FREE TRADE AGREEMENT

BETWEEN

THE GOVERNMENT OF GEORGIA

AND

THE GOVERNMENT OF THE PEOPLE'S REPUBLICOF CHINA

PREAMBLE

The Governments of Georgia ("Georgia") and the People's Republic of China ("China"), hereinafter referred to collectively as "the Parties":

Inspired by their longstanding friendship and growing bilateral economic and trade relationship since the establishment of diplomatic relations in 1992;

Recalling the *Trade and Economic Cooperation Agreement between Republic of Georgia and the People's Republic of China* adopted in June 1993 with the objective of strengthening the comprehensive and stable economic and trade relationship between the Parties;

Building on their rights, obligations and undertakings under the *Marrakesh Agreement Establishing the World Trade Organization;*

Upholding the rights of their governments to regulate in order to meet national policy objectives, and to preserve their flexibility to safeguard public welfare;

Desiring to strengthen their economic partnership and further liberalise bilateral trade and promote investment to bring economic and social benefits, to create new opportunities for employment, to improve the living standards of their peoples, and to protect health, safety and environment;

Reaffirming their commitment to pursue the objective of sustainable development;

Resolved to create an expanded market for goods and services through establishing clear rules governing their trade which will ensure a predictable, transparent and consistent commercial framework for business operations;

Desiring to create favourable conditions for the development and diversification of trade between them and for the promotion of commercial and economic cooperation in areas of common interest;

Recognising that the strengthening of their economic partnership through a free trade agreement, which removes barriers to trade in goods and services, will produce mutual benefits for the Parties; and

Convinced that this Agreement will enhance the competitiveness of their firms in global markets and create conditions encouraging economic and trade relations between them;

Have agreed as follows:

CHAPTER 1
INITIAL PROVISIONS AND DEFINITIONS

ARTICLE 1.1: ESTABLISHMENT OF A FREE TRADE AREA

The Parties, consistent with Article XXIV of GATT 1994 and Article V of GATS, hereby establish a free trade area.

ARTICLE 1.2: RELATION TO OTHER AGREEMENTS

The Parties confirm their rights and obligations under the WTO Agreement and the other agreements negotiated thereunder to which both Parties are party, and any other international agreement to which both Parties are party.

ARTICLE 1.3: GEOGRAPHICAL APPLICABILITY[1]

1. With regard to Georgia, this Agreement shall apply to the entire territory of Georgia as defined by Georgian legislation, including land territory, its subsoil and the air space above it, internal waters and territorial sea, the sea bed, its subsoil and the air space above them, in respect of which Georgia exercises sovereignty, as well as the contiguous zone, the exclusive economic zone and continental shelf adjacent to its territorial sea, in respect of which Georgia exercises its sovereign rights and/or jurisdiction in accordance with the international law.

2. With regard to China, this Agreement shall apply to the entire customs territory of China, including land territory, territorial airspace, internal waters and territorial sea as well as their bed and subsoil, and any area beyond its territorial sea within which it may exercise sovereign rights and/or jurisdiction in accordance with international law and its domestic law;

3. Each Party is fully responsible for the observance of all provisions of this Agreement and shall take such reasonable measures as may be available to it to ensure their observance by local governments and authorities in its territory.

ARTICLE 1.4: GENERAL DEFINITIONS

For the purposes of this Agreement, unless otherwise specified:

(a) **days** means calendar days;

[1] This article is for the implementation of this Agreement only.

(b) **existing** means in effect on the date of entry into force of this Agreement;

(c) **GATS** means the *General Agreement on Trade in Services*, contained in Annex 1B to the WTO Agreement;

(d) **GATT 1994** means the *General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the WTO Agreement;

(e) **measure** includes any law, regulation, procedure, requirement or practice;

(f) **WTO** means the World Trade Organization; and

(g) **WTO Agreement** means the *Marrakesh Agreement Establishing the World Trade Organization*, done at Marrakesh on 15 April 1994.

CHAPTER 2
TRADE IN GOODS

ARTICLE 2.1: SCOPE

This Chapter applies to trade in goods between the Parties.

ARTICLE 2.2: DEFINITIONS

For the purposes of this Chapter:

(a) **Agreement on Import Licensing Procedures** means the *Agreement on Import Licensing Procedures* contained in Annex 1A to the *Marrakesh Agreement Establishing the World Trade Organization Agreement*;

(b) **customs duty** means any customs or import duty and a charge of any kind, including any form of surtax or surcharge, imposed in connection with the importation of a good, but does not include any:

(i) charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III of the GATT 1994, in respect of the like goods or, directly competitive or substitutable goods of the Party or in respect of goods from which the imported goods have been manufactured or produced in whole or in part;

(ii) anti-dumping or countervailing duty applied pursuant to a Party's law and applied consistently with the provisions of Article VI of the GATT 1994, the Agreement on the Implementation of Article VI of the GATT 1994 and the Agreement on Subsidies and Countervailing Measures; or

(iii) fees or other charges commensurate with the cost of services rendered.

ARTICLE 2.3: NATIONAL TREATMENT ON INTERNAL TAXATION AND REGULATION

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994. To this end, Article III of GATT 1994 is incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.4: ELIMINATION OF CUSTOMS DUTIES

1. Except as otherwise provided in this Agreement, the Parties shall eliminate its customs duties on originating goods (as defined in Article 3.2) originating in the other Party, as from the date of entry into force of this Agreement in accordance with its Schedule to Annex I (Schedules in Relation to Article 2.4 (Elimination of Customs Duties)).

2. Neither Party shall increase any existing customs duty or introduce a new customs duty on imports of an originating good of the other Party other than in accordance with this Agreement.

ARTICLE 2.5: CLASSIFICATION OF GOODS

The classification of goods in trade between the Parties shall be that set out in each Party's respective tariff nomenclature in conformity with the 2012 Harmonised System and subsequent amendments thereto.

ARTICLE 2.6: NON-TARIFF MEASURES

Unless otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction or measure having equivalent effect, including quantitative restrictions, on the importation of a good originating in the territory of the other Party, or on the exportation or sale for export of a good destined for the territory of the other Party except in accordance with Article XI of GATT 1994. To this end, Article XI of GATT 1994 is incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.7: IMPORT LICENSING

Each Party shall ensure that import licensing regimes applied to goods originating in the other Party are applied in accordance with the WTO Agreement, and in particular, with the provisions of the Agreement on Import Licensing Procedures.

ARTICLE 2.8: ADMINISTRATIVE FEES AND FORMALITIES

Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charges applied consistently with Article III:2 of GATT 1994, and antidumping and countervailing duties applied in accordance with Article VI and XVI of the GATT 1994, the Agreement on the Implementation of Article VI of the GATT 1994 and the Agreement on Subsidies and Countervailing Measures), imposed on or in connection with importation or exportation, are limited in

amount to the approximate cost of services rendered and do not represent indirect protection of domestic products or a taxation of imports or exports for fiscal purposes.

ARTICLE 2.9: ADMINISTRATION OF TRADE REGULATIONS

1. In accordance with Article X of GATT 1994, each Party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, judicial decisions and administrative rulings pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use.

2. In accordance with Article VIII of GATT 1994, neither Party shall impose substantial penalties for minor breaches of customs regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in customs documentation, which is easily rectified and obviously made without fraudulent intent or gross negligence, shall be greater than necessary to serve merely as a warning.

ARTICLE 2.10: DISPUTE SETTLEMENT

The dispute settlement provisions in Chapter 13 (Dispute Settlement) shall apply to any matter arising under this Chapter.

CHAPTER 3
RULES OF ORIGIN

Section 1 Rules of Origin

ARTICLE 3.1: DEFINITIONS

For the purposes of this Chapter:

"Customs value" means the value as determined in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (Customs Valuation Agreement);

"Ex-works price" means the price paid for the product ex-works to the producer located in a Party in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used, wage and any other cost, and profit minus any internal taxes returned or repaid when the product obtained is exported;

"**Fungible materials**" means materials which are interchangeable for commercial purposes, whose properties are essentially identical, and between which it is impractical to differentiate by a mere visual examination;

"**Generally accepted accounting principles**" means the recognized accounting standards of a Party with respect to the recording of revenues, expenses, costs, assets and liabilities, the disclosure of information and the preparation of financial statements. Those standards may encompass broad guidelines of general applications as well as detailed standards, practices and procedures;

"**Good**" means product or material;

"Product" means a product being produced, even if it is intended for later use in another production operation;

"**Materials**" means ingredients, parts, components, subassemblies and/or goods that were physically incorporated into another product or were subject to a process in the production of another product;

"**Production**" means any methods of obtaining goods including, but not limited to, growing, raising, mining, harvesting, fishing, aquaculture, farming, trapping, hunting, capturing, gathering, collecting, breeding, extracting, manufacturing, processing or assembling a good;

"**Originating materials"** means materials which qualify as originating in accordance with the provisions of this Chapter;

"**Harmonized System**" means the International Convention on the Harmonised Commodity Description and Coding System of 1983 and subsequent amendments thereto.

ARTICLE 3.2: ORIGINATING GOODS

Except as otherwise provided in this Chapter, the following goods shall be considered as originating in a Party:

(a) goods wholly obtained or produced in a Party as defined in Article 3.3 (Goods Wholly Obtained or Produced);

(b) goods produced in a Party exclusively from originating materials; or

(c) goods produced from non-originating materials in a Party, provided that the goods conform to a regional value content of no less than 40%, except for the goods listed in the Annex II-A (PSR) which must comply with the requirements specified therein.

ARTICLE 3.3: GOODS WHOLLY OBTAINED OR PRODUCED

For the purpose of subparagraph (a) of Article 3.2 (Originating Goods), the following goods shall be considered as wholly obtained in a Party:

(a) live animals born and raised in a Party;

(b) goods obtained from live animals referred to in subparagraph (a);

(c) plant products grown, and harvested, picked or gathered in a Party;

(d) goods obtained from hunting, trapping, fishing, aquaculture, gathering or capturing conducted in a Party;

(e) minerals and other naturally occurring substances not included in subparagraphs (a) through (d) above, extracted or taken from its soil, waters, seabed or subsoil beneath the seabed;

(f) goods extracted from the waters, seabed or subsoil beneath the seabed outside the territorial waters of a Party, provided that the Party has rights to exploit such waters, seabed or subsoil beneath the seabed in accordance with relevant international agreements to which that Party is a party;

(g) goods of sea fishing and other marine products taken from the sea outside the territorial waters of a Party by a vessel registered in a Party and flying

the flag of that Party;

(h) goods processed or made on board factory ships registered in a Party and flying the flag of that Party, exclusively from goods referred to in subparagraph (g) above;

(i) scrap and waste derived from processing operations in a Party, fit only for the recovery of raw materials;

(j) used goods collected in a Party which fit only for the recovery of raw materials; or

(k) goods produced entirely in a Party exclusively from goods referred to in subparagraphs (a) to (j) above.

ARTICLE 3.4: REGIONAL VALUE CONTENT (RVC)

1. The Regional Value Content（RVC）shall be calculated as follows:

$$RVC = \frac{\text{Ex-works Price} - \text{VNM}}{\text{Ex-works Price}} \times 100\%$$

Where:
RVC is the regional value content, expressed as a percentage; and
VNM is the value of the non-originating materials.

2. VNM shall be determined on the basis of the customs value at the time of importation of the non-originating materials, including materials of undetermined origin. If such value is unknown and cannot be ascertained, the first ascertainable price paid or payable for the materials in a Party shall be applied.

3. If a product which has acquired originating status in accordance with paragraph 1 in a Party is further processed in that Party and used as material in the manufacture of another product, no account shall be taken of the non-originating components of that material in the determination of the originating status of the product.

Article 3.5 Accumulation

Originating materials of a Party, used in the production of a good in the other Party, shall be considered to be originating in the latter Party.

ARTICLE 3.6 MINIMAL OPERATIONS OR PROCESSES

1. Notwithstanding Article 3.2 (c), a good shall not be considered as originating, if it has only undergone one or more of the following operations or processes:

(a) preservation operations to ensure the goods remain in good condition during transport and storage;

(b) simple assembly of parts of articles to constitute a complete article, or disassembly of products into parts;

(c) packing, unpacking or repacking operations for purposes of sale or presentation;

(d) slaughtering of animals.

(e) washing, cleaning, removal of dust, oxide, oil, paint or other coverings;

(f) ironing or pressing of textiles;

(g) simple painting and polishing operations;

(h) husking, partial or total bleaching, polishing, and glazing of cereals and rice;

(i) operations to colour sugar or form sugar lumps;

(j) peeling, stoning and shelling, of fruits, nuts and vegetables;

(k) sharpening, simple grinding or simple cutting;

(l) sifting, screening, sorting, classifying, grading, matching; (including the making-up of sets of articles), cutting, slitting, bending, coiling, or uncoiling;

(m) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and other similar packaging operations;

(n) affixing or printing marks, labels, logos or other like distinguishing signs on products or their packaging;

(o) simple mixing of goods, whether or not of different kinds;

(p) mere dilution with water or another substance that does not materially alter the characteristics of the goods; or

(q) operations whose sole purpose is to ease port handling.

2. All operations in the production of a given good carried out in a Party shall be taken into account when determining whether the working or process undergone by that good is considered as minimal operations or processes referred to in paragraph 1.

ARTICLE 3.7 DE MINIMIS

A good that doesn't meet the change in tariff classification required in Annex II-A (PSR) is nonetheless originating, if the value of non-originating material that have been used in the production of the good and do not undergo the applicable change in tariff classification does not exceed 10% of the ex-works price of the given good. The value of the said non-originating material shall be determined pursuant to paragraph 2 of Article 3.4 (Regional Value Content).

ARTICLE 3.8 FUNGIBLE MATERIALS

Where originating and non-originating fungible materials are used in the production of a good, the following methods shall be adopted in determining whether the materials used are originating:

(a) physical separation of the materials; or

(b) an inventory management method recognized in the generally accepted accounting principles of the exporting Party, and should be used for at least one fiscal year.

ARTICLE 3.9 NEUTRAL ELEMENTS

1. In determining whether a good is an originating good, any neutral elements as defined in paragraph 2 shall be disregarded.

2. Neutral elements means a good used in the production, testing or inspection of another good but not physically incorporated into that good by themselves, including:

(a) fuel, energy, catalysts and solvents;

(b) equipment, devices and supplies used for testing or inspecting the goods;

(c) gloves, glasses, footwear, clothing, safety equipment and supplies;

(d) tools, dies and moulds;

(e) spare parts and materials used in the maintenance of equipment and buildings;

(f) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings; and

(g) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

ARTICLE 3.10 PACKING, PACKAGES AND CONTAINERS

1. Containers and packing materials used for the transport of goods shall not be taken into account in determining the origin of the goods.

2 The origin of the packaging materials and containers in which goods are packaged for retail sale shall be disregarded in determining the origin of the goods, provided that the packaging materials and containers are classified with the goods.

3. Notwithstanding paragraph 2, where goods are subject to a regional value content requirement, the value of the packaging materials and containers used for retail sale shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the regional value content of the goods.

ARTICLE 3.11 ACCESSORIES, SPARE PARTS AND TOOLS

1. Accessories, spare parts, or tools presented and classified with the good shall be considered as part of the good, provided that:
   (a) they are invoiced together with the good; and
   (b) their quantities and values are commercially customary for the good.

2. Where a good is subject to change in tariff classification criterion set out in Annex II-A (PSR), accessories, spare parts, or tools described in paragraph 1 shall be disregarded when determining the origin of the good.

3. Where a good is subject to a regional value content requirement, the value of the accessories, spare parts or tools described in paragraph 1 shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the regional value content of the good.

ARTICLE 3.12 SETS

Sets, as defined in General Rule 3 of the Harmonised System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 % of the ex-works price of the set.

ARTICLE 3.13 DIRECT CONSIGNMENT

1. Preferential tariff treatment under this Agreement shall only be granted to

originating products which are transported directly between the Parties.

2. Notwithstanding paragraph 1, goods whose transport involves transit through one or more Non-Parties with or without trans-shipment or temporary storage of up to 3 months in such Non-Parties, shall still be considered as directly transported between the Parties, provided that:

(a) the transit entry of goods is justified for geographical reason or by consideration related exclusively to transport requirements;

(b) the goods do not undergo any other operation there other than unloading and reloading, or any operation required to keep them in good condition; and

(c) the goods remain under customs control during transit in those non-parties.

3. Compliance with the provisions set out in paragraph 2 shall be evidenced by presenting the customs authorities of the importing Party either with customs documents of the non-Parties, or with any other documents to the satisfaction of the customs authorities of the importing Party.

Section 2 Origin Implementation Procedures

ARTICLE 3.14 CERTIFICATE OF ORIGIN

1. A Certificate of Origin as set out in Annex II-B shall be issued by the authorized bodies of a Party (for Georgia, Customs administration; for China, China entry-exit inspection and quarantine organizations affiliated to the General Administration of Quality Supervision, Inspection and Quarantine and China Council for the Promotion of International Trade and its local sub-councils) on application by exporter or producer, provided that the goods can be considered as originating in that Party subject to the provision of this Chapter.

2. The Certificate of Origin shall:

(a) contain a unique certificate number;

(b) cover one or more goods under one consignment;

(c) state the basis on which the goods are deemed to qualify as originating for purposes of this Chapter;

(d) contain security features, such as specimen signatures or stamps as advised to the importing Party by the exporting Party; and

(e) be completed in English.

3. The Certificate of Origin shall be issued before or at the time of shipment. It shall be valid for one year from the date of issuance in the exporting Party.

4. Each Party shall inform the customs authority of the other Party of the name of each authorised body, as well as relevant contact details, and shall provide details of any security features for relevant forms and documents used by each authorized body, prior to the issuance of any certificates by that body. Any change in the information provided above shall be promptly notified to the customs authority of the other Party.

5. A Certificate of Origin may be issued retrospectively within one year from the date of shipment, bearing the words "ISSUED RETROSPECTIVELY" and remain valid for one year from the date of shipment, if:

(a) it was not issued before or at the time of shipment due to force majeure, involuntary errors, omissions or other valid causes; or

(b) it was requested by the customs authority of the importing Party, where a Certificate of Origin was issued but not accepted at importation.

6. For cases of theft, loss or accidental destruction of a Certificate of Origin, the exporter or producer may, make a written request to the authorized bodies of the exporting Party for issuing a certified copy, provided that the original copy previously issued has been verified not to be used. The certified copy shall bear the words "CERTIFIED TRUE COPY of the original Certificate of Origin number ___ dated ___". The certified copy shall be valid during the term of validity of the original Certificate of Origin.

ARTICLE 3.15 RETENTION OF ORIGIN DOCUMENTS

1. Each Party shall require its producers, exporters and importers to retain documents that prove the originating status of the goods as well as the fulfillment of the other requirements of this Chapter for at least 3 years or any longer time in accordance with each Party's domestic law .

2. Each Party shall require that its authorized bodies retain copies of Certificates of Origin and other related supporting documents for at least 3 years or any longer time in accordance with each Party's domestic law.

ARTICLE 3.16 OBLIGATIONS REGARDING IMPORTATIONS

Unless otherwise provided in this Chapter, the importer claiming for preferential

tariff treatment shall:

(a) indicate in the customs declaration that the good qualifies as an originating good;

(b) possess a valid Certificate of Origin, at the time the import customs declaration referred to in subparagraph (a) is made; and

(c) submit the valid Certificate of Origin and other documentary evidence related to the importation of the goods, upon request of the Customs Administration of the importing Party.

ARTICLE 3.17 REFUND OF IMPORT CUSTOMS DUTIES OR DEPOSIT

1. Where a Certificate of Origin is not submitted to the importing customs at the time of importation pursuant to Article 3.16 (Obligation Regarding Importation), upon the request of the importer, the Customs authorities of the importing Party may impose the applied non-preferential customs duties, or require a guarantee equivalent to the full amount of the customs duties on that good, provided that the importer formally declares to the customs authority at the time of importation that the good in question qualifies as an originating good.

2. The importer may apply for a refund of any excess customs duties imposed or guarantee paid provided they can present all the necessary documentation required under Article 3.16 and within the period specified in the legislation of the importing Party.

ARTICLE 3.18 WAIVER OF CERTIFICATE OF ORIGIN

1. Notwithstanding Article 3.16 (Obligation Regarding Importation), a Party may waive the requirements for the presentation of a Certificate of Origin to any consignments of originating goods of a customs value not exceeding US$ 600 or its equivalent amount in the Party's currency.

2. Waivers provided for in paragraph 1 shall not be applicable when it is established by the customs authorities of the importing Party that the importation forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the submission of Certificate of Origin.

ARTICLE 3.19 VERIFICATION OF ORIGIN

1. Subsequent verifications of origin may be carried out at random or whenever the

customs authorities of the importing Party have reasonable doubts as to the authenticity of Certificate of Origin, the originating status of the goods concerned or the fulfilment of the other requirements of this Chapter. The customs authority of the importing Party may conduct a verification of origin by means of：

(a) request of additional information from the importer;

(b) request of Administrative Assistance from the customs administration of the exporting Party; or

(c) conduct verification visit to the exporting Party, when necessary, in a manner to be jointly determined by the Parties.

2. The customs authority of the importing Party requesting verification to the exporting Party shall specify the reasons, and provide any documents and information justifying the verification.

3. The importer and the customs administration of the exporting Party referred to in paragraph 1 of this Article receiving a request for verification, shall respond to the request promptly and reply within six months from the date of raising verification request.

4. If no reply is received within the periods mentioned above, or if the reply does not contain sufficient information to determine the authenticity of the documents or the originating status of the goods in question, the requesting customs authorities may deny preferential tariff treatment.

ARTICLE 3.20 DENIAL OF PREFERENTIAL TARIFF TREATMENT

Except as otherwise provided in this Chapter, the importing Party may deny claim for preferential tariff treatment, if:

(a) the goods do not meet the requirements of this Chapter;

(b) the importer, exporter or producer fails to comply with the relevant requirements of this Chapter;

(c) the certificate of origin does not meet the requirement of this Chapter; or

(d) in a case stipulated in paragraph 4 of Article 3.19 (Verification of Origin).

ARTICLE 3.21 ELECTRONIC ORIGIN DATA EXCHANGE SYSTEM

Both Parties shall establish Electronic Origin Data Exchange System to ensure real-time exchange of origin related information between customs administrations, including:

a) information concerning the unique certificate number;

b) data of the exported goods entitled to preferential tariff treatment endorsed by the customs authorities of exporting Party;

c) information of the implementation of preferential tariff treatment administered by the importing Party.

ARTICLE 3.22 CONTACT POINTS

Each Party shall designate contact points to ensure the effective and efficient implementation of this chapter. All information shall only be exchanged via contact points.

Chapter 4
CUSTOMS PROCEDURES AND TRADE FACILITATION

ARTICLE 4.1: SCOPE AND OBJECTIVES

1. This Chapter shall apply, without prejudice to each Party's respective international obligations and domestic customs law, customs procedures applied to goods traded and to the movement of means of transport between the Parties.

2. The objectives of this Chapter are to:

(a) simplify and harmonize customs procedures of the Parties;

(b) facilitate trade between the Parties; and

(c) promote cooperation between the customs administrations, within the scope of this Chapter.

ARTICLE 4.2: DEFINITIONS

For purposes of this Chapter:

(a) **customs administration** means:

(i) for Georgia, Revenue Service - Legal Entity of Public Law of the Ministry of Finance;

(ii) for China, the General Administration of Customs of the People's Republic of China; and

(b) **customs law** means the statutory and regulatory provisions relating to the importation, exportation, movement or storage of goods, the administration or enforcement of which are specifically charged to the customs administration, and any regulations made by the customs administration under its statutory powers;

(c) **customs procedures** means the treatment applied by the customs administration to goods and means of transport that are subject to customs control;

(d) **Customs Valuation Agreement** means the *Agreement on Implementation of Article VII of the GATT 1994* which is a part of the Annex 1A of the *Marrakesh Agreement Establishing the World Trade Organization*; and

(e) **means of transport** means various types of vessels, vehicles, and aircrafts

which enter or leave the territory of a Party carrying persons and/or goods.

ARTICLE 4.3: FACILITATION

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent and transparent to facilitate trade.

2. Each Party shall use efficient customs procedures, based, as appropriate, on international standards, aiming to reduce costs and unnecessary delays in trade between them, in particular the standards and recommended practices of the World Customs Organization, including the principles of the revised *International Convention on the Simplification and Harmonization of Customs Procedures* (Revised Kyoto Convention).

3. Each Party shall limit controls, formalities and the number of documents required in the context of trade in goods between the Parties to those necessary and appropriate to ensure compliance with legal requirements, thereby simplifying, to the greatest extent possible, the related procedures.

4. The customs administration of each Party shall periodically review its customs procedures with a view to exploring options for the simplification and the enhancement of mutually beneficial arrangements to facilitate international trade.

ARTICLE 4.4: TRANSPARENCY

1. Each Party shall promptly publish, including on the Internet, its laws, regulations, and, where applicable, administrative rules or procedures of general application relevant to trade in goods between the Parties.

2. Each Party shall designate one or more enquiry points to address enquiries from interested persons on customs matters, and shall make available on the Internet information concerning procedures for making such enquiries.

3. To the extent practicable and in a manner consistent with its laws and regulations, each Party shall publish, in advance on the Internet, draft laws and regulations of general application relevant to trade between the Parties, with a view to affording the public, especially interested persons, an opportunity to provide comment.

4. Each Party shall ensure, to the extent possible, that a reasonable interval is provided between the publication of new or amended laws and regulations of general application relevant to trade between the Parties and their entry into force.

5. Each Party shall administer, in a uniform, impartial and reasonable manner, its laws and regulations of general application relevant to trade between the Parties.

ARTICLE 4.5: CUSTOMS VALUATION

The Parties shall determine the customs value of goods traded between them in accordance with the provisions of Article VII of GATT 1994 and *the Customs Valuation Agreement*.

ARTICLE 4.6: TARIFF CLASSIFICATION

The Parties shall apply the *International Convention on the Harmonized Commodity Description and Coding System* to goods traded between them.

ARTICLE 4.7: COOPERATION

1. To the extent permitted by their laws and regulations, the customs administrations of both Parties shall assist each other, in relation to:

(a) the implementation and operation of this Chapter;

(b) the application of the provisions laid down in the *Agreement Between the Customs Committee of the Republic of Georgia and the Customs General Administration of the People's Republic of China on Co-operation and Mutual Assistance*; and

(c) such other issues as the Parties may mutually agree.

2. Each Party shall endeavour to provide the other Party with timely notice of any significant modification of its customs laws, regulations or procedures that are likely to substantially affect the operation of this Agreement.

ARTICLE 4.8: ADVANCE RULINGS

1. Each Party shall provide for written advance rulings in a reasonable, time-bound manner to be issued to a person described in sub-paragraph 2 (a) concerning tariff classification, whether a good is originating under this Agreement.

2. Each Party shall adopt or maintain procedures for issuing written advance rulings, which shall:

(a) provide that an exporter, importer or any person with a justifiable cause, or a representative thereof, may apply for an advance ruling, before the date of importation of the goods that are the subject of the application. A Party may

require that an applicant have legal representation or registration in its territory;

(b) include a detailed description of the information required to process a request for an advance ruling;

(c) allow its customs administration, at any time during the course of an evaluation of an application for an advance ruling, to request that the applicant provide additional information necessary to evaluate the request;

(d) ensure that an advance ruling be based on the facts and circumstances presented by the applicant and any other relevant information in the possession of the decision-maker; and

(e) provide that the ruling be issued, in the national language of the issuing customs administration, to the applicant, expeditiously on receipt of all necessary information, within 90 days.

3. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting forth the basis for its decision to decline to issue the advance ruling.

4. A Party may reject requests for an advance ruling where the additional information requested in accordance with paragraph 2 (c) is not provided within the specified period.

5. Each Party shall endeavor to make information on advance rulings which it considers to be of significant interest to other traders, publicly available, taking into account the need to protect confidential information.

6. Subject to paragraph 7, each Party shall apply an advance ruling to importations into its territory through any port of entry, beginning on the date the advance ruling was issued or on any other date specified in the advance ruling. The Party shall ensure the same treatment of all importations of goods subject to the advance ruling during the validity period regardless of the importer or exporter involved, where the facts and circumstances are identical in all material respects.

7. A Party may modify or revoke an advance ruling, consistent with this Agreement, where:

(a) there is a change in the laws or regulations;

(b) incorrect information was provided or relevant information is withheld;

(c) there is a change in a material fact; or

(d) there is a change in the circumstances on which the ruling was based.

ARTICLE 4.9: REVIEW AND APPEAL

Each Party shall, in accordance with its domestic laws and regulations, provide that the importer, exporter or any other person affected by its administrative decisions on a customs matter, have access to:

(a) a level of administrative review of decisions by its customs administrations independent of the official or office responsible for the decision under review; and

(b) judicial review of the decisions subject to its laws and regulations.

ARTICLE 4.10: APPLICATION OF INFORMATION TECHNOLOGY

Each Party shall apply information technology to support customs operations, where it is cost-effective and efficient, particularly in the paperless trading context, taking into account developments in this area within relevant international organizations, including the World Customs Organization.

ARTICLE 4.11: RISK MANAGEMENT

1. Each Party shall adopt and maintain a risk management system for customs control and based on it, the Party shall determine which persons, goods or means of transport are to be examined and the extent of the examination.

2. Each Party shall work to further enhance the use of risk management techniques in the administration of its customs procedures so as to facilitate the clearance of low-risk goods and to allow resources to focus on high-risk goods.

3. Risk management shall be applied in such a manner that it does not create arbitrary or unjustifiable discrimination under the same conditions or disguised restriction on international trade.

ARTICLE 4.12: RELEASE OF GOODS

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties. For greater certainty, this paragraph shall not require a Party to release goods where its requirements for release have not been met.

2. In accordance with paragraph 1, each Party shall adopt or maintain procedures that:

(a) provide for the release of goods as rapidly as possible after arrival, provided all other regulatory requirements have been met;

(b) as appropriate, provide for advance electronic submission and processing of information before the physical arrival of goods with a view to expediting the release of goods; and

(c) may allow importers to obtain the release of goods prior to meeting all import requirements of that Party if the importer provides sufficient and effective guarantee and where it is decided that neither further examination, physical inspection nor any other submission is required.

3. Each Party shall endeavor to adopt and maintain a system under which goods in need of urgent clearance can obtain prompt customs clearance.

4. Each Party shall ensure that goods are released within a time period no longer than that required to ensure compliance with its customs laws.

ARTICLE 4.13: AUTHORIZED ECONOMIC OPERATOR

A Party operating an Authorized Economic Operator System or security measures affecting international trade flows shall:

(a) afford the other Party the possibility to negotiate mutual recognition of authorization and security measures for the purpose of facilitating international trade while ensuring effective customs control; and

(b) draw on relevant international standards, in particular the *WCO SAFE Framework of Standards to Secure and Facilitate Global Trade*.

ARTICLE 4.14: BORDER AGENCY COOPERATION

1. Each Party shall ensure that its authorities and agencies involved in border controls related to import, export or transit of goods, cooperate and coordinate their procedures in order to facilitate trade.

2. Each Party shall endeavor to establish, as far as practicable, an electronic means for communication of relevant information required by its customs administration and other relevant border agencies to facilitate the international movement of goods and means of transport.

ARTICLE 4.15: CONSULTATION

1. The customs administration of each Party may at any time request consultations with the customs administration of the other Party, on any matter arising from the implementation or operation of this Chapter, in cases where there are reasonable grounds or truth provided by the requesting Party. Such consultations shall be conducted through the relevant contact points, and shall take place within 60 days of the request, or any other possible time period that the Parties may mutually determine.

2. In the event that such consultations fail to resolve any such matter, the requesting Party may refer the matter to the FTA Joint Commission referred to in Article 14.1 (FTA Joint Commission) and Article 14.2 (Rules of Procedure of the FTA Joint Commission) of Chapter 14 (Institutional Provisions) for further consideration.

3. Each customs administration shall designate one or more contact points for the purposes of this Chapter. Information on the contact points shall be provided to the other Party and any amendment of the said information shall be notified promptly.

CHAPTER 5
SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 5.1: OBJECTIVES

The objectives of this Chapter are to:

(a) facilitate trade between the Parties while protecting human, animal or plant life or health in their territories;

(b) ensure transparency in and deepen mutual understanding of the application of each Party's Sanitary and Phytosanitary Measures (hereinafter referred to as "SPS measures")

(c) strengthen cooperation between the Parties; and

(d) facilitate implementation of the principles of the *Agreement on the Application of Sanitary and Phytosanitary Measures* in Annex 1A of the WTO Agreement (hereinafter referred to as "the SPS Agreement").

ARTICLE 5.2: SCOPE

This Chapter shall apply to all SPS measures of the Parties, which may, directly or indirectly, affect trade between the Parties.

ARTICLE 5.3: DEFINITIONS

For purposes of this Chapter, the definitions in Annex A of the SPS Agreement shall apply.

ARTICLE 5.4: AFFIRMATION OF THE SPS AGREEMENT

The Parties affirm their rights and obligations with respect to each other under the SPS Agreement.

ARTICLE 5.5: RISK ASSESSMENT

The Parties shall ensure that their SPS measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal, or plant life or health as provided in Article 5 of the SPS Agreement, taking into account the risk assessment techniques developed by the relevant international organizations.

ARTICLE 5.6: HARMONIZATION

1. The Parties shall make their best endeavour to base their SPS measures on international standards, guidelines, or recommendations where they exist.

2. The Parties shall strengthen communications, cooperation, and coordination with each other, where appropriate, in the *International Plant Protection Convention* (IPPC), the *Codex Alimentarius Commission* (Codex) and the *World Organisation for Animal Health* (OIE).

ARTICLE 5.7: REGIONALIZATION

The Parties recognise the principles of regionalisation and its implementation as provided for in Article 6 of the SPS Agreement and the relevant standards and guidelines established by the relevant international organisations.

ARTICLE 5.8: EQUIVALENCE

Each Party shall accept the SPS measures of the other Party as equivalent to its own if the exporting Party objectively demonstrates to the other Party that its measure achieves the other Party's appropriate level of protection. For this purpose, reasonable access shall be given, upon request, to the importing Party for inspection, testing and other relevant procedures.

ARTICLE 5.9: TRANSPARENCY

1. Each Party affirms its commitment to ensure that information regarding proposed new or amended SPS measures is made available in accordance with the notification obligations of the SPS Agreement.

2. Each Party shall make available the full text of its notified SPS measures, in available languages, to the requesting Party within 15 working days after receiving the written request.

3. Each Party shall allow at least 60 days following the notification of its proposed sanitary and phytosanitary measures to WTO for the other Party to present comments except where risks to human, animal or plant life or health arising or threatening to arise warrant urgent actions.

4. Each Party shall endeavour to take into consideration the comments of the

other Party and provide responses to these comments upon request in reasonable timeframe.

ARTICLE 5.10: TECHNICAL COOPERATION

1. The Parties agree to explore the opportunity for technical cooperation on SPS issues, with a view to enhancing the mutual understanding of the regulatory systems of the Parties and facilitating access to each other's market.

2. Each Party, on request, shall give due consideration to cooperation in relation to SPS issues.

ARTICLE 5.11: CONTACT POINTS

1. Each Party shall designate a contact point who shall, for that Party, have the responsibility for coordinating the implementation of this Chapter. The contact points will be:

(a) for Georgia, the Legal Entity of Public Law – National Food Agency; and

(b) for China, the General Administration of Quality Supervision, Inspection and Quarantine or its successor.

2. Each Party shall provide the other Party with the name of the designated contact point and the contact details of the relevant official in that organization, including telephone, facsimile, email, and any other relevant details.

3. Each Party shall notify the other Party promptly of any change in its contact point or any amendment to the details of the relevant officials.

CHAPTER 6
TECHNICAL BARRIERS TO TRADE

ARTICLE 6.1: OBJECTIVE

The objectives of this Chapter are to:

(a) facilitate and promote trade in goods between the Parties by ensuring that technical regulations, standards, and conformity assessment procedures do not create unnecessary technical barriers to trade;

(b) strengthen cooperation, including information exchange in relation to the preparation, adoption and application of standards, technical regulations, and conformity assessment procedures;

(c) promote mutual understanding of each Party's standards, technical regulations, and conformity assessment procedures; and

(d) facilitate implementation of the principles of the WTO Agreement on Technical Barriers to Trade.

ARTICLE 6.2: SCOPE

This Chapter shall apply to all technical regulations, standards, and conformity assessment procedures of each Party that may, directly or indirectly, affect trade in goods between the Parties. It shall exclude:

(a) SPS measures which are covered in Chapter 5 SPS (Sanitary and Phytosanitary Measures); and

(b) purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies, as provided by paragraph 1.4 of the Article 1 of the WTO Agreement on Technical Barriers to Trade.

ARTICLE 6.3: DEFINITION

For the purposes of this Chapter, the definitions set out in Annex 1 to the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement (hereinafter referred to as "TBT Agreement") shall apply.

ARTICLE 6.4: AFFIRMATION OF THE TBT AGREEMENT

The Parties affirm their rights and obligations with respect to each other under the TBT Agreement.

ARTICLE 6.5: TECHNICAL REGULATIONS[1]

Where relevant international standards exist or their completion is imminent, each Party shall use them, or relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance, due to fundamental climatic or geographical factors or fundamental technological problems.

ARTICLE 6.6:STANDARDS

1. For the purpose of applying this Chapter, standards issued, in particular, by the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the International Telecommunication Union (ITU) and Codex Alimentarius Commission (CAC) shall be considered relevant international standards in the sense of Article 2.4 of the TBT Agreement.

2. The Parties agree to strengthen exchanging of experience and information on the standardization area.

ARTICLE 6.7: CONFORMITY ASSESSMENT PROCEDURES

1. Each Party, with a view to increasing efficiency and ensuring cost effectiveness of the conformity assessments, shall seek upon request to enhance the acceptance of the results of conformity assessment procedures, conducted by the relevant accredited and/or authorized conformity assessment bodies in the territory of the other Party, through a separate mutual recognition agreement.

2. The Parties agree, upon request, to exchange information on conformity assessment procedures, including testing, certification and accreditation.

3. When cooperating in conformity assessment, the Parties shall take into consideration their participation in the relevant international and/or regional organizations.

[1] According to the definition of Technical Regulation in Annex 1 to the TBT Agreement, mandatory standards should be within the scope of Technical Regulation.

ARTICLE 6.8: TRANSPARENCY

1. Each Party affirms its commitment to ensuring that information regarding proposed new or amended technical regulations, standards, and conformity assessment procedures is made available in accordance with the relevant requirements of the TBT Agreement.

2. Each Party shall make available the full text of its notified technical regulations and conformity assessment procedures, in available languages, to the requesting Party within 15 working days after receiving the written request.

3. Each Party shall allow at least 60 days following the notification of its proposed technical regulation and conformity assessment procedures to WTO for the other Party to present comments except where risks to health, safety, and the environment arising or threatening to arise warrant urgent actions.

4. Each Party should take the comments of the other Party into due consideration and shall endeavour to provide responses to these comments upon request.

ARTICLE 6.9: TECHNICAL CONSULTATIONS

1. When a Party considers that a relevant technical regulation or conformity assessment procedure of the other Party has constituted unnecessary obstacle to its exports, it may request technical consultations. The requested Party shall respond as early as possible to such request.

2. The requested Party shall enter into technical consultations within a period mutually agreed, with a view to reaching a solution. Technical consultations may be conducted via any means mutually agreed by the Parties concerned.

ARTICLE 6.10: COOPERATION

With a view to increasing mutual understanding of their respective systems and facilitating bilateral trade, the Parties shall strengthen their technical cooperation in the following areas:

(a) communication between competent authorities of the Parties;

(b) exchange of information in respect of technical regulations, standards, conformity assessment procedures, and good regulatory practice;

(c) encouraging, where possible, cooperation between conformity assessment bodies of the Parties;

(d) cooperation in areas of mutual interest in the work of relevant regional and international bodies relating to the development and application of standards and conformity assessment procedures; and

(e) other areas mutually agreed by the Parties.

ARTICLE 6.11:CONTACT POINTS

1. Each Party shall designate a contact point who shall, for that Party, have the responsibility for coordinating the implementation of this Chapter. The contact points will be:

(a) for Georgia, Ministry of Economy and Sustainable Development of Georgia; and

(b) for China, the General Administration of Quality Supervision, Inspection and Quarantine or its successor.

2. Each Party shall provide the other Party with the name of the designated contact point and the contact details of the relevant official in that organization, including telephone, email and any other relevant details.

3. Each Party shall notify the other Party promptly of any change in their contact points or any amendments to the details of the relevant officials.

CHAPTER 7
TRADE REMEDIES

Section A: General Trade Remedies

ARTICLE 7.1: ANTI-DUMPING AND COUNTERVAILING MEASURES

1. Except as otherwise provided by paragraph 3 of this Article, each Party retains its rights and obligations under the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (GATT 1994) contained in Annex 1 A to the WTO Agreement.

2. Each Party retains its rights and obligations under *the Agreement on Subsidies and Countervailing Measures* contained in Annex 1A to the WTO Agreement.

3. Neither Party shall use a methodology based on surrogate value of a third country for the purpose of determining normal value when calculating dumping margin in an anti-dumping investigation.

ARTICLE 7.2: GLOBAL SAFEGUARD MEASURES

Each Party retains its rights and obligations under Article XIX of GATT 1994 and the WTO Agreement on Safeguards.

Section B Transitional Safeguard Measures

ARTICLE 7.3: APPLICATION OF A TRANSITIONAL SAFEGUARD MEASURE

1. During the transition period only, if as a result of the reduction or elimination of a customs duty provided under this Agreement, any product originating in a Party is being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to domestic industry producing a like or directly competitive product, the importing Party may apply a transitional safeguard measure described in paragraph 2 of this Article.

2. If the conditions in paragraph 1 of this Article are met, a Party may:

   (a) suspend the further reduction of any rate of customs duty on the product provided for under this Agreement; or

(b) increase the rate of customs duty on the product to a level not exceeding the lesser of:

(i) the most-favored-nation (hereinafter referred to as "MFN") applied rate of duty in effect on the product on the day immediately preceding the date of entry into force of this Agreement; or

(ii) the MFN applied rate of customs duty in effect on the product on the date on which the transitional safeguard measure is applied.

ARTICLE 7.4: SCOPE AND DURATION OF TRANSITIONAL SAFEGUARD MEASURES

1. From the entry into force of this Agreement in relation to a particular product, transitional period of the transitional safeguard measure shall be taken for a period not exceeding three years.

2. Neither Party may apply or maintain a transitional safeguard measure:

(a) except to the extent and for such time as may be necessary to prevent or remedy serious injury, and to facilitate adjustment; or

(b) for a period exceeding one year, except that the period may be extended by up to one year, if the competent authorities determine, in conformity with the procedures set out in section B (Transitional Safeguard Measures) of this Chapter, that the transitional safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting.

(c) without prejudice of subparagraph (a) and (b) of this paragraph, regardless of its duration, such measure shall terminate at the end of the transitional period.

3. In order to facilitate adjustment in a situation where the transitional safeguard measure is extended, the Party extending the measure shall liberalize it during the period of extension.

4. No transitional safeguard measure shall be applied to the import of a product, which has previously been subject to such a measure.

5. Neither Party may apply a transitional safeguard measure on a product that is subject to a measure that the Party has applied pursuant to Article XIX of GATT 1994 and the WTO Safeguard Agreement, and neither Party may maintain a transitional

safeguard measure on a product that becomes subject to a measure that the Party imposed pursuant to Article XIX of GATT 1994 and the WTO Safeguard Agreement.

6. On the termination of a transitional safeguard measure, the Party that applied the transitional safeguard measure shall apply the rate of customs duty set out in its schedule to Annex 1-A of this Agreement on the date of termination as if the transitional safeguard measure has never been applied.

ARTICLE 7.5: INVESTIGATION PROCEDURES

Transitional safeguard measure shall only be taken upon clear evidence that increased imports have caused or are threatening to cause serious injury pursuant to an investigation in accordance with the related procedures laid down in the WTO Agreement on Safeguard.

ARTICLE 7.6: PROVISIONAL MEASURE

1. In critical circumstances where delay would cause damage which it would be difficult to repair, a Party may take a provisional transitional safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports have caused or are threatening to cause serious injury to a domestic industry.

2. Before taking a provisional measure, the applying Party shall notify the other Party and shall, on request of the other Party, initiate consultations after applying such a measure.

3. The duration of a provisional transitional safeguard measure shall not exceed 200 days, during which period the pertinent requirement of Article 7.3, 7.4 and 7.5 shall be met. Such a provisional transitional safeguard measure should take the form of a suspension of the further reduction of any rate of duty provided for under this Agreement on the product or an increase in the customs duties not exceeding the lesser of the rates in Article 7.3.2 (b). Any additional customs duties or guarantees collected shall be promptly refunded if the subsequent investigation referred to in Article 7.5 determines that increased imports have not caused or threatened to cause serious injury to a domestic industry.

4. The duration of any such provisional transitional safeguard measure shall be counted as a part of the initial period and any extension of a transitional safeguard measure.

ARTICLE 7.7: NOTIFICATION AND CONSULTATION

1. A Party shall immediately notify the other Party, in writing on:

(a) initiating a transitional safeguard investigation;

(b) making a finding of serious injury or threat thereof caused by increased imports;

(c) taking a decision to apply or extend a transitional safeguard measure; and

(d) taking a decision to liberalize a transitional safeguard measure previously applied, in accordance with Article 7.4.3.

2. In making the notification referred to in subparagraphs (b) and (c) of paragraph 1 of this Article, the Party applying a transitional safeguard measure shall provide the other Party with all pertinent information, which shall include evidence of serious injury or threat thereof caused by increased imports, a precise description of the product involved, the proposed transitional safeguard measure, the proposed date of introduction and its expected duration. In the case of an extension of a transitional safeguard measure, the written results of the determination required by Article 7.5, including evidence that the continued application of the measure is necessary to prevent or remedy serious injury and that the industry is adjusting shall also be provided.

3. A Party proposing to apply or extend a transitional safeguard measure shall provide adequate opportunity for prior consultations with the other Party, with a view to, *inter alia*, reviewing the information provided under paragraph 2 of this Article, exchanging views on the transitional safeguard measure and, in the case of extending a transitional safeguard measure reaching an agreement on compensation as set forth in Article 7.8.1.

4. A party shall provide to the other Party a copy of the publicly available version of the report of its competent authorities in accordance with WTO Agreement on Safeguards as soon as it is available.

ARTICLE 7.8: COMPENSATION

1. A party extending a transitional safeguard measure shall, in consultation with the other Party, provide to the other Party mutually agreed compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the measure. Such consultations shall begin within 30 days of the extension of the transitional safeguard measure.

2. If the Parties are unable to reach an agreement on compensation within 30 days after the consultation commences, the exporting Party shall be free to suspend the

application of substantially equivalent concessions to the trade of the Party extending the transitional safeguard measure.

3. A Party shall notify the other Party in writing at least 30 days before suspending concession under paragraph 2 of this Article.

4. The extending Party's obligation to provide compensation under paragraph 1 and the other Party's right to suspend concessions under paragraph 2 of this Article shall terminate on the date of the termination of the transitional safeguard measure.

CHAPTER 8
TRADE IN SERVICES

PART I: SCOPE AND DEFINITIONS

ARTICLE 8.1: SCOPE

1. This Chapter shall apply to measures adopted or maintained by a Party affecting trade in services.

2. This Chapter shall not apply to:

(a) measures affecting air traffic rights, however granted, or measures affecting services directly related to the exercise of air traffic rights and air traffic control and air navigation services, other than measures affecting:

(i) aircraft repair and maintenance services;

(ii) the selling and marketing of air transport services; and

(iii) computer reservation system ("CRS") services.

The Parties note the multilateral negotiations pursuant to the review of the Annex on Air Transport Services of GATS. Upon the conclusion of such multilateral negotiations, the Parties shall conduct a review for the purpose of discussing appropriate amendments to this Agreement so as to incorporate the results of such multilateral negotiations.

(b) government procurement;

(c) services supplied in the exercise of governmental authority in the territory of a Party;

(d) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance; and

(e) measures affecting natural persons of a Party seeking access to the employment market of the other Party, or measures regarding citizenship, residence or employment on a permanent basis.

ARTICLE 8.2: DEFINITIONS

For the purposes of this Chapter:

(a) **aircraft repair and maintenance services** means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and does not include so-called "line maintenance";

(b) **commercial presence** means any type of business or professional establishment, including through:

(i) the constitution, acquisition, or maintenance of a juridical person; or

(ii) the creation or maintenance of a branch or a representative office, within the territory of a Party for the purpose of supplying a service;

(c) **computer reservation system services** mean services provided by computerized systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

(d) **controlled** means having the power to name a majority of directors or otherwise legally direct a juridical person's actions;

(e) **juridical person** of a Party means any legal entity duly constituted or otherwise organized under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship, or association, which is either:

(i) constituted or otherwise organized in accordance with the law of that Party, and is engaged in substantive business operations in the territory of that Party; or

(ii) in the case of the supply of a service through commercial presence, owned or controlled by:

(A) natural persons of that Party; or

(B) juridical persons of that Party identified under subparagraph (i);

(f) **measure** means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form, taken by:

(i) central, regional, or local governments and authorities; and

(ii) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities;

(g) **measures by Parties affecting trade in services** include measures in respect of:

(i) the purchase, payment, or use of a service;

(ii) the access to and use of, in connection with the supply of a service, services which are required by the Parties to be offered to the public generally; and

(iii) the presence, including commercial presence, of persons of a Party for the supply of a service in the territory of the other Party;

(h) **monopoly supplier of a service** means any person, public or private, which in the relevant market of the territory of a Party is authorized or established formally or in effect by that Party as the sole supplier of that service;

(i) **natural person of a Party** means a natural person who under the law of the Party,

(i) for Georgia, is a natural person who under Georgian law is a national of Georgia; and

(ii) for China, is a natural person who under the Chinese law is a national of China;

(j) **owned** means holding more than 50 percent of the equity interest in a juridical person;

(k) **person of a Party** means either a natural person or a juridical person of a Party;

(l) **qualification procedures** means administrative procedures relating to the administration of qualification requirements;

(m) **qualification requirements** means substantive requirements which a service supplier is required to fulfill in order to obtain certification or a licence;

(n) **sector of a service** means, with reference to a specific commitment, one or more or all subsectors of that service, as specified in a Party's

Schedule in Annex 8-E and Annex 8-F, or otherwise the whole of that service sector, including all of its subsectors;

(o) **selling and marketing of air transport services** means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution, but do not include the pricing of air transport services nor the applicable conditions;

(p) **services** includes any service in any sector except services supplied in the exercise of governmental authority;

(q) **service consumer** means any person that receives or uses a service;

(r) **service supplied in the exercise of governmental authority** means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;

(s) **service supplier of a Party** means any person of a Party that supplies a service;[1]

(t) **supply of a service** includes the production, distribution, marketing, sale and delivery of a service;

(u) **trade in services** means the supply of a service:

(i) from the territory of a Party into the territory of the other Party ("cross-border supply mode");

(ii) in the territory of a Party to the service consumer of the other Party ("consumption abroad mode");

(iii) by a service supplier of a Party, through commercial presence in the territory of the other Party ("commercial presence mode"); and

(iv) by a service supplier of a Party, through presence of natural persons of that Party in the territory of the other Party ("presence of natural persons mode" or "movement of natural persons mode");

[1] Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the juridical person) shall, nonetheless, through such commercial presence be accorded the treatment provided for service suppliers in accordance with this Chapter. Such treatment shall be extended to the commercial presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory of a Party where the service is supplied.

(v) **traffic rights** means the right for scheduled and non-scheduled services to operate and/or to carry passengers, cargo and mail for remuneration or hire from, to, within, or over the territory of a Party, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged and their conditions, and criteria for designation of airlines, including such criteria as number, ownership and control.

PART II: GENERAL OBLIGATIONS AND DICIPLINES

ARTICLE 8.3: SCHEDULING OF SPECIFIC COMMITMENTS

1. Where a Party schedules commitments in accordance with this Part, it shall set out in a schedule, called its Schedule of Specific Commitments, the specific commitments it undertakes in accordance with Articles 8.4, 8.5 and 8.7. With respect to sectors where such commitments are undertaken, its Schedule of Specific Commitments shall specify:

(a) terms, limitations and conditions on market access;

(b) conditions and qualifications on national treatment;

(c) undertakings relating to additional commitments; and

(d) where appropriate, the time-frame for implementation of such commitments.

2. Measures inconsistent with both Articles 8.4 and 8.5 shall be inscribed in the column relating to Article 8.5. In this case the inscription will be considered to provide a condition or qualification to Article 8.4 as well.

3. Schedules of Specific Commitments are annexed to this Agreement as Annex 8-E and Annex 8-F and shall form an integral part thereof.

ARTICLE 8.4: NATIONAL TREATMENT

1. Where a Party schedules commitments in accordance with this Part, in the sectors inscribed in its Schedule of Specific Commitments in Annex 8-E and Annex 8-F and subject to any conditions and qualifications set out therein, it shall accord to services and service suppliers of the other Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.[2]

[2] Specific commitments assumed under this Article shall not be construed to require the Party to compensate for any inherent competitive disadvantages which result from the foreign character of the

2. A Party may meet the requirement in paragraph 1 by according to services and service suppliers of the other Party either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment by a Party shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of that Party compared to the like service or service suppliers of the other Party.

ARTICLE 8.5: MARKET ACCESS

1. With respect to market access through the modes of supply identified in Article 8.2(u), a Party shall accord services and service suppliers of the other Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule of Specific Commitments in Annex 8-E and Annex 8-F. [3]

2. In sectors where market access commitments are undertaken, the measures which a Party shall not maintain or adopt, either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule of Specific Commitments in Annex 8-E and Annex 8-F, are defined as:

(a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test; [4]

(d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may

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relevant services or service suppliers.

[3] If a Party undertakes a market access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (u)(i) of Article 8.2, and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (u)(iii) of Article 8.2, it is thereby committed to allow related transfers of capital into its territory.

[4] Paragraph 2(c) does not cover measures of a Party which limit inputs for the supply of services.

employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;

(e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and

(f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

ARTICLE 8.6: MOST-FAVOURED-NATION TREATMENT

1. Without prejudice to measures taken in accordance with Article VII of the GATS, and except as provided for in its List of MFN Exemptions contained in Annex 8-E and Annex 8-F, each Party shall accord immediately and unconditionally, in respect of all measures affecting the supply of services, to services and service suppliers of the other Party treatment no less favourable than the treatment it accords to like services and service suppliers of any non-party.[5]

2. Treatment granted under other existing or future agreements concluded by a Party and notified under Article V or Article V *bis* of the GATS shall not be subject to paragraph 1.

3. If a Party concludes or amends an agreement of the type referred to in paragraph 2, it shall, upon request from the other Party, endeavour to accord to the other Party treatment no less favourable than that provided under that agreement. The former Party shall, upon request from the other Party, afford adequate opportunity to the other Party to negotiate the incorporation into this Agreement of a treatment no less favourable than that provided under the former agreement.

4. The provisions of this Chapter shall not be so construed as to prevent a Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.

ARTICLE 8.7: ADDITIONAL COMMITMENTS

A Party may also negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 8.4 and 8.5, including but not

[5] For the purposes of this Article, the term "non-party" shall not include the following WTO members within the meaning of the WTO Agreement: (1) Hong Kong, China; (2) Macao, China; and (3) Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei).

limited to those regarding qualification, standards or licensing matters. Such commitments shall be inscribed in that Party's Schedule of Specific Commitments in Annex 8-E and Annex 8-F.

PART III: OTHER PROVISIONS

ARTICLE 8.8: DOMESTIC REGULATION

1. In sectors where specific commitments are undertaken, each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

2.

(a) Each Party shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, on request of an affected service supplier, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Party shall ensure that the procedures in fact provide for an objective and impartial review.

(b) The provisions of subparagraph (a) shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

3. Where authorisation is required for the supply of a service on which a specific commitment under this Agreement has been made, the competent authorities of each Party shall:

(a) in the case of an incomplete application, on request of the applicant, identify all the additional information that is required to complete the application and provide the opportunity to remedy deficiencies within a reasonable timeframe;
(b) on request of the applicant, provide without undue delay information concerning the status of the application; and
(c) if an application is terminated or denied, to the maximum extent possible, inform the applicant in writing and without delay the reasons for such action. The applicant will have the possibility of resubmitting, at its discretion, a new application.

4. To ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, the Parties shall jointly review the results of the negotiations on

disciplines on these measures pursuant to paragraph 4 of Article VI of GATS, with a view to their incorporation into this Agreement. The Parties note that such disciplines aim to ensure that such requirements are, *inter alia*:

(a) based on objective and transparent criteria, such as competence and the ability to supply the service;

(b) not more burdensome than necessary to ensure the quality of the service; and

(c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

5.

(a) In sectors in which a Party has undertaken specific commitments, pending the incorporation of the disciplines referred to in paragraph 4, that Party shall not apply licensing and qualification requirements and technical standards that nullify or impair its obligation under this Agreement in a manner which:

(i) does not comply with the criteria outlined in subparagraphs 4(a), (b) or (c); and

(ii) could not reasonably have been expected of that Party at the time the specific commitments in those sectors were made.

(b) In determining whether a Party is in conformity with the obligation under subparagraph 5(a), account shall be taken of international standards of relevant international organisations applied by that Party.[6]

6. In sectors where specific commitments regarding professional services are undertaken, each Party shall provide for adequate procedures to verify the competence of professionals of the other Party.

7. A Party shall, in accordance with its laws and regulations, permit services suppliers of the other Party to use enterprise names under which they trade in the territory of the other Party.

8. In accordance with Georgian legislation, Georgia permits Chinese nationals to participate in Georgia's qualification examination for auditors and permits Chinese nationals who have passed such examination to be registered/licensed and practice in Georgia on the same condition as provided for Georgian service suppliers.

6 The term "relevant international organisations" refers to international bodies whose membership is open to the relevant bodies of the Parties to this Agreement.

ARTICLE 8.9: RECOGNITION

1. For the purposes of the fulfillment, in whole or in part, of its standards or criteria for the authorisation, licensing or certification of service suppliers, and subject to the requirements of paragraph 4, a Party may recognise, or encourage its relevant competent bodies to recognise, the education or experience obtained, requirements met, or licences or certifications granted in the other Party. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement between the Parties or their relevant competent bodies, or may be accorded autonomously.

2. Where a Party recognises, autonomously or by agreement or arrangement, the education or experience obtained, requirements met, or licences or certifications granted in the territory of a non-party, nothing in Article 8.6 shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met, or licences or certifications granted in the territory of the other Party.

3. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 2, whether existing or in the future, shall afford adequate opportunity for the other Party, on request, to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that the education, experience, licences or certifications obtained or requirements met in that other Party's territory should also be recognised.

4. A Party shall not accord recognition in a manner which would constitute a means of discrimination between the other Party and non-parties in the application of its standards or criteria for the authorisation, licensing or certification of service suppliers, or a disguised restriction on trade in services.

ARTICLE 8.10: QUALIFICATIONS RECOGNITION COOPERATION

1. The Parties agree to encourage, where possible, the relevant bodies in their respective territories responsible for issuance and recognition of professional and vocational qualifications to strengthen cooperation and to explore possibilities for mutual recognition of respective professional and vocational qualifications.

2. The Parties may discuss, as appropriate, relevant bilateral, plurilateral and multilateral agreements relating to professional and vocational services.

ARTICLE 8.11: PAYMENTS AND TRANSFERS

1. Except in the circumstances envisaged in Article 16.6 (Measures to Safeguard the Balance-of-Payments) of Chapter 16 (General Provisions and Exceptions), a Party

shall not apply restrictions on international transfers and payments for current transactions relating to its specific commitments.

2. Nothing in this Chapter shall affect the rights and obligations of the Parties as members of the International Monetary Fund in accordance with the Articles of Agreement of the International Monetary Fund, including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions, except under Article 16.6 (Measures to Safeguard the Balance of Payments) of Chapter 16 (General Provisions and Exceptions), or at the request of the International Monetary Fund.

ARTICLE 8.12: DENIAL OF BENEFITS

Subject to prior notification and consultation, a Party may deny the benefits of this Chapter to a service supplier of the other Party if the service supplier is a juridical person:

(a) owned or controlled by persons of a non-party or of the denying Party; and

(b) has no substantive business operations in the territory of the other Party.

ARTICLE 8.13: TRANSPARENCY

1. Each Party shall ensure that:
   (a) regulatory decisions, including the basis for such decisions, are promptly published or otherwise made available to all interested persons; and
   (b) its measures relating to public networks or services are made publicly available, including the requirements, if any, for permits.

2. Each Party shall ensure that, where a licence is required, all measures relating to the licensing of suppliers of public networks or services are made publicly available, including:
   (a) the circumstances in which a licence is required;
   (b) all applicable licencing procedures;
   (c) the period of time normally required to reach a decision concerning a licence application;
   (d) the cost of, or fees for applying for, or obtaining, a licence; and
   (e) the period of validity of a licence.

3. Each Party shall, in accordance with its laws and regulations, ensure that, on request, an applicant receives reasons for the denial of, revocation of, refusal to renew,

or the imposition or modification of conditions on, a licence. Each Party shall endeavour to provide, to the extent possible, such information in writing.

ARTICLE 8.14: CONTACT POINTS

Each Party shall designate one or more contact points to facilitate communications between the Parties on any matter covered by this Chapter, and shall provide details of such contact points to the other Party. The Parties shall notify each other promptly of any amendments to the details of their contact points.

ARTICLE 8.15: MODIFICATION OF SCHEDULES

1. A Party (referred to in this Article as the "modifying Party") may modify or withdraw any commitment in its Schedule in Annex 8-E and Annex 8-F at any time after three years have elapsed from the date on which that commitment entered into force, provided that:

   (a) it notifies the other Party (referred to in this Article as the "affected Party") of its intention to modify or withdraw a commitment no later than three months before the intended date of implementation of the modification or withdrawal; and

   (b) upon notification of a Party's intent to make such modification, the Parties shall consult and attempt to reach agreement on the appropriate compensatory adjustment.

2. In achieving a compensatory adjustment, the Parties shall endeavour to maintain a general level of mutually advantageous commitment that is not less favourable to trade than provided for in the Schedules prior to such negotiations.

3. If agreement under paragraph 1(b) is not reached between the modifying Party and the affected Party within three months, the affected Party may refer the matter to an arbitral tribunal in accordance with the procedures set out in Chapter 15 (Dispute Settlement) or, where agreed between the Parties, to an alternative arbitration procedure.

4. The modifying Party may not modify or withdraw its commitment until it has made the compensatory adjustments in conformity with the findings of the arbitral tribunal in accordance with paragraph 3.

5. If the modifying Party implements its proposed modification or withdrawal and does not comply with the findings of the arbitral tribunal, the affected Party may modify or withdraw substantially equivalent benefits in conformity with the findings of the arbitral tribunal.

ARTICLE 8.16: MONOPOLIES AND EXCLUSIVE SERVICE SUPPLIERS

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations under its Schedule in Annex 8-E and Annex 8-F.

2. Where a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's specific commitments in its Schedule in Annex 8-E and Annex 8-F, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.

3. If a Party has reason to believe that a monopoly supplier of a service of the other Party is acting in a manner inconsistent with paragraph 1 or 2, that Party may request the other Party establishing, maintaining or authorising such supplier to provide specific information concerning the relevant operations.

4. If, after the date of entry into force of this Agreement, a Party grants monopoly rights regarding the supply of a service covered by its specific commitments in its Schedule in Annex 8-E and Annex 8-F, that Party shall notify the other Party no later than three months before the intended implementation of the grant of monopoly rights, and paragraphs 1(b) and 2 of Article 8.16 shall apply.

5. This Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect,

(a) authorises or establishes a small number of service suppliers; and

(b) substantially prevents competition among those suppliers in its territory.

ARTICLE 8.17: REVIEW

1. The Parties shall consult within two years of the date of entry into force of this Agreement and every two years thereafter, or as otherwise agreed, to review the implementation of this Chapter and consider other trade in services issues of mutual interest, with a view to the progressive liberalisation of the trade in services between them on a mutually advantageous basis.

2. Where a Party unilaterally liberalises a measure affecting market access of a service supplier or suppliers of the other Party, the other Party may request consultations to discuss the measure. Following such consultations, if the Parties agree to incorporate the liberalised measure into the Agreement as a new commitment, the relevant Schedule in Annex 8-E and Annex 8-F shall be amended.

ANNEX 8-A
FINANCIAL SERVICES

ARTICLE 1: SCOPE

1. This Annex provides for measures additional to Chapter 8 (Trade in Services) in relation to financial services.

2. This Annex applies to measures affecting the supply of financial services. Reference to the supply of a financial service in this Annex shall mean the supply of a financial service:

(a) from the territory of a Party into the territory of the other Party;

(b) in the territory of a Party to the service consumer of the other Party;

(c) by a service supplier of a Party, through commercial presence in the territory of the other Party; or

(d) by a service supplier of a Party, through presence of natural persons of that Party in the territory of the other Party.

ARTICLE 2: DEFINITIONS

1. For the purposes of this Annex, "services supplied in the exercise of governmental authority" as referred to in Chapter 8 (Trade in Services) of this Agreement means the following:

(a) activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;

(b) activities forming part of a statutory system of social security or public retirement plans; or

(c) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government,

except where a Party allows the activities referred to in paragraph 1(b) or paragraph 1(c) to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier.

2. The definition of "service supplied in the exercise of governmental authority" in Article 8.2 (Definitions) of Chapter 8 (Trade in Services) shall not apply to services covered by this Annex.

3. For the purposes of this Annex:

(a) **financial service** is any service of a financial nature offered by a financial service supplier of a Party. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:

Insurance and insurance-related services

(i) direct insurance (including co-insurance):

(A) life; and

(B) non-life;

(ii) reinsurance and retrocession;

(iii) insurance intermediation, such as brokerage and agency;

(iv) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;

Banking and other financial services (excluding insurance)

(v) acceptance of deposits and other repayable funds from the public;

(vi) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

(vii) financial leasing;

(viii) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;

(ix) guarantees and commitments;

(x) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market, or otherwise, the following:

(A) money market instruments (including cheques, bills, certificates of deposits);

(B) foreign exchange;

(C) derivative products including, but not limited to, futures and options;

(D) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

(E) transferable securities; and

(F) other negotiable instruments and financial assets, including bullion;

(xi) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

(xii) money broking;

(xiii) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

(xiv) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

(xv) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and

(xvi) advisory, intermediation and other auxiliary financial services on all the activities listed in paragraphs 3(a)(v) through 3(a)(xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

(b) **financial service supplier** means any natural or juridical person of a Party wishing to supply or supplying financial services but does not include a public entity; and

(c) **public entity** means:

(i) a government, a central bank or a monetary authority of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or

(ii) a private entity performing functions normally performed by a central bank or monetary authority, when exercising those functions.

ARTICLE 3: DOMESTIC REGULATION

1. Notwithstanding any other provisions of this Chapter, a Party shall not be prevented from adopting or maintaining reasonable measures for prudential reasons, including for:

(a) the protection of investors, depositors, policy-holders, policy-claimants, persons to whom a fiduciary duty is owed by a financial service supplier, or any similar financial market participants; or

(b) ensuring the integrity and stability of that Party's financial system.

2. Where such measures do not conform with the provisions of this Chapter, they shall not be used as a means of avoiding that Party's commitments or obligations under this Chapter. Such measures shall not constitute a disguised restriction on trade in services and shall not discriminate against financial services or financial service suppliers of the other Party in comparison to the Party's own like financial services or like financial service suppliers.

3. Nothing in this Chapter shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

ARTICLE 4: RECOGNITION

1. A Party may recognise prudential measures of the other Party, or a non-party, in determining how the Party's measures relating to financial services shall be applied. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement with the other Party, or a non-party concerned, or may be accorded autonomously.

2. A Party that is a party to such an agreement or arrangement referred to in paragraph 1, whether future or existing, shall afford adequate opportunity for the other Party to negotiate its accession to such agreements or arrangements, or to negotiate comparable ones with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation, and, if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement.

3. Where a Party accords recognition autonomously, it shall afford adequate

opportunity for the other Party to demonstrate that such circumstances as referred to in paragraph 2 exist.

ARTICLE 5: REGULATORY TRANSPARENCY

1. The Parties recognise that transparent measures governing the activities of financial service suppliers are important in facilitating their ability to gain access to and operate in each other's market.

2. Each Party shall ensure that measures of general application adopted or maintained by a Party are promptly published or otherwise made publicly available.

3. Each Party shall take such reasonable measures as may be available to it to ensure that the rules of general application adopted or maintained by self-regulatory organisations[7] of the Party are promptly published or otherwise made publicly available.

4. Each Party shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons[8] of the other Party regarding measures of general application to which this Annex applies.

5. Each Party's regulatory authorities shall make publicly available their requirements, including any documentation required, for completing applications relating to the supply of financial services.

6. Each Party's regulatory authorities shall make administrative decisions on a completed application of a financial service supplier of the other Party seeking to supply a financial service in that Party's territory within 180 days and shall notify the applicant of the decision where possible in writing, without undue delay:

(a) an application shall not be considered complete until all relevant proceedings are conducted and the regulatory authorities consider all necessary information has been received; and

(b) where it is not practicable for a decision to be made within 180 days, the regulatory authority shall notify the applicant without delay and shall endeavour to make the decision within a reasonable time thereafter.

[7] "Self-regulatory organisations" are either (a) a non-government organization that has statutory authority to regulate its own members through the adoption, supervision and enforcement of rules of conduct for fair, ethical and efficient practices in its industry; or (b) otherwise as defined by laws and regulations of a Party.

[8] For China, "interested persons" in this Article should only be persons whose direct financial interest could potentially be affected by the adoption of the regulations of general application; for Georgia, any natural or legal person who requests public information according to legislation of Georgia.

7. On the written request of an unsuccessful applicant, a regulatory authority that has denied an application shall endeavour to inform the applicant of the reasons for denial of the application in writing.

ARTICLE 6: DISPUTE SETTLEMENT

Arbitrators on an arbitral tribunal established in accordance with Chapter 15 (Dispute Settlement) for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service under dispute.

ARTICLE 7: CONSULTATIONS

A Party may request consultations with the other Party regarding any matter arising under this Agreement that affects financial services. The other Party shall give sympathetic consideration to the request.

ANNEX 8-B
MOVEMENT OF NATURAL PERSONS

ARTICLE 1: SCOPE

1. This Annex shall apply to measures affecting the movement of natural persons of a Party into the territory of the other Party under any of the categories referred to in Annex 8-E and Annex 8-F (Schedules of Specific Commitments).

2. This Annex shall not apply to measures affecting natural persons of a Party seeking access to the employment market of the other Party, nor shall it apply to measures regarding citizenship, nationality, or residence or employment on a permanent basis.

3. Nothing contained in this Agreement shall prevent a Party from applying measures to regulate the entry or temporary stay of natural persons of the other Party in its territory, including measures necessary to protect the integrity of its territory and to ensure the orderly movement of natural persons across its borders, provided such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under this Annex.[9]

ARTICLE 2: DEFINITIONS

For the purposes of this Annex:

(a) **natural person** of a Party means a natural person of a Party as defined in Chapter 8 (Trade in Services).

(b) **temporary entry** means entry by a natural person covered by the Annex 8-E and Annex 8-F (Schedules of Specific Commitments) without the intent to establish permanent residence and for the purpose of engaging in activities, which are clearly related to their respective business purposes.

(c) **immigration measure** means any measure, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form affecting the entry and stay of foreign nationals in the territory of a Party.

ARTICLE 3: OBJECTIVES

[9] The sole fact that a Party requires natural persons of the other Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to that other Party under this Annex.

This Annex reflects the preferential trading relationship between the Parties, their mutual desire to facilitate temporary entry for a natural person in accordance with Annex 8-E and Annex 8-F (Schedules of Specific Commitments), while recognizing the need to ensure border security and protect domestic labor force and permanent employment in their respective territories.

ARTICLE 4: GENERAL PRINCIPLES FOR GRANT OF TEMPORARY ENTRY

1. Each Party shall set out in Annex 8-E and Annex 8-F (Schedules of Specific Commitments) the specific commitments it undertakes for each of the categories of natural persons specified therein.

2. Where a Party makes a commitment under paragraph 1, that Party shall grant temporary entry of natural person of the other Party, as provided for in the commitment, given that such natural person is otherwise qualified under all applicable immigration measures.

3. Temporary entry granted in accordance with this Annex does not replace the requirements needed to carry out a profession or activity according to the applicable laws and regulations in force in the territory of the Party authorizing the temporary entry.

ARTICLE 5: TRANSPARENCY

Each Party shall, upon modification or amending an immigration measure that affects the temporary entry of natural persons, ensure that such modifications or amendments are promptly published and made available in such a manner as will enable natural persons of the other Party to become acquainted with them.

ARTICLE 6: RELATION WITH OTHER CHAPTERS OF THE AGREEMENT

1. Except for this Annex, Chapters 1 (Initial Provisions and Definitions), 13 (Transparency), 14 (Institutional Provisions), 15 (Dispute Settlement), 16 (General Provisions and Exceptions), and 17 (Final Provisions), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures within the scope of this Annex.

2. Nothing in this Annex shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

ANNEX 8-C
TRANSPORT AND RELATED SERVICES

ARTICLE 1: SCOPE

1. The Parties will endeavor to elevate the level of connectivity in the areas of transportation and related infrastructure development, in accordance with their respective national legislation.

2. In accordance with respective national legislation, the Parties will:

(a) advance the establishment of a transportation coordination mechanism, increase connectivity of international multi-modal transport, and gradually formulate compatible and standard transport rules, so as to realize international transportation facilitation;

(b) push forward port infrastructure construction, build smooth land-water transportation channels, and cooperate on port development; and

(c) expand and build platforms and mechanisms for comprehensive civil aviation cooperation, and speed up the improvement of aviation infrastructure.

ARTICLE 2: TRANSPORTATION INFRASTRUCTURE DEVELOPMENT

1. The Parties will take full advantage of Georgia's unique geographic position, and promote the development of ports, roads, railways, logistics, and other infrastructure; support enterprises of the Parties to carry out international transportation and logistics cooperation; strengthen information sharing; as well as encourage and take concerted measures to ensure smooth, safe, and efficient transportation.

2. The Parties will strengthen the construction planning on airports, air traffic control, and other infrastructure, increase the investment in aviation infrastructure, and promote the establishment of air transport coordination mechanism, so as to build a safe and smooth network for air transportation.

ARTICLE 3: INTERNATIONAL MARITIME TRANSPORT

1. For the purpose of this Annex, "international maritime transport" includes door-to-door and multi-modal transport operations, which is the carriage of goods using more than one mode of transport, involving a sea-leg, under a single transport document, and to this effect the right to directly contract with providers of other modes of transport.

2. For international maritime transport, each Party shall grant non-discriminatory treatment to vessels flying the flag of the other Party, as compared to the treatment accorded to its own vessels, with regard to access to ports, the use of infrastructure and auxiliary maritime services of those ports, as well as related fees and charges, customs formalities and assignment of berths and facilities for loading and unloading.

3. Each Party shall permit the movement of empty containers, not being carried as cargo against payment, between ports of Georgia or between ports of China.

ARTICLE 4: INTERNATIONAL TRANSPORTATION AND LOGISTICS COOPERATION

The Parties shall fully utilize this bilateral Agreement to explore new opportunities of international transportation and logistics cooperation.

ANNEX 8-D
TCM COOPERATION

Georgia and China are committed to strengthening cooperation in the field of Traditional Chinese Medicine ("TCM") services, as well as trade in TCM and complementary medicines. The Parties shall:

(a) exchange information and discuss policies, regulations, and actions related to TCM services in order to find opportunities for further cooperation;

(b) encourage discussion on recognition system of TCM practitioners, including the potential coverage of TCM services in its national medical system in accordance with Georgia's national legislation;

(c) encourage cooperation between regulators, relevant professional bodies, and registration authorities for TCM practitioners in both countries, with a view to clarifying and providing advice on the recognition and accreditation of qualifications of TCM practitioners according to national legislations;

(d) encourage future collaboration between regulators, registration authorities, and relevant professional bodies of the Parties to facilitate trade in TCM and complementary medicines, in a manner consistent with the Parties' relevant regulatory frameworks; and

(e) encourage and support cooperation on TCM research and development.

CHAPTER 9
ENVIRONMENT AND TRADE

ARTICLE 9.1: LEVELS OF PROTECTION

The Parties reaffirm each Party's sovereign right to establish its own levels of environmental protection and its own environmental development priorities, and to adopt or modify its environmental laws and policies.

ARTICLE 9.2: ENFORCEMENT OF ENVIRONMENTAL MEASURES INCLUDING LAWS AND REGULATIONS

1. The Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in its environmental laws, regulations, policies and practices. Accordingly, neither Party shall waive or otherwise derogate from such laws, regulations, policies and practices in a manner that weakens or reduces the protections afforded in those laws, regulations, policies and practices.

2. Nothing in this Chapter shall be construed to empower a Party's authorities to undertake environmental law enforcement activities in the territory of the other Party.

ARTICLE 9.3: MULTILATERAL ENVIRONMENTAL AGREEMENTS

The Parties recognize that multilateral environmental agreements (hereinafter referred to as "MEAs") play an important role globally and domestically in protecting the environment, and reaffirm their commitments to the effective implementation in their laws and practices of the MEAs to which both Parties are party.

ARTICLE 9.4: REVIEW OF ENVIRONMENTAL IMPACT

The Parties endeavor to review the impact of the implementation of this Agreement on environment as appropriate, at any time after the entry into force of this Agreement, through their respective participative processes and institutions.

ARTICLE 9.5: COOPERATION

Recognizing the importance of cooperation in the field of environment in achieving the goals of sustainable development, the Parties commit to conducting cooperative activities in areas of common interest as appropriate.

ARTICLE 9.6: CONSULTATIONS

The Parties shall only conduct consultation on any matter arising under this Chapter in the framework of the FTA Joint Commission. The parties shall consult aiming to reach a mutually satisfactory solution.

CHAPTER 10
COMPETITION

ARTICLE 10.1: OBJECTIVES

Each Party understands that proscribing anticompetitive business practices, implementing competition policies, and cooperating on competition issues contribute to enhancing trade liberalization and promoting economic efficiency and consumer welfare.

ARTICLE 10.2: DEFINITIONS

For purposes of this Chapter:

1. **anti-competitive business practices** means business activities or transactions that are incompatible with the proper functioning of this Agreement in so far as they may affect trade between the Parties, such as:

(a) agreements between enterprises, decisions by associations of enterprises, and concerted practices, which have as their object or effect the prevention, restriction, or distortion of competition in the territory of either Party as a whole or in a substantial part thereof;

(b) any abuse by one or more enterprises of a dominant position in the territory of either Party as a whole or in a substantial part thereof; or

(c) concentrations between enterprises, which significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position in the territory of either Party as a whole or in a substantial part thereof;

2. **competition laws** means:

(a) for Georgia, *Georgian law on Competition*, its implementing regulations and amendments and legislation of regulated sectors of the economy; and

(b) for China, *Anti-monopoly La*w and its implementing regulations and amendments.

ARTICLE 10.3: COMPETITION LAWS AND AUTHORITIES

1. Each Party shall maintain or adopt competition laws that promote and protect

the competitive process in its market by proscribing anticompetitive business practices.

2. Each Party shall maintain an authority or authorities responsible for the enforcement of its national competition laws.

ARTICLE 10.4: PRINCIPLES OF LAW ENFORCEMENT

1. Each Party shall be consistent with the principles of transparency, non-discrimination and procedural fairness in the competition law enforcement.

2. Each Party shall treat persons who are not persons of the Party no less favorably than persons of the Party in like circumstances in the competition law enforcement.

3. Each Party shall ensure that during an investigation to determine whether conduct violates its competition laws, or before it imposes a sanction or remedy against a person for violating its national competition laws, it affords that person a reasonable opportunity to present opinion or evidence in its defense.

4. Each Party shall provide a person that is subject to the imposition of a sanction or remedy for violation of its competition laws with the opportunity to seek review of the sanction or remedy in accordance with the Party's laws and regulations.

ARTICLE 10.5: TRANSPARENCY

1. Each Party shall make public its competition laws, regulations, guidelines, and any rules issued in relation to the administration of such laws and regulations, excluding internal operating procedures.

2. Each Party shall ensure that all the final administrative decisions finding a violation of its competition laws are in written form and set out relevant findings of fact and legal basis on which the decision is based.

3. Each Party shall endeavor to make public the decisions and any orders implementing them in accordance with its own laws and regulations, excluding any business confidential information or other information that is protected by its law from public disclosure.

ARTICLE 10.6: COOPERATION

1. The Parties recognize the importance of cooperation and coordination in competition field to promote fair competition.

2. The Parties shall cooperate through notification, consultation, exchange of

information upon request.

3. The Parties agree to cooperate in a manner compatible with its laws and regulations, within its reasonably available administrative resource.

ARTICLE 10.7: CONFIDENTIALITY OF INFORMATION

1. This Chapter shall not require the sharing of information by the competition authority of each Party, which is contrary to the Party's laws, regulations and important interests.

2. The Parties shall maintain confidentiality of any information provided as confidential by the other Party. The Party receiving such information shall:

(a) use it only for the purpose disclosed at the time of request unless specific permission is granted by the Party providing the information;

(b) not disclose it to any other authority, entity or person that is not authorized by the competition authority of the Party providing the information; and

(c) comply with any other conditions required by the competition authority of the Party providing the information.

ARTICLE 10.8: TECHNICAL COOPERATION

The Parties may promote technical cooperation, including exchange of experiences, training programs, workshops, and research collaborations for the purpose of enhancing authorities' capacity related to competition policy and law enforcement.

ARTICLE 10.9: INDEPENDENCE OF COMPETITION AUTHORITIES

This Chapter shall not intervene with the independence of each Party in enforcing its respective competition laws.

ARTICLE 10.10: DISPUTE SETTLEMENT

Neither Party shall have recourse to dispute settlement under this Agreement for any matters arising under this Chapter. Any difference or dispute between the Parties concerning the interpretation or implementation of the provisions of this Chapter shall be settled amicably through consultations between the Parties.

ARTICLE 10.11: CONSULTATION

To foster understanding between the Parties, or to address specific matters that arise under this Chapter, each Party shall, on request of the other Party, enter into consultations regarding representations made by the other Party. In its request, the Party shall indicate, if relevant, how the matter affects trade or investment between the Parties.

CHAPTER 11
INTELLECTUAL PROPERTY

ARTICLE 11.1: PURPOSE AND PRINCIPLES

The purpose of this Chapter is to increase the benefits from trade and investment through the protection and enforcement of intellectual property rights. The Parties recognise that:

(a) establishing and maintaining transparent intellectual property systems and promoting and maintaining adequate and effective protection and enforcement of intellectual property rights provide certainty to right holders and users;

(b) protecting and enforcing intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology;

(c) intellectual property protection promotes economic and social development, and can reduce distortion and obstruction to international trade;

(d) intellectual property systems should support open, innovative and efficient markets, including through the effective creation, utilisation, protection, and enforcement of intellectual property rights, appropriate limitations and exceptions, and an appropriate balance between the legitimate interests of rights holders, users and the public interest;

(e) intellectual property systems should not themselves become barriers to legitimate trade;

(f) appropriate measures, provided they are consistent with the provisions of the TRIPS Agreement[1] and this Chapter, may be needed to prevent the abuse of intellectual property rights by right holders, or the resort to practices which unreasonably restrain trade, are anticompetitive or adversely affect the international transfer of technology; and

(g) appropriate measures to protect public health and nutrition may be adopted provided they are consistent with the TRIPS Agreement and this Chapter.

[1] For greater certainty, "TRIPS Agreement" includes any amending protocol in force and any waiver made between the Parties of any provision of the TRIPS Agreement granted by WTO Members in accordance with the WTO Agreement.

ARTICLE 11.2: DEFINITIONS

For the purposes of this Chapter, unless the contrary intention appears:

(a) **intellectual property rights** refers to copyright and related rights, rights in trade marks, geographical indications, industrial designs, patents and layout-designs (topographies) of integrated circuits, rights in plant varieties, and rights in undisclosed information, as defined and described in the TRIPS Agreement;

(b) **national of a Party** includes, in respect of the relevant right, an entity of that Party that would meet the criteria for eligibility for protection provided for in the agreements listed in Article 1.3 of the TRIPS Agreement;

(c) **TRIPS Agreement** means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, contained in Annex 1C to the WTO Agreement; and

(d) **WIPO** means the World Intellectual Property Organization.

ARTICLE 11.3 : OBLIGATIONS ARE MINIMUM OBLIGATIONS

Each Party shall, at a minimum, give effect to the provisions of this Chapter. A Party may, but shall not be obliged to, provide more extensive protection for, and enforcement of, intellectual property rights than this Chapter requires, provided that this additional protection and enforcement is not inconsistent with the provisions of this Agreement. Each Party shall be free to determine the appropriate method of implementing the provisions of this Chapter within its own legal system and practice.

ARTICLE 11.4: INTERNATIONAL AGREEMENTS

Each Party affirms its commitment to the TRIPS Agreement and any other multilateral agreement relating to intellectual property to which both Parties are party.

ARTICLE 11.5: INTELLECTUAL PROPERTY AND PUBLIC HEALTH

The Parties recognise the principles established in the *Doha Declaration on the TRIPS Agreement and Public Health* adopted on 14 November 2001 by the Ministerial Conference of the WTO and confirm that the provisions of this Chapter are without prejudice to this Declaration.

ARTICLE 11.6: EXHAUSTION

Nothing in this Chapter shall affect the freedom of the Parties to determine whether, and under what conditions, the exhaustion of intellectual property rights applies. The Parties agree to further discuss relevant issues relating to the exhaustion of patent.

ARTICLE 11.7: PROCEDURES ON ACQUISITION AND MAINTENANCE

Each Party shall:

(a) continue to work to enhance its examination and registration systems, including through improving examination procedures and quality systems;

(b) provide applicants with a communication in writing of the reasons for any refusal to grant or register an intellectual property right;

(c) provide an opportunity for interested parties to oppose the grant or registration of an intellectual property right, or to seek either revocation, cancellation or invalidation of an existing intellectual property right;

(d) require that opposition, revocation, cancellation, or invalidation decisions be reasoned and in writing; and

(e) for the purposes of this Article, "writing" and "communication in writing" may include writing and communications in an electronic form.

ARTICLE 11.8: PATENTABLE SUBJECT MATTER

1. Subject to the provisions of paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application.

2. Members may exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect ordre public or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by their law.

3. Members may also exclude from patentability:

(a) diagnostic, therapeutic, and surgical methods for the treatment of humans

or animals; and

(b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes.

ARTICLE 11.9: AMENDMENTS, CORRECTIONS AND OBSERVATIONS ON PATENT APPLICATIONS

Each Party shall provide patent applicants with opportunities to make amendments, corrections and observations in connection with their applications in accordance with each Party's laws, regulations and rules.

ARTICLE 11.10: TRANSPARENCY

To assist with the transparency of the operation of its intellectual property system, each Party shall make its granted or registered patent for invention, utility model, industrial design, plant variety, trademark and geographical indication databases available on the internet.

ARTICLE 11.11: TYPES OF SIGNS AS TRADEMARKS

The Parties agree to cooperate on the means to protect types of signs as trademarks, including visual and sound signs.

ARTICLE 11.12: WELL-KNOWN TRADEMARKS

The Parties shall provide protection for well-known trademarks at least in accordance with Article 16.2 and 16.3 of the TRIPS Agreement and Article 6 *bis* of the *Paris Convention for the Protection of Industrial Property*, done at Paris on 20 March 1883.

ARTICLE 11.13: GEOGRAPHICAL INDICATIONS

1. Each Party recognizes that geographical indications may be protected through a trade mark or *sui generis* system or other legal means.[2]

[2] The Parties exchanged English translation of their existing legislations on geographical indications for reference. After entry into force of any new legislation and/or amendments to the existing legislations, the Parties agree to provide reliable English translation thereof for reference.

2. For the purposes of this Agreement, "geographical indications" are indications which identify a product as originating in the territory of a Party, or a region or a locality in that territory, where a given quality, reputation or other characteristic of the product is essentially attributable to its geographical origin.

3. Without prejudice to Articles 22 and 23 of the TRIPS Agreement, the Parties shall take all necessary measures, in accordance with this Agreement, to ensure mutual protection of the geographical indications referred to in paragraph 2 that are used to refer to goods originating in the territory of the Parties. Each Party shall provide interested parties with the legal means to prevent the use of such geographical indications for identical or similar goods not originating in the place indicated by the geographical indication in question.

ARTICLE 11.14: PLANT BREEDERS' RIGHTS

The Parties, through their competent agencies, shall cooperate to encourage and facilitate the protection and development of plant breeders' rights with a view to:

(a) better harmonising the plant breeders' rights administrative systems of both Parties, including enhancing the protection of species of mutual interest and exchanging information; and

(b) reducing unnecessary duplicative procedures between their respective plant breeders' rights examination systems.

ARTICLE 11.15: COLLECTIVE MANAGEMENT OF COPYRIGHT

Each Party shall foster the establishment of appropriate bodies for the collective management of copyright and shall encourage such bodies to operate in a manner that is efficient, publicly transparent and accountable to their members.

ARTICLE11.16: GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE

1. Subject to each Party's international obligations and its laws, the Parties may establish appropriate measures to protect genetic resources, traditional knowledge and folklore.

2. The Parties agree to explore the possibility to further discuss relevant issues concerning genetic resources, traditional knowledge and folklore, taking into account future developments in their respective laws and in multilateral agreements.

ARTICLE 11.17: ENFORCEMENT

1. Each Party commits to implementing effective intellectual property enforcement systems with a view to eliminating trade in goods and services infringing intellectual property rights.

2. Each Party shall provide for criminal procedures and penalties in accordance with the TRIPS Agreement to be applied at least in cases of wilful trademark counterfeiting or copyright piracy on a commercial scale. Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, and consistent with the level of penalties applied for crimes of a corresponding gravity.

ARTICLE 11.18: COOPERATION – GENERAL

1. Each Party shall, on request of the other Party, exchange information:

   (a) relating to intellectual property policies in their respective administrations;

   (b) on changes to, and developments in the implementation of, their national intellectual property systems; and

   (c) on the administration and enforcement of intellectual property rights.

2. Each Party shall, on request of the other Party, consider intellectual property rights issues and questions of interest to private stakeholders.

3. The Parties will consider opportunities for continuing cooperation under established arrangements in areas of mutual interest that aim to improve the operation of the intellectual property rights system, including administrative processes, in each other's jurisdictions. This cooperation could include, but is not necessarily limited to:

   (a) work sharing in patent examination;

   (b) enforcement of intellectual property rights;

   (c) raising public awareness on intellectual property issues;

   (d) improvement of patent examination quality and efficiency; and

   (e) reducing the complexity and cost of obtaining the grant of a patent.

CHAPTER 12
AREAS OF COOPERATION

ARTICLE12.1: INVESTMENT

1. Each Party shall, subject to its general policy in the field of foreign investment, promote in its territory investments by investors of the other Party, and shall admit such investment in accordance with its applicable laws and regulations and the international commitments entered into between the Parties.

2. The Parties shall further assess and, if necessary, endeavour to conduct negotiations with a view to revising *the Agreement between the Government of the Republic of Georgia and the Government of the People's Republic of China Concerning the Encouragement and Reciprocal Protection of Investments*.

ARTICLE12.2: ELECTRONIC COMMERCE

1. The Parties recognize the economic growth and opportunity provided by electronic commerce, the importance of promoting its use and development, and the applicability of the WTO Agreement to measures affecting electronic commerce.

2. The Parties agree to share information and experience on issues related to electronic commerce, including, *inter alia*, laws and regulations, rules and standards, and best practices.

3. The Parties shall encourage cooperation in research and training activities to enhance the development of electronic commerce.

4. The Parties shall encourage business exchanges, cooperative activities, and joint electronic commerce projects.

5. The Parties shall actively participate in regional and multilateral fora to promote the development of electronic commerce in a cooperative manner.

CHAPTER 13
TRANSPARENCY

ARTICLE13.1: PUBLICATION

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application that may affect any matter covered by this Agreement are promptly published, including through the internet where feasible, or otherwise made available in such a manner as to enable interested persons and the other Party to become acquainted with them.

2. The Parties shall promptly respond to specific questions and provide, upon request, full information to each other on matters referred to in paragraph 1.

3. Nothing in this Chapter shall require a Party to furnish or to allow access to confidential information, which is designated as confidential under its domestic legislation, or the disclosure of which would impede law enforcement or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

ARTICLE13.2: NOTIFICATION AND PROVISION OF INFORMATION

1. Each Party shall endeavor to notify the other Party the information on any measure that the Party considers might materially affect the operation of this Agreement.

2. The information referred to under this Article shall be considered to have been provided when it has been made available by appropriate notification to the WTO or when it has been made publicly available in accordance with the legislation of the Party concerned or has been published on the official, public and fee-free accessible website of the Party concerned.

3. Any notification, request, or information under this Article shall be conveyed to the other Party through Contact Points of this Agreement.

ARTICLE13.3: INCORPORATION

For the purpose of this Agreement, Article X GATT 1994 and Article III of GATS are incorporated into and made part of this Agreement, *mutatis mutandis*.

CHAPTER 14
INSTITUTIONAL PROVISIONS

ARTICLE14.1: FTA JOINT COMMISSION

1. The Parties hereby establish the Georgia-China Joint Commission (hereinafter referred to as "FTA Joint Commission") comprising representatives of each Party. The Parties shall be represented by senior officials designated by them for this purpose**.**

2. The FTA Joint Commission shall:

(a) consider matters relating to the implementation of this Agreement;

(b) consider issues referred to it by either Party, or by the committees or working groups established under this Agreement;

(c) in accordance with the objectives of this Agreement, explore possibilities for the further expansion of trade and promotion of investment between the Parties;

(d) consider any proposal to amend this Agreement and make recommendations to the Parties; and

(e) consider any other matter that may affect the operation of this Agreement.

3. The FTA Joint Commission may:

(a) establish additional committees or *ad hoc* working groups as necessary, and refer matters to any committee or working group for advice;

(b) further the implementation of this Agreement through implementing arrangements;

(c) seek to resolve any differences that may arise regarding the interpretation or application of this Agreement;

(d) seek the advice of non-governmental persons or groups on any matter falling within its responsibilities where this would assist it in discharging its responsibilities; and

(e) take such other action in the exercise of its functions as the Parties may agree.

ARTICLE14.2: RULES OF PROCEDURE OF THE FTA JOINT COMMISSION

1. The FTA Joint Commission shall take decisions and make recommendations on any matter within its functions, as set out in Article 14.1, by mutual agreement. The enforcement of the decisions shall be subject to the fulfillment of domestic legal requirements in either of the Parties.

2. The FTA Joint Commission shall convene in regular session every year and at other times at the request of either Party. Regular sessions of the FTA Joint Commission shall be chaired successively by each Party. Other sessions of the FTA Joint Commission shall be chaired by the Party hosting the meeting.

3. The FTA Joint Commission shall ordinarily meet at the level of senior officials, unless there is a request by either Party to convene the meeting at Ministerial level.

4. Subject to paragraph 3, each Party shall be responsible for the composition of its delegation to the FTA Joint Commission.

5. The Party chairing a session of the FTA Joint Commission shall provide any necessary administrative support for such session, and shall record any decisions taken by the FTA Joint Commission, copies of which shall be provided to the other Party.

ARTICLE14.3: CONTRACT POINT

For the purpose of facilitating communication between the Parties on any matter covered by this Agreement, the following contact points are designated:

(a) for Georgia, Ministry of Economy and Sustainable Development; and

(b) for China, Ministry of Commerce.

CHAPTER 15
DISPUTE SETTLEMENT

ARTICLE 15.1: COOPERATION

The Parties shall at all times endeavor to cooperate with respect to the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory solution of any matter that might affect its operation when a dispute arises.

ARTICLE 15.2: SCOPE OF APPLICATION

Unless otherwise provided in this Agreement, whenever a Party considers that the other Party has failed to carry out its obligations under this Agreement, the dispute settlement provisions of this Chapter shall apply.

ARTICLE 15.3: CHOICE OF FORUM

1. Where a dispute regarding the same measure arises under this Agreement and under other agreements including another free trade agreement to which both Parties are party or the WTO Agreements, the complaining Party may select the forum in which to settle the dispute.

2. Once the complaining Party has selected the forum under any of the agreements referred to in paragraph 1, the forum thus selected shall be used to the exclusion of all other fora.

ARTICLE 15.4: CONSULTATIONS

1. The Parties shall make every attempt to arrive at a mutually satisfactory solution of any dispute through consultations under this Article or under other provisions of this Agreement providing for consultations.

2. The request for consultations shall be submitted in writing and shall set out the reasons for the request, including identification of the measure at issue, and indication of the legal basis for the complaint. The complaining Party shall deliver the request to the Party complained against.

3. If a request for consultations is made, the Party complained against shall reply to the request within 10 days after the date of its receipt, and shall enter into consultations in good faith within a period not exceeding 30 days after the date of

receipt of the request, with a view to reaching a mutually satisfactory solution. Consultations on urgent matters, including those regarding perishable goods, shall commence within 15 days from the receipt of the request for consultations.

4. If the Party complained against does not respond within the aforesaid 10 days, or does not enter into consultations within the timeframes provided in paragraph 3, the complaining Party may proceed directly to request the establishment of an arbitral tribunal.

5. The consultations shall be confidential and without prejudice to the rights of either Party in any further proceedings.

ARTICLE 15.5: ESTABLISHMENT OF AN ARBITRAL TRIBUNAL

1. If the consultations referred to in Article 15.4 fail to resolve a matter within 60 days or 30 days in relation to urgent matters, including those on perishable goods, after the date of receipt of the request for consultations, the complaining Party may request in writing the establishment of an arbitral tribunal to examine the matter.

2. The complaining Party shall indicate in the request whether consultations were held, identify the specific measure/s at issue, and provide brief summary of the legal basis of the complaining Party sufficient to present the problem clearly, and shall deliver the request to the other Party. The date of establishment of the arbitral tribunal is the date of the receipt of the request.

ARTICLE 15.6: COMPOSITION OF ARBITRAL TRIBUNAL

1. An arbitral tribunal shall comprise three members.

2. Within 15 days after the establishment of an arbitral tribunal, each Party shall designate one member of the arbitral tribunal.

3. The Parties shall designate by common agreement the third arbitrator within 30 days after the establishment of an arbitral tribunal. The arbitrator thus designated shall chair the arbitral tribunal.

4. If any member(s) of the arbitral tribunal has not been designated within 30 days after the establishment of the arbitral tribunal, at the request of either Party, the Director-General of the WTO shall be authorized to designate the member(s) within a further 30 days. If one or more members are designated according to this paragraph, the Director-General of the WTO shall be authorized to designate the chair of the arbitral tribunal.

5. The chair of the arbitral tribunal shall not be a national of either Party nor have his or her usual place of residence in the territory of either Party, nor be employed by either Party, nor have dealt with the matter in any capacity.

6. All arbitrators shall:

(a) have expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;

(b) be chosen strictly on the basis of objectivity, reliability, and sound judgment;

(c) be independent of, and not be affiliated with or take instructions from, any Party; and

(d) comply with a code of conduct in conformity with the rules established in the document WT/DSB/RC/1 of the WTO.

7. If an arbitrator appointed under this Article resigns or becomes unable to act, a substitute arbitrator shall be appointed within 15 days in accordance with the selection procedure as prescribed for the appointment of the original arbitrator, and the substitute arbitrator shall have all the powers and duties of the original arbitrator. The work of the arbitral tribunal shall be suspended during the appointment of the substitute arbitrator.

ARTICLE 15.7: FUNCTIONS OF ARBITRAL TRIBUNALS

1. The function of an arbitral tribunal is to make an objective assessment of the matter before it, including an examination of the facts of the case and the applicability of and conformity with this Agreement.

2. Where an arbitral tribunal concludes that a measure is inconsistent with this Agreement, it shall recommend that the Party complained against bring the measure into conformity with this Agreement.

3. The arbitral tribunal shall consider this Agreement in accordance with customary rules of interpretation of public international law. The arbitral tribunal, in their findings and recommendations, cannot add to or diminish the rights and obligations provided in this Agreement.

ARTICLE 15.8: RULES OF PROCEDURE OF ARBITRAL TRIBUNAL

1. Unless the Parties otherwise agree, the arbitral proceedings shall be conducted in accordance with the Rules of Procedure set out in Annex 15-A.

2. Apart from the rules set out in this Article and Rules of Procedure referred to in paragraph 1, the arbitral tribunal, in consultation with the Parties, may adopt additional rules of procedure, including those in relation to the rights of the Parties to be heard and its deliberations, as it considers appropriate, provided they are not contrary to this Chapter and the Annex 15-A.

3. The arbitral tribunal shall take its decisions by consensus provided that where an arbitral tribunal is unable to reach consensus it may take its decisions by majority vote. Arbitrators may furnish separate opinions on matters not unanimously agreed. All opinions expressed in the arbitral tribunal report by individual arbitrators shall be anonymous.

4. Unless the Parties otherwise agree within 20 days from the date of the establishment of the arbitral tribunal, the terms of reference shall be as follows:

> "To examine, in the light of the relevant provisions of this Agreement, the matter referred to in the request for the establishment of an arbitral tribunal pursuant to Article 5, and to make findings of law and fact together with the reasons therefore for the resolution of the dispute."

5. The remuneration of the arbitrators and other expenses associated with the conduct of arbitral proceedings shall be borne by the Parties in equal shares.

ARTICLE 15.9: SUSPENSION OR TERMINATION OF PROCEEDINGS

1. The Parties may agree that the arbitral tribunal suspends its work at any time for a period not exceeding 12 months from the date of such agreement. If the work of the arbitral tribunal has been suspended for more than 12 months, the terms of reference for establishment of the arbitral tribunal shall lapse, unless the Parties otherwise agree.

2. The Parties may agree to terminate the proceedings of an arbitral tribunal.

ARTICLE 15.10: REPORT OF ARBITRAL TRIBUNAL

1. The arbitral tribunal shall base its report on the relevant provisions of this Agreement and the submissions and arguments of the Parties.

2. Unless the Parties otherwise agree, the arbitral tribunal shall issue the report to Parties within 120 days from the date of its composition.

3. In exceptional cases, if the arbitral tribunal considers it cannot issue its report within 120 days, it shall inform the Parties in writing of the reasons for the delay, together with an estimate of the period within which it will release its report. Any delay shall not exceed an additional period of 30 days, unless the Parties otherwise agree.
4. In cases of urgency, including those involving perishable goods, the arbitral tribunal shall make every effort to notify its ruling within 60 days from the date of its composition. In exceptional cases, this term can be extended, which in any event shall not be longer than 75 days from the date of the composition of arbitral tribunal.

5. The arbitral tribunal's report is final and has no binding force except between the Parties and in respect of that particular case to which the report is related.

6. The report shall be made available to the public no later than 15 days after the issuance of the report, subject to the protection of confidential information, unless either of the Parties disagrees.

ARTICLE 15.11: IMPLEMENTATION OF ARBITRAL TRIBUNAL'S REPORT

1. If in its report the arbitral tribunal concludes that a Party has not complied with its obligations under this Agreement, the resolution, whenever possible, shall be that the Party complained against eliminates the non-conformity.

2. The Party complained against shall promptly comply with the recommendations and rulings in the report of the arbitral tribunal. If it is not practicable to comply immediately, the Party complained against shall implement the recommendations and rulings within a reasonable period of time.

ARTICLE 15.12: REASONABLE PERIOD OF TIME

1. The reasonable period of time shall be mutually determined by the Parties. Where the Parties fail to agree on the reasonable period of time within 30 days from the issuance of the arbitral tribunal's report, either Party may, to the extent possible, refer the matter to the original arbitral tribunal, which shall determine the reasonable period of time.

2. The arbitral tribunal shall provide its report on the reasonable period of time to the Parties within 30 days after the date of the referral of the matter to it. When the arbitral tribunal considers that it cannot provide its report within this timeframe, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. Any delay shall not exceed a further period of 15 days, unless the Parties otherwise agree.

3. The reasonable period of time normally should not exceed 15 months from the

date of issuance of the arbitral tribunal's report. Reasonable period may be extended by mutual agreement of the Parties.

ARTICLE 15.13: COMPLIANCE REVIEW

1. Where there is disagreement as to the existence or consistency with this Agreement of measures taken to comply with the recommendations and rulings of the arbitral tribunal, such dispute shall be decided through arbitral proceeding under this Chapter, including wherever possible by resort to the original arbitral tribunal.

2. The arbitral tribunal shall provide its report to the Parties within 60 days after the date of the referral of the matter to it. When the arbitral tribunal considers that it cannot provide its report within this timeframe, it shall inform the Parties in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. Any delay shall not exceed a further period of 15 days unless the Parties otherwise agree.

3. Articles concerning procedure of arbitral tribunal in this Agreement shall apply *mutatis mutandis* to the arbitral proceedings under this Article.

ARTICLE 15.14: SUSPENSION OF CONCESSIONS OR OTHER OBLIGATIONS

1. If the arbitral tribunal under Article 15.13 finds that the Party complained against fails to bring the measure found to be inconsistent with this Agreement into compliance therewith or otherwise comply with the recommendations and rulings of the Arbitral Tribunal within the reasonable period of time established, or the Party complained against expresses in writing that it will not implement the recommendations, such Party shall, if so requested by the complaining Party, enter into negotiations with the complaining Party, with a view to agreeing on a mutually acceptable compensation. If the Parties fail to reach an agreement on compensation within 20 days after entering into negotiation for compensation, or if no such request has been made, the complaining Party may suspend the application of concessions or other obligations to the Party complained against. The complaining Party shall notify the Party complained against 30 days before suspending concessions or other obligations. The notification shall indicate the level and scope of the suspension of concessions or other obligations.

2. The level of the suspension of concessions or other obligations shall be equivalent to the level of the nullification or impairment.

3. In considering what concessions or other obligations to suspend:

(a) the complaining Party shall first seek to suspend concessions or other obligations in the same sector(s) as that affected by the measure that the arbitral tribunal has found to be inconsistent with the obligations derived of this Agreement ; and

(b) if the complaining Party considers that it is not practicable or effective to suspend concessions or other obligations in the same sector(s), it may suspend concessions or other obligations in other sectors. The communication in which it notifies such a decision shall indicate the reasons on which it is based.

4. Upon written request of the Party concerned, the original arbitral tribunal shall determine whether the level of concessions or other obligations to be suspended by the complaining Party is excessive pursuant to paragraph 2 and/or whether the principles set out in paragraph 3 have not been applied. If the arbitral tribunal cannot be established with its original members, it shall be constituted in accordance with the procedure set out in Article 15.6.

5. The arbitral tribunal shall present its determination within 60 days from the request made pursuant to paragraph 4 or, if an arbitral tribunal cannot be established with its original members, from the date on which the new arbitral tribunal was composed.

6. The complaining Party may not suspend the application of concessions or other obligations before the issuance of the arbitral tribunal's determination pursuant to this Article.

7. Compensation and suspension of concessions or other obligations shall be temporary measures and shall only be applied by the complaining Party until the measure found to be inconsistent with this Agreement has been removed or amended so as to bring it into conformity with this Agreement, or until the Parties have reached a mutually satisfactory solution.

ARTICLE 15.15: POST SUSPENSION

1. Without prejudice to the procedure in Article 15.14, if the Party complained against considers that it has eliminated the non-conformity that the arbitral tribunal has found, it may provide written notice to the complaining Party with a description of how non-conformity has been removed. If the complaining Party disagrees, it may refer the matter to the original arbitral tribunal within 45 days after receipt of such written notice. Otherwise, the complaining Party shall promptly stop the suspension of concessions or other obligations.

2. The arbitral tribunal shall release its report within 60 days after the referral of the

matter. If the arbitral tribunal concludes that the Party complained against has eliminated the non-conformity, the complaining Party shall promptly stop the suspension of concessions or other obligations.

ARTICLE 15.16: PRIVATE RIGHTS

Neither Party may provide for a right of action under its domestic law including initiation of proceedings before its respective domestic courts against the other Party on the ground that a measure of the other Party is inconsistent with this Agreement.

ANNEX 15-A
RULES OF PROCEDURE OF ARBITRAL TRIBUNAL

First Written Submissions

1. The complaining Party shall deliver its first written submission no later than 20 days from the date of the composition of the arbitral tribunal. The Party complained against shall deliver its first written submission no later than 30 days after the date of delivery of the complaining Party's first written submission, unless the arbitral tribunal otherwise decides.

2. A Party shall provide a copy of its first written submission to each of the arbitrators and to the other Party. A copy of the document shall also be provided in electronic format.

Hearings

3. The chair of the arbitral tribunal shall fix the date and time of the hearing in consultation with the Parties and other members of the arbitral tribunal. The chair of the arbitral tribunal shall notify in writing the Parties of the date, time, and location of the hearing. Unless one of the Parties disagrees, the arbitral tribunal may decide not to convene a hearing.

4. The arbitral tribunal may convene additional hearings.

5. All arbitrators shall be present at the hearings.

6. The hearings of the arbitral tribunal shall be held in closed session.

Supplementary Written Submissions

7. Within 20 days after the date of the hearing, each Party may deliver a supplementary written submission responding to any matter that arose during the hearing. The supplementary written submissions shall be delivered in accordance with paragraph 2 of these Rules.

Questions in Writing

8. The arbitral tribunal may, at any time during the proceedings, put questions in writing to the Parties.

9. A Party shall deliver the written reply to the arbitral tribunal and to the other Party. Each Party shall be given the opportunity to provide written comments on the reply of the other Party.

Confidentiality

10. The arbitral hearings and the documents submitted to the arbitral tribunal shall be kept confidential. Nothing in this Chapter shall preclude a Party from disclosing statements of its own positions to the public. The information submitted by the other Party to the arbitral tribunal, which that Party has designated as confidential, shall be treated as confidential.

***Ex parte* Contacts**

11. The arbitral tribunal shall not meet or contact a Party in the absence of the other Party.

12. No Party may contact any arbitrator in relation to the dispute in the absence of the other Party or other arbitrators.

13. No arbitrator may discuss any aspect of the subject matter of the proceeding with a Party or both Parties in the absence of the other Party or other arbitrators.

Role of Experts

14. Upon request of a Party or on its own initiative, the arbitral tribunal may seek information and technical advice from any individual or body that it deems appropriate. Any information so obtained shall be provided to the Parties for comments.

Working Language

15. The working language of the dispute settlement proceedings shall be English.

CHAPTER 16
GENERAL PROVISIONS AND EXCEPTIONS

ARTICLE 16.1: DISCLOSURE AND CONFIDENTIALITY OF INFORMATION

1. Nothing in this Agreement shall require a Party to furnish or to allow access to confidential information, which is designated as confidential under its domestic legislation or the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

2. Unless otherwise provided in this Agreement, where a Party provides written information to the other Party in accordance with this Agreement and designates the information as confidential, the other Party shall maintain the confidentiality of the information. Such information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific permission of the Party providing the information, except where such use or disclosure is necessary to comply with legal or constitutional requirements or for the purpose of judicial proceedings.

ARTICLE 16.2: GENERAL EXCEPTIONS

1. For the purposes of Chapter 2 (Trade in Goods), Chapter 3 (Rules of Origin and Implementation Procedures), Chapter 4 (Customs Procedures and Trade Facilitation), Chapter 5 (Sanitary and Phytosanitary Measures), Chapter 6 (Technical Barriers to Trade), Chapter 7 (Trade Remedies) and the Annexes to the Chapters abovementioned, Article XX of GATT 1994, including its interpretative notes, is, incorporated into and made part of this Agreement, *mutatis mutandis*.

2. For the purposes of Chapter 8 (Trade in Services) and its Annexes, Article XIV of GATS, including its footnotes, is incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 16.3: SECURITY EXCEPTIONS

For the purpose of this Agreement, with respect to security exceptions, Article XXI of GATT 1994 and Article XIV *bis* of GATS are incorporated into and made part of this Agreement, mutatis mutandis.

ARTICLE 16.4: TAXATION

1. For the purposes of this Article, the item "taxation measures" shall not include any customs or import duties.

2. Unless otherwise provided in this Article, nothing in this Agreement shall apply to taxation measures.

3. This Agreement shall only grant rights or impose obligations with respect to taxation measures where corresponding rights or obligations are also granted or imposed under the Article III of GATT 1994.

4. Notwithstanding paragraph 3, nothing in this Agreement shall:

(a) oblige a Party to apply any most-favoured-nation obligation in this Agreement with respect to an advantage accorded by a Party pursuant to any tax convention;[1]

(b) apply to :

(i) a non-conforming provision of any taxation measure that is maintained by a Party on the date of entry into force of this Agreement;

(ii) the continuation or prompt renewal of a non-conforming provision of any such taxation measure; or

(iii) an amendment to a non-conforming provision of any such taxation measure to the extent that the amendment does not decrease the conformity of the tax measure with the Agreement, as it existed before the amendment;

(c) prevent the adoption or enforcement by a Party of any taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes; or

(d) prevent the adoption or enforcement by a Party of a provision that conditions the receipt, or continued receipt of an advantage relating to the contributions to, or income of, a pension trust, superannuation fund, or other arrangement to provide pension, superannuation, or similar benefits on a requirement that the Party maintain continuous jurisdiction, regulation, or supervision over such trust, fund, or other arrangement.

5. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency relating to a taxation measure between this Agreement and any such tax convention, the latter shall prevail to the extent of the inconsistency. With respect to tax convention between the Parties, any

[1] For the purposes of this Agreement, "tax convention" means a convention for the avoidance of double taxation or other international taxation agreement or arrangement to which both Parties are party.

consultation about whether any inconsistency exists shall include the competent authorities of each Party under that tax convention.

ARTICLE 16.5: REVIEW OF AGREEMENT

The Parties shall undertake a general review of the Agreement, with a view to furthering its objectives, within three years of the date of entry into force of this Agreement and at least every five years thereafter unless otherwise agreed by the Parties. The review shall include, but not be limited to, consideration of further liberalisation and expansion of market access.

ARTICLE 16.6: MEASURES TO SAFEGUARD THE BALANCE-OF-PAYMENTS

1. Where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may:

(a) in case of trade in goods, in accordance with GATT 1994 and the *Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994* in Annex 1A to the WTO Agreement, adopt restrictive import measures;

(b) in case of trade in services, adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments.

2. Restrictions adopted or maintained under paragraph 1(b) shall:

(a) be consistent with the *Articles of Agreement of the International Monetary Fund;*

(b) avoid unnecessary damage to the commercial, economic, and financial interests of the other Party;

(c) not exceed those necessary to deal with the circumstances described in paragraph 1;

(d) be temporary and be phased out progressively as the situation specified in paragraph 1 improves; and

(e) be applied on a non-discriminatory basis such that the other Party is treated no less favourably than any non-Party.

3. In determining the incidence of restrictions adopted or maintained under paragraph 1, a Party may give priority to economic sectors which are more essential to

its economic development. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular sector.

4. Any restrictions adopted or maintained by a Party under paragraph 1, or any changes therein, shall be notified promptly to the other Party.

5. The Party adopting or maintaining any restrictions under paragraph 1 shall commence consultations with the other Party in order to review the restrictions applied by it.

CHAPTER 17
FINAL PROVISIONS

ARTICLE17.1: ANNEXES

The Annexes to this Agreement constitute an integral part of this Agreement.

ARTICLE 17.2: ENTRY INTO FORCE

This Agreement shall enter into force 30 days after the receipt of the last written notification by which the Parties shall notify each other on the completion of internal procedures necessary for the entry into force of the Agreement.

ARTICLE 17.3: AMENDMENTS

1. The Parties may agree in writing to amend this Agreement. Any amendment shall enter into force in accordance with the procedure required for the entry into force of this Agreement. Such amendment shall constitute an integral part of this Agreement.

2. If any amendment is made to the provision of the WTO Agreement or any other international agreement to which both Parties are party that has been incorporated into this Agreement, the Parties shall consult on whether to amend this Agreement accordingly, unless this Agreement provides otherwise.

ARTICLE17. 4: TERMINATION

1. This Agreement shall remain in force unless either Party notifies the other Party in writing to terminate this Agreement. Such termination shall take effect 180 days following the date of receipt of the notification.

2. Within 30 days following notification under paragraph 1, either Party may request consultations regarding whether the termination of any provision of this Agreement should take effect on a later date than provided under paragraph 1. Such consultations shall commence within 30 days following the delivery of such request to the other Party.

ARTICLE 17.5: AUTHENTIC TEXTS

This Agreement is done in duplicate in Georgian, Chinese and English languages. All texts shall be equally authentic. In case of any divergence, the English text shall prevail.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE in Beijing, on May 13, 2017, each Party shall keep one copy in Georgian, Chinese and English languages.

FOR THE GOVERNMENT OF GEORGIA	FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA