

EU and Russian regulatory power: Prescribing rules and practices in Moldovan and Armenian food safety regimes

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Abstract:

This paper contributes to a new research agenda on comparative neighbourhood policy studies examining how the interaction between two aspiring regional powers affect the countries in their shared neighbourhood. The existing scholarship on regional power and hegemony omitted hitherto to sufficiently conceptualize the ways in which major powers interact and the effects these interactions have on other regional actors. This paper zooms in on hegemony as a key strategy of regional powers focusing on how regional powers prescribe sectoral rules and practices and thereby set up, shape, and maintain regional economic regimes. It conducts a cross-sectional case study analysing EU and Russian prescription of food safety rules in one EU associated country (Moldova) and one Eurasian Economic Union member state (Armenia). Contrary to the prevailing dichotomous images of the two neighbourhood countries' foreign policy choices, the findings show that the differences in EU and EAEU food safety regimes are not irreconcilable and that exclusive macro-integration choices are not reproduced at the sectoral level. Rather, the competition between the two regional hegemon provides more room for manoeuvre to the neighbourhood countries' domestic actors to exploit economic opportunities in both regional powers' sectoral regimes. The differences between neighbourhood countries' macro political integration choices and sectoral compliance provide a more nuanced picture of competitive interactions between regional powers emphasizing the role of partner countries' domestic actors and interests in explaining the effects of competing regulatory policies.

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Introduction

To ensure the health and safety of consumers, the food industry developed basic food safety and animal and plant health rules. In international trade these sanitary and phytosanitary (SPS) measures can become barriers to trade when countries use higher, more strict standards than others. The higher standards may not only protect consumers and ensure food safety, but also shield domestic producers from foreign competition. The World Trade Organization's (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) ensures that SPS rules do not result in protectionism and unnecessary trade barriers. WTO members have the right to apply SPS measures they deem necessary to protect human, animal, and plant health as long as these are based on scientific principles¹. To harmonize SPS measures member states should refer to the international standards and guidelines issued by the Codex Alimentarius Commission, the World Organisation for Animal Health, and the International Plant Protection Convention. These standards are not legally binding, yet scientific justification is needed if WTO member states diverge from them. They aim to reduce the risks associated with additives and toxins in food products and the spread of pests and diseases by setting out specific product and processing standards, inspection procedures, residue limits for pesticides, and prohibition of additives.

Because WTO member states can still choose the level of protection, they consider necessary and harmonization only requires countries to base their national standards on the international ones, food safety rules diverge across countries. Therefore, they can constitute non-tariff barriers to trade and - along with technical barriers to trade (TBTs) - are included in bilateral and multilateral trade agreements. Preferential Trade Agreements (PTAs) often refer to the WTO SPS Agreement and include provisions for consistency with international food safety standards. However, they can also go beyond the rights and obligations established by the WTO. Because consumer health and the provision of safe food is important, governments and regulatory authorities often impose strict sanitary and phyto-sanitary requirements on import products. For big markets, this leads to the extension of their own food safety regime beyond its border.

The Europeanization² and external governance literature³ shed light on the various mechanisms through which the EU projects its rules beyond its borders. The (successful) externalization of EU economic policies and regulatory measures have come to be known as Market Power Europe⁴ or the 'Brussels effect'⁵. In the EU's Eastern neighbourhood, the establishment of the Customs Union and subsequently the Eurasian Economic Union (EAEU) meant the implementation of a system of rules in line with the WTO provisions but alternative to the EU.⁶ The EU and EAEU integration offers to the EU and Russian neighbour countries have become mutually exclusive whilst there their respective food safety rules and standards are potentially

¹ World Trade Organization, 'The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement)', Art. 2.

² Bauer, Knill, and Pitschel, 'Differential Europeanization in Eastern Europe'; Schimmelfennig and Sedelmeier, 'The Europeanization of Eastern Europe'.

³ Lavenex, 'EU External Governance in "Wider Europe"'; Lavenex and Schimmelfennig, *EU External Governance*.

⁴ Damro, 'Market Power Europe', June 2012; Damro, 'Market Power Europe', 21 October 2015.

⁵ Bradford, 'Exporting Standards'; Bradford, *The Brussels Effect*.

⁶ Dragneva and Wolczuk, 'Russia, the Eurasian Customs Union and the EU'.

compatible.⁷ This is why, we observe differences between neighbourhood countries' macro political integration choices and sectoral compliance⁸. However, compliance is mainly measured in terms of regulatory changes (rule adoption and implementation) and very little is known about the structural changes that occur following rule implementation. Thus, this paper aims to answer the following research question: *Which effects does a simultaneous prescription of EU and EAEU food safety rules have on countries in shared neighbourhoods in terms of regulatory and structural changes?*

To answer this question, the focus is laid on the underlying mechanism through which regional powers prescribe sectoral rules and practices thereby establishing hegemonic regimes. Taking a developing research agenda further, this paper focuses on how regional powers set up, shape, and maintain regulatory institutions and regimes that become hegemonic and often persist after the decline of the hegemon⁹. Applying the concept of 'intermediate' hegemony¹⁰, this paper develops an ideal-typical mechanisms of prescription that is then applied to empirical case studies. It conducts a cross-sectional case study analysing EU and Russian prescription of food safety rules in one EU associated country (Moldova) and one Eurasian Economic Union member state (Armenia). Contrary to the expected 'race-to-the top', the results show that Moldovan and Armenian agri-food businesses adhere to both EU and EAEU SPS standards. However, changes in food safety practices and external trade structures were also produced by other factors - such as coercive foreign policies, production capacities, and personal and linguistic ties – that need to be included in future research.

Regional hegemony through regulatory policies

Generally defined as a “political order (whether global or regional) in which the hegemon’s mode of thinking becomes dominant without regular reference to violence”¹¹ hegemony is sustained mainly without overt conflicts of interests. This paper aims to uncover the “logics and mechanics”¹² of international political orders (i.e. *how* hegemony comes about) thereby contributing to the third wave of international hegemony studies. Conceptualized as a neighbourhood strategy used by regional powers¹³, hegemony can take different forms. The ability to set the rules of the game in international food safety regimes is one such form. More specifically regulatory policies of regional powers can result in hegemony when “authorities and corporations based in one jurisdiction influence the decisions and arrangements in another”¹⁴. According to Destradi’s¹⁵ ideal-type of ‘intermediate hegemony’ the regional

⁷ Petrov and Kalinichenko, ‘On Similarities and Differences of the European Union and Eurasian Economic Union Legal Orders’.

⁸ Delcour, ‘Multiple External Influences and Domestic Change in the Contested Neighborhood’; Buzogány, ‘EU-Russia Regulatory Competition and Business Interests in Post-Soviet Countries’.

⁹ Keohane, *After Hegemony*; Ikenberry, ‘Institutions, Strategic Restraint, and the Persistence of American Postwar Order’.

¹⁰ Destradi, ‘Regional Powers and Their Strategies’.

¹¹ Showstack Sassoon, ‘Hegemony, War of Position and Political Intervention’, 94.

¹² Ikenberry and Nexon, ‘Hegemony Studies 3.0’.

¹³ Prys, ‘Hegemony, Domination, Detachment’.

¹⁴ Newman and Posner, ‘International Interdependence and Regulatory Power’, 595.

¹⁵ Destradi, ‘Regional Powers and Their Strategies’.

power provides material benefits, mainly through trade facilitation and economic assistance, to sustain a particular order.

The literature on ‘market power’ attributes the ability to set these sector-specific rules to the relative market size and its scope and boundary.¹⁶ Compliance with these rules is based on cost-benefit calculations – i.e. an actor values the benefits provided by the hegemon higher than the costs of compliance – and derives from the hegemon’s ability to provide economic benefits. In international relations this ability comes from asymmetric interdependence¹⁷ and occurs when its relatively bigger market allows the less dependent actor to influence the behaviour of the dependent actor(s) hence shaping international market rules.

As market participants and regulatory authority are increasingly mobile and can extend beyond the geographic space that determines market size the scope and the boundary of the market are factors that need to be disentangled and examined separately from market size. Market scope is defined as the areas where market participants can undertake their economic activity. If participants and their assets are mobile (i.e. they can easily enter or exit the market), their threats to exit the market are more credible and therefore wield power. Market boundary refers to jurisdictional authority that can expand beyond territorial borders, for example when national markets are integrated, and a supranational regulatory authority is created to set common rules and standards. This renders the market more attractive to businesses “by diminishing the transaction costs associated with border effects and creating a focal point of authority”¹⁸ hence increasing overall market power.

The mechanism through which the hegemon’s economic rules and standards (i.e., its mode of thinking) become dominant is a shift in the market boundary enabling the hegemony to *prescribe* economic rules and standards through jurisdictional authority. Market size and scope do not constitute sources of intermediate hegemony because intermediate hegemony, like the second face of power¹⁹, implies a covert conflict of preferences that is not articulated. The mobilization of these sources of market power leads to acquiescence either through coercive threats to limit market access or exit the market (overt conflict of interests) or through competition when actors comply with rules to access the market and gain economic benefits (no conflict of interests).

The hegemon’s extension of jurisdictional authority in a given economic sector is measured through the rules and standards that it prescribes through sectoral integration. In international trade economic actors are required to adhere to the export markets regulations, yet this applies only to the goods destined for that market. With deepening economic integration, jurisdictional boundaries are shifted, and extra-national regulations are applied nationally. Economic actors now have to adhere to sectoral rules regardless of the export markets of their products. The outcome are regulatory and structural changes. First, compliance with the regional power’s rules and standards takes place through legislative adoption and implementation of these rules.

¹⁶ Kalyanpur and Newman, ‘Mobilizing Market Power’.

¹⁷ Keohane and Nye, *Power and Interdependence*.

¹⁸ Kalyanpur and Newman, ‘Mobilizing Market Power’, 2.

¹⁹ Bachrach and Baratz, ‘Two Faces of Power’.

Then, changes in structural interdependencies come about when private actors apply these rules in their economic practices.

According to the scholarly literature, we should expect a clear ‘race-to-the-top’²⁰ that leads to the application of the more stringent rules and standards which allows private actors to trade with both jurisdictions. Confronted with multiple regulatory regimes, private actors will push for domestic reforms to align rules and standards with the more powerful authority’s “even if these regulations are more demanding”²¹.

Cross-sectional case study method and case selection

To determine the effect of simultaneous prescription of food safety rules by two regional powers four ‘most similar’²² cases are compared. For the analysis of the mechanism through which regional hegemon’s wield power over other actors, the relation between one regional power and one neighbourhood country constitutes a case. The ‘most-similar’ method requires the selection of at least two cases that are similar in all relevant aspects (market size and scope) except the one of interest to this study (the shift in jurisdictional boundaries). The EU and Russian power relations with Moldova and Armenia constitute such similar cases. They are similar with regards to the size and scope of the market and present a shift in the jurisdictional boundary towards the EU (Moldova) and towards Russia (Armenia). At the same time, both countries remained open to the other regional power throughout the period of analysis (2001-2021).

The relative market size in these four cases (EU-Moldova, Russia-Moldova, EU-Armenia, and Russia-Armenia relation) is similar as both Moldova and Armenia are significantly smaller markets with a high asymmetric dependence on trade with the EU and Russia. For both countries, the EU and the CIS (with Russia as the dominant market) are the main trade partners in terms of agri-food exports and imports. In 2004, at the beginning of EU and Russian integration attempts and after the EU’s Eastern enlargement, Moldova exports very large amounts of agri-food products (mainly fruit, wine, and juice) to the CIS market and Armenia also exports more of these products to Russia than to the EU. The EU plays a more important role for agri-food imports in both Moldova and Armenia (Graph [1]). Furthermore, the size of the EU and Russian market measured in food consumption is significantly bigger than the Moldovan and Armenian markets and grows constantly over time so as to be comparable²³.

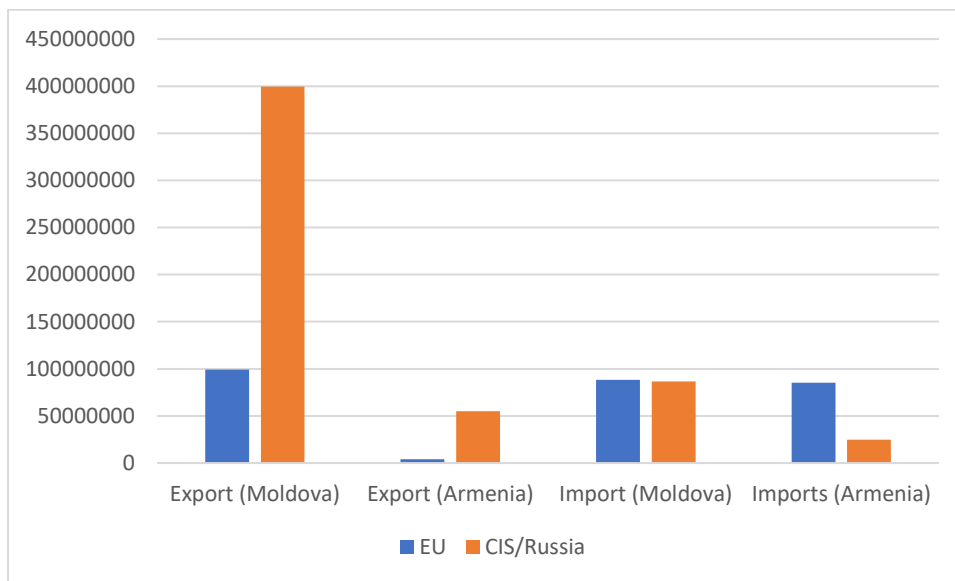
²⁰ Holzinger and Sommerer, “Race to the Bottom” or “Race to Brussels”?

²¹ Newman and Posner, ‘International Interdependence and Regulatory Power’, 602.

²² Seawright and Gerring, ‘Case Selection Techniques in Case Study Research’.

²³ Eurostat, ‘Final Consumption Expenditure of Households by Consumption Purpose (COICOP 3 Digit)’; Rosstat, ‘ПОТРЕБЛЕНИЕ ПРОДУКТОВ ПИТАНИЯ В ДОМАШНИХ ХОЗЯЙСТВАХ в 2020 Году’.

Graph [1]: Moldovan and Armenian trade in agri-food products in 2004 (in USD)



(N.B.: Data for Moldova does not include Transnistria and refers to CIS market as trade partner, Armenian data uses Russia as trade partner)

Source: National Bureau of Statistics of the Republic of Moldova, Statistical Committee of the Republic of Armenia.

The relative mobility of market participants (the market scope) is also controlled for because PTAs are in place in all four cases. At the beginning of the 2000s, Moldova and Armenia trade with the EU under the Generalized Scheme of Preferences (GSP) and bilateral trade agreements with Russia. EU and Russian businesses can credibly threaten to exit the Moldovan and Armenian agri-food market because of the high share of agri-food products in Moldovan exports (35%²⁴) and in Armenian imports (21%²⁵) at that time. Agriculture is a key sector for the Moldovan and Armenian economies. In Moldova it accounted for 10 % of its GDP in 2018²⁶. Although the share of agriculture in Moldova’s GDP has declined since its independence, vegetables and food products represented 29.54 % and 15.16 % of its exports in 2017²⁷. In the same year the share of agriculture in Armenia’s GDP was 14 %²⁸ and 24.41 % of Armenian exports were food products²⁹.

The shift in the market boundary is where the cases differ. Two cases present a change in jurisdictional authority: EU-Moldova and Russia-Armenia relations. With the signing of the AA/DCFTA in 2014, legislative approximation to EU food safety rules became legally binding for the Republic of Moldova requiring the government to apply EU rules also to its domestic market. Armenia’s accession to the EAEU in 2015 shifted the jurisdictional authority in food safety matters to the Eurasian Economic Commission (de facto led by Russia³⁰). In the EU-

²⁴ National Bureau of Statistics of the Republic of Moldova

²⁵ Statistical Committee of the Republic of Armenia

²⁶ ‘World Bank’, 2019.

²⁷ ‘World Bank WITS’, 2019.

²⁸ ‘World Bank’, 2019.

²⁹ ‘World Bank WITS’, 2019.

³⁰ Sergi, ‘Putin’s and Russian-Led Eurasian Economic Union’.

Armenia and the Russia-Moldova relations no such shift took place. Nevertheless, we still observe simultaneous prescription of rules and practices in these cases through the PTAs. The provisions aiming to reduce non-tariff barriers to trade, such as sanitary and phyto-sanitary (SPS) requirements, require Moldovan and Armenian businesses to adopt EU and EAEU rules for import and export products.

Data for the analysis was collected through semi-structured interviews with government officials, business representatives, and experts in Moldova, Armenia, Brussels, and Moscow between 2019 and 2021. In addition, 2 observations of business and civil society meetings with government officials were carried out in Chisinau and Yerevan. This data were triangulated with official documents and reports on food safety in the EU, EAEU, Moldova, and Armenia and external trade statistics from the national statistical offices and UN Comtrade. All data was qualitatively analysed using Atlas.ti (CAQDAS) for its ability to handle a variety of different types of data and non-hierarchical code structure. The materials were coded deductively with broad theoretical categories but without a provisional list of codes. The categories were derived and constructed from the theoretical ideal-typical mechanism and guided the open coding. This ensured comparability while providing space for the exploration of empirical variation.³¹

Food safety systems and the shift of EU and EAEU jurisdictional boundaries

The EU and EAEU both have regulatory authority in food safety matters and their PTAs with third countries include SPS chapters setting out import, labelling, and inspection requirements for foodstuffs. In 2015, Armenia's accession to the EAEU and Moldova's conclusion of the AA/DCFTA with the EU brought about a shift in the jurisdictional market boundary. Armenia and Moldova now have to apply EAEU and EU food safety rules respectively to their domestic foodstuffs market. The two food safety systems are the result of different historical and institutional developments. They show both differences and similarities in how they ensure the provision of safe food for consumers. In practice, the most significant difference is that the EU system is risk-based whereas the EAEU has a hazard-based system. The next section will briefly outline the historical development, main principles, and legal and institutional mechanisms of the two systems.

EU and EAEU food safety systems

For the EU, the main aim of its food safety system is to “ensure a high level of human health and consumer protection” through a “comprehensive, integrated approach”³². The European Commission made consumer health a priority because of numerous of food crises that led to the provision of unsafe food in the 1990s. Food safety in the post-Soviet space, on the other hand, is closely related to food security, a problem that emerged in several countries in the 1990s. In Russia, for example, a decrease in domestic food production and increased reliance on food imports led to the development of a Doctrine of Food Security. Thus, the provision of safe food products became closely related to the prevention of food scarcity.³³ The main aim of the Eurasian food safety system is to protect human health, the environment, and the life and

³¹ Kuckartz and McWhertor, *Qualitative Text Analysis*.

³² European Commission, ‘White Paper on Food Safety COM (1999) 719 Final’, 8.

³³ Dronin and Sveshnikov, ‘The Russian Food Security Doctrine’.

health of animals and plants. It developed on the basis of the Soviet legacy found in the national systems of its member states. Yet, at the same time, the EAEU was institutionally modelled on the EU and took up many EU rules and standards. The result is a system with new legal acts seeking to change SPS rules from top down and persisting practices of the old system at the bottom. This makes both the implementation and the analysis of the EAEU food safety regime a complex undertaking.

To ensure the production and distribution of safe food products the EU relies on safe *processes*. Its policy is based on the principles of risk analysis and transparency applying to all stakeholders. This ‘farm to fork’ approach covers all sectors of the feed and food chain placing the main responsibility on feed manufacturers, farmers, and food operators. Moreover, feed and food need to be traceable so that they can be withdrawn from the market in case of consumer health risks. Risk assessment and risk management are functionally separated. The European Food Safety Authority (EFSA) provides scientific advice and communicates risks associated with food safety whereas EU Institutions and Member States are in charge of managing these risks through prevention and control. EAEU food safety is also based on the principles of traceability and transparency³⁴. However, unlike the EU, the EAEU relies on the minimization of hazards (not risks) focusing on safe *products* (instead of processes). And so, food businesses are responsible for the conformity of their products with the EAEU requirements regarding contaminants and residues, traceability, and hygiene. Hence, the primary responsibility for safe food is shared between business operators and the State. There is no supranational risk assessment or management; scientific advice is only provided at the national level and Member States are in charge of management and control.

EU and EAEU legal acts reflect this emphasis on safe products vs processes. The General Food Law³⁵ provides the basis for the EU’s regulatory food safety system in which most legislation is adopted ‘horizontally’. This means that rules on contaminants and pesticide residues are prescribed for a broad range of food products emphasizing safe processes, rather than through ‘vertical’ legislation for each product category. Unsafe food – defined as food not produced in compliance with EU provisions - is prohibited from being placed on the market. In the EAEU Technical Regulations (TR) set out the technical requirements for food products and their production processes. Mandatory requirements regarding contaminants and residues, traceability and hygiene requirement are set ‘horizontally’ in the main TR “On food products safety”³⁶. Labelling requirements are established in the TR “On food products in terms of labelling”³⁷ and the TR “On safety requirements for food additives, flavourings and technological aids”³⁸ stipulates the requirements for food additives in food products. However,

³⁴ Council of the Eurasian Economic Commission, ‘ТР ТС 029/2012 Требования к Безопасности Пищевых Добавок, Ароматизаторов и Технологических Вспомогательных Средств’.

³⁵ European Parliament and Council of the EU, Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

³⁶ Commission of the Customs Union, ‘ТР ТС 021/2011 О Безопасности Пищевой Продукции’.

³⁷ Commission of the Customs Union, ‘ТР ТС 022/2011 Пищевая Продукция в Части Ее Маркировки’.

³⁸ Council of the Eurasian Economic Commission, ‘ТР ТС 029/2012 Требования к Безопасности Пищевых Добавок, Ароматизаторов и Технологических Вспомогательных Средств’.

in addition to the horizontal legislation, requirements for specific product categories like milk and dairy products³⁹, juice products⁴⁰, and fat and oil products⁴¹ are prescribed vertically.

Furthermore, EU and EAEU food safety systems differ somewhat in authorization and control mechanisms. In the EU, authorization for foodstuffs to be placed on the market is required for plant-origin products in the form of a phytosanitary certificate and for animal-origin products in the form of EU registration. In the EAEU, authorization takes the form of the single circulation EAC mark and state registration for specialized and novel food products and unprocessed animal-origin food production premises. In the EU, controls are carried out primarily by food businesses. They are required to implement own-check systems based on Hazard Analysis and Critical Control Points (HACCP) principles. National authorities ensure the functioning of food businesses' own-check systems through their public control systems which in turn are audited by the European Commission (DG SANTE and its Health and Food Audits and Analysis Directorate). The EAEU also requires food businesses to implement own-check systems. However, the use of a HACCP system is only mandatory for food manufacturers and not business operators. National authorities ensure the functioning of food businesses' own-check systems through their public control systems. Unlike in the EU there are no official controls or audits carried out by the EAEU.⁴²

Shift of jurisdictional boundary

The shift in the food market boundary occurs through the integration of foreign markets with the EU or EAEU market. Signing an Association Agreement (that includes a DCFTA) means that partner governments are required to change national food safety legislation to approximated it to EU SPS laws. In the case of accession to the EAEU, TRs take direct effect and national governments must ensure effective implementation. Before this shift occurred, Moldovan and Armenian export products still had to comply with EU and EAEU rules as stipulated in their respective PTAs.

For the EU, foodstuffs imported from third countries must comply with its SPS requirements or with measures the EU considers to be equivalent. Following its risk-based approach, the EU puts great emphasis on safe processes, i.e., implementation of the 'hygiene package'⁴³ setting out hygiene standards at all stages of production, processing, and distribution of foodstuffs based on HACCP. Due to the lack of jurisdictional authority, the EU must rely on third country authorities to show that their food safety control system complies with EU SPS requirements or is equivalent⁴⁴. Once this has been formally recognized, EU importers can presume food

³⁹ Council of the Eurasian Economic Commission, 'TP TC 033/2013 О Безопасности Молока и Молочной Продукции'.

⁴⁰ Commission of the Customs Union, 'TP TC 023/2011 Технический Регламент На Соковую Продукцию Из Фруктов и Овощей'.

⁴¹ Commission of the Customs Union, 'TP TC 024/2011 Технический Регламент На Масложировую Продукцию'.

⁴² Reg. 178/2002 on General Food Law, Reg. 882/2004 on Official Control, and Reg. 852/2004 on Hygiene of Foodstuffs

⁴³ European Parliament and Council of the EU, Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs; European Parliament and Council of the EU, Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin and the regulations replacing Reg. 954/2004.

⁴⁴ However, if a third country claims that their national food safety control is equivalent to the EU's, the European Commission can carry out official controls in the third country to verify that claim.

products originating from that country to be safe. Otherwise, the importer is responsible for ensuring that SPS requirements are met. In that case, controls of compliance with EU SPS requirements are carried out in the country of export. In accordance with the HACCP system exporters must show documentary evidence of compliance upon request by the importer. Furthermore, there are inspection posts at the EU border⁴⁵ where Member States carry out controls by sampling and analysing the food products⁴⁶.

Like in the EU, EAEU imports must comply with its food safety rules and standards. Products are subject to pre-market approval and SPS control at the customs border based on technical documentation regarding the production and laboratory testing of food samples. Unlike in the EU, products placed on the EAEU market must apply for the single sign of EAEU circulation (EAC). In line with the EAEU's hazard-based approach, any food products placed on the EAEU market must undergo an assessment of conformity and be labelled with the single Eurasian Conformity mark EAC. This assessment is carried out in the form of a Declaration of conformity by the manufacturer, business operator, or importer.⁴⁷

EAEU state registration is mandatory for specialized and novel food products as well as unprocessed animal-origin food production premises. In order to be registered, the latter must undergo a veterinary and sanitary examination. The EAEU establishes Single Registers for specialized and novel food products, unprocessed animal-origin food production premises, certification bodies and testing laboratories. Controls are carried out according to the national legislative provisions of each Member State with only limited harmonization of operational principles. EAEU Member States may carry out joint inspection missions upon request of third countries. For the export of products from plant origin to the EU market, exporters must provide a certificate for compliance with Plant Health Directive⁴⁸ that is issued by the national authority after a phytosanitary inspection. Products from animal origin, however, are subject to stricter controls and the producer needs to be pre-approved and registered⁴⁹. For food businesses to receive this authorization from the EU, the exporter's national authority must guarantee compliance with EU SPS requirements (or equivalent measures).

In addition to mandatory conformity assessment, importers may require certification for compliance with private SPS standards and product requirements issued by registered authorities and laboratories. For the EAEU, these standards are based on the GOST standards – a set of technical standards developed by the Soviet government that today serve as regional standards in CIS countries. To further reduce technical barriers to trade with CIS Member States (that are not EAEU Members) the Eurasian Economic Commission signs protocols with CIS Members to use EAEU Technical Regulations. EU importers may also require certification for compliance with private SPS standards and product requirements. All these SPS

⁴⁵ European Parliament and Council of the EU, Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.

⁴⁶ European Parliament and Council of the EU, Commission Regulation (EC) No 401/2006 of 23 February 2006 laying down the methods of sampling and analysis for the official control of the levels of mycotoxins in foodstuffs (Text with EEA relevance).

⁴⁷ Commission of the Customs Union, 'TP TC 021/2011 О Безопасности Пищевой Продукции'.

⁴⁸ Council of the EU, Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community.

⁴⁹ European Parliament and Council of the EU, Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin.

requirements constitute significant barriers to trade, especially for developing countries⁵⁰. Therefore, the EU provides technical assistance and expert trainings to developing countries and many other countries with which it has concluded Free Trade Agreements⁵¹. The EAEU does not provide such assistance.

The market boundary shifts when the EU or the EAEU gain jurisdictional authority through integration (EU association or EAEU accession). With the EaP and the new Association Agreements that included a DCFTA, legislative approximation with EU food safety law became legally binding, thus incurring a shift in the jurisdictional boundary. Legislative approximation implies changes to national food safety laws and the application of EU SPS standards to all domestic production of foodstuffs (instead of only to those produced for export to the EU). Previously, legislative approximation was voluntary for the neighbourhood countries. The Partnership and Cooperation Agreements (PCAs) included a provision for cooperation in the agriculture and the agro-industrial sector aimed at voluntary approximation of national standards with EU SPS standards. As part of the new European Neighbourhood Policy and in light of several post-Soviet countries' accession to the WTO, the EU concluded joint ENP Action Plans that included more specific priorities for – still voluntary - reforms of the sanitary and phytosanitary sectors.

During the AA negotiations, the EU issued key recommendations to be met before the signing of the DCFTA. The main SPS demands were the adoption of a national Food Safety Law in line with the EU's general food law, the establishment of a national Food Safety Authority, and the introduction of the HACCP system.⁵² Once the AA/DCFTA was signed, the partner country submitted an approximation list specifying the relevant EU SPS legislation to be approximated. In the case of Moldova, this list included 235 EU directives and regulations to be approximated by 2020. The EU rules and standards to be adopted by Moldova relate to product safety, veterinary and phytosanitary requirements, market placement, and specific rules for feed and genetically modified organism (GMO).⁵³

Accession to the EAEU also incurs a shift in the market boundary as EAEU TRs become directly applicable in the new member state. During accession negotiations, a Road Map is designed that sets out time frames and transition periods for the application of the Custom Union's TRs including the ones on SPS measures. In the case of Armenia negotiations were concluded in record time and after only 16 months Armenia became a member of the EAEU. From the moment of accession Armenia had to fully apply EAEU SPS legislation and requirements with temporary exemptions for dairy products, grains, and cereals.⁵⁴

⁵⁰ Broberg, *European Food Safety Regulation and the Developing Countries*.

⁵¹ European Parliament and Council of the EU, Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.

⁵² Delcour, 'Multiple External Influences and Domestic Change in the Contested Neighborhood'.

⁵³ An extensive list of EU legislation to be approximated is available in Annex XXIV-B of the EU-Moldova Association Agreement.

⁵⁴ Eurasian Economic Union, 'Agreement on Accession of the Republic of Armenia to the Treaty on the Eurasian Economic Union'.

Effects of the simultaneous promotion of economic regimes in Moldova and Armenia

This section examines the effects of this simultaneous promotion of EU and EAEU food safety regimes in terms of regulatory and structural changes in Moldova and Armenia. EU officials acknowledged that legislative approximation to the EU SPS *acquis* is a difficult undertaking for partner countries. Yet, they also believe that it is “a long-term investment they [the partner countries] have to make not only to trade with the EU but also to upgrade their overall system to the EU level”⁵⁵ and for which they need EU assistance⁵⁶. The view is that because the EU’s food safety system and SPS requirements are at a “higher level”⁵⁷ approximating national standards to the EU ones “means that their standards are going up but it's also building up their own capacity relating to food safety”⁵⁸. The EAEU does not advance a similar view.

Regulatory changes in Moldova and Armenia

Both Moldovan and Armenian governments introduced changes to national food safety regulations in order to adopt EU and EAEU food safety rules. Simultaneous prescription by both the EU and EAEU particularly affected Armenia because the government introduced legislative changes to bring food safety regulations in line with EU rules during the negotiation of the AA/DCFTA. The country’s subsequent accession to the EAEU resulted in a national food safety system with EU and EAEU regulatory traits. In Moldova, simultaneous prescription did not impact regulatory changes. The government adopted and amended a series of national laws to bring its food safety regulations in line with EU rules. For exports to the CIS market, it continues to issue GOST certificates⁵⁹.

Moldovan officials expressed the view that legislative approximation would benefit businesses and consumers⁶⁰. Visible reform efforts were undertaken, and a large number of laws passed following EU recommendations during what a Moldovan government official called the “golden period”⁶¹ of EU-Moldova relations (2010-2013). This led Moldova to become designated the “poster child” of the Eastern Partnership⁶². The main achievements with regards to SPS requirements were the adoption of the National Food Safety Strategy 2011-2015 based on an integrated ‘farm to fork’ approach to “achieve the highest degree of protection of human health and consumer interests”⁶³ and the establishment of the National Food Safety Agency (ANSA). In 2016, the government prepared legislation to create the Rapid Alert System for Food and Feed (RASFF) and testing laboratories were established and accredited⁶⁴. From 2014 until 2019 over 2’000 European standards related to the food sector were adopted⁶⁵. Although the Moldovan government prided itself with being “among the champions in transposing

⁵⁵ Interview with EU officials, FA06.

⁵⁶ Interview with EU official, DA04.

⁵⁷ Interview with EU official, CA03.

⁵⁸ Interview with EU official.

⁵⁹ Interview with Moldovan business representatives, XA24.

⁶⁰ Interview with Moldovan official, KA11.

⁶¹ Interview with Moldovan official, CB29.

⁶² Rinnert, ‘The Republic of Moldova in the Eastern Partnership: From “Poster Child” to “Problem Child”?’

⁶³ Government of the Republic of Moldova, ‘ПОСТАНОВЛЕНИЕ № 747 Об Утверждении Стратегии в Области Безопасности Продуктов Питания На 2011-2015 Годы’.

⁶⁴ European Commission, ‘Association Implementation Report on Moldova’, 10 March 2017.

⁶⁵ European Commission, ‘Ex-Post Evaluation of the Implementation of the Deep and Comprehensive Free Trade Areas between the EU and Its Member States and Georgia and Moldova’.

legislation”⁶⁶, it was only passing laws to fulfil the EU conditions and benefit from EU assistance without putting these into practice, according to a Moldovan think tank and civil society representatives⁶⁷. By 2019, the EU remarked that there were substantial delays in legislative approximation and that laboratory capacities as part of official controls were weak⁶⁸. Pressure was not only exerted by the EU; big Moldovan companies also pressured the government to progress with the approximation and to address the problem with national laboratories⁶⁹.

According to the EU, the implementation of these laws was significantly hampered by Moldova’s limited institutional capacities⁷⁰. Moldovan interviewees also viewed the country’s “low capacity”⁷¹ and difficulty in changing practices following institutional changes⁷² as reasons for the slow progress in changing national regulations. Furthermore, it seemed that there was a lack of understanding of the logic of the EU food safety system. Even though the EU does not use product standards at all with its risk-analysis and process-focused approach one Moldovan official - when asked about the EAEU – stated that “they [the EAEU] are using different standards, they are still using the GOST standards and we have changed from GOST to EU standards”⁷³. Considering that even government and industry representatives⁷⁴ failed to understand the EU food safety system in line with which they were reforming the Moldovan system, the regulatory and implementation problems are not surprising.

In Armenia, the situation was slightly different because the government initially carried out legislative approximation to the EU SPS *acquis* during the negotiations of an AA/DCFTA that was ultimately not signed. From 2010 until 2013, efforts were undertaken to comply with EU key recommendations on a national Food Safety Law, a national Food Safety Authority, and the HACCP system. The government established a State Service for Food Safety, developed a food safety strategy and action plan, and adopted a number of laws in line with, inter alia, EU hygiene, product quality, and hazard analyses standards.⁷⁵ Armenian accession to the newly established EAEU required legislative amendments to comply with EAEU SPS rules and practices that differ from the EU ones, such as risk assessment procedures and business and product registration. To prepare for accession to the EAEU, Armenia adopted a Road Map⁷⁶ setting out time frames and transition periods for the application of the Custom Union’s technical regulations including the ones on SPS measures. Because under Armenian law an international treaty takes precedence over national legislation where there is a conflict, the Armenian government did not have to amend national SPS laws to harmonize them with the

⁶⁶ Interview with Moldovan official, KA11.

⁶⁷ Interview with Moldovan think tank representative, QA17; Interview with Moldovan civil society representatives, UA21.

⁶⁸ European Commission, ‘Association Implementation Report on Moldova’, 11 September 2019.

⁶⁹ Meeting between Moldovan businesses and government and EU officials, Observation 1.

⁷⁰ European Commission, ‘Association Implementation Report on Moldova’, 11 September 2019.

⁷¹ Interview with Moldovan think tank representative, QA17.

⁷² Interview with Moldovan think tank representative, RA18.

⁷³ Interview with Moldovan official, KA11.

⁷⁴ Interview with Moldovan business representatives, XA24.

⁷⁵ Interview with Armenian expert, OB41.

⁷⁶ Customs Union, ‘Заявление о плане мероприятий («дорожной карте») по присоединению Республики Армения к Таможенному союзу и Единому экономическому пространству Республики Беларусь, Республики Казахстан и Российской Федерации’.

EAEU food safety rules and standards.⁷⁷ Nevertheless, legislative approximation to EU rules continued where possible and only “certain regulations which are contradicting with the EAEU they [the Armenian government] should leave aside”⁷⁸. The continuing regulatory changes to adopt EU rules and the application of EAEU TRs meant that there were “some amendments of the law but the principle and idea were still European”⁷⁹.

As in Moldova, there was also a lack of understanding of the EU and EAEU food safety systems and their fundamental difference among Armenian actors. One civil society representative thought this difference to be one in-degree and not in-kind: “because of the fact that European standards and norms are stronger, stricter than the Eurasian ones, if you fit these European norms, you can also automatically fit the Eurasian standards and norms”⁸⁰. However, the EAEU TRs still differ a lot from the EU food safety regulations⁸¹. The lack of understanding stems in part from the misleading or confusing wording of the EAEU TRs that mention principles such as risk analysis and risk assessment while at the same time laying out specific product criteria in the annex. Thus, - in spite of the proclaimed risk-analysis approach – in practice the EAEU system remains a hazard-based one.⁸² This together with the high legal uncertainty hampered rule implementation in Armenia.⁸³

Structural changes in Moldova and Armenia

The mixed results of regulatory changes in Moldova and Armenia impacted economic practices. Many Moldovan companies adopted EU rules in their agri-food production to export to and import from the EU market. The results were a change in the country’s overall trade structure in this sector. Armenian businesses changed their practices to comply with EAEU rules and trade agri-food products with Russia which was also reflected in the trade data. However, simultaneous prescription was also observed with EAEU rules applied by some Moldovan producers and EU rules by Armenian producers. There were also many factors that hampered the effective application of EU and EAEU rules in both countries.

Following the shift in the market boundary Moldovan agri-food exports to the EU grew significantly and overtook exports to the CIS market (Figure [2]). Over time, the volume of imports of agri-food products from the EU almost quadrupled as well (Figure [3]). At the same time, trade with the CIS market both in terms of exports and imports declined suggesting a trade diversion effect.

⁷⁷ Sedik, Ulbricht, and Dzhambankulov, ‘The Architecture of Food Safety Control in the European Union and the Eurasian Economic Union’.

⁷⁸ Interview with EU official, RB44.

⁷⁹ Interview with Armenian expert, OB41.

⁸⁰ Interview with Armenian civil society representative, HB34.

⁸¹ Interview with EU official, RB44.

⁸² Interview with Armenian expert, OB41.

⁸³ Sedik, Ulbricht, and Dzhambankulov, ‘The Architecture of Food Safety Control in the European Union and the Eurasian Economic Union’.

Figure [2]: Exports of agri-food products of the Republic of Moldova to EU and CIS markets.

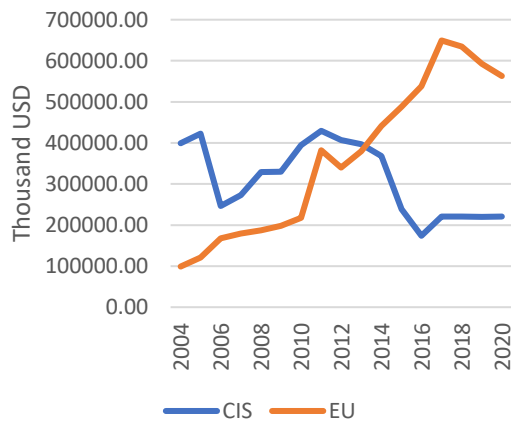
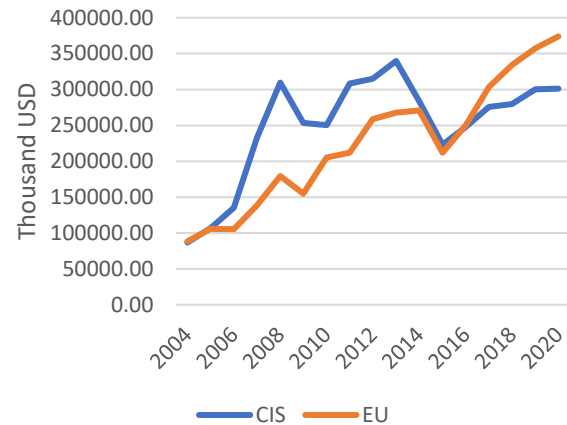


Figure [3]: Imports of agri-food products of the Republic of Moldova from EU and CIS markets



Source: National Bureau of Statistics of the Republic of Moldova.

Most Moldovan interviewees explained this change in practices with the instability and unpredictability of “the business with the East”⁸⁴. Following the 2013 trade bans on Moldovan wine and other food products by Russia, Moldovan businesses perceived their activities in the Russian market as dependent on political factors. One business representative observed that “the economic relations with Russia depend a lot on the political will of the Russian Federation and our political activities here in Moldova”⁸⁵. As a result, economic actors “learned their lesson and became more flexible and now, as we see, more than half of our exports go to the EU”⁸⁶. However, this does not apply to all businesses. According to a think tank representative, “instead of having a fair distribution of the advantages, we have a very concentrated market”⁸⁷. Indeed, the main exporters to the EU are European subsidiaries located in Moldova and large Moldovan producers because small exporters struggle to obtain export certificates or approval of their status. This is partly due to corruption⁸⁸, but also the lack of EU accredited laboratories leading to costly testing procedures and the small quantities they produce that are not sufficient to fulfil EU quotas⁸⁹.

Structural changes in Armenian external agri-food trade were also in line with the market boundary shift in 2015. After that, trade in agri-food products with Russia continued to grow suggesting a trade creation effect. Russia remained the main export and import market for Armenian agri-food products (Figures [4] and [5]). Nevertheless, the trade volume for exports increased five-fold and imports by nearly 15 times since 2004. Exports to the EU only saw a minor increase during the DCFTA negotiation phase (2010-2013) whereas imports grew more

⁸⁴ Interview with Moldovan think tank representative, QA17.

⁸⁵ Interview with Moldovan business representative, VA22.

⁸⁶ Interview with Moldovan business representatives, XA24.

⁸⁷ Interview with Moldovan think tank representative, QA17.

⁸⁸ Interview with Moldovan civil society representatives, UA21.

⁸⁹ Interview with Moldovan business representatives, XA24.

during that period. Overall, trade with both EU and Russia decreased temporarily in 2015 the year of Armenia’s accession to the EAEU.

Figure [4]: Exports of agri-food products of the Republic of Armenia to the EU and Russia

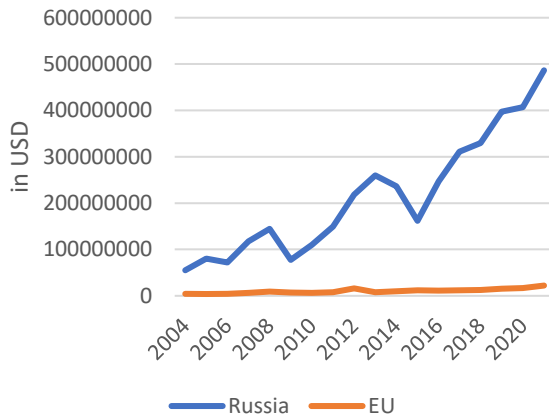
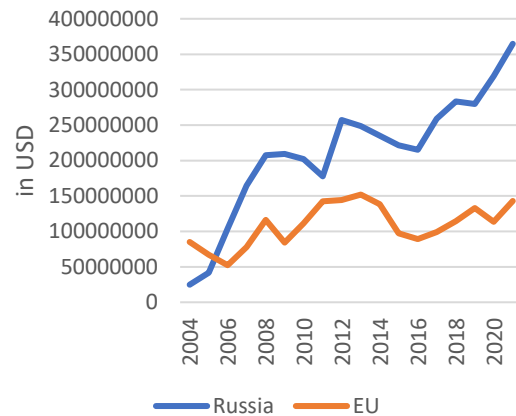


Figure [5]: Imports of agri-food products of the Republic of Armenia from the EU and Russia



Source: UN Comtrade.

As in Moldova, this effect was partly due to the changes in jurisdictional authority and national food safety regulations. Interviewees stated that “European countries [do] not always recognize certificates that are done here [...] because there is not trust towards local authorities”⁹⁰. Indeed, there is a lack of EU accredited laboratories in Armenia as well. The EU recognized this problem and contributed to international projects aimed at improving Armenia’s metrology system and accreditation body⁹¹. Yet, the problem lies much deeper in the fundamentally different philosophies of the two food safety systems. In line with the EAEU TRs, conformity assessment is mandatory for agri-food product in Armenia and is carried out by national laboratories familiar with the process. Producers seeking to export their agri-food products to the EU have to show that these were produced in line with the methods of safe processes (HACCP) prescribed by the EU. However, the laboratory asks for the quality standards (i.e., residue limits etc.) because according to the national food safety system it has to carry out a conformity assessment.⁹² This of course is not compatible with the EU system and the producer cannot provide the required standards because the EU rules are not hazard but risk-based.

Furthermore, the interviews in Armenia showed that other factors – such as information, mobility, language, and logistics - contributed to the trade effects as well. Like in Moldova “some big producers do well” whereas others “don’t have the quantity that is required”⁹³. SMEs also reported a lack information and unfamiliarity with the EU system which prevents them from finding partners in the EU and designing effective export strategies. Big companies have the advantage that “they can afford English speaking specialists, they can afford to hire foreign specialists and professionals, have their representation in the EU, et cetera”⁹⁴. The lack of

⁹⁰ Interview with Armenian business representatives, MB39.

⁹¹ Interview with EU official, RB44.

⁹² Interview with Armenian expert, OB41.

⁹³ Interview with Armenian business representatives, MB39.

⁹⁴ Interview with EU official, RB44.

sufficient quantities of agri-food products for exports creates logistical problems. Armenia’s geographical location and closed borders mean that transportation for external trade takes place mainly through Georgia both overland and through the country’s Black Sea port. So, trucks with imports from the EU arriving in Armenia have to go back the same way but often have to wait 3-4 months to have sufficient freight for a cost-efficient trip.⁹⁵

Looking more closely at the type of agri-food products that Armenian and Moldovan businesses export and import, there is evidence that the structural changes in Moldova and Armenia concern first and foremost plant-based products. This is not surprising because animal-origin food products are subject to higher safety standards and stricter production controls in both systems. Under PTAs, the EU and the EAEU require state registration for the import of these type of products. For the Moldovan government the right to export animal products – meat and dairy in particular - to the EU is a priority since 2013.⁹⁶ According to Moldovan business representatives, in addition to the lack of accredited laboratories, this is mainly due to the conditions in Moldovan slaughterhouses not being certified by the EU.⁹⁷ This is why Moldova exports mainly vegetable products (II in Figure [6]) and beverages (IV) and very little animal products to the EU (I). However, trade data show that this is not compensated by the CIS market to which also little animal products are exported (I in Figure [7]).

Figure [6]: Export of Moldovan agri-food products to EU by category (in 1000 USD)

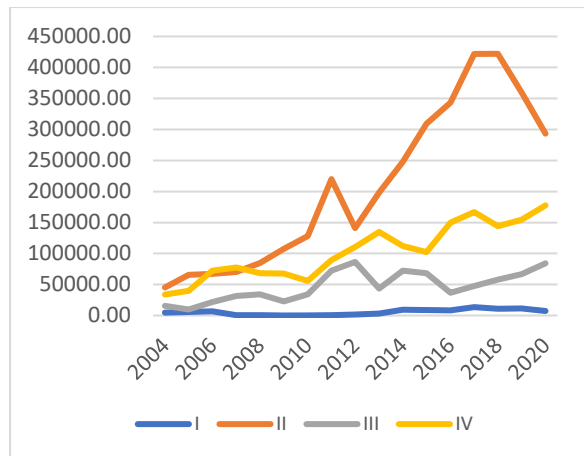
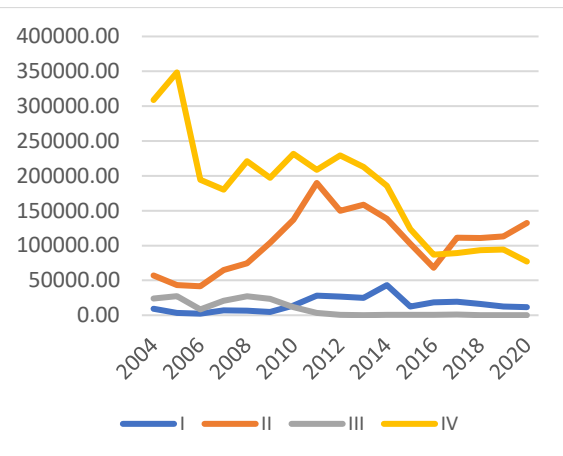


Figure [7]: Export of Moldovan agri-food products to CIS by category (in 1000 USD)



(I = Live animals; animal products; II = Vegetable products; III = Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes; IV = Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes)

Source: National Bureau of Statistics of the Republic of Moldova.

According to a Moldovan business representative the trade in animal products is not yet business-driven because for some products, such as poultry, domestic production does not even satisfy domestic demand.⁹⁸ And so, we observe higher import than export volumes for animal products from the EU (I in Figure [8]) and to some extent from the CIS (I in Figure [9]).

⁹⁵ Interview with Armenian business representatives, MB39.

⁹⁶ Interview with Moldovan official, KA11.

⁹⁷ Interview with Moldovan business representatives, XA24.

⁹⁸ Interview with Moldovan business representative, VA22.

Figure [8]: Moldovan import of agri-food products to EU by category (in 1000 USD)

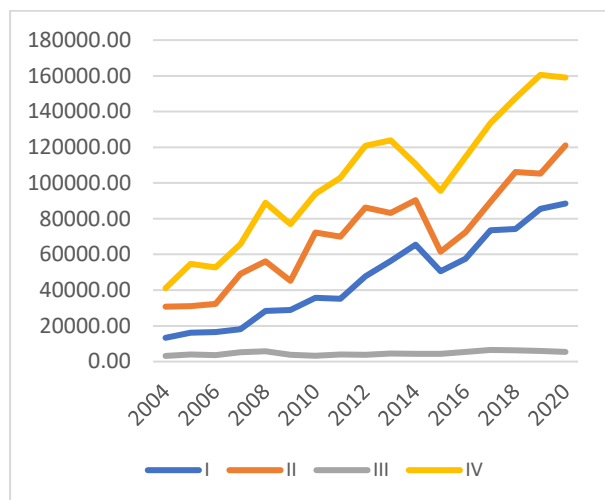
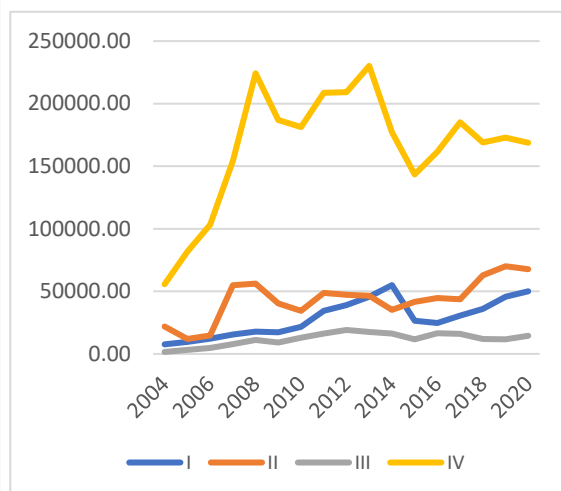


Figure [9]: Moldovan import of agri-food products to CIS by category (in 1000 USD)



(I = Live animals; animal products; II = Vegetable products; III = Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes; IV = Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes)

Source: National Bureau of Statistics of the Republic of Moldova.

Armenian exports of animal-origin products to the EU were also small in volume and decreased even further in 2016 (I in Figure [10]) whereas the export of these products to Russia increased (I in Figure [11]). Prepared foodstuffs and beverages are the main Armenian agri-food exports to both the EU and Russia. Armenia also exports considerable amounts of vegetable products to Russia.

Figure [10]: Export of Armenian agri-food products to EU by category (in USD)

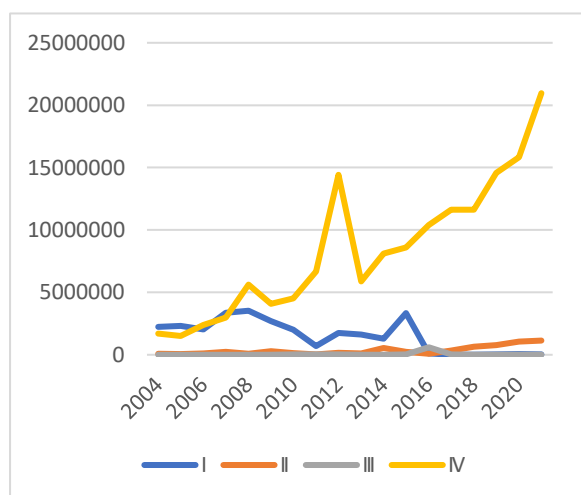
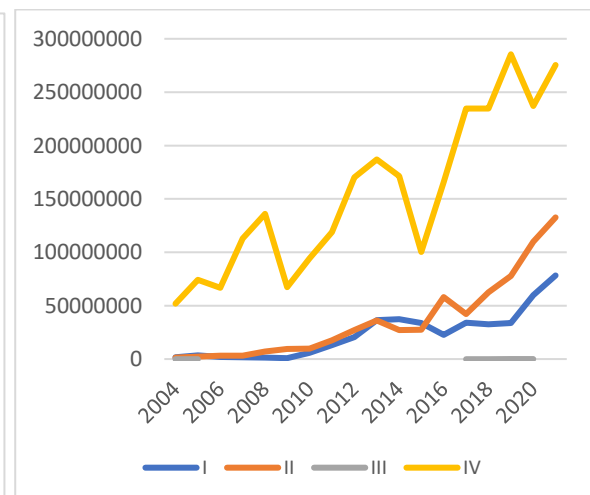


Figure [11]: Export of Armenian agri-food products to Russia by category (in USD)

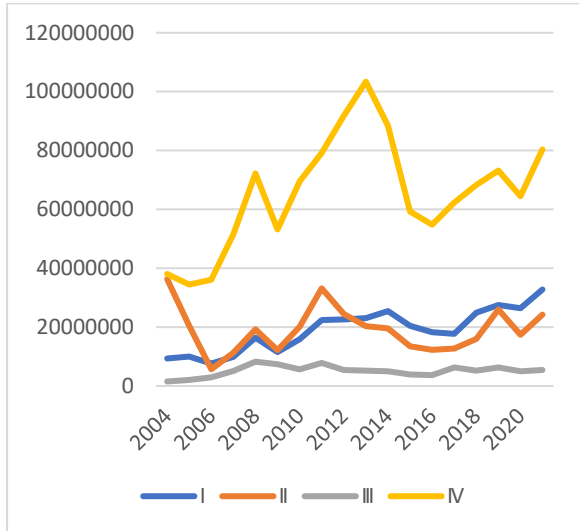


(I = Live animals; animal products; II = Vegetable products; III = Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes; IV = Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes)

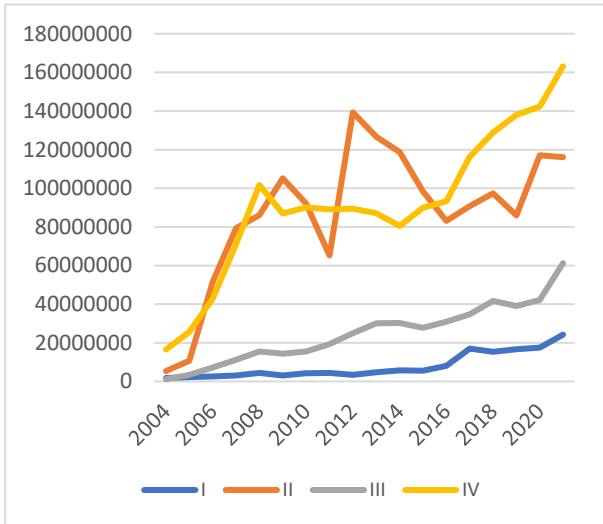
Source: UN Comtrade.

Unlike in Moldova, Armenian animal-product imports from the EU and Russia are not larger than their export to Russia (I in Figures [12] and [13]). Nevertheless, Prepared foodstuffs remain the main category of agri-food imports from the EU and Russia together with the import of vegetable imports from Russia.

Figures [12]: Armenian import of agri-food products from EU by category (in USD)



Figures [13]: Armenian import of agri-food products from Russia by category (in USD)



(I = Live animals; animal products; II = Vegetable products; III = Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes; IV = Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes)

Source: UN Comtrade.

Conclusion

This paper compared the prescription of EU and EAEU food safety rules in countries of their shared neighbourhood. Moldova's signing of the EU AA/DCFTA and Armenia's accession to the EAEU constituted a shift in the jurisdictional boundary of food safety markets. The fact that both countries continued to trade agri-food products with the actor that does not have jurisdictional authority over the market meant that different EU and EAEU food safety rules were prescribed simultaneously. The findings show that this resulted in regulatory and structural changes in Moldova and Armenia. National food safety regulations were changed with EU integration and EAEU accession in Moldova and Armenia respectively. However, there was no clear 'race-to-the-bottom'. Rather, the fundamental difference between the EU and EAEU food safety systems and the lack of understanding these hampered legislative adoption and implementation in both countries. Furthermore, changes in food safety practices and external trade structures occurred only in part due to the market boundary shift. Other factors, such as the Russian trade bans on Moldovan agri-food products in 2013/14, production capacities, and personal and linguistic ties impacted economic practices in Moldova and Armenia.

The aim of this paper was to better understand how the interactions between regional powers affect the countries in shared neighbourhoods. Building on Schunz, Gstöhl, and Van

Langehove's⁹⁹ ideal-typical interactions, the focus was placed on hegemony as a neighbourhood strategy and the resulting competition between two regional powers. The cross-sectional case study of EU and Russian prescription of food safety regimes in Moldova and Armenia showed that macro-level competition does not have to lead to competition at the sectoral level. Indeed, the differences in EU and EAEU sectoral rules and practices are not irreconcilable and Moldovan and Armenian agri-food businesses adhere to both EU and EAEU SPS standards. In the context of comparative neighbourhood policy studies this confirms earlier findings on the difference between neighbourhood countries' macro political integration choices and sectoral compliance¹⁰⁰. Regional powers seeking to establish hegemonic regimes might compete with each other for power over the neighbourhood countries, yet their sectoral regimes are likely to not be competing on the micro-level.

⁹⁹ Schunz, Gstöhl, and Van Langenhove, 'Between Cooperation and Competition'.

¹⁰⁰ Delcour, 'Multiple External Influences and Domestic Change in the Contested Neighborhood'.

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