

# **Agreement establishing a partnership between the European communities and their member states, of the one part, and Georgia, of the other part**

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the European Community, the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community,

Hereinafter referred to as "Member States", and

THE EUROPEAN COMMUNITY, THE EUROPEAN COAL AND STEEL COMMUNITY, AND THE EUROPEAN ATOMIC ENERGY COMMUNITY,

Hereinafter referred to as "the Community",

Of the one part, and

GEORGIA,

Of the other part,

CONSIDERING the links between the Community, its Member States and Georgia and the common values that they share,

RECOGNIZING that the Community and Georgia wish to strengthen these links and to establish partnership and cooperation which would strengthen and widen the relations established in the past in particular by the Agreement between the European Economic Community and the European Atomic Energy Community and the Union of Soviet Socialist Republics on Trade and Commercial and Economic Cooperation, signed on 18 December 1989,

CONSIDERING the commitment of the Community and its Member States and of Georgia to strengthening the political and economic freedoms which constitute the very basis of the partnership,

CONSIDERING the commitment of the Parties to promote international peace and security, as well as the peaceful settlement of disputes and to cooperate to this end in the framework of the United Nations and the Organization for Security and Cooperation in Europe (OSCE),

CONSIDERING the firm commitment of the Community and its Member States and of Georgia to the full implementation of all principles and provisions contained in the Final Act of the Conference on Security and Cooperation in Europe (CSCE), the Concluding Documents of the Madrid and Vienna Follow Up Meetings, the Document of the CSCE Bonn Conference on Economic Cooperation, the Charter of Paris for a New Europe and the CSCE Helsinki Document 1992 "The Challenges of Change", and other fundamental documents of the OSCE,

RECOGNIZING in that context that support of the independence, sovereignty and territorial integrity of Georgia will contribute to the safeguarding of peace and stability in Europe,

CONVINCED of the paramount importance of the rule of law and respect for human rights, particularly those of persons belonging to minorities, the establishment of a multiparty system with free and democratic elections and economic liberalization aimed at setting up a market economy, and recognizing the efforts of Georgia to create political and economic systems based on these principles,

BELIEVING that full implementation of this Partnership and Cooperation Agreement will both depend on and contribute to continuation and accomplishment of the political, economic and legal reforms in Georgia, as well as the introduction of the factors necessary for cooperation, notably in the light of the conclusions of the CSCE Bonn Conference,

DESIROUS of encouraging the process of regional cooperation in the areas covered by this Agreement with neighbouring countries in order to promote the prosperity and stability of the region and in particular initiatives aimed at fostering cooperation and mutual confidence among Independent States of the Transcaucasus region and other neighbouring States,

DESIROUS of establishing and developing regular political dialogue on bilateral, regional and international issues of mutual interest,

RECOGNIZING AND SUPPORTING the wish of Georgia to establish close cooperation with European Institutions,

CONSIDERING the necessity of promoting investment in Georgia, including in the energy sector, and in this context the importance attached by the Community and its Member States to equitable conditions for transit for export of energy products; confirming the attachment of the Community and its Member States and of Georgia to the European Energy Charter, and to the full implementation of the Energy Charter Treaty and the Energy Charter Protocol on energy efficiency and related environmental aspects,

TAKING ACCOUNT of the Community's willingness to provide for economic cooperation and technical assistance as appropriate,

BEARING IN MIND the utility of the Agreement in favouring a gradual rapprochement between Georgia and a wider area of cooperation in Europe and neighbouring regions and its progressive integration into the open international system,

CONSIDERING the commitment of the Parties to liberalize trade, in conformity with World Trade Organization (WTO) rules,

CONSCIOUS of the need to improve conditions affecting business and investment, and conditions in areas such as establishment of companies, labour, provision of services and capital movements,

CONVINCED that this Agreement will create a new climate for economic relations between the Parties and in particular for the development of trade and investment, which are essential to economic restructuring and technological modernization,

DESIROUS of establishing close cooperation in the area of environment protection taking into account the interdependence existing between the Parties in this field,

RECOGNIZING that cooperation for the prevention and control of illegal immigration constitutes one of the primary objectives of this Agreement,

DESIROUS of establishing cultural cooperation and improving the flow of information,

Have agreed as follows

## **Article 1.**

A Partnership is hereby established between the Community and its Member States of the one Part, and Georgia, of the other part. The objectives of this partnership are:

- To provide an appropriate framework for the political dialogue between the Parties allowing the development of political relations;
- To support Georgia's efforts to consolidate its democracy and to develop its economy and to complete the transition into a market economy;
- To promote trade and investment and harmonious economic relations between the Parties and so to foster their sustainable economic development;
- To provide a basis for legislative, economic, social, financial, civil scientific, technological and cultural cooperation.

## **Article 2.**

Respect for democracy, principles of international law and human rights as defined in particular in the United Nations Charter, the Helsinki Final Act and the Charter of Paris for a New Europe, as well as the principles of market economy, including those enunciated in the documents of the CSCE Bonn Conference, underpin the internal and external policies of the Parties and constitute essential elements of partnership and of this Agreement.

## **Article 3.**

The Parties consider that it is essential for their future prosperity and stability that the newly independent states which have emerged from the dissolution of the Union of Soviet Socialist Republics, hereinafter called "Independent States", should maintain and develop cooperation among themselves in compliance with the principles of the Helsinki Final Act and with international law and in the spirit of good neighbourly relations and will make every effort to encourage this process.

## **Article 4.**

The Parties shall as appropriate review changing circumstances in Georgia, in particular regarding economic conditions there and implementation of market-oriented economic reforms. The Cooperation Council may make recommendations to the Parties concerning development of any part of this Agreement in the light of these circumstances.

## **Article 5.**

A regular political dialogue shall be established between the Parties which they intend to develop and intensify. It shall accompany and consolidate the rapprochement between the Community and Georgia, support the political and economic changes underway in that country and contribute to the establishment of new forms of cooperation. The political dialogue:

- Will strengthen the links of Georgia with the Community and its Member States, and thus with the community of democratic nations as a whole. The economic convergence achieved through this Agreement will lead to more intense political relations,
- Will bring about an increasing convergence of positions on international issues of mutual concern thus increasing security and stability in the region and promoting the future development of the Independent States of the Transcaucasus,
- Shall foresee that the Parties endeavour to cooperate on matters pertaining to the strengthening of stability and security in Europe, the observance of the principles of democracy, and the respect and promotion of human rights, particularly those of persons belonging to minorities and shall hold consultations, if necessary, on relevant matters.

Such dialogue may take place on a regional basis, with a view to contributing towards the resolution of regional conflicts and tensions.

## **Article 6.**

At ministerial level, political dialogue shall take place within the Cooperation Council established in Article 81 and on other occasions by mutual agreement.

## **Article 7.**

Other procedures and mechanisms for political dialogue shall be set up by the Parties, and in particular in the following forms:

- Regular meetings at senior official level between representatives of the Community and its Member States on the one hand, and representatives of Georgia on the other hand;
- Taking full advantage of diplomatic channels between the Parties including appropriate contacts in the bilateral as well as the multilateral field, such as United Nations, OSCE meetings and elsewhere;
- Any other means, including the possibility of expert meetings which would contribute to consolidating and developing this dialogue.

## **Article 8.**

Political dialogue at parliamentary level shall take place within the framework of the Parliamentary Cooperation Committee established in Article 86.

## **Article 9.**

1. The Parties shall accord to one another most-favoured-nation treatment in all areas in respect of:

- Customs duties and charges applied to imports and exports, including the method of collecting such duties and charges,
- Provisions relating to customs clearance, transit, warehouses and transshipment,
- Taxes and other internal charges of any kind applied directly or indirectly to imported goods,
- Methods of payment and the transfer of such payments,
- The rules relating to the sale, purchase, transport, distribution and use of goods on the domestic market.

2. The provisions of paragraph 1 shall not apply to:

- (a) advantages granted with the aim of creating a customs union or a free-trade area or pursuant to the creation of such a union or area;
- (b) advantages granted to particular countries in accordance with WTO rules and with other international arrangements in favour of developing countries;
- (c) advantages accorded to adjacent countries in order to facilitate frontier traffic.

3. The provisions of paragraph 1 shall not apply, during a transitional period expiring on the date of Georgia acceding to the WTO or on 31 December 1998, whichever is earlier, to advantages defined in Annex I granted by Georgia to other states which have emerged from the dissolution of the USSR.

## **Article 10.**

1. The Parties agree that the principle of free transit is an essential condition of attaining the objectives of this Agreement.

In this connection each Party shall secure unrestricted transit via or through its territory of goods originating in the customs territory or destined for the customs territory of the other Party.

2. The rules described in Article V, paragraphs 2, 3, 4 and 5 of the GATT are applicable between the two Parties.

3. The rules contained in this Article are without prejudice to any special rules relating to specific sectors, in particular such as transport, or products agreed between the Parties.

## **Article 11.**

Without prejudice to the rights and obligations stemming from international conventions on the temporary admission of goods which bind both Parties, each Party shall furthermore grant the other Party exemption from import charges and duties on goods admitted temporarily, in the instances and according to the procedures stipulated by any other international convention on this matter binding upon it, in conformity with its legislation. Account shall be taken of the conditions under which the obligations stemming from such a convention have been accepted by the Party in question.

## **Article 12.**

1. Goods originating in Georgia shall be imported into the Community free of quantitative restrictions without prejudice to the provisions of Articles 14, 17 and 18 of this Agreement.
2. Goods originating in the Community shall be imported into Georgia free of all quantitative restrictions and measures of equivalent effect without prejudice to the provisions of Article 14 of this Agreement.

## **Article 13.**

Goods shall be traded between the Parties at market-related prices.

## **Article 14.**

1. Where any product is being imported into the territory of one of the Parties in such increased quantities or under such conditions as to cause or threaten to cause injury to domestic producers of like or direct competitive products, the Community or Georgia, whichever is concerned, may take appropriate measures in accordance with the following procedures and conditions.
2. Before taking any measures, or in cases to which paragraph 4 applies as soon as possible thereafter, the Community or Georgia as the case may be, shall supply the Cooperation Council with all relevant information with a view to seeking a solution acceptable to both Parties as provided for in Title XI.
3. If, as a result of the consultations, the Parties do not reach agreement within 30 days of referral to the Cooperation Council on actions to avoid the situation, the Party which requested consultations shall be free to restrict imports of the products concerned to the extent and for such time as is necessary to prevent or remedy the injury, or to adopt other appropriate measures.
4. In critical circumstances where delay would cause damage difficult to repair, the Parties may take the measures before the consultations, on the condition that consultations shall be offered immediately after taking such action.
5. In the selection of measures under this Article, the Parties shall give priority to those which cause least disturbance to the achievement of the aims of this Agreement.
6. Nothing in this Article shall prejudice or affect in any way the taking, by either Party, of anti-dumping or countervailing measures in accordance with Article VI of the GATT, the Agreement on implementation of Article VI of the GATT, the Agreement on interpretation and application of Articles VI, XVI and XXIII of the GATT or related internal legislation.

## **Article 15.**

The Parties undertake to consider development of the provisions in this Agreement on trade in goods between them, as circumstances allow, including the situation arising from the accession of Georgia to the WTO. The Cooperation Council may make recommendations on such developments to the Parties which could be put into effect, where accepted, by virtue of agreement between the Parties in accordance with their respective procedures.

## **Article 16.**

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of natural resources; the protection of national treasures of artistic, historic or archaeological value or the protection of intellectual, industrial and commercial property or rules relating to gold and silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

## **Article 17.**

This Title shall not apply to trade in textile products falling under Chapters 50 to 63 of the Combined Nomenclature. Trade in these products shall be governed by a separate agreement, initialled on 22 December 1995 and applied provisionally since 1 January 1996.

## **Article 18.**

1. Trade in products covered by the Treaty establishing the European Coal and Steel Community shall be governed by the provisions of this Title, with the exception of Article 12.
2. A contact group on coal and steel matters shall be set up, comprising representatives of the Community on the one hand, and representatives of Georgia on the other.

The contact group shall exchange, on a regular basis, information on all coal and steel matters of interest to the Parties.

## **Article 19.**

Trade in nuclear materials will be conducted in accordance with the provisions of the Treaty establishing the European Atomic Energy Community. If necessary, trade in nuclear materials shall be subject to the provisions of a specific Agreement to be concluded between the European Atomic Energy Community and Georgia.

# **Part IV. Provisions Affecting Business and Investment**

## **Chapter I. Labour Conditions**

### **Article 20.**

1. Subject to the laws, conditions and procedures applicable in each Member State, the Community and the Member States shall endeavour to ensure that the treatment accorded to Georgian nationals legally employed in the territory of a Member State shall be free from any discrimination based on nationality, as regards working conditions, remuneration or dismissal, as compared to its own nationals.
2. Subject to the laws, conditions and procedures applicable in Georgia, Georgia shall ensure that the treatment accorded to nationals of a Member State, legally employed in the territory of Georgia, shall be free from any discrimination based on nationality, as regards working conditions, remuneration or dismissal, as compared to its own nationals.

### **Article 21.**

The Cooperation Council shall examine which improvements can be made in working conditions for business people consistent with the international commitments of the Parties, including those set out in the document of the CSCE Bonn Conference.

### **Article 22.**

The Cooperation Council shall make recommendations for the implementation of Articles 20 and 21.

### **Article 23.**

1. The Community and its Member States shall grant treatment no less favourable than that accorded to any third country for the establishment of Georgian companies as defined in Article 25(d).
2. Without prejudice to the reservations listed in Annex IV, the Community and its Member States shall grant to subsidiaries of Georgian companies established in their territories a treatment no less favourable than that granted to any Community companies, in respect of their operation.
3. The Community and its Member States shall grant to branches of Georgian companies established in their territories treatment no less favourable than that accorded to branches of companies of any third country, in respect of their operation.
4. Without prejudice to the reservations listed in Annex V, and subject to the conditions set out therein, Georgia shall grant for the establishment of Community companies as defined in Article 25(d) treatment no less favourable than that accorded to Georgian companies or to any third country companies, whichever is the better, and shall grant to subsidiaries and branches of Community companies established in its territory treatment no less favourable than that accorded to its own companies or branches or to any third country company or branch, whichever is the better, in respect of their operations.

### **Article 24.**

1. Without prejudice to the provisions of Article 100, the provisions of Article 23 shall not apply to air transport, inland waterways transport and maritime transport.

2. However, in respect of activities, as indicated below, undertaken by shipping agencies for the provision of services to international maritime transport, including intermodal transport operations involving a sea-leg, each Party shall permit the companies of the other Party to have a commercial presence in its territory in the form of subsidiaries or branches, under conditions of establishment and operation no less favourable than those accorded to its own companies or to subsidiaries or branches of companies of any third country, whichever are the better, and this in conformity with the legislation and regulations applicable in each Party.

3. Such activities include but are not limited to:

(a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, whether these services are operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;

(b) purchase and use, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of an integrated service;

(c) preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;

(d) provision of business information by any means, including computerized information systems and electronic data interchange (subject to any non-discriminatory restrictions concerning telecommunications);

(e) setting up of any business arrangement, including participation in the company's stock and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the relevant provisions of this Agreement), with any locally established shipping agency;

(f) acting on behalf of the companies, inter alia in organizing the call of the vessel or taking over cargoes when required.

## **Article 25.**

For the purpose of this Agreement:

(a) A "Community company" or a "Georgian company" respectively shall mean a company set up in accordance with the laws of a Member State or of Georgia respectively and having its registered office or central administration, or principal place of business in the territory of the Community or Georgia respectively. However, should the company, set up in accordance with the laws of a Member State or Georgia respectively, have only its registered office in the territory of the Community or Georgia respectively, the company shall be considered a Community or Georgian company respectively if its operations possess a real and continuous link with the economy of one of the Member States or Georgia respectively.

(b) "Subsidiary" of a company shall mean a company which is effectively controlled by the first company.

(c) "Branch" of a company shall mean a place of business not having legal personality which has the appearance of permanency, such as the extension of a parent body, has a management and is materially equipped to negotiate business with third parties so that the latter, although knowing that there will if necessary be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of business constituting the extension.

(d) "Establishment" shall mean the right of Community or Georgian companies as referred to in point (a), to take up economic activities by means of the setting up of subsidiaries and branches in Georgia or in the Community respectively.

(e) "Operation" shall mean the pursuit of economic activities.

(f) acting on behalf of the companies, inter alia in organizing the call of the vessel or taking over cargoes when required.

## **Article 25.**

For the purpose of this Agreement:

(a) A "Community company" or a "Georgian company" respectively shall mean a company set up in accordance with the laws of a Member State or of Georgia respectively and having its registered office or central administration, or principal place of

business in the territory of the Community or Georgia respectively. However, should the company, set up in accordance with the laws of a Member State or Georgia respectively, have only its registered office in the territory of the Community or Georgia respectively, the company shall be considered a Community or Georgian company respectively if its operations possess a real and continuous link with the economy of one of the Member States or Georgia respectively.

(b) "Subsidiary" of a company shall mean a company which is effectively controlled by the first company.

(c) "Branch" of a company shall mean a place of business not having legal personality which has the appearance of permanency, such as the extension of a parent body, has a management and is materially equipped to negotiate business with third parties so that the latter, although knowing that there will if necessary be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of business constituting the extension.

(d) "Establishment" shall mean the right of Community or Georgian companies as referred to in point (a), to take up economic activities by means of the setting up of subsidiaries and branches in Georgia or in the Community respectively.

(e) "Operation" shall mean the pursuit of economic activities.

(f) "Economic activities" shall mean activities of an industrial, commercial and professional character.

With regard to international maritime transport, including inter modal operations involving a sea-leg, nationals of the Member States or of Georgia established outside the Community or Georgia respectively, and shipping companies established outside the Community or Georgia and controlled by nationals of a Member State or Georgian nationals respectively, shall also be beneficiaries of the provisions of this Chapter and Chapter III if their vessels are registered in that Member State or in Georgia respectively in accordance with their respective legislation.

## **Article 26.**

1. Notwithstanding any other provisions of this Agreement, a Party shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the obligations of a Party under this Agreement.

2. Nothing in this Agreement shall be construed as requiring 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.

3. For the purpose of this Agreement, "financial services" shall mean those activities described in Annex III.

## **Article 27.**

The provisions of this Agreement shall not prejudice the application by each Party of any measure necessary to prevent the circumvention of its measures concerning third country access to its market, through the provisions of this Agreement.

## **Article 28.**

1. Notwithstanding the provisions of Chapter I of this Title, a Community company or a Georgian company established in the territory of Georgia or the Community respectively shall be entitled to employ, or have employed by one of its subsidiaries or branches, in accordance with the legislation in force in the host country of establishment, in the territory of Georgia and the Community respectively, employees who are nationals of Community Member States and Georgia respectively, provided that such employees are key personnel as defined in paragraph 2, and that they are employed exclusively by companies, or branches. The residence and work permits of such employees shall only cover the period of such employment.

2. Key personnel of the abovementioned companies herein referred to as "organizations" are "intra-corporate transferees" as defined in (c) in the following categories, provided that the organization is a legal person and that the persons concerned have been employed by it or have been partners in it (other than majority shareholders), for at least the year immediately preceding such movement:

(a) Persons working in a senior position with an organization, who primarily direct the management of the establishment, receiving general supervision or direction principally from the board of directors or stockholders of the business or their equivalent, including:



- Directing the establishment or a department or subdivision of the establishment,
- Supervising and controlling the work of other supervisory, professional or managerial employees,
- Having the authority personally to hire and fire or recommend hiring, firing or other personnel actions;

(b) Persons working within an organization who possess uncommon knowledge essential to the establishment's service, research equipment, techniques or management. The assessment of such knowledge may reflect, apart from knowledge specific to the establishment, a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession;

(c) An "intra-corporate transferee" is defined as a natural person working within an organization in the territory of a Party, and being temporarily transferred in the context of pursuit of economic activities in the territory of the other Party; the organization concerned must have its principal place of business in the territory of a Party and the transfer be to an establishment (branch, subsidiary) of that organization, effectively pursuing like economic activities in the territory of the other Party.

## **Article 29.**

1. The Parties shall use their best endeavours to avoid taking any measures or actions which render the conditions for the establishment and operation of each other's companies more restrictive than the situation existing on the day preceding the date of signature of this Agreement.

2. The provisions of this Article are without prejudice to those of Article 37: the situations covered by such Article 37 shall be solely governed by its provisions to the exclusion of any other.

3. Acting in the spirit of partnership and cooperation and in the light of the provisions of Article 43 the Government of Georgia shall inform the Community of its intentions to submit new legislation or adopt new regulations which may render the conditions for the establishment or operation in Georgia of subsidiaries and branches of Community companies more restrictive than the situation existing on the day preceding the date of signature of this Agreement. The Community may request Georgia to communicate the drafts of such legislation or regulations and to enter into consultations about those drafts.

4. Where new legislation or regulations introduced in Georgia would result in rendering the conditions for operation of subsidiaries and branches of Community companies established in Georgia more restrictive than the situation existing on the day of signature of this Agreement, such respective legislation or regulations shall not apply during three years following the entry into force of the relevant act to those subsidiaries and branches already established in Georgia at the time of entry into force of the relevant act.

## **Article 30.**

1. The Parties undertake in accordance with the provisions of this Chapter to take the necessary steps to allow progressively the supply of services by Community or Georgian companies which are established in a Party other than that of the person for whom the services are intended taking into account the development of the service sectors in the Parties.

2. The Cooperation Council shall make recommendations for the implementation of paragraph 1.

## **Article 31.**

The Parties shall cooperate with the aim of developing a market oriented service sector in Georgia.

## **Article 32.**

1. The Parties undertake to apply effectively the principle of unrestricted access to the international maritime market and traffic on a commercial basis:

(a) the above provision does not prejudice the rights and obligations arising from the United Nations Convention on a Code of Conduct for Liner Conferences, as applicable to one or other Party to this Agreement. Non-conference lines will be free to operate in competition with a conference as long as they adhere to the principle of fair competition on a commercial basis;

(b) the Parties affirm their commitment to a freely competitive environment as being an essential feature of the dry and liquid bulk trade.

2. In applying the principles of paragraph 1, the Parties shall:

- (a) not apply, as from the entry into force of this Agreement, any cargo sharing provisions of bilateral agreements between any Member States of the Community and the former Soviet Union;
- (b) not introduce cargo sharing clauses into future bilateral agreements with third countries, other than in those exceptional circumstances where liner shipping companies from one or other Party to this Agreement would not otherwise have an effective opportunity to ply for trade to and from the third country concerned;
- (c) prohibit cargo sharing arrangements in future bilateral agreements concerning dry and liquid bulk trade;
- (d) abolish upon entry into force of this Agreement, all unilateral measures, administrative, technical and other obstacles which could have restrictive or discriminatory effects on the free supply of services in international maritime transport.

3. Each party shall grant, inter alia, no less favourable treatment, for the ships operated by nationals or companies of the other Party, than that accorded to a Party's own ships, with regard to access to ports open to international trade, the use of infrastructure and auxiliary maritime services of the ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.

4. Nationals and companies of the Community providing international maritime transport services shall be free to provide international sea-river services in the inland waterways of Georgia and vice versa.

### **Article 33.**

With a view to assuring a coordinated development of transport between the Parties, adapted to their commercial needs, the conditions of mutual market access and provision of services in transport by road, rail and inland waterways and, if applicable, in air transport may be dealt with by specific agreements where appropriate negotiated between the Parties after entry into force of this Agreement.

### **Article 34.**

- 1. The provisions of this Title shall be applied subject to limitations justified on grounds of public policy, public security or public health.
- 2. They shall not apply to activities which in the territory of either Party are connected, even occasionally, with the exercise of official authority.

### **Article 35.**

For the purpose of this Title, nothing in this Agreement shall prevent the Parties from applying their laws and regulations regarding entry and stay, work, labour conditions and establishment of natural persons and supply of services, provided that, in so doing, they do not apply them in a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific provision of this Agreement. The above provision does not prejudice the application of Article 34.

### **Article 36.**

Companies which are controlled and exclusively owned by Georgian companies and Community companies jointly shall also be beneficiaries of the provisions of Chapters II, III and IV.

### **Article 37.**

Treatment granted by either Party to the other thereunder shall, as from the day one month prior to the date of entry into force of the relevant obligations of the General Agreement on Trade in Services (GATS), in respect of sectors or measures covered by the GATS, in no case be more favourable than that accorded by such first Party under the provisions of GATS and this in respect of each service sector, sub-sector and mode of supply.

### **Article 38.**

For the purposes of Chapters II, III and IV, no account shall be taken of treatment accorded by the Community, its Member States or Georgia pursuant to commitments entered into in Economic integration agreements in accordance with the principles of Article V of the GATS.

## **Article 39.**

1. The most-favoured-nation treatment granted in accordance with the provisions of this Title shall not apply to the tax advantages which the Parties are providing or will provide in the future on the basis of agreements to avoid double taxation, or other tax arrangements.
2. Nothing in this Title shall be construed to prevent the adoption or enforcement by the Parties of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation and other tax arrangements, or domestic fiscal legislation.
3. Nothing in this Title shall be construed to prevent Member States or Georgia from distinguishing, in the application of the relevant provisions of their fiscal legislation, between tax payers who are not in identical situations, in particular as regards their place of residence.

## **Article 40.**

Without prejudice to Article 28, no provision of Chapters II, III and IV shall be interpreted as giving the right to:

- Nationals of the Member States or of Georgia respectively to enter, or stay in, the territory of Georgia or the Community respectively in any capacity whatsoever, and in particular as a shareholder or partner in a company or manager or employee thereof or supplier or recipient of services;
- Community subsidiaries or branches of Georgian companies to employ or have employed in the territory of the Community nationals of Georgia;
- Georgian subsidiaries or branches of Community companies to employ or have employed in the territory of Georgia nationals of the Member States;
- Georgian companies or Community subsidiaries or branches of Georgian companies to supply Georgian persons to act for and under the control of other persons by temporary employment contracts;
- Community companies or Georgian subsidiaries or branches of Community companies to supply workers who are nationals of the Member States by temporary employment contracts.

## **Article 41.**

1. The Parties undertake to authorize in freely convertible currency, any current payments between residents of the Community and of Georgia connected with the movement of goods, services or persons made in accordance with the provisions of this Agreement.
2. With regard to transactions on the capital account of balance of payments, from entry into force of this Agreement, the free movement of capital relating to direct investments made in companies formed in accordance with the laws of the host country and investments made in accordance with the provisions of Chapter II, and the liquidation or repatriation of these investments and of any profit stemming therefrom shall be ensured.
3. Without prejudice to paragraph 2 or to paragraph 5, as from the entry into force of this Agreement, no new foreign exchange restrictions on the movement of capital and current payments connected therewith between residents of the Community and Georgia shall be introduced and the existing arrangements shall not become more restrictive.
4. The Parties shall consult each other with a view to facilitating the movement of forms of capital other than those referred to in paragraph 2 above between the Community and Georgia in order to promote the objectives of this Agreement.
5. With reference to the provisions of this Article, until a full convertibility of the Georgian currency within the meaning of Article VIII of the Articles of Agreement of the International Monetary Fund (IMF) is introduced, Georgia may in exceptional circumstances apply exchange restrictions connected with the granting or taking up of short and medium-term financial credits to the extent that such restrictions are imposed on Georgia for the granting of such credits and are permitted according to Georgia's status under the IMF. Georgia shall apply these restrictions in a non-discriminatory manner. They shall be applied in such a manner as to cause the least possible disruption to this Agreement. Georgia shall inform the Cooperation Council promptly of the introduction of such measures and of any changes therein.
6. Without prejudice to paragraphs 1 and 2, where, in exceptional circumstances, movement of capital between the Community and Georgia cause, or threaten to cause, serious difficulties for the operation of exchange rate policy or

monetary policy in the Community or Georgia, the Community and Georgia, respectively, may take safeguard measures with regard to movements of capital between the Community and Georgia for a period not exceeding six months if such measures are strictly necessary.

## **Article 42.**

1. Pursuant to the provisions of this Article and of Annex II, Georgia shall continue to improve the protection of intellectual, industrial and commercial property rights in order to provide, by the end of the fifth year after the entry into force of this Agreement, for a level of protection similar to that existing in the Community, including effective means of enforcing such rights.

2. By the end of the fifth year after entry into force of this Agreement, Georgia shall accede to the multilateral conventions on intellectual, industrial and commercial property rights referred to in paragraph 1 of Annex II to which Member States are parties or which are de facto applied by Member States, according to the relevant provisions contained in these conventions.

## **Article 43.**

1. The Parties recognize that an important condition for strengthening the economic links between Georgia and the Community is the approximation of Georgia's existing and future legislation to that of the Community. Georgia shall endeavour to ensure that its legislation will be gradually made compatible with that of the Community.

2. The approximation of laws shall extend to the following areas in particular: laws and regulations governing investments by companies, customs law, company law, banking law, company accounts and taxes, intellectual property, protection of workers at the workplace, financial services, rules on competition, public procurement, protection of health and life of humans, animals and plants, the environment, consumer protection, indirect taxation, technical rules and standards, nuclear laws and regulations and transport.

3. The Community shall provide Georgia with technical assistance for the implementation of these measures, which may include inter alia:

- The exchange of experts;
- The provision of early information especially on relevant legislation;
- Organization of seminars;
- Training activities;
- Aid for translation of Community legislation in the relevant sectors.

## **Article 44.**

1. Further to Article 43, the Community shall provide Georgia with technical assistance regarding the formulation and implementation of legislation in the field of competition, in particular as concerns:

- Agreements and associations between undertakings and concerted practices which may have the effect of preventing, restricting or distorting competition,
- Abuse by undertakings of a dominant position in the market,
- State aids which have the effect of distorting competition,
- State monopolies of a commercial character,
- Public undertakings and undertakings with special or exclusive rights,
- Review and supervision of the application of competition laws and means of ensuring compliance with them.

2. The Parties agree to examine ways to apply their respective competition laws on a concerted basis in such cases where trade between them is affected.

## **Article 45.**

1. The Community and Georgia shall establish economic cooperation aimed at contributing to the process of economic reform and recovery and sustainable development of Georgia. Such cooperation shall strengthen existing economic links, to the benefit of both parties.
2. Policies and other measures will be designed to bring about economic and social reforms and restructuring of the economic and trading systems in Georgia and will be guided by the requirements of sustainability and harmonious social development; they will also fully incorporate environmental considerations.
3. To this end, cooperation will concentrate, in particular, on economic and social development, human resources development, support for enterprises (including privatization, investment and development of financial services), agriculture and food, energy, transport, tourism, environmental protection, regional cooperation and monetary policy.
4. Special attention shall be devoted to measures capable of fostering cooperation among the Independent States of the Transcaucasus region, and with other neighbouring states, with a view to stimulating a harmonious development of the region.
5. Where appropriate, economic cooperation and other forms of cooperation provided for in this Agreement may be supported by technical assistance from the Community, taking into account the Community's relevant Council regulation applicable to technical assistance in the Independent States, the priorities agreed upon in the indicative programme related to Community technical assistance to Georgia and its established coordination and implementation procedures.

## **Article 46.**

Cooperation in the field of trade in goods and services

The Parties will cooperate with a view to ensuring that Georgia's international trade is conducted in conformity with the rules of the WTO.

Such cooperation shall include specific issues directly relevant to trade facilitation, including:

- Formulation of policy on trade and trade-related questions, including payments, and clearing mechanisms,
- Drafting of relevant legislation,
- Assistance to prepare for Georgia's eventual accession to the WTO.

## **Article 47. Industrial Cooperation**

1. Cooperation shall aim at promoting the following in particular:

- The development of business links between economic operators of both sides;
- Community participation in Georgia's efforts to restructure its industry;
- The improvement of management;
- The development of appropriate commercial rules and practices;
- Environmental protection;
- Conversion of the military-industrial complex.

2. The provisions of this Article shall not affect the enforcement of Community competition rules applicable to undertakings.

## **Article 48. Construction**

The Parties shall cooperate in the field of construction industry.

This cooperation shall, inter alia, aim at modernizing and restructuring the construction sector in Georgia in line with the principles of a market economy and duly taking into account related health, safety and environmental aspects.

## **Article 49. Investment Promotion and Protection**

1. Bearing in mind the respective powers and competences of the Community and the Member States, cooperation shall

aim to establish a favourable climate for private investment, both domestic and foreign, especially through better conditions for investment protection, the transfer of capital and the exchange of information on investment opportunities.

2. The aims of cooperation shall be in particular:

- The conclusion, where appropriate, between the Member States and Georgia of agreements for the promotion and protection of investment;
- The conclusion, where appropriate, between the Member States and Georgia of agreements to avoid double taxation;
- The creation of favourable conditions for attracting foreign investments into the Georgian economy;
- To establish stable and adequate business law and conditions, and to exchange information on laws, regulations and administrative practices in the field of investment;
- To exchange information on investment opportunities in the form of, inter alia, trade fairs, exhibitions, trade weeks and other events.

## **Article 50. Public Procurement**

The Parties shall cooperate to develop conditions for open and competitive award of contracts for goods and services in particular through calls for tenders.

## **Article 51. Cooperation In the Field of Standards and Conformity Assessment**

1. Cooperation between the Parties shall promote alignment with internationally agreed criteria, principles and guidelines followed in the field of quality. The required actions will facilitate progress towards mutual recognition in the field of conformity assessment, as well as the improvement of the quality of Georgian products.

2. To this end the Parties shall seek to cooperate in technical assistance projects which will:

- promote appropriate cooperation with organizations and institutions specialized in these fields;
- promote the use of Community technical regulations and the application of European standards and conformity assessment procedures;
- permit the sharing of experience and technical information in the field of quality management.

## **Article 52. Mining and Raw Materials**

1. The Parties shall aim at increasing investment and trade in mining and raw materials.

2. The cooperation shall focus in particular on the following areas:

- exchange of information on the prospects of the mining and non-ferrous metals sectors,
- The establishment of a legal framework for cooperation,
- Trade matters,
- The adoption and implementation of environmental legislation,
- Training,
- Safety in the mining industry.

## **Article 53. Cooperation In Science and Technology**

1. The Parties shall promote cooperation in civil scientific research and technological development (RTD) on the basis of mutual benefit and, taking into account the availability of resources, adequate access to their respective programmes and subject to appropriate levels of effective protection of intellectual, industrial and commercial property rights (IPR).

In carrying out such cooperation activities, special attention shall be devoted to the redeployment of scientists, engineers, researchers and technicians which are or have been engaged in research and/or production of weapons of mass

destruction.

3. The cooperation covered by this Article shall be implemented according to specific arrangements to be negotiated and concluded in accordance with the procedures adopted by each Party, and which shall set out, inter alia, appropriate IPR provisions.

## **Article 54. Education and Training**

1. The Parties shall cooperate with the aim of raising the level of general education and professional qualifications in Georgia, both in the public and private sectors.

2. The cooperation shall focus in particular on the following areas:

- Updating higher education and training systems in Georgia including the system of certification of higher educational establishments and diplomas of higher education;
- The training of public and private sector executives and civil servants in priority areas to be determined;
- Cooperation between educational establishments and between educational establishments and firms;
- Mobility for teachers, graduates, administrators, young scientists and researchers, and young people;
- Promoting teaching in the field of European Studies within the appropriate institutions;
- Teaching Community languages;
- Post-graduate training of conference interpreters;
- Training of journalists;
- Training of trainers.

3. The possible participation of one Party in the respective programmes in the field of education and training of the other Party could be considered in accordance with their respective procedures and, where appropriate, institutional frameworks and plans of cooperation will then be established building on participation of Georgia in the Community's TEMPUS programme.

## **Article 55. Agriculture and the Agro-industrial Sector**

The purpose of cooperation in this area shall be the pursuance of agrarian reform, the modernization, privatization and restructuring of agriculture, the agro-industrial and service sectors in Georgia, development of domestic and foreign markets for Georgian products, in conditions that ensure the protection of the environment, taking into account the necessity to improve security of food supply as well as the development of agri-business, the processing and distribution of agricultural products. The Parties shall also aim at the gradual approximation of Georgian standards to Community technical regulations concerning industrial and agricultural food products including sanitary and phytosanitary standards.

## **Article 56. Energy**

1. Cooperation shall take place within the principles of the market economy and the European Energy Charter and bearing in mind the Energy Charter Treaty and the Protocol on Energy Efficiency and Related Environmental Aspects, against a background of the progressive integration of the energy markets in Europe.

2. The cooperation shall include among others the following areas:

- Formulation and development of energy policy,
- Improvement in management and regulation of the energy sector in line with a market economy,
- Improvement of energy supply, including security of supply, in an economic and environmentally sound manner,
- Promotion of energy saving and energy efficiency and implementation of the Energy Charter Protocol on Energy Efficiency and related environmental aspects,
- Modernization of energy infrastructures,

- Improvement of energy technologies in supply and end use across the range of energy types,
- Management and technical training in the energy sector,
- Transportation and transit of energy materials and products,
- The introduction of the range of institutional, legal, fiscal and other conditions necessary to encourage increased energy trade and investment,
- Development of hydro-electric and other renewable energy resources.

3. The Parties shall exchange relevant information relating to investment projects in the energy sector, in particular concerning the construction and refurbishing of oil and gas

Pipelines or other means of transporting energy products. They shall cooperate with a view to implementing as efficaciously as possible the provisions of Title IV and of Article 49, in respect of investments in the energy sector.

## **Article 57. Environment**

1. Bearing in mind the European Energy Charter and the Declaration of the Lucerne Conference of 1993, and taking into account the Energy Charter Treaty, and especially its Article 19, and the Energy Charter Protocol on Energy Efficiency and related environmental aspects, the Parties shall develop and strengthen their cooperation on environment and human health.

2. Cooperation shall aim at combating the deterioration of the environment and in particular:

- Effective monitoring of pollution levels and assessment of the environment; system of information on the state of the environment;
- Combating local, regional and transboundary air and water pollution;
- Ecological restoration;
- Sustainable, efficient and environmentally effective production and use of energy;
- Safety of industrial plants;
- Classification and safe handling of chemicals;
- Water quality;
- Waste reduction, recycling and safe disposal, implementation of the Basle Convention;
- The environmental impact of agriculture, soil erosion, and chemical pollution;
- The protection of forests;
- The conservation of biodiversity, protected areas and sustainable use and management of biological resources;
- Land-use planning, including construction and urban planning;
- Use of economic and fiscal instruments;
- Global climate change;
- Environmental education and awareness;
- Technical assistance concerning rehabilitation of zones affected by radioactivity and addressing related health and social problems;
- Implementation of the Espoo Convention on Environmental Impact Assessment in a transboundary context.

3. Cooperation shall take place particularly through:

- Disaster planning and other emergency situations;
- Exchange of information and experts, including information and experts dealing with the transfer of clean technologies and the safe and environmentally sound use of biotechnologies;



- Joint research activities;
- Improvement of laws towards Community standards;
- Environmental training and institutional strengthening;
- Cooperation at regional level, including cooperation within the framework of the European Environment Agency, and at international level;
- Development of strategies, particularly with regard to global and climatic issues and also with a view to achieving sustainable development;
- Environmental impact studies.

## **Article 58. Transport**

The Parties shall develop and strengthen their cooperation in the field of transport.

This cooperation shall, inter alia, aim at restructuring and modernizing transport systems and networks in Georgia, and developing and ensuring, where appropriate, compatibility of transportation systems in the context of achieving a more global transport system. Particular consideration shall be given to traditional communications links among Independent States in the Transcaucasus region and with other neighbouring states.

The cooperation shall include, inter alia:

- The modernizing of management and operations of road transport, railways, ports and airports;
- Modernization and development of railways, waterways, roads, ports, airports and air navigation infrastructure including the modernization of major routes of common interest and the trans-European links for the above modes, particularly those related to the TRACECA project;
- Promotion and development of multi-modal transport;
- The promotion of joint research and development programmes;
- Preparation of the legislative and institutional framework for policy development and implementation including privatization of the transport sector.

## **Article 59. Postal Services and Telecommunications**

Within their respective powers and competences the Parties shall expand and strengthen cooperation in the following areas:

- The establishment of policies and guidelines for the development of the telecommunications sector and postal services;
- Development of principles of a tariff policy and marketing in telecommunications and postal services;
- Carry out transfer of technology and know how, including on European Technical standards and certification systems;
- Encouraging the development of projects for telecommunications and postal services and attracting investment;
- Enhancing efficiency and quality of the provision of telecommunications and postal services, amongst others through liberalization of activities of sub-sectors;
- Advanced application of telecommunications, notably in the area of electronic funds transfer;
- Management of telecommunications networks and their "optimization";
- An appropriate regulatory basis for the provision of telecommunications and postal services and for the use of the radio frequency spectrum;
- Training in the field of telecommunications and postal services for operations in market conditions.

## **Article 60. Financial Services**

Cooperation shall in particular aim at facilitating the involvement of Georgia in universally accepted systems of mutual settlements. Technical assistance shall focus on:

- The development of banking and financial services, the development of a common market of credit resources, the involvement of Georgia in a universally accepted system of mutual settlements;
- The development of a fiscal system and its institutions in Georgia, exchange of experience and personnel training;
- The development of insurance services, which would, inter alia, create a favourable framework for Community companies participation in the establishment of joint ventures in the insurance sector in Georgia, as well as the development of export credit insurance.

This cooperation shall in particular contribute to foster the development of relations between Georgia and the Member States in the financial services sector.

## **Article 61. Regional Development**

1. The Parties shall strengthen cooperation on regional development and land-use planning.
2. To this end, the Parties shall encourage the exchange of information by national, regional and local authorities on regional and land-use planning policy and on methods of formulation of regional policies with special emphasis on the development of disadvantaged areas.

They shall also encourage direct contacts between the respective regions and public organizations responsible for regional development planning with the aim, inter alia, to exchange methods and ways of fostering regional development.

## **Article 62. Social Cooperation**

1. With regard to health and safety, the Parties shall develop cooperation between them with the aim of improving the level of protection of the health and safety of workers.

The cooperation shall include notably:

- Education and training on health and safety issues with specific attention to high risk sectors of activity;
- Development and promotion of preventive measures to combat work related diseases and other work related ailments;
- Prevention of major accident hazards and the management of toxic chemicals;
- Research to develop the knowledge base in relation to working environment and the health and safety of workers.

2. With regard to employment, the cooperation shall include notably technical assistance to:

- Optimization of the labour market;
- Modernization of the job-finding and consulting services;
- Planning and management of the restructuring programmes;
- Encouragement of local employment development;
- Exchange of information on the programmes of flexible employment, including those stimulating self-employment and promoting entrepreneurship.

3. The Parties shall pay special attention to cooperation in the sphere of social protection which, inter alia, shall include cooperation in planning and implementing social protection reforms in Georgia.

These reforms shall aim to develop in Georgia methods of protection intrinsic to market economies and shall comprise all forms of social protection.

## **Article 63. Tourism**

The Parties shall increase and develop cooperation between them, which shall include:

- Facilitating the tourist trade;

- Increasing the flow of information;
- Transferring know-how;
- Studying the opportunities for joint operations;
- Cooperation between official tourism bodies;
- Training for tourism development.

## **Article 64. Small and Medium-sized Enterprises**

1. The Parties shall aim to develop and strengthen small and medium-sized enterprises and their associations and cooperation between SMEs in the Community and Georgia.

2. Cooperation shall include technical assistance, in particular in the following areas:

- The development of a legislative framework for SMEs;
- The development of an appropriate infrastructure (an agency to support SMEs, communications, assistance for the creation of a fund for SMEs);
- The development of technology parks.

## **Article 65. Information and Communication**

The Parties shall support the development of modern methods of information handling, including the media, and stimulate the effective mutual exchange of information. Priority shall be given to programmes aimed at providing the general public with basic information about the Community and Georgia, including, where possible, access to databases, in full respect of intellectual property rights.

## **Article 66. Consumer Protection**

The Parties will enter into close cooperation aimed at achieving compatibility between their systems of consumer protection. This cooperation may include the exchange of information on legislative work and institutional reform, establishment of permanent systems of mutual information on dangerous products, the improvement of information provided to consumers especially on prices, characteristics of products and services offered, the development of exchanges between the consumer interest representatives, and increasing the compatibility of consumer protection policies, and the organization of seminars and training periods.

## **Article 67. Customs**

1. The aim of cooperation shall be to guarantee compliance with all the provisions scheduled for adoption in connection with trade and fair trade and to achieve the approximation of Georgia's customs system to that of the Community.

2. Cooperation shall include the following in particular:

- The exchange of information;
- The improvement of working methods;
- The introduction of the Combined Nomenclature and the single administrative document;
- The interconnection between the transit systems of the Community and Georgia;
- Simplification of inspections and formalities in respect of the carriage of goods;
- Support for the introduction of modern customs information systems;
- The improvement of working methods;
- The introduction of the Combined Nomenclature and the single administrative document;
- The interconnection between the transit systems of the Community and Georgia;

- Simplification of inspections and formalities in respect of the carriage of goods;
- Support for the introduction of modern customs information systems;
- The organization of seminars and training periods.

Technical assistance shall be provided where necessary.

3. Without prejudice to further cooperation foreseen in this Agreement and in particular Articles 72 and 74, mutual assistance in customs matters between administrative authorities of the Parties shall take place in accordance with the provisions of the Protocol attached to this Agreement.

## **Article 68. Statistical Cooperation**

Cooperation in this area shall have as its aim the development of an efficient statistical system to provide the reliable statistics needed to support and monitor the process of economic reform and contribute to the development of private enterprise in Georgia.

The Parties, in particular, shall cooperate in the following fields:

- Adaptation of the Georgian statistical system to international methods, standards and classification;
- Exchange of statistical information;
- Provision of necessary statistical macro-and microeconomic information to implement and manage economic reforms.

The Community shall contribute to this end by rendering technical assistance to Georgia.

- The improvement of working methods;
- The introduction of the Combined Nomenclature and the single administrative document;
- The interconnection between the transit systems of the Community and Georgia;
- Simplification of inspections and formalities in respect of the carriage of goods;
- Support for the introduction of modern customs information systems;
- The organization of seminars and training periods.

Technical assistance shall be provided where necessary.

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- Adaptation of the Georgian statistical system to international methods, standards and classification;
- Exchange of statistical information;
- Provision of necessary statistical macro-and microeconomic information to implement and manage economic reforms.

The Community shall contribute to this end by rendering technical assistance to Georgia.

## **Article 69. Economics**

The Parties shall facilitate the process of economic reform and the coordination of economic policies by cooperating to improve understanding of the fundamentals of their respective economies and the design and implementation of economic

policy in market economies. To this end, the Parties shall exchange information on macroeconomic performance and prospects.

The Community shall provide technical assistance so as to:

- Assist Georgia in the process of economic reform by providing expert advisory and technical assistance;
- Encourage cooperation among economists in order to expedite the transfer of know-how for the drafting of economic policies, and provide for wide dissemination of policy-relevant research.

## **Article 70. Monetary Policy**

At the request of the Georgian authorities, the Community shall provide technical assistance designed to support the efforts of Georgia towards the strengthening of its monetary system and the introduction of full convertibility of the currency.

This will include technical assistance for the design and application of Georgia's monetary and credit policy, in full coordination with the international financial institutions, for the training of personnel, and for the development of financial markets, including the stock exchange. It shall also include informal exchanges of views concerning the principles and the functioning of the European Monetary System and Community regulations on financial markets and capital movements.

## **Article 71.**

The Parties shall cooperate on all questions relevant to the establishment or reinforcement of democratic institutions, including those required in order to strengthen the rule of law, and the protection of human rights and fundamental freedoms according to international law and OSCE principles.

This cooperation shall take the form of technical assistance programmes intended to assist, inter alia, in the drafting of relevant legislation and regulations; the implementation of such legislation; the functioning of the judiciary; the role of the State in questions of justice; and the operation of the electoral system. They may include training where appropriate. The Parties shall encourage contacts and exchanges between their national, regional and judicial authorities, parliamentarians, and non-governmental organizations.

## **Article 72.**

The Parties shall establish cooperation aimed at preventing illegal activities such as:

- Illegal activities in the sphere of economics, including corruption;
- Illegal transactions of various goods, including industrial waste;
- Counterfeiting.

Cooperation in the abovementioned areas will be based on mutual consultation and close interaction. Technical and administrative assistance may be provided, including in the following areas:

- Drafting of national legislation in the sphere of preventing illegal activities;
- Creation of information centres;
- Increasing the efficiency of institutions engaged in preventing illegal activities;
- Training of personnel and development of research infrastructures;
- Elaboration of mutually acceptable measures impeding illegal activities.

## **Article 73. Money Laundering**

1. The Parties agree on the necessity of making efforts and cooperating in order to prevent the use of their financial systems for laundering of proceeds from criminal activities in general and drug offences in particular.

2. Cooperation in this area shall include administrative and technical assistance with the purpose of establishing suitable standards against money laundering equivalent to those adopted by the Community and international fora in this field, including the Financial Action Task Force (FATF).

## **Article 74. Drugs**

Within the framework of their respective powers and competencies the Parties shall cooperate in increasing the effectiveness and efficiency of policies and measures to counter the illicit production, supply and traffic of narcotic drugs and psychotropic substances, including the prevention of diversion of precursor chemicals, as well as in promoting drug demand prevention and reduction. The cooperation in this area shall be based on mutual consultation and close coordination between the Parties over the objectives and measures on the various drug-related fields.

## **Article 75. Illegal Immigration**

1. The Member States and Georgia agree to cooperate in order to prevent and control illegal immigration. To this end:

- Georgia agrees to readmit any of its nationals illegally present on the territory of a Member State, upon request by the latter and without further formalities; and
- Each Member State agrees to readmit any of its nationals, as defined for community purposes, illegally present on the territory of Georgia, upon request by the latter and without further formalities.

The Member States and Georgia will also provide their nationals with appropriate identity documents for such purposes.

2. Georgia agrees to conclude bilateral agreements with Member States which so request, regulating specific obligations for readmission including an obligation for the readmission of nationals of other countries and stateless persons who have arrived on the territory of any such Member State from Georgia or who have arrived on the territory of Georgia from any such Member State.

3. The Cooperation Council shall examine what other joint efforts can be made to prevent and control illegal immigration.

## **Article 76.**

The Parties undertake to promote, encourage and facilitate cultural cooperation. Where appropriate, the Community's cultural cooperation programmes or those of one or more Member States may be the subject of cooperation and further activities of mutual interest may be developed.

The cooperation may include:

- Exchange of information and experience in the field of conservation and protection of monuments, sites (architectural heritage) and museum values;
- Cultural exchange between institutions, artists and other persons working in the area of culture;
- Translation of literary works.

## **Article 77.**

In order to achieve the objectives of this Agreement and in accordance with Articles 78, 79 and 80, Georgia shall benefit from temporary financial assistance from the Community by way of technical assistance in the form of grants. The purpose of this assistance shall be to accelerate the economic transformation of Georgia.

## **Article 78.**

This financial assistance shall be covered within the framework of Tacis as foreseen in the Community's relevant Council Regulation.

## **Article 79.**

The objectives and the areas of the Community's financial assistance shall be laid down in an indicative programme reflecting established priorities to be agreed between the two Parties taking into account Georgia's needs, sectoral absorption capacities and progress with reform. The Parties shall inform the Cooperation Council thereof.

## **Article 80.**

In order to permit optimum use of the resources available, the Parties shall ensure that Community technical assistance contributions are made in close coordination with those from other sources such as the Member States, other countries, and international organizations such as the International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development.

## **Article 81.**

A Cooperation Council is hereby established which shall supervise the implementation of this Agreement. It shall meet at ministerial level once a year. It shall examine any major issues arising within the framework of this Agreement and any other bilateral or international issues of mutual interest for the purpose of attaining the objectives of this Agreement. The Cooperation Council may also make appropriate recommendations, by agreement between the two Parties.

## **Article 82.**

1. The Cooperation Council shall consist of the members of the Council of the European Union and members of the Commission of the European Communities, on the one hand, and of members of the Government of Georgia, on the other.
2. The Cooperation Council shall establish its rules of procedure.
3. The office of President of the Cooperation Council shall be held alternately by a representative of the Community and by a member of the Government of Georgia.

## **Article 83.**

1. The Cooperation Council shall be assisted in the performance of its duties by a Cooperation Committee composed of representatives of the members of the Council of the European Union and of members of the Commission of the European Communities on the one hand and of representatives of the Government of Georgia on the other, normally at senior civil servant level. The office of President of the Cooperation Committee shall be held alternately by the Community and by Georgia.

In its rules of procedure the Cooperation Council shall determine the duties of the Cooperation Committee, which shall include the preparation of meetings of the Cooperation Council, and how the Committee shall function.

2. The Cooperation Council may delegate any of its powers to the Cooperation Committee, which will ensure continuity between meetings of the Cooperation Council.

## **Article 84.**

The Cooperation Council may decide to set up any other special committee or body that can assist it in carrying out its duties and shall determine the composition and duties of such committees or bodies and how they shall function.

## **Article 85.**

When examining any issue arising within the framework of this Agreement in relation to a provision referring to an Article of the GATT/WTO, the Cooperation Council shall take into account to the greatest extent possible the interpretation that is generally given to the Article of the GATT/WTO in question by the Members of the WTO.

## **Article 86.**

A Parliamentary Cooperation Committee is hereby established. It shall be a forum for Members of the Georgian Parliament and the European Parliament to meet and exchange views. It shall meet at intervals which it shall itself determine.

## **Article 87.**

1. The Parliamentary Cooperation Committee shall consist of members of the European Parliament, on the one hand, and of Members of the Georgian Parliament, on the other.
2. The Parliamentary Cooperation Committee shall establish its rules of procedure.
3. The Parliamentary Cooperation Committee shall be presided in turn by the European Parliament and the Georgian

Parliament respectively, in accordance with the provisions to be laid down in its rules of procedure.

## **Article 88.**

The Parliamentary Cooperation Committee may request relevant information regarding the implementation of this Agreement from the Cooperation Council, which shall then supply the Committee with the requested information.

The Parliamentary Cooperation Committee shall be informed of the recommendations of the Cooperation Council.

The Parliamentary Cooperation Committee may make recommendations to the Cooperation Council.

## **Article 89.**

1. Within the scope of this Agreement, each Party undertakes to ensure that natural and legal persons of the other Party have access free of discrimination in relation to its own nationals to the competent courts and administrative organs of the Parties to defend their individual rights and their property rights, including those concerning intellectual, industrial and commercial property.

2. Within the limits of their respective powers and competences, the Parties:

- Shall encourage the adoption of arbitration for the settlement of disputes arising out of commercial and cooperation transactions concluded by economic operators of the Community and those of Georgia;
- Agree that where a dispute is submitted to arbitration, each party to the dispute may, except where the rules of the arbitration centre chosen by the parties provide otherwise, choose its own arbitrator, irrespective of his nationality, and that the presiding third arbitrator or the sole arbitrator may be a citizen of a third State;
- Will recommend their economic operators to choose by mutual consent the law applicable to their contracts;
- Shall encourage recourse to the arbitration rules elaborated by the United Nations Commission on International Trade Law (Uncitral) and to arbitration by any centre of a State signatory to the Convention on Recognition and Enforcement of Foreign Arbitral Awards done at New York on 10 June 1958.

## **Article 90.**

Nothing in this Agreement shall prevent a Party from taking any measures:

- (a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests;
- (b) which relate to the production of, or trade in arms, munitions or war materials or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes;
- (c) which it considers essential to its own security in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security;
- (d) which it considers necessary to respect its international obligations and commitments in the control of dual use industrial goods and technology.

## **Article 91.**

1. In the fields covered by this Agreement and without prejudice to any special provisions contained therein:

- The arrangements applied by Georgia in respect of the Community shall not give rise to any discrimination between the Member States, their nationals or their companies or firms;
- The arrangements applied by the Community in respect of Georgia shall not give rise to any discrimination between Georgian nationals, or its companies or firms.

2. The provisions of paragraph 1 are without prejudice to the right of the Parties to apply the relevant provisions of their fiscal legislation to tax payers who are not in identical situations as regards their place of residence.



## **Article 92.**

1. Each of the two Parties may refer to the Cooperation Council any dispute relating to the application or interpretation of this Agreement.
2. The Cooperation Council may settle the dispute by means of a recommendation.
3. In the event of it not being possible to settle the dispute in accordance with paragraph 2, either Party may notify the other of the appointment of a conciliator; the other Party must then appoint a second arbitrator within two months. For the application of this procedure, the Community and the Member States shall be deemed to be one Party to the dispute.

The Cooperation Council shall appoint a third conciliator.

The conciliators' recommendations shall be taken by majority vote. Such recommendations shall not be binding upon the Parties.
4. The Cooperation Council may establish rules of procedure for dispute settlement.

## **Article 93.**

The Parties agree to consult promptly through appropriate channels at the request of either Party to discuss any matter concerning the interpretation or implementation of this Agreement and other relevant aspects of the relations between the Parties.

The provisions of this Article shall in no way affect and are without prejudice to Articles 14, 92 and 98.

## **Article 94.**

Treatment granted to Georgia thereunder shall in no case be more favourable than that granted by the Member States to each other.

## **Article 95.**

For the purposes of this Agreement, the term "Parties" shall mean Georgia on the one part, and the Community, or the Member States, or the Community and the Member States, in accordance with their respective powers, on the other part.

## **Article 96.**

Insofar as matters covered by this Agreement are covered by the Energy Charter Treaty and Protocols thereto, such Treaty and Protocols shall upon entry into force apply to such matters but only to the extent that such application is provided for therein.

## **Article 97.**

This Agreement is concluded for an initial period of ten years. This Agreement shall be automatically renewed year by year provided that neither Party gives the other Party written notice of denunciation of this Agreement six months before it expires.

## **Article 98.**

1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are attained.
2. If either Party considers that the other Party has failed to fulfil an obligation under this Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Cooperation Council with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In the selection of these measures, priority must be given to those which least disturb the functioning of this Agreement. These measures shall be notified immediately to the Cooperation Council if the other Party so requests.

## **Article 99.**

Annexes I, II, III, IV and V together with the Protocol shall form an integral part of this Agreement.

## **Article 100.**

This Agreement shall not, until equivalent rights for individuals and economic operators have been achieved thereunder, affect rights assured to them through existing Agreements binding one or more Member States, on the one hand, and Georgia, on the other, except in areas falling within Community competence and without prejudice to the obligations of Member States resulting from this Agreement in areas falling within their competence.

## **Article 101.**

This Agreement shall apply, on the one hand, to the territories in which the Treaties establishing the European Community, the European Coal and Steel Community and the European Atomic Energy Community are applied and under the conditions laid down in those Treaties and, on the other hand, to the territory of Georgia.

## **Article 102.**

The Secretary-General of the Council of the European Union shall be the depository of this Agreement.

## **Article 103.**

The original of this Agreement of which the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Georgian languages, are equally authentic, shall be deposited with the Secretary-General of the Council of the European Union.

## **Article 104.**

This Agreement will be approved by the Parties in accordance with their own procedures.

This Agreement shall enter into force on the first day of the second month following the date on which the Parties notify the Secretary-General of the Council of the European Union that the procedures referred to in the first paragraph have been completed.

Upon its entry into force, and as far as relations between Georgia and the Community are concerned, this Agreement shall replace the Agreement between the European Economic Community, the European Atomic Energy Community and the Union of Soviet Socialist Republics on trade and economic and commercial cooperation signed in Brussels on 18 December 1989.

## **Article 105.**

In the event that, pending the completion of the procedures necessary for the entry into force of this Agreement, the provisions of certain parts of this Agreement are put into effect by means of an Interim Agreement between the Community and Georgia, the Parties agree that, in such circumstances, the term "date of entry into force of this Agreement" shall mean the date of entry into force of the Interim Agreement.

Done at Luxembourg on the twenty-second day of April in the year one thousand nine hundred and ninety-six.

FOR THE KINGDOM OF BELGIUM,

FOR THE KINGDOM OF DENMARK,

FOR THE FEDERAL REPUBLIC OF GERMANY,

FOR THE HELLENIC REPUBLIC,

FOR THE KINGDOM OF SPAIN,

FOR THE FRENCH REPUBLIC,  
FOR IRELAND,  
FOR THE ITALIAN REPUBLIC,  
FOR THE GRAND DUCHY OF LUXEMBOURG,  
FOR THE KINGDOM OF THE NETHERLANDS,  
FOR THE REPUBLIC OF AUSTRIA,  
FOR THE PORTUGUESE REPUBLIC,  
FOR THE REPUBLIC OF FINLAND,  
FOR THE KINGDOM OF SWEDEN,  
FOR THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,  
FOR THE EUROPEAN COMMUNITIES  
FOR GEORGIA

#### **Annex IV. COMMUNITY RESERVATIONS IN ACCORDANCE WITH ARTICLE 23(2)**

##### Mining

In some Member States, a concession may be required for mining and mineral rights for nonCommunity controlled companies.

##### Fishing

Access to and use of the biological resources and fishing grounds situated in the maritime waters coming under the sovereignty or within the jurisdiction of Member States of the Community is restricted to fishing vessels flying the flag of a Community Member State and registered in Community territory unless otherwise provided for.

##### Real estate purchase

Access to and use of the biological resources and fishing grounds situated in the maritime waters coming under the sovereignty or within the jurisdiction of Member States of the Community is restricted to fishing vessels flying the flag of a Community Member State and registered in Community territory unless otherwise provided for.

##### Real estate purchase

In some Member States, the purchase of real estate by non-Community companies is subject to restrictions.

##### Audiovisual services including radio

National treatment concerning production and distribution, including broadcasting and other forms of transmission to the public, may be reserved to audiovisual works meeting certain origin criteria.

##### Telecommunications services including mobile and satellite services

##### Reserved services

In some Member States market access concerning complementary services and infrastructure is restricted.

##### Professional services

Services reserved to natural persons who are nationals of Member States. Under certain conditions those persons may create companies.

##### Agriculture

In some Member States national treatment is not applicable to non-Community controlled companies which wish to

undertake an agricultural enterprise. The acquisition of vineyards by non-Community controlled companies is subject to notification, or, as necessary, authorization.

News agency services

In some Member States limitations of foreign participation in publishing companies and broadcasting companies.

## **Annex V. RESERVATIONS OF GEORGIA IN ACCORDANCE WITH ARTICLE 23(4)**

1. Current Georgian investment legislation requires investments by foreign companies and investments by Georgian companies in which the state does not hold a controlling interest (1) to be licensed by the competent Georgian authorities. The conditions for the issue of such licences shall not result in discrimination between private Georgian and foreign companies, as set out in Georgian law.

Such licensing may not be used in order to nullify the benefits accorded to Community companies pursuant to Article 23(4) of this Agreement, nor to circumvent any other provisions of this Agreement. In particular it may not be used to impede the establishment of Community Companies in any area of economic activity, except as provided for below. No license may be revoked without due justification and any such revocation may be subject to appeal and, if necessary, dispute settlement.

At the latest by 31 December 1998, Georgia shall bring its legislation on licensing into conformity with standard international practice and in particular with Community legislation. The Community shall provide technical assistance in this area. During this transitional period, Georgia shall not take any measures or actions which render the conditions for establishment and operations of Community companies more restrictive than the situation on the day preceding the date of initialling of this Agreement.

2. Foreign investment is prohibited in the following areas:

- Defence and security of Georgia;
- Preparation and sale of narcotics and psychotropic substances;
- Cultivation and sale of plants containing narcotic or poisonous substances.

3. A foreign company requires special permission from the competent authorities in Georgia if it wishes to carry out activities within 20 km of Georgia's borders or in other zones designated as vital to national security or for the protection of Georgia's environment.

4. In the following areas of economic activity, Georgian legislation requires the State to hold at least 51% of the shares of enterprises with foreign participation. This percentage may be reduced if the Parliament of Georgia so determines:

- Operation of gas and oil pipelines, communication and power transmission lines, thermal lines of national importance and the buildings and other facilities essential for their operation;
- Operation of motor highways and railways, airports and maritime ports of national importance in Georgia;
- Issue of securities, bank notes, coins and stamps;

(1) as defined in the Joint Declaration to this Agreement concerning the notion of "control".

## **Joint declaration concerning the notion of "control" in Article 25(b) and Article 36**

1. The Parties confirm their mutual understanding that the question of control shall depend on the factual circumstances of the particular case.

2. A company shall, for example, be considered as being "controlled" by another company, and thus a subsidiary of such other company if:

- The other company holds directly or indirectly a majority of the voting rights, or
- The other company has the right to appoint or dismiss a majority of the administrative organ, of the management organ or of the supervisory organ and is at the same time a shareholder or member of the subsidiary.

3. Both Parties consider the criteria in paragraph 2 to be non-exhaustive.