FAO-ENPARD programme: Technical capacity development of the Ministry of Agriculture

FAO-EBRD project on “support to sustainable value chains through the development of geographical indications in the dairy sector”

Description of the suitable legal and institutional framework for geographical indications in Georgia, including the certification and control system

February 2017
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1. Background and objective

The vision of the agricultural development of Georgia is to create an environment that will increase competitiveness in agro food sector and eliminate poverty through sustainable development of agriculture and rural areas. One of the levers is the improvement of quality of agricultural products and foodstuffs, in particular through the development of geographical indications (GI). The positive impacts of GI on economic, social, environmental and cultural dimensions of sustainability highly depends on the policies and legal/institutional frame that regulate and orientate their development.

In the frame of the European Neighbourhood Programme for Agricultural and Rural Development (ENPARD), in particular the policy support lead by FAO, and the FAO-EBRD project « support to sustainable value chains through the development of GIs in the dairy sector », analysis of the existing frame and discussions with national stakeholders, in particular during a workshop organized the 9 February 2017, allow for the definition of the present model (based on existing issues and recommendations) for a sound GI legal and institutional framework in Georgia.

After recalling some key elements to take into account in the GI policies and regulations (part 2. Principles), this document then addresses the different aspects and steps to be covered in an efficient GI institutional system (part 3. to 6.: specifications and application; examination of request; registration; control and certification; support and promotion; link to other policies), it also considers some ad hoc solutions to deal with the existing registered GIs (part 7.), before offering some final considerations (part 8). The document also differentiate the legal proposals (blue boxes).

2. Principles

Geographical indications are:

- A marketing tool for economic actors who wants to protect an intellectual property right and differentiate their product on the market; as such, producers roles is important in managing the specific GI strategy, that refers to:
  - The definition and validation of the specific production/processing/packaging rules (preparation of the specification and possible revision when necessary)
  - The marketing strategy of the GI product
  - The direct controls on the specification conformity : self-control by each producer involved and internal control by the producers organization
- A public voluntary standards that are regulated under a sui generis system, and that differs from compulsory regulation (voluntary approach). In particular GI specifications (specific quality) are distinct from food safety standards (generic quality).
• The public nature of the standard implies an important role of the State in the management of the GI institutional system, to cover its different aspects which should be managed by different department or institutions (separation of functions):
  o Support to their development to contribute to public goods
  o Recognition process, through the application, examination of request, opposition and registration
  o Enforcement of the protection through control and certification, bilateral and multilateral agreements
  o Promotion – consumer awareness

The discussions with public authorities highlight that the priorities for improving the framework are:

• An increased income of rural households
• A better control of quality of PDOs and PGIs to provide guarantees to the consumers on the domestic market.
• Fighting against counterfeiting in neighbouring countries although export market (except for wine) might come in a later stage when for instance, cheeses and meat will be allowed for export to the EU
• Linking with rural and agro tourism.

The competences to be maintained are as follow:

• Sakaptenti in charge of the formal examination of GI request and the GI registry
• MoA in charge of overall Geographical Indications policy and of the substantial examination and control.

The following chapters will describe for each of the different steps recommendations for a sound legal and institutional systems, the overall model is summarized in Annex 1.

3. Specifications

**Issues:**
- The analysis of the specification shows systemic problems that make difficult and too expensive the controls, such as fix values instead of maxima, minima or intervals, unqualified organoleptic characteristics¹, chemicals characteristics that cannot be checked by the Georgian laboratories.
- Another issue when looking the existing 20 non-wine registered GI, all have been registered as Protected Geographical Indications, while many of them would rather

¹ The smell is pure, specific and typical
correspond to Protected Denominations of Origin, s all production stages take place in the delimited area. This issue must be addressed especially if international protection through the Lisbon Agreement on Appellations of Origin (1958) is sought\(^2\).

**Recommendations:**

In order to preserve credibility and coherence of the system, it is recommended to review the majority of the already registered GIs. In order to do so, a governmental decision shall be officialised, or the law should be revised in order to allow revision and amendments of specifications of registered GIs. Such provision should anyway be adopted in the future law. While a GI product, in the course of its life, may end up not corresponding to the specifications, the law, as it stands does not provide for amendment of the GI specifications. The law shall add such provisions.

**Issues:**

- An issue is the absence of the demonstration of the reputation\(^3\) in the case of GIs\(^4\) which, incidentally suffice in itself to claim protection of the name under a GI pursuant to article 3 (2) of the Law on Appellations of origin and Geographical Indications\(^5\). Besides, the historical evidences of the use of the denomination can facilitate the tracing of the reputation linked to the origin).
- A confusion exists between the applied food safety standards and the requirements for a specific GI (specification).

**Recommendations:**

- Regarding GIs and the reference to reputation, it is advised that the law requests historical evidences of the use of the denomination within the specifications (See Annex 2).
- It is suggested that in all specifications, a note reminds to the authorised users the obligation to comply with food safety standard, highlighting that these compelling standards are different from the GI.

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\(^2\) And in case the Geneva Act (2015) which protects “Geographical indications” does not enter into force any time soon.

\(^3\) Except for the case of the Machakhela Honey

\(^4\) It is to be noted that reputation may only be a criterion for protection for GIs (and not for AO) according to the definition of GIs by the Georgian Law and by international conventions such as TRIPS.

\(^5\) Article 3 (2) of the Law reads as follows:

“(2) Geographical indication is the name [... ] which indicates a geographical area and is used to designate the goods: [... ] (b) specific [...], reputation, of which are attributable to that geographical area;”
Issues:

It was observed that the drafting of specification did not involve enough the producers. While it is acceptable that the State and other stakeholders (NGO, local government, and institutes) play the role of facilitator with regards to this process, it is expected that, during this process, there is enough implications of producers so to agree on the rules that correspond to their practices and that they will have to comply with.

Recommendations:

- The law could specify that GIs are registered by a group of operators that is explicitly required to submit specifications or whatever the law wants to call it: “Code of conduct”, “Book of requirements”, “Code of practice”. In the current law, though the points contained in the specifications are explicitly mentioned in Art 7, the term “specifications” does not appear.

- Facilitators should be trained to support participative process and mediation for the preparation of specification, once the GI potential has been identified. Extension services could play a key role in supporting producers in this process.

- Some practical guidelines for producers should be prepared and disseminated to support the preparation of specification and submission of GI request to public authorities.

4. Application and examination

Issues:

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6 see for guidance FAO guidelines: [www.fao.org/docrep/013/i1760e/i1760e00.htm](http://www.fao.org/docrep/013/i1760e/i1760e00.htm)
The current practice for the application for protection implies two submissions by the applicant one at NFA and later on, one to Sakpatenti. Currently, the Article 7 of the Law on GIs specifies that “An application for registration of an appellation of origin and geographical indication is filed with Sakpatenti by an applicant” which does not reflect the current procedural practice.

An ad hoc commission is being established (the Marketing council) under the Ministry of agriculture to examine the requests for agriculture and food products, for which procedure ad functions need to be defined.

![Flowchart showing current examination process](image)

**Figure 1: Current examination process**

**Recommendations / general procedure:**

- The double application procedure could be simplified by requiring one application to Sakpatenti or the MoA. The procedure should then also be described in the law or in an ordinance on registration procedures. There are several ways of doing so (see Figure 3, 4, 5).

- If the scope of the Law on Geographical Indications remains the same as the one of the current law (i.e. Food, agriculture and non-food GIs as well as products and services), it is recommended to keep general in the law about the competent Ministry to be involved for the substantive examination according to the type of good considered. More detailed procedures could be defined in by-laws for the examination and registration of separates type of GIs.

- The law should clearly describe the competences of each of the state institutions conducting the formal and substantive examinations. Sakpatenti shall be in charge of the formal examination and IP related substantive aspects, i.e. check:
  1. that applicant submitted all requested documents, that the applicant is properly registered and that all the requirements related to the documentation are addressed
2. the possible generic nature of the submitted GI and that the GI does not conflict with other registered GI or other IP instruments (trademarks and other IP rights).

- The law shall also specify the examination role of the competent Ministry. However, as the points to be examined might be different for food and agriculture products, and handicraft products for instance, the law shall limit this description by saying that the competent Ministry shall examine the specific points of the fabrication process and products characteristics, the area of production and the link between the GI specificities and the area of production (see figure 4).

**Article 8 (1)**

“Within the period of \( X \) months at the latest from the date of the completion of requirements as referred to Article 7, Sakpatenti shall transmit the application to the Marketing council to conduct a substantive examination of the specifications”.

1) The applicant submit the application to Sakpatenti. 2) Sakpatenti considers whether the application complies with formal and substantive intellectual property related requirements. 3) Sakpatenti transfers the application for substantive examination to the competent ministry 4) the competent ministry notifies its opinion to Sakpatenti 5) On this basis, Sakpatenti grants or not the protection to the sign.

The advantage of such system is that it keeps the opens the GI scheme to broader objects.

**Box 1: General procedure principle for registration defined by the law**

**Recommendations / specific procedure - for food and agricultural products:**

- A by-law should define in more detail the procedure and the role of each actor. In case the Ministry want confirm the central role of the Marketing Council for the examination of the applications, the functions, the composition of the council should be defined in this by-law (see figure 5), as well as modalities such as frequencies of the council meeting, the obligation of the council members, the status of the members (permanent membership and ad’ hoc participation based on the nature of the GIs), etc.
Councils or commissions for GI request examination exist in different countries. Their decision power can differ. In some cases, they have a consultative role while in other their decision is legally binding. Though in practice, the difference between the two options is minor, as the competent authority follows the recommendation of the consultative body. Their composition can include or not private sector representatives (certification bodies, representatives of GI producers or retailers), academicians and researchers.

Box 3: Status of an examination commission

Issues / oppositions:

The current law (Art 8, paras 5 and 6) prescribes 3 months period following the publication of the application something that resemble to the opposition procedure existing in EU and other countries. The law reads as following:

5. If within three months after the publication of the application materials the additional information shall be presented to Sakpatenti, this information shall be send for consideration to the Ministry of relevant field.

6. If no information is presented within three months from the publication of the application materials, Sakpatenti takes the decision on registration, records the data of the appellation of origin or geographical indication in the State Register of the Appellations of Origin or Geographical Indications and publishes the data in the Bulletin.

Recommendations / opposition procedure:

- This section should be reworded using the term opposition procedure. In addition, the grounds for opposition should clearly listed in order to avoid groundless procedures burdening the authority competent to deal with them.
- Once the GI is registered, Sakaptenti enters it in the Register of PGI and PDO. This should be explicitly mentioned in the Law, as well as the fact that Sakpatenti is keeping the Register of registered GIs.

5. Control and certification

The control and certification is a central element of the PGI and PDO system. On the one hand, it gives the guarantee to the consumer that the product bearing the GI name corresponds to the promised specific quality. On the other, it protects the GI producers who comply with the specifications from unfaithful competition.

Controls encompass different aspects:

<table>
<thead>
<tr>
<th>Production process</th>
<th>Final product</th>
<th>Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspections</td>
<td>Analysis of the product</td>
<td>Traceability</td>
</tr>
<tr>
<td></td>
<td>Physical and chemical analysis</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Organoleptic analysis</td>
<td></td>
</tr>
</tbody>
</table>

Certification is the procedure (through inspections, controls, reporting, etc.) by which official bodies or officially recognized private bodies provide written or equivalent assurance (certificate) that foods or food control systems are conform to the specifications.

For a sound system of certification and control, the three following layers of should be taken into consideration:
Issues:
Currently the Georgian law on GIs refers to control in its last article (17), where the legislator formulated the legal basis for the “Control of the Goods Characteristics Attributable to the Geographical Area”, whose regulations should have been submitted to the President of Georgia in 1999. Various by-laws adopted in 2003 defined measures mostly regarding wines and waters. For other GI products none of this has been undertaken.

Recommendation:
As agreed during the workshop, taking into consideration the pro and contras of each option (see annex 3) and the fact that we are at the beginning of a dynamic process that can evolve later on, in order to address different situations (export and domestic markets; development of private certification bodies), we recommend Georgian government to adopt a dual system, enabling both direct State control through NFA and delegation to private Certification Bodies (CBs) complying with the norm ISO 17065 (certification of products, processes and services)

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7 The Order Number 2-30 gives, among others, the competence of the control to the State vine and wine Department “Samrest”. The Order 2-37 defines the procedure for the registration of denominations of origin of wine and wine brandy, and the procedure for state control over production of wine and wine brandy with a denomination of origin. The order 2-221 on “Certification System of Alcoholic Drinks” (2003) that describes the Rules for Certification of Alcoholic Drinks and Accrediting of Testing Laboratories, Rule for Issuing Certificates of Origin, complete the legislative instruments for control and certification of wines.
(see annex 4). The accreditation of CBs\(^8\) according to this norm will give guarantee of the control quality and make possible the recognition of PGIs and PDOs on the international market, including the EU.

The controls of PGIs and PDOs check the conformity with the specifications and in particular:

- the fabrication process prescribed in the specifications
- the specific characteristics of the product (physic-chemical properties analysis and organoleptic properties)
- the origin of the product, including raw material if there production is supposed to take place in the area of production of the PDO or PGI (traceability)

**Description of the two main control/certification options to be combined:**

<table>
<thead>
<tr>
<th>State control by NFA</th>
</tr>
</thead>
<tbody>
<tr>
<td>The NFA inspectors will carry on-site inspection to check the compliance with fabrication process and the origin. These inspections will take place during the same visits than food safety inspections. It is very important that the two types of inspection are carried separately, and that the outcome of one inspection does not influence the other. Inspectors can also assess the organoleptic properties of the products and collect samples for analysis when appropriate.</td>
</tr>
<tr>
<td>The inspection reports will be then handed over to the NFA in Tbilisi who will (1) grant the authorisation of use of the GI in case of positive outcome after further analysis or organoleptic assessment when appropriate. In case of non-compliance, NFA might require corrective measures before granting the authorisation or not, depending of the gravity of the non-compliance.</td>
</tr>
<tr>
<td>It is important to note that with this model, the producers do not get a proper certification, as per definition of the EU regulation 2082/92, since the NFA is not accredited ISO 17065. It is recommended to speak of Controlled PGI and Controlled PDO.</td>
</tr>
</tbody>
</table>

**NB:** In the case of a strong producers organization, internal controls could be organized and reported in a way to provide to NFA sufficient evidence of the conformity of the GI product, and NFA could then provide the certificate on this basis (= NFA participatory guarantee system).

All above-mentioned steps shall be defined in a general manner in the by-law on control and certification, Then, each of this steps should be further detailed in the Control Plan proper to

\(^8\) Article 14 (para 2 and 3) of the EU Council regulation 2082/92 that defines the modalities of the certification indicates that State and private bodies can carry certification of food stuff provided they must fulfil the requirements laid down in standard EN45011 of 26 June 1989 (replaced since 2012 by ISO 17 065).
each PDO and PGI. The control plan will contain in particular: the checklist of all control points, the methods to check these points, the periodicity, of the checks, etc.

The plan of control defines these points for the auto-control performed by the producer, when appropriate the internal control by the association and for the external control performed by the control body, in this case the NFA.

**Box 4: State control by NFA**

**Certification by private Certification Bodies**

Most of the principles described in the previous section for the control performed by the State are also valid for the certification performed by CBs. On the basis of the specifications, the private CB will elaborate a control plan that should be submitted to the MoA. It could be advisable to have the control plan or at least its central elements developed before the application for registration, and part of the documentation to be submitted to the Sakpatenti. The CB should also be indicated in the specifications, as it is already now the case. This measure will help to avoid having specifications that cannot be objectively verified.

In order to be able to control and certify, CBs will have to be accredited by the Georgian Accreditation Centre (GAC) according to the norm ISO 17 065, and should be also authorised by the MoA. Each new GI will require the CB to undergo this procedure. However, after the accreditation for the first GI, one CB will have just to expand the scope of certification, which means the accreditation costs will be lower.

For physic-chemical properties testing, the laboratory performing the analysis must be accredited by the norm ISO 17 025, in order to maintain the recognition of the protection at international level.

In case of positive outcome of the control process, the CB will issue the certificate. The GI products will then be marketed as Certified PDO or Certified PGI.

**Box 5: Certification by Certification Bodies**

**Issues:**

From field visits, it was noted that producers were not aware that they will be controlled and their products certified to be able to use the name.

**Recommendations:**

- To address this issue, the law must require that the specifications contain a certain role of producer’s organizations in the guarantee system. This can be done by:
  - encouraging producer association to enforce an internal control system that participates to the overall control scheme, by including recommendations in guidelines for potential PGIs and PDOs users

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9 The GAC shall be recognised through the signature of the Multilateral Agreement by the European Accreditation Cooperation in Spring 2017.
- requiring from operators using the GI logo to perform an auto-control, including records keeping on used inputs and the crucial points of the specification to be transmitted to the control body to eventually facilitate verification of product and process conformity.

**Article 7 (4)**
“The application shall include specifications. The main points of the product specification shall be [...] a control plan\(^{10}\) established by the control body in cooperation with the applicant group”

- The law should indicate clearly that GIs will be the subject of a monitoring system of official controls by indicating that control will be performed by a competent authority.

- The rationale of the whole monitoring system is to ensure that none other than those registered as “authorized users”. The law could add indications how to become an authorized user.

**Article 7(5)**
“Any producer who is interested in using Geographical Indication shall apply as a user of Geographical Indication to Sakpatenti with a payment of fee in accordance with the prevailing laws and regulations”.

It also allows determining who is authorized to use the national logo on GIs.

**Issue:**
At the moment, to protect GI, producers should first make a request for recognition, and once registered, each producer should make a request for the authorization of use of the GI.

**Recommendations (to be further discussed):**
When defining the procedure to authorise the use of PGIs and PDOs, Sakpatenti and MoA should consider that instead to apply for the authorization of use to Sakpatenti, the willing users could be entered in the register automatically when controlled by NFA or certified by the CBs.

\(^{10}\) This control plan can identify the control points and sanctions related to each requirement of the CoP; it also a good way to ensure that producers focus on features that can be easily monitored (measurable criteria) when drafting the specifications
6. Promotion

Through promotion different elements have to be considered:

- Awareness and understanding of all stakeholder on the GI related concepts
- Visibility of the certified products: logo
- Guidelines for producers
- Credibility by the insurance of quality level

1- Awareness and understanding

As one of the main priorities of the MoA is to use GI scheme to improve transparency on domestic market and give better guarantees to consumers, it is of course important that consumers are aware and trust Georgian GIs.

Promotion targeting consumers and producers (and other relevant stakeholders) should therefore be based on both communication and awareness to strengthen the understanding of the some important concepts:

⇒ **Generic and specific quality**

to strengthen the difference between the generic quality (that includes in particular food safety standards and are compulsory) and specific quality (that include voluntary standards such as GI standards) (see figure 3).

![Diagram showing the relation between generic and specific quality](image)

**Figure 3: The relation between generic quality and specific quality**

⇒ The link to origin, with the references to “indications of source”, “geographical indications” and “appellations of origin” (see box 6 figure 4).
It seems crucial that stakeholders have a clear idea of the commonalities and differences between “indications of source”, “appellation of origin” and “geographical indication”. Hence, it is worth reminding that geographical references are frequent in the course of trade. It is frequent to indicate the provenance/source (IS) of a product. It may be, however, that geographical names acquire distinctiveness thanks to their association to the quality, reputation or other characteristics of a good. In such case, they generate an intellectual property for the communities and may be registered as “Geographical indication” or “appellations of origin”. Geographical indications (GIs) are signs that identify a product having a quality, reputation or other characteristics that are essentially linked to its geographical origin. Appellations of origin (AO) is a type of GI but only products for which the link to the origin is stronger may be identified as appellations of origin.

Box 6: GI, AO and IS

Figure 4: The shaping of geographical references regarding their link to the territory

2- National official logo:

The workshop has confirmed that authorities are in the process of adoption a national logo. For promotion reasons, the use of this logo shall be made compulsory for the single GI to be used on all products labelled with the PDO and PGI. A regulation on the conditions to use the logo should also be adopted. Sakpatenti and MoA are already working on this.

Another measure is to make compulsory the adoption of a logo for single GI, as it is the case in EU and other countries. This will increase the visibility of the single GI on the shelves of shops.

3- Guidelines for producers

In order to create incentives to use the GI scheme, the drafting of the guidelines on the registration of GIs that will be distributed by Sakpatenti to applicants (groups and users) shall be considered. These guidelines shall contain detailed information, inter alia, on the interactions between the food safety standards and the specific standards for GI, on the
possibilities to adopt and flexibility measures to these standards as well as practical details on the procedure of application.

4- **Guarantees on quality:**

Eventually, it is crucial that consumers understand that PGIs and PDOs are not just a sign of origin but also and foremost a sign a quality that guarantees the product is made according to specific fabrication methods and that has the specific characteristics in conformity with tradition and consumers expectations. The communication strategy should rely on the promise of quality made to the consumers.

Therefore, no compromises should be made on quality. That implies that the specifications must be strict enough to ensure that by complying with them the producers supply the market with quality products and that the controls ensured all controlled and certified GI products do comply with these specifications. The worst-case scenario would be to have PDOs and PGIs marketed that do not meet consumers’ expectations.

7. **Link with other public policies**

GI policies, as a result of their many links to rural development, cultural aspects and food heritage, biodiversity, food quality etc, can create synergies with many policies. Two main areas are recommended here:

- The link with food safety and the need for flexibility measures
- The link to tourism though promotion of typical foods and specific natural and cultural resources involved in the GI system

1- **Food safety flexibility and flexibility measures**

While the legal approximation program of the NFA expose that the norms of the European Hygiene Package\(^\text{11}\) were approximated between 2015 and 2016, it is noticeable that no flexibility pleasures (including derogations for traditional products) were introduced for small-holders or traditional products in Georgia. The Article 1, para 5 of the Law of Georgia on Food/Feed Safety, Veterinary and Plant Protection Code refers to simplified requirements for different types of operators

**Recommendations:**

In addition to the requirements of this Code, the simplified requirements approved by an ordinance of the Government of Georgia shall apply to business operators that:

a) according to this Code, have the status of small business and are engaged in the production, processing and distribution of food/feed, and in primary production;

b) use traditional methods for the production, processing and/or distribution of food/feed, and for primary production;
c) in high mountain regions are engaged, on a non-factory basis, in the production, processing and/or distribution of food/feed, and in primary production

We recommend developing and adopting the ordinance mentioned in this article, for the following reasons:

- many small-scale operators are producing GIs and are in many instances the ones producing the best quality products especially considering organoleptic quality and conformity with the tradition;
- these operators might be reluctant to engaged in a GI process since this implies registration of their farm or on-farm processing facility and this state control of food safety standards compliance
- flexibility measures represent a more inclusive approach that will eventually increase the number of producers complying with food safety good practices, i.e. reducing food safety risk for consumers, and not only in the case of GI products (traditional products) but also for any food products involving small-holders.

Once these flexibility measures, the MoA could decide either to keep the current timeframe or to set a new date for compliance and enforcement of the controls.

**Tourism**

The synergies existing between GI, protected areas and tourism shall be further exploited. The development of territorial strategy around the GI, that promote both the product and its territory can increase the reputation of the territory and the local products, the selling through local markets, and new activities and services linked to tourism (and employment). Agritourism benefit from the promotion of typical food products. Considering the national scope of “Sulguni” protection, the authorities shall consider enforcing a “Cheese route”.

GI products could become a way to promote Georgian food heritage and cuisine, and some strategy could be developed with chef’s ad restaurants (gastronomy).

Links with ecotourism would benefit from some important protected areas: Upper Svaneti is under the “World heritage list”\(^\text{12}\). Mta-Tusheti is inscribed on the tentative list to be protected as “World heritage”\(^\text{13}\).

Such strategies could be discussed with the Ministry of tourism.

**8. Ad hoc solutions**


\(^{13}\) See, http://whc.unesco.org/en/tentativelists/5228/
1- Transitional period and protection on foreign market

For GIs that are currently registered and would need to be revised under the new law following the recommendations agreed, a transitional period need to be considered, for the following situations to happen:

- The related producers want to use the GI and get involved in the revision of the specifications and the establishment of the control system;
- The use of the associate name by non-authorized users before restricting it to the producers complying with the specifications shall be foreseen. The length of the transitional period will be decided by governmental ordinance.

☞ The cancellation of current registered GIs of the future list if registered GIs if they are not requested or used by producers – in this case other ad hoc solution may be fund to protect these names on foreign markets. For instance, the protection of the name as “indication of source” may also be decided by governmental ordinances. In this case, attention shall be given to defining what the government intends as “indication of source” within its jurisdiction\textsuperscript{14}.

«Indications of source” are direct or indirect references to the geographical origin of goods or services, including [NB: but not in as a necessary requirement] references to their properties or the quality associated with their origin. Geographical names and signs that are not understood by the relevant public as indicating a certain origin of the goods or services are not considered indications of source.

2- Registration of the logo

The logo should be reserved for controlled and certified PGIs and controlled and certified PDOs. Two logos for PGI and two logos for PDOs could be adopted in order to distinguish GIs controlled by the NFA and the GIs certified by CBs. Elements of the logo should make the logo distinctive\textsuperscript{15} elements of a trademark. To this end, it is suggested to register the logo as a trademark. Because of the general principle that individual trademarks must not be descriptive, geographical terms cannot serve as individual trademarks, unless they have acquired distinctive character through use, or their use is fanciful and, therefore, is not deceiving as to the origin of the goods on which the trademarks are used. Collective trademarks and certification trademarks may serve to indicate that the goods on which they are used have particular characteristics such as, for example, a specific geographical origin. Therefore, in order to activate the “distinctiveness” argument, Georgia has to register it has a certification trademark detained by one national authority.

\textsuperscript{14} Indeed, neither the Paris convention, nor the Madrid Agreement gives a definition of “indication of source” or “provenance”. Besides, they offer a weak protection of the said indications (against false and fallacious indications) and do not provide for an international register to facilitate the protection within third countries territories. The best route to go may be to register the name as a trademark within the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (as amended on November 12, 2007) to which Georgia, and as a matter of fact Russia, are parties to.

\textsuperscript{15} i.e., is capable of distinguishing the goods and services of one undertaking from those of other undertakings,
3- **International agreements**

It is advised that the Government negotiates international conventions with neighbouring countries. It is also advised that the Government adheres to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications. Meanwhile, consideration must be taken to registering “Appellations of Origin” where applicable in order to facilitate their international registration within the Lisbon Agreement which is in force.
9. Final considerations

A sound GI legal and institutional framework which is associated to important policies in terms of quality and rural development will require resources, financial and human, as well as to build capacity on the functions and activities to be implemented.

The following elements could be considered in this view (and will be developed more into details in the frame of FAO projects under the collaboration with ENPARD and EBRD).

Allocation of budget:

- Extension services
- Functioning of the Marketing council
- Certification and control: inspection for NFA services and possible subsidies for private third part certification
- Promotion

Capacity building of the different stakeholders (training, guidelines and development of strategy)
- Through technical assistance
- Through extensions services

Raising awareness events
ANNEX 1: The proposed registration procedure
ANNEX 2: Suggested amendments to the provisions on specifications
ANNEX 2: Reference to specifications in the law

On specifications themselves, the content of the specifications shall reflect the European provisions while at the same time matching the Georgian context of business.

“The application shall include specifications […]”

(a) name of the applicant, legal address and registration number as a business operator\(^{16}\)

(b) class/type of the goods for which the registration of the appellation of origin or geographical indication is requested;

(c) description of the goods and the raw material, with the indication of their principal chemical, physical, microbiological and/or organoleptic characteristics;

(d) precise\(^{17}\) description of the geographical area referring as far as possible to physical or administrative boundaries;

(e) the description of production technology and conditions and methods of production specific for the relevant geographical area, in the case of their existence;

(f) documents confirming, that specific quality or features of the goods are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, or specific quality, reputation or characteristics of the goods are attributable to the geographical area

(g) Description of the history and tradition in relation to the use of geographical Indication or appellation of origin to designate the good in that area;

(i) document issued by the local administrative body confirming that the goods originate from that geographical area;

NB: In the context of building institutional capacities for traceability, it might be easier to precise which local administrative body is indicated in this paragraph.

It is to be noted that the above mentioned document shall contain traceability requirements announced in article 17 of the Law on Food Safety. However, considering the general principles and requirements for traceability in the fields of food/feed safety, veterinary and plant protection are still to be defined by an ordinance of the Government of Georgia, it is advised that operators indicate in this part: (a) the supplier, quantity and origin of all batches of raw material and/or products received; (b) the recipient, quantity and destination of products supplied; (c) the correlation between each batch of inputs referred to in point (a) and each batch of outputs referred to in point (b). (see Regulation 668/2014, article 4).

(j) Description of the method used to examine the rules defined in the CoP and name and address of authorities and/or bodies verifying compliance with the provisions, defined according to the Law of Georgia.

In respect of appellation of origin and geographical indications from third countries, the applicant should indicate the competent authorities or control bodies in charge of

\(^{16}\) Like Article 13 of the Code on Food Safety requests.

\(^{17}\) The description shall be made in a way that presents no ambiguity.
controlling the compliance to the code of conduct.

NB:

Good rules are those that can effectively be enforced and controlled.

To avoid misguided orientations, it is essential for local stakeholders, support actors and agencies to keep in mind when drafting the specifications that each point mentioned in the specifications will have to correspond to a control point within the control plan. Therefore,

It is necessary to include in the specifications only elements that are essential to the specificity of the product, taking into account the feasibility of the control activities and their costs.

Good controls are those that can result in sanctions or rewards\textsuperscript{18}. Different scales of control exist i.e first-party verification system, second-party verification system, and participatory guarantee system on the top of third-party certification.

(k) Label which is used on the good, if applicable

(l) power of attorney issued by an applicant in the name of his representative, if the application is filed by the representative;

(m) document confirming payment of the examination fee;

\textsuperscript{18} For more information, see FAO Guide, Chapter 2.4, p. 82 et seq.
## ANNEX 3: Pro and contras of each option and the accompanying measures

<table>
<thead>
<tr>
<th>Option</th>
<th>Pros</th>
<th>Contras</th>
<th>Accompanying measures</th>
</tr>
</thead>
</table>
| Third party certification | • Operational as soon the Accreditation Centre signs the Multilateral Agreement with the European Accreditation Cooperation  
• Very reasonable capacity building effort as CBs such as CaucasCert are familiar with certification schemes | • Certification fees charged to producers higher than the other options  
• Limited certification market in the short-term that will limits certification bodies  
• Accompanying measures  
• State subsidies for certification fees  
• Promotion internal control ensured by the producer associations | • Subsidise certification the first 2 – 3 years. The subsidy could be decreased every year.  
• Promotion internal control ensured by the producer associations |
| NFA guarantee scheme     | • The whole system relies on one State agency. If resources are made available durably, the system will work. | • Significant investment in capacity building in the short-term, while the demand of certification by PGI/PDO users will be low  
• NFA will concentrate almost all PGI/PDO related competences. Possible conflicts of interest are not excluded.  
• The second party certification hamper the development of certification business  
• Not all points of the specifications are checked, i.e. guaranteed  
• The effort to acquire competences, to agree about procedures, and the time consuming work of control could discourage producers. | • Strong capacity building efforts to empower NFA at central and regional levels  
• Hire the necessary human resources to perform these activities  
• Clearly separate food safety inspections and PGI/PDO compliance controls |
| NFA participatory guarantee scheme | • Strong empowerment of the producers association/producers that can enhance local cooperation and dynamics for other collective actions | |  
• Agriculture extension services, Associate NGO, value chain supporters to accompany producers in establishing the control plan. |
<p>| | |</p>
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|   | • Possible collusion in small producer communities (friends, family, business partners)  
|   | • The primary party certification hamper the development of certification business  
|   | • Big capacity effort to train producer organisation |
### ANNEX 4: The proposed dual control / certification model

<table>
<thead>
<tr>
<th>Model</th>
<th>Third party certification</th>
<th>Control and certification by the state</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entity in charge of the control / certification</td>
<td>Certification body (CB)</td>
<td>National Food Agency</td>
</tr>
<tr>
<td>Auto-control, performed by each producers</td>
<td>Producers keep records on production process and traceability (inputs origin and quantities, dates, t°, P and sales), in order to show them in case of internal and external controls</td>
<td></td>
</tr>
<tr>
<td>Internal control performed by the association</td>
<td>Not compulsory but highly recommended to reduce CB efforts and cost, and to empower the association of PGI/PDO producers</td>
<td></td>
</tr>
<tr>
<td>Inspection</td>
<td>Performed by the auditors of the contracted CB</td>
<td>Performed by the NFA inspectors</td>
</tr>
<tr>
<td>Decision</td>
<td>CB certifier officer</td>
<td>NFA Tbilisi</td>
</tr>
<tr>
<td>Costs recovery mechanisms</td>
<td>CBs charge their services in to cover the costs including the cost of the accreditation body</td>
<td>Part of the cost could be charged to the producers to cover the extra costs incurred by NFA</td>
</tr>
<tr>
<td>Level of guarantee</td>
<td>Certified PGI and PDO</td>
<td>Controlled PGI and PDO</td>
</tr>
<tr>
<td>Market</td>
<td>Export</td>
<td>Local and Domestic</td>
</tr>
<tr>
<td>Capacity building needs</td>
<td>Introduction to PDO and PGI to the CB currently certifying organic production or other certification standards in Georgia. Coaching for one or two certification.</td>
<td>NFA staff at all levels (central and regional) needs a strong capacity building on: GI general aspects, GI specifications, sensory analysis and Control and certification, control plan, check lists, inspection and control</td>
</tr>
</tbody>
</table>