland comes from 125 countries. The biggest source of FDI inflow to Poland invariably are EU countries, especially those in euro zone. Counting from the beginning 89.5% of foreign capital came from European Union countries, 94,3% from OECD. Particular countries which located in Poland the capital of the biggest value are: Netherlands (17,1% from the whole foreign capital), France (16,6%), Germany (16,4%). About 50% of foreign investments were so called greenfield, so the ones that are created from basis.

In 2012 the biggest amount of foreign direct investment came from France – 2,6 billioneuros, Germany – 2,2 billioneuros and Cyprus – 0,9 billioneuros. It's cumulated value in Poland came to 174,8 billioneuros, while in 2014 it was 153,3 billioneuros (increase of 14%) and in 2009 128,8 euros which means the total increase in the years 2009-2012 of 36%. Despite temporary fluctuations in capital transfers the above data may mean stable growth of Poland's image as a good location for foreign investments.

In 2012 in net approach negative amount of polish foreign direct investment was observed for the amount 0.6 billioneuros, which can indicate partial return of capital invested in the previous year (especially from Luxembourg). Between 2010 and 2011 high amounts of total capital flows from Poland as foreign direct investment valuing at 10,8 billion euros were noted. At the same time the cumulated value of polish FDI in 2012 was 43,6 billioneuros, so about 5,2 billioneuros more than in 2011 (increase of 13.5%). It means that despite partial coming back of sources to Poland, the worth of foreign invested capital is constantly increasing. EU countries stayed still the main direction of polish FDI export in 2012- the biggest part comes to Netherlands - 0,5 billioneuros, France - 0,4 billioneuros, Cyprus - 0,2 billioneuros and Hungary – 0,2 billion euros.

At the end of 2013 1 628,5 thousands of people worked in enterprises with foreign capital, so 3,6% more when compared with 2012. Majority of them worked in places dealing

with industrial processing – 46,3% of total number of people working in enterprises with foreign capital and in trade; repair of motor vehicles - 23,9%.

Almost 70% of total number of people working in foreign capital companies were employed in Mazovian (33,7%), Wielkopolskie (14,3%),Silesian (11,1%), Lower Silesian (9,5%) provinces, so in that regions in which the level of development was higher comparing to the national average (Grzebyk, 2014, p. 346).

It is worth mentioning that inflow of investments had also some negative aspects. Commonly known are examples of polish companies repurchased by foreign capital in order to modernize, enlarge, but in reality the aim is to reduce the activities or even liquidate. In that way producers of similar products from west cut off their competition. Such situations were mostly the fault of polish organs which not always were able to negotiate adequate agreements with foreign partners. In some cases redundant concentration of foreign investments created serious threat for polish investors. For example magazine and journal market was captured (up to 90%) in western regions of Poland by German capital. There we cannot meet polish pres, only Polish- language one.

Another positive aspect of Polish integration with European Union was obtaining significant financial sources between 1990-2014 for realization various types of undertakings. From the one hand they came from EU pre-accession funds. They were devoted for adjusting polish economy to EU requirements as well as for rebuilding its legal, political and social system. Mentioned sources covered from 50% up to 70% of realization costs. Accounts from implementation of mentioned actions were done until the end 2006. For example when we take Aid Program for Economy Restructuring (PHARE[110]), so the oldest program created in 1989, 3,9 billion euros was granted to Poland as part of it in order to cover up to 50% of realization costs of projects. During the first 9 years almost 98% of mentioned sources were used, in the

next years amount of exploited sources was systematically decreasing and stood up at 50% until incomplete 20%. This was a result of two new pre-accession funds occurrence (Doliwa-Klepacki Z., 2005, p. 675-679; Doliwa-Klepacki A, Doliwa-Klepacki Z., 2008, p. 81; Ruszkowski et.al, 2004, p. 265-270).

[110] Phare-Poland and Hungary: Assistance for Restructuring their Economies

Another pre-accesssion program was Pre-accession Program of Structural Help (ISPA[111]), created in 1999. 2,4 billion euros was granted to Poland to cover up to 75% of realization costs of projects in areas connected with environmental protection and transport (reducing air pollution, recycling, roads and railways building). Until 2004 Poland used about 15% of granted financial sources. From the other hand as part of program aiming at agricultural aid (SAPARD), created in 1999 Poland received for 2000-2006 more than 1,22 billion euros to realize up to 75% of projects realization costs, which were conducted by non-commercial beneficiaries (for commercial beneficiaries the value was up to 50%) in the connection with rural areas. Among other things projects could concern improving the agricultural economy, rebuilding rural infrastructure, organizing collection of agricultural products from farmers, quality controls, building enterprises taking care about reprocessing of mentioned agricultural goods, their marketing, betterment of veterinary supervision, land consolidation. Moreover they could be about improving farmers qualifications, creating new income sources in agricultural holdings, supporting local initiatives as well as heritage protection on villages. Until 2006 Poland used almost 85% of granted sources.

Moreover, before being EU member Poland obtained altogether 400 mln euros to cover the costs of polish institutions and organizations as part of academic research and technological development, youth education, energy economics and human rights.

Currently Poland closed with the success long-lasting negotiations in the field of Perennial Financial Frameworks (PFF) protecting funds inflow which aim at modernization of our country in the up-coming seven years. The European Council during the summit on 7-8 of February 2013 reached an agreement regarding perennial financial frameworks of EU budget for 2014-2020. Heads of countries and governments arranged upper PFF threshold on the level of 959 988 mln euros (1,0% of European Gross National Income). Mentioned threshold is lower of about 843 mln euros (-3,41%) when compared with years 2007-2013. Negotiated sources will become an important development impulse for Poland. As part of coherence policy they will account for 2,35% of Polish GNP, under Common Agricultural Policy they will account for 0,92% of GNP and as part of other sources they will constitute for 0,15% of GNP. Especially when it comes to sources from coherence policy it should be emphasized that they will be a

[111] ISPA-Instrument for Structural Policies for Pre-Accesion

significant part of public investments. Work on programmatic documents, which will be a basis of their spending, as sill in progress. However, for visualization of the scale one could look at years 2007-2013 when mentioned sources accounted for 51% of total resources spent on public investments.

Foreign capital inflow, competition from other European union enterprises, elimination of abolishments in import to Poland from abroad or free market creation in Poland forced managers and employee to capture the newest knowledge as part of economics, management, computer science, banking and another areas connected with economy functioning. It caused changes especially in higher education.

This is why Poland uses many of programs devoted for education and youth. To them belong SOCRATES consisting of ERASMUS (international cooperation), MINERVA (promotion of open education and in the distance), LONGWY (studying foreign languages), EURYDICE(exchange of information about educational systems), GRUNDTVIG (promotion of material advancement and services as part of professional education), NARIC (distributing the information about equivalence of education documentation published in different countries). Another program is LEONARDI DA VINCI, as part of which financial aid is given to international project as professional education. In the smaller level polish institutions used sources from (YOUTH). The main aid of mentioned program is promotion and

facilitating of polish youth integration, getting to know culture of European countries as well as fighting with discrimination and promotion of equality among people (Doliwa-Klepacki, 2008, p. 83).

Negative aspects of Poland's accession to the European Union structures

To negative aspects European Agreement implementation belong most of all: violent increase of unemployment as an effect of restructuring of polish economy, impoverishment of many small and medium polish farms due to removing by Poland quantitative limitation of food and agricultural products import from EU or negative balance of trade.

In Poland, from economic point of view, modernization of enterprises was necessary, improving efficiency of their functioning or providing competitiveness on international markets. Mentioned activities had on the other hand consequences like losing the job by many

people. Especially affected were areas where there was only one big industrial plant, so where we had economic monoculture. It concerned most of all shipbuilding, mining, metallurgical and electronic industries.

As it comes to mining at the end of 80's 24 mines (out of 60 existing) should have been closed down, coal mining should have been reduced, however upcoming reforms did not bring satisfying results. Coal export was unprofitable, but strong trade unions made that the missions of the reform were not realized. Solely the financial liquidity of coal partners improved. Concerning metallurgy - restructuring was supposed to be conducted between 1998 and 2005. It affected mostly employment reduction, reducing the level of raw steel production and finished products. Such actions should have brought to ironwork's profitability recuperation. Unfortunately, mentioned aims about metallurgy were not fully achieved, similarly as for mining.

Tragic results in comparison with heavy industry for small, medium sized enterprises and craft had almost total elimination of duty for industry articles between Poland and EU. It caused bankruptcy of many of them which could not handle competition with European companies.

In connection with mentioned activities until 2003 unemployment rate was constantly rising, but later on so between 2003-2008 was gradually falling. At the end of 2009 for the first time again unemployment started to rise and it's rate came to 12,1% (the reason of unemployment increasing, 28,4% per annum, was world economic crisis). In 2010 and 2011 growth rate was definitely lower and came out to 3,3% and 1,4% to achieve 13,4% compared with 12,5% in 2011.

Another negative aspect was impoverishment of many small and medium size farms. Analyzing the situation on polish villages before the accession to European structures, it can be assured that labor force was cheap but its efficiency was law and articles produced did not meet European requirements when it comes to purity and packaging. European products were usually cheaper because of subsiding by European Union, met integrity systems, had attractive wrapping and were adequately advertised. This situation in connection with export cut-offs removal for European products started to cause sales reduction of polish agricultural

product on polish market by European products with simultaneous polish market flooding by European products (Doliwa-Klepacki A, Doliwa-Klepacki Z., 2008, p.84-92) .

Another indirect negative effects of Poland's closeness to European Union was repossessing of western culture, so the model and lifestyle of western countries. It was caused mainly by change of socio-political system, so far-reaching country interference in citizens's lifes.

Trade exchange

Free movement of goods on the internal market of European Union without any barriers is one of the biggest success of lasting more than 50 years economic integration processes in Europe. It puts on the privileged position EU subjects in comparison with competitors from third countries which is regulated by Treaty about EU functioning (Access to European Union Law).

In the last years of Poland's membership in European Union export continued to stay an engine of polish economy.

In 2012 the total value of foreign trade turnover (in current prices) in Poland amounted to 297,5 billion euros (of which 143,5 billion euros for exports, and 154,0 billion euros for imports), which enabled Poland to be ranked 8th among the EU countries, both in terms of exports and imports. The leading countries in this scope were Germany, the Netherlands, France, the United Kingdom and Italy. In the period of 2004–2012, the value of trade in Poland grew over two times – exports in current prices, expressed in EURO, increased by 140%, and imports by 116%. Across the EU countries, the highest growth rate in trade was recorded in Latvia (the value of goods exported grew by 241%, and the value of goods imported – by 135%), and in Slovakia (a growth of 184% and 154%, respectively). Among the EU countries with the highest trade figures, high growth in the period of 2004–2012 was recorded in Germany (exports increased by 50% and imports by 58%), and In the Netherlands (a growth in exports as well as in imports reached nearly 80%). A lower growth of trade turnover in the analysed period was observed in France and the United Kingdom. The lowest dynamics across the EU countries was recorded in Ireland, where imports decreased by 2%, and exports increased by 8%. The Polish trade per capita in 2012 reached 3722.9 euro in exports and 3997.5 euro in imports. In comparison

with 2004 exports per capita increased by 138% and imports by 114%, respectively. With such high dynamics Poland was ranked 7th among the EU countries in exports per capita, and 6th in imports per capita (Poland in European Union 2004-2014, 2014, p. 55).

Data are presented in table 2.

Table 2.Export and import in billion euros (current prices)

Country	Export			Import		
	2004	2009	2012	2004	2009	2012
Belgium	246,7	266,0	347,6	229,6	254,4	342,0
Bulgaria	8,0	11,7	20,8	11,6	16,9	25,5
Czech Republic	55,5	81,0	121,9	56,2	75,3	109,5
Denmark	62,0	67,4	82,2	54,8	59,6	71,6
Germany	731,5	803,0	1095,2	575,4	664,1	908,5
Estonia	4,8	6,5	12,6	6,7	7,3	13,8
Ireland	84,2	83,1	91,1	49,7	45,0	48,9
Greece	13,2	17,6	27,6	45,1	52,0	49,2
Spain	146,8	163,0	228,8	207,7	210,2	260,6
France	363,5	348,0	442,8	378,6	404,1	524,4
Italy	284,4	291,7	389,7	285,6	297,6	378,8
Cyprus	0,8	0,9	1,4	4,4	5,6	5,7
Latvia	3,2	5,5	11,0	5,7	7,0	13,4
Lithuania	7,5	11,8	23,1	10,0	13,1	25,1
Luxembourg	13,1	15,3	15,1	16,1	18,2	21,4
Hungary	44,7	59,3	80,9	48,7	55,8	74,2
Malta	2,0	2,0	3,3	2,9	3,2	5,1
Netherlands	287,3	357,0	510,4	257,0	317,7	460,1
Austria	95,2	98,2	129,7	96,4	102,6	138,9
Poland	59,7	98,2	143,5	71,4	107,5	154,0
Portugal	28,8	31,7	45,3	44,2	51,4	56,2
Romania	18,9	29,1	45,0	26,3	38,9	54,6
Slovenia	13,2	18,8	25,0	14,3	19,0	24,9
Slovakia	22,3	40,2	63,4	24,0	39,9	60,9
Finland	49,5	45,1	56,9	41,4	43,7	59,5
Sweden	99,1	93,9	134,3	80,7	85,9	126,5
United Kingdom	279,4	254,4	367,4	378,4	372,2	537,2

Source: Own calculations based on Central Statistical Office of Poland data (www.stat.gov.pl).

Carrying out the analysis further and taking into consideration interest rates in the growth of value of Polish export and import, they both amounted accordingly to 4,0% and 5,9% in 2012. In comparison to the countries in our region, these values were: for Czech Republic 3,2% and 1,1%, for Slovakia 4,4% and 3,3%, for Hungary 4,2% and 2,9%, for Latvia 5,9% and 7,5%, and for Estonia 5,5% and 6,8%, whereas in the Euro zone these were 2,5% and -0,4%, and for the whole world 3,1% and 3,7%. In recent years, the dynamics of Polish export in comparison to the countries in the region indicate that the growth is more balanced and may signify that the Polish economy is more independent from economic changes in global economy. In further long-term perspective, the continuation of these positive tendencies in this scope is expected.

Following Poland's accession to the EU, within the geographical structure of foreign trade, the countries of the European Union remained the major trade partners of Poland, though their share in the trade turnover of our country in 2012 decreased as compared to 2004 (from 79,2% to 76,1% in exports, and from 76,4% to 67,8% in imports). In 2012, Germany was the most important trade partner of Poland, but the share of trade with this country dropped, in the analyzed period, from 30,1% to 24,4% in exports, and from 29,5% to 26,2% in imports (Poland in European Union 2004-2014, 2014, p. 55-56).

In 2012, 25,1% of Polish exported goods were sent to Germany, and 21,1% of goods imported to Poland were German. The pro-export structure of German economy is particularly profitable for Poland, as it favors a huge number of orders for production and services from Poland. The role of other Polish primary trade partners in the EU in terms of export and import was as follows in 2012: Great Britain – 6,7% and 2,4%, Czech Republic - 6,3% and 3,7%, France – 5,8% and 4,0%, and Italy – 4,9% and 5,1%. In 2012, in comparison to the previous year, there was a decline in the amount of imported goods from Germany by 5,8%, which – with unchanged export value – meant an improvement in balance of exchange with this country. The turnover in trade with France also decreased – in both export (by 1,2%) and import (by 5,7%). The stagnation of Polish export on the German or French market in 2012 indicates that the new incentives for development of international trade are desired (e.g. a free trade agreement between the EU and the U.S.), which would influence the growth of export of the main EU economies which Poland is strongly connected with. A bit better results were

achieved in trade with Great Britain, where the export rose by 8,5% and import decreased by 8,1%, and with Czech Republic – the growth in export and import were respectively 4,4% and 2,5%. It should be visible that as a result of Polish accession to the EU, the level of trade exchange with countries in our region has increased – in 2004-2012 export to Czech Republic and Slovakia increased by 240%, to the Baltic countries by about 150%, and to Hungary by about 120% (Syntetyczna informacja…, 2013).

According to the geographical division, Poland still trades with all EU countries, though the EU's overall export share in Polish export of goods indicates a slight downward trend since the accession. In years 2000-2003, 81,2% of Polish export was present in the EU markets, in 2004 there were 80,3%, and a gradual decrease of export share by 78,0% in 2011 and 75,8% in 2012. The reverse situation is observed in case of imported goods, as in 2004 the import shares from the EU countries increased considerably in overall Polish imports. In years 2000-2003 it was in a range 69,0%-69,7%, in years 2004-2005 this value increased by 75,3%, so in subsequent years till 2012 it reached accordingly 73,0%, 73,3%, 71,9%, 72,6% and 70,8%, 70,0% and67,2%. The aforementioned data may indicate that the trade diversion effect connected with Polish accession to the EU (taking into account the EU-27) took place in case of importation of goods; however it did not occur in case of merchandise exports. Despite the crisis in the Euro zone, the countries of this group are still the most important Polish trade partners – in 2012 export and import with the Euro zone constituted accordingly 51,8% and 44,7% of overall Polish trade exchange. The increased growth of Polish export to the Third World countries lately is partly a reaction to the weaker economic situation in the Euro zone (Społeczno-gospodarcze efekty członkostwa Polski w Unii Europejskiej.., 2013).

Data concerning import and export with the EU countries is shown in table 3.

Table 3. Imports and exports with the EU countries

Country	Imports with the EU countries in % of total imports (by country of consignment)			Exports with the EU countries in % of total exports		
	2004	2009	2012	2004	2009	2012
Belgium	72,9	70,4	67,6	77,1	75,7	70,0
Bulgaria	57,2	60,2	58,8	62,7	65,5	58,9
Czech Republic	80,4	78,1	75,4	87,7	85,2	81,3
Denmark	70,9	69,9	70,8	70,8	67,7	63,5
Germany	65,8	64,7	63,3	64,9	62,6	56,9
Estonia	73,8	80,4	79,1	80,4	69,5	66,0
Ireland	65,9	65,5	66,9	62,9	61,2	58,9
Greece	62,7	57,8	45,9	66,9	57,9	44,3
Spain	68,0	62,4	54,2	74,5	69,9	63,7
France	69,7	69,5	67,1	66,1	62,6	58,9
Italy	62,6	57,9	53,3	62,6	58,4	54,3
Cyprus	69,6	72,5	69,2	67,5	67,0	60,7
Latvia	75,7	75,5	78,2	77,4	67,7	63,5
Lithuania	63,5	59,1	57,7	67,3	64,4	60,5
Luxembourg	76,0	71,4	77,1	90,3	87,3	79,0
Hungary	68,7	68,9	70,7	84,4	80,2	77,4
Malta	73,2	75,0	77,1	49,4	40,1	39,1
Netherlands	53,2	49,1	45,2	80,0	77,5	75,9
Austria	83,5	78,4	76,5	74,9	72,8	70,1
Poland	76,4	72,6	67,8	79,2	79,6	76,1
Portugal	77,1	78,6	71,8	80,1	75,4	71,1
Romania	66,1	73,2	73,6	75,5	74,5	70,4
Slovenia	85,7	75,2	72,0	76,7	77,0	75,0
Slovakia	79,0	75,0	73,7	87,2	86,3	84,1
Finland	67,4	65,1	62,8	58,1	55,7	53,7
Sweden	72,3	68,0	67,2	59,2	58,5	57,0
United Kingdom	56,1	49,5	47,9	58,9	55,1	50,3

Source: Own calculations based on Central Statistical Office of Poland data (www.stat.gov.pl).

To sum up, from the nominal point of view, in 2012 in comparison to the previous year, the export to the EU increased by 0,9%, to the extra-European developed countries by 10,2%, to the Commonwealth of Independent States (CIS) by 22,5%, and to the other developed countries by 14,8%, whereas the import value from the EU decreased by 5,1%, and from the groups of other countries it increased accordingly by 2,0%, 13,4% and 2,9%. A faint increase of export to the EU countries is connected, among other things, with the crisis in the Euro zone; whereas the growing interest in trade with the extra-European countries indicates that Poland has become a more important economy in the EU which thanks to its membership gained not only an access to the Community markets, but also new possibilities to increase trade with the Third World countries.

The Polish membership in the EU did not weaken trade relations with the eastern neighbors. In 2004 their share in Polish export and import of goods amounted accordingly to 7,0% and 9,7%, whereas Russia's share was 1,7% and 2,1% in the overall Polish export and import. In 2012 it increased accordingly to 10,0% and 16,3%, and Russia's share amounted to 5,4% and 14,3% of overall Polish export and import; in 2012 the value of import from CIS was higher by 70% than the value of export to this group, whereas 87,3% of import from CIS was Russia's share, which is defined by the commodity composition of import (significant role of energy carrier). It is worth noticing that there is a huge increase in export and favorable balance of trade with other important trade partners from CIS – Ukraine and Belarus (in 2012 a positive balance on the level of 2,1 and 0,8 billion euros), which has a positive effect on diversification of the trade exchange with eastern partners. The chosen areas of the Ukrainian market for which foreign investors bear lively interest (on condition that the situation in Ukraine is stable) are: the power industry – investments in obtaining energy raw materials (especially coal and natural gas), renewable energy sources, energy saving, investments in production and distribution of electricity; agro-food industry – investments in breeding of animals and cultivation, storage of agro-food commodities and agro-food processing industry; construction industry – investments in house building, infrastructure investments. In recent years, import from Ukraine was dominated by four commodity groups: metallurgical products – 30,6% of shares, increase in value of delivery to 2%; mineral products – 23,2% of shares, decrease in value of delivery by 16%; agro-food products – 10,1% of shares, increase in value of delivery by

1%, and wood and woodwork – 7,9%, increase in value of delivery by 60% (Społeczno-gospodarcze efekty członkostwa Polski w UE…, Warsaw 2013; Syntetyczna informacja…, 2013).

The European Union is a major trade partner for Georgia which provides 26,6% of its trade. This year, the Georgian companies sold to the EU countries goods worth about 600 million euros (5% less than in the previous year), and imported goods worth 2,1 billion euros, which indicates the decrease in trade with the EU by 1,5 billion euro (12% GDP of the country). The most important goods exported from Georgia to the EU are mineral, chemical and metal products, and food (e.g. vegetables, beverages and wine). From the Union's perspective, Georgia is not a significant trade partner as its share in European trade fluctuates around 0,1% (similarly in Armenia). However, it may get the EU's interest while setting routes for a delivery of energy raw materials from the regions of Caspian Sea. The cooperation involves the construction of the Southern Gas Corridor which will connect gas deposits in Azerbaijan with the EU's power system. Moreover, thanks to the reforms implemented during the last decade and easier access to the EU markets, Georgia will become an attractive place for future investments (Wnukowski, Zasztowt, 2014).

The growth in importance on the markets of the developing countries is noteworthy, especially in terms of the so-called emerging markets. In 2012, 1,0% of Polish exported goods and 9,0% of imported goods went to China, significantly less went to India (accordingly 0,4% and 0,6%) or to Brazil (0,3% and 0,5%). In 2012, the considerable growth in export both to Brazil (by 37,2%) and to India (by 36,5%) was noticed. A dynamic growth of export to the Republic of Korea (by 37,1% to 0,4 billion euros) is worth of notice as it may be a result of free trade agreement between the EU and Korea, which came into force in 2011.

Poland as a European member state may in the future benefit from this type of agreements in trade area, especially from those negotiated with the United States, Canada and Japan. In 2012, the share of Polish export to the U.S. amounted to 2,0% while the import reached 2,6%. For Japan these shares were accordingly 0,3% and 1,5%, for Canada 0,5% and 0,3%. The highest export and import growth rates were noticed in trade with Canada – the growth in comparison to year 2011 from the nominal point of view was accordingly 27,2% and 79,1%. In the U.S. the growth increased accordingly by 5,0% and 13,2%, whereas the export to

Japan increased (7,7%) but the share of import decreased remarkably (-17,3%) (Społeczno-gospodarcze efekty członkostwa Polski w UE…, Warsaw 2013; Syntetyczna informacja…, 2013).

Carrying out further analysis, the structure of the Polish foreign trade by SITC sections is similar to the total structure of trade in the European Union – table 4.

Table 4. Structure of exports and imports by SITC sections in Poland and European Union (2012)

Specification	Food and live Animals; beverages and tobacco		Crude materials, inedible, except fuels; Animals and vegetable oils, fats and waxes		Mineral fuels, lubricants and related materials		Chemicals and related products		Manufactured foods classified chiefly by material; miscellaneous manufactured articles		Machinery and transport equipment		Commodities and transactions not classified elsewhere In the SITC	
	Exports	Imports	Exports	Imports	Exports	Imports	Exports	Imports	Exports	Imports	Exports	Imports	Exports	Imports
Poland	11,8	7,6	2,6	3,9	4,9	13,2	9,1	13,9	33,8	26,4	37,4	32,1	0,4	2,9
European Union	8,4	8,2	3,4	4,2	8,5	17,7	16,3	13,6	24,9	24,0	36,5	30,0	2,0	2,3

Source: Based on: Poland in European Union 2004-2014, Central Statistical Office of Poland, Warsaw 2014, p.57-58

The total value of trade with non-EU countries, both in imports and exports, is mostly influenced by the products included in section: "Machinery and transport equipment". In the trade turnover of Poland this section occupies a dominant position, but in 2012, in comparison with 2004, the decrease in share of "Machinery and transport equipment" in foreign trade turnover was recorded – by 1,4 % to 37,4% in exports, and by 6,6 % to 32,1% in imports. In 2012, compared to 2004, the significance of "Food and live animals" in the structure of Polish

exports grew by 2,8 % to 10,5%, while the share of "Mineral fuels, lubricants and related materials" in imports increased by 4,0 % to13,2%.

Products from the electromechanical industry contributed 39,1% to the Polish export in 2012 (growth by 0,1% from the nominal point of view in comparison to year 2011). The products from chemical industry constituted a significant share in export (14,0%, increased by 4,9%), agro-food products (12,3%, increased by 14,8%) and metallurgic products (11,7%, increased by 2,6%). Polish food has a strong and stable position on the European market, to which goes almost ¾ of exported goods and from which almost 70% of goods are imported into Poland.

Since Poland became the EU member state, its export of agro-food products quadrupled (from 4,1 billion euros in 2003 to 17,5 billion euros in 2012), whereas a balance in turnover with the European countries increased from 0,4 billion euros in 2003 to more than 4,2 billion euros in 2012 – table 5. Poland exports more and more food to the Commonwealth of Independent States (CIS), the worth of exported agro-food goods amounted to 2 billion euros in 2012 and in comparison to 2011 it increased by 32,3%. The sales to CIS countries contributed 11,5% of overall export value of agro-food goods.

Table 5. Polish foreign trade of agro-food foods with the European countries – EU 27 in years 2003, 2004, 2009, 2012 (mln euros)

Specification	2003	2004	2009	2012
Export	4 105	5 330	11 499	17 484
Import	3 602	4 462	9 299	13 332
Balance	503	868	2200	4 151

Source: Ministerstwo Spraw Zagranicznych (Ministry of Economy), www.msz.gov.pl

In the context of latest foreign media reports which discredit the image of Polish products, it should be noticed that the biggest European exporters of food have the similar percentage of reports about irregularities provided by the Rapid Alert System for Food and Feed (RASFF[112]). In terms of Polish products there were 162 reports since 2012, German – 202,

[112] https://webgate.ec.europa.eu/rasff-window/portal

French – 165 and Dutch – 243(Społeczno-gospodarcze efekty członkostwa Polski w UE…, Warsaw 2013).

In 2012, the current account of balance of payments of the European Union closed with a positive balance, for the first time for over 10 years, amounting to 66.4 billion euros, which accounted for 0,5% of GDP (against –33,4 billion euros and –0,3% of GDP in 2004). In the period of Poland's membership in the EU, the highest current account deficit or the entire European Union was recorded in 2008, when it amounted to 271,7 billion euros (–2,2% of GDP). A surplus of the current account in 2012 resulted from the positive impact of the balance of services (153,7 billion euros) and the balance of income (40,2 billion euros). However, the result of the balance of trade and current transfers reached negative values (–56,1 billion euros and–71,3 billion euros, respectively). In 2012, the current account in Poland closed with a negative balance of –14,2 billion euros, i.e. –3,7% of GDP (against –10,7 billion euros in 2004, which corresponded to –5,3% of GDP). In the period of 2004–2012, a significant growth in the transaction value, in terms of all components of the current account of the balance of payments, was observed in Poland. In 2012, the deficit resulted from the high negative balance of income (–17,7 billion euros) and the deficit of trade, which was considerably weaker than in the previous years (–5,2 billion euros), whereas a positive impact on the current account balance was exerted by the positive balance of services and current transfers (Poland in European Union 2004-2014, 2014).

Summary and recommendations

From the start of the Union, it was not intended to build Europe at a single stroke, but by setting in motion a true solidarity among the countries through concrete actions to reduce asymmetries among the European Union's (EU's) countries in order to increase social and economic cohesion within its borders (Goncalves, 2011; Martin, Molina, Fernandez, 2012).

The analysis presented in this research article shows that Poland sought to become a member of the EU, but after accession to the Union the country is unable to use it well. Poland usually takes a stand of a contractor and not a co-creator of the European policy which is aware of challenges facing Europe. As an example, Poland has an obligation to reduce public sector borrowing requirements to 3% of GDP till 2012, which was reached in 2011. If it

was different, the disciplinary measures towards the budget would reduce the public debt and its handling fee, so that more means would be spent for research, development or investments. The reason for this state of affairs is the lack of a long-term economic and social development programme as well as a coordinated action plan. There was no group of specialists convinced of the legitimacy of European recommendations and requirements who would be able to implement them in practice. The administrative apparatus of the decisive center, departments and regions was many times reluctant to the imposed solutions. The reluctance grew bigger, the greater gap was between the level of new solutions and their understanding by the contractors. The latter felt threatened to lose their jobs so they adopted the strategy of passive resistance and slowed down the pace of reforms.

Staying in EU and approximation to the level of other developed countries is highly desirable from political and safety point of view, however still is in the area of energetic and military threat. The country needs to confirm its position in EU in order to enlarge changes to deal with economic issues with the help of European structures.

To sum it can be mentioned that joining EU membership in connection with NATO membership make it much easier for Poland to undertake challenges which can be met in the current international relations and which cover practically all areas of life: economy, policy, defensive capability, culture etc. Being an equal member of the biggest integration group, comparable with USA, Poland may assure itself adequate position and guarantee its interests on the international scale. As an individual, without significant aid from European partners, Poland would not be able to solve many problems, neither those older, nor newly upcoming with which every country needs to struggle. Though membership in such organization as EU makes such tasks much easier (Milczarek, p. 208-209).

The most important Poland's partner in foreign trade became countries from Western Europe. However, Poland is not any more raw materials, good and unprocessed goods supplier, which were in the past Poland's specialty. Currently, the most important export source is industrial manufacture and exchange structure approximated to the one of developed countries. Significant merit in the mentioned changes had enterprises with foreign capital.

Polish foreign trade turned out to be relatively resistant to a slump in the international exchange under the influence of the financial crisis of 2008/2009. The high concentration of

economic activity on the internal EU market favored Polish trade. However, this dependence on the structural troubles of the majority of European economies may soon become an inhibitor factor for the growth of export and national production. Even if the difficulties in the Euro zone turn out to be temporary, it is worth diversifying the direction of trade in order to relax micro and macroeconomic relations with one group of trade partners. It seems that especially the potential of CIS market is unused, on which Polish food, clothing, furniture, cosmetics, white goods and other products are valued. It can be proved by an intensive border trade with Ukraine, Belarus, Russia or distant countries like Georgia (Warunki prowadzenia handlu z zagranicą, 2012).

The EU signed an agreement with Georgia called Deep and Comprehensive Free Trade Area (DEFTA) in November 2013, whose aim is to strengthen economic relations between the Union and Georgia by expediting trade and investments. The agreement covers various issues, for instance, elimination of customs for almost all groups of products or an implementation of European standards of protection of consumers and intellectual property.

Ukraine is a member of the Commonwealth of Independent States (CIS) and has bilateral agreements for free trade with other CIS countries. In February 2011, Ukraine became a rightful member of the Energy Community. Ukraine negotiated an association agreement with the EU, which integral part is an agreement about deeper and comprehensive free trade area. The agreement was signed on the 27th June 2014 in Brussels. From May 2014 to the 1st January 2016 there are unilateral EU's tariff preferences in force towards goods from Ukraine (ATM). They are a part of an aid package from the EU to Ukraine which emerged as a result of a political situation in this country as well as of Russian's operations in the Crimea. The agreement DCFTA EU-Ukraine will comprehensively come into force in 2016. As a part of an instrument of the European Neighborhood Policy (ENP), the EU realizes the development cooperation and numerous projects which aim to support reforms in this country. Ukraine is one of six countries which take part in the Eastern Partnership, an instrument of cooperation between the EU and its eastern neighbors. The support for Ukraine is realized, among others, by twinning projects. Moreover, the EU assigned 1,6 billion euros as a macro-financial assistance for Ukraine in 2014 (Ukraina. Informacja o stosunkach gospodarczych Polski z Ukrainą, 2015).

Closer cooperation between the EU and Georgia or Ukraine will be beneficial for all parties. It may accelerate the modernization of Georgian or Ukrainian economy in long-term period and may lead to adaptation of European standards in many areas and simultaneously lead to the improvement of living conditions. It will influence the stability in the region which has a particular importance for the ongoing political and economic crisis in Ukraine. Introduction of the DCFTA rules will encourage the European businesses to look for trade and investment niches in this country. For many European businesses, as well as for Poland, entering these markets may be a part of strategy of export diversification, which will reduce their dependence on sales to the EU member states. However, the support of public institutions will be desired.

In case of Georgia, it is possible to highlight some areas in which Polish-Georgian cooperation could be beneficial. The implementation of the DCFTA rules may incline businesses from both countries to look for attractive market niches. Polish businesses have chances in the sector of agricultural machineries, production lines and in equipment of food storage. Also chemical producers and drug manufacturers may have bright prospects for expansion in Georgia. On the Georgian market, Polish vehicles, electric devices, white goods, furniture or mining equipment can successfully compete. Due to the purpose of expansion of infrastructure including roads, airports, railway and accommodation facilities, many Polish construction firms, suppliers of building materials and engineering services may get the commissions. Due to an intensified interest of travels to Georgia among the Polish people, it is advisable to strengthen the cooperation in tourism sector (Wnukowski, Zasztowt, 2014). The pro-business environment for investments, quite low labor costs, good localization which provides easier access to the markets of the Middle East and Central Asia are major advantages of Georgia. It must be also borne in mind that there is an ineffective judicial system, weak intellectual protection and cultural and language diversity.

Ukraine highly depends on the export of low-processed products, especially metallurgic products and iron ores, which share of the Ukrainian overall export amounts to 30-40%. These products are especially susceptible to the market fluctuations around the world. On the other hand, Ukraine is a significant importer of energy raw materials like natural gas and crude oil. Ukraine possesses one of the richest soils in the world and a climate conditions favorable for farming. The Ukrainian economy does not use the potential of this sector to its full.

In 2014, Ukraine was grappling with many economic problems – progressing decline in economic activity, withdrawal of bank deposits, civil war in the east of the country, double-digit inflation, decrease in foreign trade turnover and many other issues that arise from Russian foreign policy (suspension of gas supplies, commercial blockade, etc.). In case the situation in Ukraine persists, measurable losses for commercial trade for both parties (the EU and Ukraine) may be expected.

Summarizing presented facts about Poland's way to European Union and cooperation with another countries regarding most of all trade exchange it can be accessed that our country may became an example which should be observed and which behavior should be copied by different countries.

References:

1. Bucciarelli, E., Alessi, M., Perlico, T.E., 2012, Dynamics of development in Europe: analysis of twenty years data on GDP and HDI, annals of the University of Oradea, *Economic Science Series*, 21(1), 262-263
2. Doliwa-Klepacka A., Doliwa-Klepacki Z., 2008, *Członkostwo Unii Europejskiej ze szczególnym uwzględnieniem Polski,* Temida 2, Białystok, p. 77-92
3. Doliwa-Klepacki Z., 2005, *Integracja europejska łącznie z uczestnictwem Polski w Unii Europejskiej i Konstytucja dla Europy,* Białystok, p. 675-679
4. Filip P., *Instruments for financing development of enterprises with national and EU means* [in:] Regional transborder co-operation in countries of central and eastern Europe-balance of achievements, PAN Instytutu Geografii Przestrzennego Zagospodarowania, Geopolitical Studies, Volume 14, Warszawa 2006, p.345-355
5. Frejtag-Mika E., Mika T., *Is the Financial Crisis Proof that Globalization is Irrational?* [in:] I.K. Hejduk,, W.M. Grudzewski (ed.), *The World Economy: Contemporary Challenges,* Difin, Warszawa 2011
6. Goncalves, L., 2011, Determinants of the assignment of EU funds to Portuguese municipalities, *Public Choice*, 98, doi: 10.1007/s11127-011-9786-y

7. Grzebyk M., Socioeconomic development of Podkarpackie voivodship in comparison with others voivodships in Poland: A comparative analysis, *Actual Problems of Economics,* no 11(161), p. 340-347, Kijów 2014, ISSN 1993-6788
8. Kawecka-Wyrzykowska E., 2001, *Korzyści i koszty związane z członkostwem Polski w Unii Europejskiej: próba bilansu*, [in:] Unia Europejska. Przygotowania Polski do członkostwa, pod red. E. Kawcka-Wyrzykowska, E. Synowiec, Instytut Koniunktur i Cen Handlu Zagranicznego, Warszawa
9. Kilijoniene, A., Simanaviciene, Z., Simanavicius, A., 2010, The evaluation of social and economic development of the region, *Inzinerine Ekonomika - Engineering Economics,* 21(1), 67-69
10. Krupa K.W., New dilemma-new economy (knowledge exchange programs and new definition Economic Value Added), *Actual Problems of Economics,* Kiev 2011, no 6 (120), p. 329-334
11. Martin, J.A.R., Molina, M.D.H., Fernandez, J.A.S., 2012, An Index of Social and Economic Development in the Community's Objective-1 Regions of Countries in Southern Europe, *European Planning Studies,* 20(6), 1059-1060
12. Milczarek D., 2010, Jaka polityka zagraniczna i bezpieczeństwa dla Polski? Doświadczenia pierwszych lat członkostwa w Unii Europejskiej, *Problemy zarządzania,* vol. 8, no 1(27)
13. Poland in European Union 2004-2014, Central Statistical Office of Poland, Warsaw 2014 (http://stat.gov.pl/en/topics/other-studies/other-aggregated-studies/poland-in-the-european-union-2004-2014)
14. Pierścieniak A., 2014, Wielowymiarowość zjawiska współpracy w organizacjach formalnych, *Ekonomika i Organizacja Przedsiębiorstwa*, no 11, p. 90-100
15. Płowiec U., 2011, Polska w Unii Europejskiej – kilka refleksji o przyszłości, Ekonomista, no 4, p. 625-633
16. RASFF portal (stan za 3.04.2013 r.): https://webgate.ec.europa.eu/rasff-window/portal
17. Ruszkowski J., Górnicz E., Żurek M., 2004, *Leksykon integracji europejskiej,* Warszawa, p. 265-270

18. Smith, K.E., 1998, The use of political conditionality in the EU's relations with third countries: how effective? *European Foreign Affairs Review,* 3 (2), p. 256
19. Społeczno-gospodarcze efekty członkostwa Polski w Unii Europejskiej (1 maja 2004 – 1 maja 2013). Główne wnioski w związku z dziewiątą rocznicą przystąpienia Polski do UE, Ministerstwo Spraw Zagranicznych, Warszawa 2013
20. Stec M., Filip P., Grzebyk M., Pierścieniak A., Socio-economic development in EU member states – concept and classification, *Inzinerine Ekonomika - Engineering Economics,* 25(5), 2014, s. 504-512, ISSN 1392-2785, DOI:10.5755/j01.ee.25.5.6413
21. Syntetyczna informacja o eksporcie i imporcie Polski za 2012 rok (na podstawie danych wstępnych GUS i MF), Ministerstwo Gospodarki, Warszawa, luty 2013 (www.msz.gov.pl)
22. Ukraina. Informacja o stosunkach Polski z Ukrainą, Ministerstwo Gospodarki, Departament Promocji i Współpracy Dwustronnej, Warszawa 2015, http://rozgrywajacy.pl/forumgospodarcze/dokumenty/forum_notatka_ministerstwa_gospodarki.pdf
23. Warunki prowadzenia handlu z zagranicą w Unii Europejskiej, PARP, Warszawa 2012
24. Wnukowski D., Zasztowt K., 2014, *Umowa o wolnym handlu między UE a Gruzją: szansa dla polsko-gruzińskich relacji gospodarczych,* Biuletyn Polskiego Instytutu Spraw Międzynarodowych, 22.04.2014, nr 48 (1160)

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