

TITLE IV

TRADE AND TRADE-RELATED MATTERS

CHAPTER 1

NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

SECTION 1

COMMON PROVISIONS

ARTICLE 22

Objective

The Parties shall establish a free trade area starting from the entry into force of this Agreement, in accordance with the provisions of this Agreement and in conformity with Article XXIV of the General Agreement on Tariffs and Trade 1994 (GATT 1994).

ARTICLE 23

Scope and coverage

1. The provisions of this Chapter shall apply to trade in goods¹ between the Parties.
2. For the purposes of this Chapter, "originating" means qualifying under the rules of origin set out in Protocol I to this Agreement.

SECTION 2

ELIMINATION OF CUSTOMS DUTIES, FEES AND OTHER CHARGES

ARTICLE 24

Definition of customs duties

For the purposes of this Chapter, a "customs duty" includes any duty or charge of any kind imposed on, or in connection with, the import or export of a good, including any form of surtax or surcharge imposed on or in connection with such import or export. A "customs duty" does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article 31 of this Agreement;
- (b) duties imposed consistently with Chapter 2 (Trade Remedies) of Title IV (Trade and Trade-related Matters) of this Agreement;

¹ For the purposes of this Agreement, "goods" means products as understood in GATT 1994 unless otherwise provided in this Agreement. Goods falling under the scope of the WTO Agreement on Agriculture are referred to in this Chapter as "agricultural products" or "products".

- (c) fees or other charges imposed consistently with Article 30 of this Agreement.

ARTICLE 25

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 based on the International Convention on the Harmonised Commodity Description and Coding System of 1983 (HS) and subsequent amendments thereto.

ARTICLE 26

Elimination of customs duties on imports

1. The Parties shall eliminate all customs duties on goods originating in the other Party as from the date of entry into force of this Agreement except as provided in paragraphs 2 and 3 of this Article and without prejudice to paragraph 4 of this Article.
2. The products listed in Annex II-A to this Agreement shall be imported into the Union free of customs duties within the limits of the tariff rate quotas set out in that Annex. The most-favoured-nation (MFN) customs duty rate shall apply to imports exceeding the tariff rate quota limit.
3. The products listed in Annex II-B to this Agreement shall be subject to an import duty when imported into the Union with exemption of the ad valorem component of that import duty.
4. The import of products originating in Georgia listed in Annex II-C to this Agreement shall be subject to the anti-circumvention mechanism set out in Article 27 of this Agreement.

5. After five years from the entry into force of this Agreement, at the request of either Party, the Parties shall consult to consider broadening the scope of the liberalisation of customs duties in the trade between the Parties. A decision under this paragraph shall be made by the Association Committee in Trade configuration, as set out in Article 408(4) of this Agreement.

ARTICLE 27

Anti-circumvention mechanism for agricultural products and processed agricultural products

1. The products listed in Annex II-C to this Agreement are subject to the anti-circumvention mechanism set out in this Article. The average annual volume of imports from Georgia into the Union for each category of those products is provided in Annex II-C to this Agreement.

2. When the volume of imports of one or more categories of products referred to in paragraph 1 reaches 70 % of the volume indicated in Annex II-C to this Agreement in any given year starting on 1 January, the Union shall notify Georgia about the volume of imports of the product(s) concerned. Following this notification and within 14 calendar days from the date on which the volume of imports of one or more categories of products referred to in paragraph 1 reaches 80 % of the volume indicated in Annex II-C to this Agreement, Georgia shall provide the Union with a sound justification that Georgia has the capacity to produce the products for export into the Union in excess of the volumes set out in that Annex. If those imports reach 100 % of the volume indicated in Annex II-C to this Agreement, and in the absence of a sound justification by Georgia, the Union may temporarily suspend the preferential treatment for the products concerned.

The suspension shall be applicable for a period of six months and shall take effect on the date of publication of the decision to suspend preferential treatment in the Official Journal of the European Union.

3. All temporary suspensions adopted pursuant to paragraph 2 shall be notified by the Union to Georgia without undue delay.

4. A temporary suspension shall be lifted before the expiry of six months from its entry into force by the Union if Georgia provides robust and satisfactory evidence within the Association Committee in Trade configuration, as set out in Article 408(4) of this Agreement, that the volume of the relevant category of products imported in excess of the volume referred to in Annex II-C to this Agreement results from a change in the level of production and export capacity of Georgia for the product(s) concerned.

5. Annex II-C to this Agreement may be amended and the volume modified by mutual consent of the Union and Georgia in the Association Committee in Trade configuration at the request of Georgia, in order to reflect changes in the level of production and export capacity of Georgia for the product(s) concerned.

ARTICLE 28

Standstill

Neither Party may adopt any new customs duty, on a good originating in the other Party or may increase any customs duty applied on the date of entry into force of this Agreement. This shall not preclude that either Party may maintain or increase a customs duty as authorised by the Dispute Settlement Body (DSB) of the WTO.

ARTICLE 29

Customs duties on exports

Neither Party shall adopt or maintain any customs duty or tax, other than internal charges applied in conformity with Article 30 of this Agreement, on, or in connection with, the export of goods to the territory of the other Party.

ARTICLE 30

Fees and other charges

Each Party shall ensure, in accordance with Article VIII of GATT 1994 and the interpretative notes thereon, that all fees and charges of whatever character other than customs duties or other measures referred to in Article 26 of this Agreement, imposed on, or in connection with, the import or export of goods are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.

SECTION 3

NON-TARIFF MEASURES

ARTICLE 31

National treatment

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including the interpretative notes thereon. To that end, Article III of GATT 1994 and the interpretative notes thereon are incorporated into this Agreement and made an integral part thereof.

ARTICLE 32

Import and export restrictions

Neither Party shall adopt or maintain any prohibition or restriction on the import of any good of the other Party or on the export or sale for export of any good destined for the territory of the other Party, except as otherwise provided in this Agreement or in accordance with Article XI of GATT 1994 and the interpretative notes thereon. To that end, Article XI of GATT 1994 and the interpretative notes thereon are incorporated into this Agreement and made an integral part thereof.

SECTION 4

SPECIFIC PROVISIONS RELATED TO GOODS

ARTICLE 33

General exceptions

Nothing in this Chapter shall be construed to prevent the adoption or enforcement by any Party of measures in accordance with Articles XX and XXI of GATT 1994 and any relevant interpretative notes to those Articles under GATT 1994, which are hereby incorporated into this Agreement and made an integral part thereof.

SECTION 5

ADMINISTRATIVE COOPERATION AND COORDINATION WITH OTHER COUNTRIES

ARTICLE 34

Temporary withdrawal of preferences

1. The Parties agree that administrative cooperation and assistance is essential for the implementation and the control of preferential tariff treatment granted under this Chapter and underline their commitment to combat irregularities and fraud in customs and related matters.
2. Where a Party has made a finding, on the basis of objective information, of a failure of the other Party to provide administrative cooperation or assistance and/or of irregularities or fraud under this Chapter, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned in accordance with this Article.
3. For the purposes of this Article, a failure to provide administrative cooperation or assistance shall mean, inter alia:
 - (a) a repeated failure to respect the obligations to verify the originating status of the good(s) concerned;
 - (b) a repeated refusal or undue delay in carrying out and/or communicating the results of subsequent verification of the proof of origin;
 - (c) a repeated refusal or undue delay in obtaining authorisation to conduct enquiry visits to determine the authenticity of documents or accuracy of information relevant to the granting of the preferential treatment in question.

4. For the purposes of this Article, a finding of irregularities or fraud may be made, inter alia, where there is a rapid increase, without satisfactory explanation, in the volume of imports of goods exceeding the usual level of production and export capacity of the other Party that is linked to objective information concerning irregularities or fraud.

5. The application of a temporary suspension shall be subject to the following conditions:

- (a) the Party which has made a finding, on the basis of objective information, of a failure to provide administrative cooperation or assistance and/or of irregularities or fraud from the other Party, shall without undue delay notify the Association Committee in Trade configuration, as set out in Article 408(4) of this Agreement, of its finding together with the objective information and enter into consultations within that Committee, on the basis of all relevant information and objective findings, with a view to reaching a solution acceptable to both Parties;
- (b) where the Parties have entered into consultations within the Association Committee in Trade configuration and have failed to agree on an acceptable solution within three months following the notification, the Party concerned may temporarily suspend the relevant preferential treatment of the good(s) concerned. A temporary suspension shall be notified to the Association Committee in Trade configuration without undue delay;
- (c) temporary suspensions under this Article shall be limited to that necessary to protect the financial interests of the Party concerned. They shall not exceed a period of six months, which may be renewed, if at the date of expiry nothing has changed with respect to the condition that gave rise to the initial suspension. They shall be subject to periodic consultations within the Association Committee in Trade configuration, in particular with a view to their termination as soon as the conditions for their application no longer apply.

6. Each Party shall publish in accordance with its internal procedures, notices to importers concerning any: notification referred to in paragraph 5(a); decision referred to in paragraph 5(b); and extension or termination referred to in paragraph 5(c).

ARTICLE 35

Management of administrative errors

In case of an error by the competent authorities in the proper management of the preferential system at export, and in particular in the application of the provisions of Protocol I to this Agreement concerning the definition of originating products and methods of administrative cooperation, where this error leads to consequences in terms of import duties, the Party facing such consequences may request the Association Committee in Trade configuration, as set out in Article 408(4) of this Agreement, to examine the possibilities of adopting all appropriate measures with a view to resolving the situation.

ARTICLE 36

Agreements with other countries

1. This Agreement shall not preclude the maintenance or establishment of customs unions, free trade areas or arrangements for frontier traffic except in so far as they conflict with trade arrangements provided for in this Agreement.
2. Consultations between the Parties shall take place within the Association Committee in Trade configuration, as set out in Article 408(4) of this Agreement, at the request of either Party, concerning agreements establishing customs unions, free trade areas or arrangements for frontier traffic and on other major issues related to their respective trade policy with third countries. In particular in the event of a third country acceding to the EU, such consultations shall take place so as to ensure that account be taken of the mutual interests of the Union and Georgia as stated in this Agreement.