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# ClimaEast

Support to Climate Change Mitigation and  
Adaptation in Russia and ENP East countries

## Part I

### Approximation of ODS legislation in Georgia

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Roadmap for the Approximation of Georgian law on F-gases and ODS to  
the EU law under the Association Agreement of Georgia – Closure event

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# Introductory Remark

A proposal of a new ODS Regulation for Georgia has been elaborated, and together with a commenting report has been made available to relevant stakeholders in Georgia.

The proposal shall provide national ODS legislation for Georgia ensuring the adaption of the EU ODS legislation from the day of the accession to the European Union.

As EU regulations are directly applicable to Member States and thus do not need transposition, the text is only intended to be applicable from 2020 until Georgia's accession.

# Approach

The text is based to the greatest extent possible on Regulation (EC) No 1005/2009 of the European Parliament and of the Council (EU ODS-Regulation).

## Guiding principles for transposition into Georgian Law:

- Deletion of provisions exclusive for the European Commission or present Member States.
- Adoption of the key activities set by out the 2014 Association Agreement.
- Inclusion of obligations set by the Montreal Protocol to Georgia, but not to the current EU Member States.
- Addition of transitional rules for the time until Georgia's accession to the European Union.

# Annex XXVII to the AA: "provisions that shall apply" to Georgian Law

- Adoption of national legislation. Designation of competent authority
- Bans: on production, placing on the market, and use of ODS as substances (Art 4+5) except for specific uses.
- Exemptions: freeze HCFCs at 2013 level, decrease by 10% in 2015, by 35% in 2020, by 67,5% in 2025, phase out by 2030 (Art 11)
- Exemptions for feedstock, process agents, laboratory use, halons, methyl bromide (Art 7 - 14)
- Trade: licensing for import and export of ODS for exempted uses (Art 15-20); reporting for undertakings (Art 27)
- Emission control: recovery, recycling, reclamation, destruction used ODS (Art 22); monitoring/checking leakages (Art 23)

To be implemented until 2020. Art 5 + 11 more time: 2030)

# Transposition of EU Regulation, Articles 1-5, in Georgian ODS-Law

## Unchanged text adoption of EU Regulation 1005/2009:

- Art 1 Subject Matter
- Art 2 Scope
- Art 3 Definitions  
Some adjustments: „Georgia“ for „Community“, “Law” for “Regulation”, “Competent Authority” for “Commission”, etc.
- Art 4 Prohibition of Controlled Substances (ODS)  
Georgia have never produced ODS (CFC, HCFC, Halons)
- Art 5 Prohibition of placing on the market and of use  
Exemptions are listed in Art 7 - 14

# Article 6

## Prohibition of ODS in Products


- Art 6 extends ban on ODS substances (Art 5) to ODS in products/equipment.
- Under MP, products containing ODS are not controlled; control refers to ODS as substances (chemicals) only.
- AA and MP require HCFC phase-out by 2030/40, thus allowing ODS substances until that deadline.
- HCFCs in products are not subject to MP phase-out schedule. May be allowed, or can be prohibited earlier.
- Recommendation: Transposition of EU prohibition on ODS products from the start, i.e. as of 2020.

Technically and economically feasible alternatives to HCFC containing products are available, since >15 years.

Import quota for products quite difficult to manage.

# Articles 7, 8, 10,12

## Exemptions from Prohibitions

- Art 7 Feedstock  
Direct transpose. So far no use, but mentioned in AA.
- Art 8 Process Agents  
Direct transpose. No relevance, but mentioned in AA.
- Art 9 Destruction or Reclamation  next slide
- Art 10 Laboratory and Analytical Uses  
Direct transpose. Relevance in Georgia: In past request for registration/authorisation for import of carbon tetrachloride (CCl<sub>4</sub>) and methyl bromide (CH<sub>3</sub>Br). Mentioned in AA.
- Art 12 Methyl Bromide (MB)  
No use since many years. Transpose only Art 12(3) on temporary use in case of emergency.



# Article 9


## ODS for Destruction or Reclamation

Article 9 allows placing on the market of ODS for reclamation or destruction within the Community.

- Reclamation
  - The main GRRRC in Tbilisi is capable of reclamation. “Within the community”, must be replaced by “within Georgia”.
- Destruction
  - Facilities do not exist in Georgia. Contaminated ODS need to be exported. There had been export to a plant in Lyon (France)
- EU Regulation prohibits export of ODS for destruction (Article 17) to non-EU countries.
- The new Georgian law may allow exports exclusively to EU countries, even before accession.

# Article 11

## HCFC-Phase-Out

- AA follows Montreal Protocol HCFC phase-out 2030/40  
*Freeze 2013 (baseline at 2009/10); - 10% (2015), - 35% (2020), - 67.5% (2025), - 97.5% (2030), -100% (2039).*
- EU bans HCFCs from 2015, long before harmonisation deadline.  
 EU schedule cannot directly be transposed in Georgia 2020 law.
- Solution: Transposition shall not include 2013 freeze and 2015 reduction, but begin with 2020 reduction by 35%.


Note, Georgia's HCFC-22 import was 50% below baseline, already 2012.

# Article 13

## Halons and Equipment with Halons

Halons do not need to be reported under the MP as “consumption” as long as they come from stockpiling or recycling/reclamation.

- Supposedly in Georgia halons are installed in existing military vehicles or civil aircraft, even though no use has come to the attention of the NOO.
- As mentioned in the comment to Article 9, Halon reclamation is possible in Georgia (Tbilissi).

 Article 13 is relevant for Georgia and needs transposition, in accordance with the AA.

# Art 14

## Transfer of Rights to Import

Paragraph 1 allows producers or importers of ODS to transfer their right to produce or to import to other producers or importers. Such transfer shall be notified in advance to the Commission.

- This provision can be relevant for importers in Georgia and should be transposed, in accordance with the AA.
- Replace “Commission” by “Competent authority”
- “Producers”, which do not exist in Georgia, shall be deleted.
- Remaining paragraphs 2, 3 and 4 refer to industrial producers only, and are not relevant for Georgia. AA requires transposition.

# Article 15: Import License for ODS or Products/Equipment containing ODS

- Art 15(3) requires ODS imports for exempted uses to be “subject to presentation of an import licence”.
- Exempted uses are listed in Art 15(2) and should be transposed into the new ODS law where relevant.
- Georgia can use its existing import quota system.
- This system shall not only apply to the exempted ODS uses, but also to HCFCs that are imported as refrigerants under the stepwise MP phase-out even though it is no part of EU Regulation (see Art 11).

# Article 16

## Import Quotas for Exemptions

Importers of ODS must have quota if the use of the ODS is subject to quantitative limits.

- In the New Law the quota allocation can follow the same procedure as under the EU-Regulation.
- The allocation should go beyond imports of the above (Art 15(2)) mentioned exemptions, and should include import quotas for HCFCs as refrigerants under the MP phase-out schedule.

# Article 17

## Export of ODS for exemptions

Article 17 refers to export instead of import of ODS.

- It contains exemptions for the same uses listed in Article 15(2), and additionally an exemption for metered dose inhalers (MDI). The latter are not exported from Georgia.
- So far, from Georgia no other mentioned substance or product/equipment has been exported.
- It cannot be ruled out for the future that imported substances or products might be „returned” (re-exported).
- To this end, Article 17(1) and (2) should be transposed, except for subparagraph (h) about MDIs.

# Article 18

## Licensing of imports and exports

Article 18 should completely be transposed.

- Article 18(1) requires setting up and operating an electronic licensing system, which is already in operation in Georgia.
- In addition it is required that the Commission (to be replaced by „competent authority”) shall decide on applications for licences within 30 days of receipt.
- Article 18(2) requires that undertakings shall register in that system before application.
- Article 18(3) is setting out the details the application for a license shall be comply with.



# Article 19, 20, 21

## Illegal trade, Non-Parties, ODS list

- Articles 19 and 21 specifically address the European Commission only and need no transposition.
- Article 20 prohibits trade with the few States not party to the MP, and has little practical relevance. It may be transposed to respect the AA.

# Article 22

## Recovery + Destruction of Used ODS

Art 22 requires that on servicing or decommissioning of equipment, ODS are not released to the atmosphere but recovered for recycling, reclamation or destruction.

- In Georgia two Recycling/Reclamation Centres have been established (see comment to Article 9).
- A destruction facility for ODS does not exist so that substances that cannot be re-used need to be exported.
- Export for destruction to outside the EU is not permitted for EU members; by analogy the Georgian law neither should allow export to elsewhere but only to the EU, even before accession.

# Article 23

## Leakages and Emissions

Art 23 should be transposed entirely. It contains detailed provisions for effective emission control.

- For the undertakings with ODS containing equipment, Article sets out regular schedule for leakage checks, with different frequencies, dependent on the fluid charges (3 kg, 30 kg, 300 kg and more).
- Paragraph 3 obliges to maintain records on the ODS quantities added or recovered on maintenance and final disposal. The records shall be made available on request to the competent authority.
- Para 4 requires Member States (to replace by “the ministry”) to define minimum qualification standards for the personnel.

Under the HPMP the qualification of the personnel had significantly been raised by several national programmes through the assistance of the MLF of the MP.

# Article 24, 25, 26

## New Substances, etc.

- **Article 24** bans production, placing on the market, use and export of new substances set out in Part A of Annex II to the EU Regulation, and creates exemptions from the ban for the purposes of feedstock, laboratory or analytical uses and for transit.
- It is proposed to transpose the ban, but without the exemptions, and to transpose Annex II entirely.
- **Articles 25 and 26** are not relevant for Georgia as long as it is no Member State. Do not yet need transposition.

# Article 27

## Reporting by Undertakings

This provision requires undertakings to report to the European Commission a number of quantitative data.

- The reporting obligations address producers (paragraph 2), importers (paragraph 3), exporters (paragraph 4), ODS destroying undertakings (paragraph 5) and users of ODS as feedstock or process agents (paragraph 6).
- In Georgia producers and ODS destroying companies do not exist. Transposition required by AA.
- The remaining paragraphs shall be adapted mutatis mutandis.
- Until the date of accession, the reports should be sent in Georgia to the “competent authority”.

# Article 28 and 29

## Inspection and Penalties

Art 28 requires Member States to conduct inspections of undertakings including inspections of their import and export of ODS. Acc to Art 29 penalty rules shall be set.

- As AA does not require transposition, Georgia should arrange enforcement for local conditions.
- No need to transpose these article, but it make sense to set national rules for Georgia.
- It is proposed to present such provisions together with the penalty system currently applied in Georgia in a specific Article on "additional national provisions"

# New Articles 28 and 29

## Additional National Provisions

AA sets as a key activity the designation of a competent authority for the overall implementation of the Law.

- Competent authority shall be the Ministry of Environment and Natural Resources Protection of Georgia.

In addition, the specific national Articles shall include rules of inspection of companies, rules for the Customs, and a penalty system as established by the Code of Administrative Offences.

Provisions in Articles 1-29 shall be repealed on the day of Georgia's accession to the European Union.



# Annexes

All annexes should be transposed, except for Annex VIII which is a table of paragraph correlations with older EU legislation.

End of the presentation





## How to contact ClimaEast

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