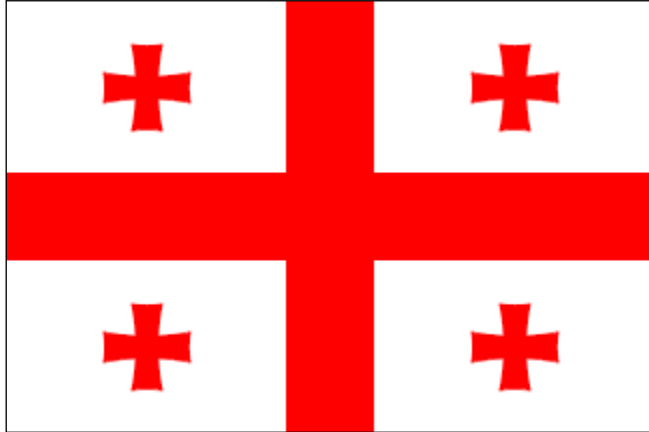


GEORGIA



COUNCIL DECISION of 16 June 2014

OJ L 261 of 30 August 2014

Article 72 of the Agreement

OJ L 261 of 30 August 2014

Protocol II

OJ L 261 of 30 August 2014

COUNCIL DECISION

of 16 June 2014

on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part

(2014/494/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 37 and Article 31(1) thereof, in conjunction with Article 218(5) and the second subparagraph of Article 218(8) of the Treaty on the Functioning of the European Union,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217, in conjunction with Article 218(5) and the second subparagraph of Article 218(8) thereof, as well as Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 10 May 2010, the Council authorised the Commission to open negotiations with Georgia for the conclusion of a new agreement between the Union and Georgia to replace the Partnership and Cooperation Agreement (1).
- (2) Taking into account the close historical relationship and progressively closer links between the Parties as well as their desire to strengthen and widen relations in an ambitious and innovative way, the negotiations on the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part ('the Agreement') were successfully finalised by the initialling of the Agreement on 29 November 2013.
- (3) The Agreement should be signed on behalf of the Union and applied in part before its entry into force, on a provisional basis in accordance with Article 431 of the Agreement, pending the completion of the procedures for its conclusion.
- (4) The provisional application of parts of the Agreement does not prejudice the allocation of competences between the Union and its Member States in

accordance with the Treaties.

- (5) Pursuant to Article 218(7) of the Treaty on the Functioning of the European Union, it is appropriate for the Council to authorise the Commission to approve modifications to the Agreement to be adopted by the Association Committee in its Trade configuration, as set out in Article 408(4) of the Agreement, as proposed by the Geographical Indications Sub-Committee pursuant to Article 179 of the Agreement.
- (6) It is appropriate to set out the relevant procedures for the protection of geographical indications which are given protection pursuant to the Agreement.
- (7) The Agreement should not be construed as conferring rights or imposing obligations which can be directly invoked before Union or Member State courts and tribunals,

HAS ADOPTED THIS DECISION:

Article 1

1. The signing on behalf of the Union of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, is hereby authorised, subject to the conclusion of the said Agreement.
2. The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 3

1. Pending its entry into force, in accordance with Article 431 of the Agreement and subject to the notifications provided for therein, the following parts of the Agreement shall be applied provisionally between the Union and Georgia, but only to the extent that they cover matters falling within the Union's competence, including matters falling within the Union's competence to define and implement a common foreign and security policy:

- (a) Title I;
- (b) Title II: Articles 3 and 4 and Articles 7 to 9;

- (c) Title III: Articles 13 and 16;
- (d) Title IV (with the exception of Article 151, to the extent that it concerns criminal enforcement of intellectual property rights; and with the exception of Articles 223 and 224, to the extent that they apply to administrative proceedings and review and appeal at Member State level);
- (e) Title V: Articles 285 and 291;
- (f) Title VI: Chapter 1 (with the exception of point (a) of Article 293, point (e) of Article 293, points (a) and (b) of Article 294(2)), Chapter 2 (with the exception of point (k) of Article 298), Chapter 3 (with the exception of Article 302(1)), Chapters 7 and 10 (with the exception of point (i) of Article 333), Chapter 11 (with the exception of point (b) of Article 338 and Article 339), Chapters 13, 20 and 23, as well as Articles 312, 319, 327, 354 and 357;
- (g) Title VII;
- (h) Title VIII (with the exception of Article 423(1), to the extent that the provisions of that Title are limited to the purpose of ensuring the provisional application of the Agreement as defined in this paragraph);
- (i) Annexes II to XXXI and Annex XXXIV, as well as Protocols I to IV.

2. The date from which the Agreement will be provisionally applied will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Article 4

For the purposes of Article 179 of the Agreement, modifications of the Agreement through decisions of the Geographical Indications Sub-Committee shall be approved by the Commission on behalf of the Union. Where interested parties cannot reach agreement following objections relating to a geographical indication, the Commission shall adopt a position on the basis of the procedure laid down in Article 57(2) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council ⁽²⁾.

Article 5

1. A name protected under Sub-Section 3 ‘Geographical Indications’ of Chapter 9 of Title IV of the Agreement may be used by any operator marketing agricultural products, foodstuffs, wines, aromatised wines or spirits conforming to the corresponding specification.

2. In accordance with Article 175 of the Agreement, the Member States and the institutions of the Union shall enforce the protection provided for in Articles 170 to 174 of the Agreement, including at the request of an interested party.

Article 6

The Agreement shall not be construed as conferring rights or imposing obligations which can be directly invoked before Union or Member State courts and tribunals.

Article 7

This Decision shall enter into force on the day following that of its adoption.
Done at Luxembourg, 16 June 2014.

For the Council
The President
G. KARASMANIS

(¹) Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia, of the other part ([OJ L 205, 4.8.1999, p. 3](#)).

(²) Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ([OJ L 343, 14.12.2012, p. 1](#)).

ASSOCIATION AGREEMENT

**between the European Union and the European Atomic Energy Community
and their Member States, of the one part, and Georgia, of the other part**

(...),

THE EUROPEAN UNION, hereinafter referred to as ‘the Union’ or ‘the EU’

(...)

of the one part, and

GEORGIA,

of the other part,

hereafter jointly referred to as ‘the Parties’,

CONSIDERING the strong links and common values of the Parties, established in the past through the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and Georgia, of the other part, and being developed within the framework of the Eastern Partnership as a specific dimension of the European Neighbourhood Policy and recognising the common desire of the Parties to further develop, strengthen and extend their relations in an ambitious and innovative way;

ACKNOWLEDGING the European aspirations and European choice of Georgia;

RECOGNISING that the common values on which the EU is built – democracy, respect for human rights and fundamental freedoms, and the rule of law – lie also at the heart of political association and economic integration as envisaged in this Agreement;

RECOGNISING that Georgia, an Eastern European country, is committed to implementing and promoting these values;

RECOGNISING that Georgia shares historical links and common values with the Member States;

TAKING INTO ACCOUNT that this Agreement shall not prejudice and leaves open the way for future progressive developments in EU-Georgia relations;

COMMITTED to further strengthening respect for fundamental freedoms, human rights, including the rights of persons belonging to minorities, democratic principles, the rule of law, and good governance, based on common values of the Parties;

UNDERSTANDING that internal reforms towards strengthening democracy and market economy will facilitate participation of Georgia in EU policies, programmes and agencies. This process and sustainable conflict settlement will mutually reinforce each other and will contribute to build confidence between communities divided by conflict;

WILLING to contribute to the political, socio-economic and institutional development of Georgia through wide-ranging cooperation in a broad spectrum of areas of common interest, such as the development of civil society, good governance, including in the field of taxation, trade integration and enhanced economic cooperation, institution building, public administration and civil service reform and fight against corruption, the reduction of poverty and cooperation in the field of freedom, security and justice necessary to effectively implement this Agreement and noting the EU's readiness to support relevant reforms in Georgia;

COMMITTED to all the principles and provisions of the Charter of the United Nations, the Organisation for Security and Cooperation in Europe (OSCE), in particular of the Helsinki Final Act of 1975 of the Conference on Security and Cooperation in Europe, the concluding documents of the Madrid, Istanbul and Vienna Conferences of 1991 and 1992 respectively, and the Charter of Paris for a New Europe of 1990, as well as the United Nations Universal Declaration of Human Rights of 1948 and the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950.

RECALLING their will to promote international peace and security as well as engaging in effective multilateralism and the peaceful settlement of disputes, in particular by cooperating to that end within the framework of the United Nations (UN) and the OSCE;

COMMITTED to international obligations to fighting against the proliferation of weapons of mass destruction and their means of delivery and to cooperating on disarmament;

RECOGNISING the added value of the active participation of the Parties in various regional cooperation formats;

DESIROUS to further develop regular political dialogue on bilateral and international issues of mutual interest, including regional aspects, taking into account the Common Foreign and Security Policy (CFSP) of the European Union, including the Common Security and Defence Policy (CSDP);

FULLY RESPECTING the principles of independence, sovereignty, territorial integrity and the inviolability of the internationally recognised borders under international law, the Charter of the United Nations, the Final Act of the Helsinki Conference on Security and Cooperation in Europe and relevant United Nations Security Council resolutions;

RECOGNISING the importance of the commitment of Georgia to reconciliation and its efforts to restore its territorial integrity and full and effective control over Georgian regions of Abkhazia and the Tskhivali region/South Ossetia in pursuit of a peaceful and lasting conflict resolution based on principles of international law, and of the EU's commitment to support a peaceful and lasting resolution of the conflict;

RECOGNISING in this context the importance of pursuing the implementation of the Six-Point Agreement of 12 August 2008 and its subsequent implementing measures, of meaningful international presence for maintaining peace and security on the ground, of pursuing mutually supportive non-recognition and engagement policies, of supporting the Geneva International Discussions and of safe and dignified return of all internally displaced persons and refugees in line with principles of international law;

COMMITTED to provide the benefits of closer political association and economic integration of Georgia with the EU to all citizens of Georgia including the communities divided by conflict;

COMMITTED to combating organised crime and illicit trafficking and to further strengthening cooperation in the fight against terrorism;

COMMITTED to deepening their dialogue and cooperation on mobility, migration, asylum and border management taking also into account the EU-Georgia Mobility Partnership, with a comprehensive approach paying attention to legal migration, including circular migration, and to cooperation aimed at tackling illegal migration, trafficking in human beings and efficient implementation of the readmission agreement;

RECOGNISING the importance of introducing a visa free travel regime for the citizens of Georgia in due course, provided that conditions for well-managed and secure mobility are in place including the effective implementation of visa facilitation and readmission agreements;

COMMITTED to the principles of free market economy and the readiness of the EU to contribute to the economic reforms in Georgia, including in the framework of the European Neighbourhood Policy and the Eastern Partnership;

COMMITTED to achieve economic integration in particular through a Deep and Comprehensive Free Trade Area (DCFTA), as an integral part of this Agreement including regulatory approximation and in compliance with the rights and obligations arising out of the membership of the Parties in the World Trade Organisation (WTO);

BELIEVING that this Agreement will create a new climate for economic relations between the Parties and above all for the development of trade and investment, and will stimulate competition, which are factors crucial to economic restructuring and modernisation;

COMMITTED to respecting the principles of sustainable development, to protecting the environment and mitigating climate change, to continuous improvement of environmental governance and meeting environmental needs, including cross-border cooperation and implementation of multilateral international agreements;

COMMITTED to enhancing the security of energy supply, including the development of the Southern Corridor by, inter alia, promoting the development of

appropriate projects in Georgia facilitating the development of relevant infrastructure, including for transit through Georgia, increasing market integration and gradual regulatory approximation towards key elements of the EU acquis, and promoting energy efficiency and the use of renewable energy sources;

ACKNOWLEDGING the need for enhanced energy cooperation, and the commitment of the Parties to implement the Energy Charter Treaty;

WILLING to improve the level of public health safety and protection of human health as an essential element for sustainable development and economic growth;

COMMITTED to enhancing people-to-people contacts, including through cooperation and exchanges in the fields of science and technology, business, youth, education and culture;

COMMITTED to promoting cross-border and inter-regional cooperation by both sides in the spirit of good neighbourly relations;

RECOGNISING the commitment of Georgia to progressively approximating its legislation in the relevant sectors with that of the EU, in accordance with this Agreement and to implementing it effectively;

RECOGNISING the commitment of Georgia to developing its administrative and institutional infrastructure to the extent necessary to enforce this Agreement;

TAKING ACCOUNT of the willingness of the EU to provide support for the implementation of reforms, and to use all available instruments of cooperation and technical, financial and economic assistance in this endeavour;

CONFIRMING that the provisions of this Agreement that fall within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union bind the United Kingdom and Ireland as separate Contracting Parties, and not as part of the EU, unless the EU together with the United Kingdom and/or Ireland have jointly notified Georgia that the United Kingdom or Ireland is bound as part of the EU in accordance with Protocol No 21 on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union. If the United Kingdom and/or Ireland ceases to be bound as part of the EU in accordance with Article 4a of that Protocol, the EU together with the United Kingdom and/or Ireland shall immediately inform Georgia of any change in their position in which case they shall remain bound by the provisions of this Agreement in their own right. The same applies to Denmark, in accordance with the Protocol No 22 on the position of Denmark, annexed to those Treaties.

HAVE DECIDED TO CONCLUDE THIS AGREEMENT:

(...)

Article 72

Mutual administrative assistance in customs matters

Without prejudice to other forms of cooperation envisaged in this Agreement, in particular in Article 71 of this Agreement, the Parties shall provide mutual administrative assistance in customs matters in accordance with the provisions of Protocol II on Mutual Administrative Assistance in Customs Matters to this Agreement.

PROTOCOL II

on Mutual Administrative Assistance in Customs Matters

Article 1

Definitions

For the purposes of this Protocol:

- (a) ‘customs legislation’ means any legal or regulatory provision applicable in the territories of the Parties, governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures on prohibition, restriction and control thereof;
- (b) ‘requesting authority’ means a competent administrative authority which makes a request for assistance on the basis of this Protocol and which has been designated by a Party for that purpose;
- (c) ‘requested authority’ means a competent administrative authority which receives a request for assistance on the basis of this Protocol and which has been designated by a Party for that purpose;
- (d) ‘personal data’ means all information relating to an identified or identifiable individual;
- (e) ‘operation in breach of customs legislation’ means any violation or attempted violation of customs legislation.

Article 2

Scope

1. The Parties shall assist each other, in the areas of their competence, in the manner and under the conditions laid down in this Protocol, to ensure the correct application of their customs legislation, in particular by preventing, investigating and combating operations in breach of that legislation.
2. The assistance in customs matters, as provided for in this Protocol, shall apply to any administrative authority of the Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover exchange of information obtained under powers exercised at the request of a judicial authority, except where the communication of such information is authorised by that authority.
3. The assistance to recover duties, taxes or fines is not covered by this Protocol.

Article 3

Assistance upon request

1. Upon request of the requesting authority, the requested authority shall provide the requesting authority with all relevant information which may enable the requesting authority to ensure that customs legislation is correctly applied, including information regarding noted or planned activities which are or could be operations in breach of customs legislation.
2. Upon request of the requesting authority, the requested authority shall inform the requesting authority of the following:
 - (a) whether goods exported from the territory of one of the Parties have been properly imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to those goods;
 - (b) whether goods imported into the territory of one of the Parties have been properly exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to those goods.
3. Upon request of the requesting authority, the requested authority shall, within the framework of its legal or regulatory provisions, take the necessary steps to ensure special surveillance of:
 - (a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;
 - (b) places where stocks of goods have been or may be assembled in such a way that there are reasonable grounds for believing that those goods are intended to be used in operations in breach of customs legislation;
 - (c) goods that are or may be transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation;
 - (d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.

Article 4

Spontaneous assistance

The Parties shall assist each other, on their own initiative and in accordance with their legal or regulatory provisions, if they consider that to be necessary for the correct application of customs legislation, in particular by providing information pertaining to:

- (a) activities which are or appear to be operations in breach of customs legislation and which may be of interest to the other Party;
- (b) new means or methods employed in carrying out operations in breach of customs legislation;
- (c) goods known to be subject to operations in breach of customs legislation;
- (d) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;
- (e) means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation.

Article 5

Delivery and notification

1. Upon request of the requesting authority, the requested authority shall, in accordance with legal or regulatory provisions applicable to that authority, take all necessary measures in order to deliver any documents or to notify any decisions originating from the requesting authority and falling within the scope of this Protocol, to an addressee residing or established in the territory of the requested authority.
2. Requests for delivery of documents or notification of decisions shall be made in writing in an official language of the requested authority or in a language acceptable to that authority.

Article 6

Form and substance of requests for assistance

1. Requests pursuant to this Protocol shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.
2. Requests pursuant to paragraph 1 shall include the following information:
 - (a) the requesting authority;
 - (b) the requested measure;
 - (c) the object of and the reason for the request;
 - (d) the legal or regulatory provisions and other legal elements involved;
 - (e) indications as exact and comprehensive as possible regarding the natural or legal persons who are the target of the enquiries, and

- (f) a summary of the relevant facts and of the enquiries already carried out.
3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority. That requirement shall not apply to any documents that accompany a request under paragraph 1.
 4. If a request does not meet the formal requirements set out in this Article, its correction or completion may be requested and precautionary measures may be ordered in the meantime.

Article 7

Execution of requests

1. In order to comply with a request for assistance, the requested authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or upon request of other authorities of that same Party, by supplying information already in the requested authority's possession, by carrying out appropriate enquiries or by arranging for them to be carried out. This provision shall also apply to any other authority to which the request has been addressed by the requested authority when the latter cannot act on its own.
2. Requests for assistance shall be executed in accordance with the legal or regulatory provisions of the requested Party.
3. Duly authorised officials of a Party may, with the agreement of the other Party and subject to the conditions laid down by the latter, be present in the offices of the requested authority or any other concerned authority in accordance with paragraph 1, to obtain information relating to activities that are or may be operations in breach of customs legislation which the requesting authority needs for the purposes of this Protocol.
4. Duly authorised officials of a Party may, with the agreement of the other Party and subject to the conditions laid down by the latter, be present at enquiries carried out in the latter's territory.

Article 8

Form in which information is to be communicated

1. The requested authority shall communicate the results of enquiries to the requesting authority in writing together with relevant documents, certified copies or other items.
2. That information may be in a computerised form.
3. Original documents shall be transmitted only upon request in cases where certified copies would be insufficient. Those originals shall be returned at the earliest opportunity.

Article 9

Exceptions to the obligation to provide assistance

1. Assistance may be refused or may be subject to the satisfaction of certain conditions or requirements, in cases where a Party is of the opinion that assistance under this Protocol would:

- (a) be likely to prejudice the sovereignty of Georgia or that of a Member State which has been requested to provide assistance under this Protocol;
- (b) be likely to prejudice public policy, security or other essential interests, in particular in the cases referred to under Article 10(2) of this Protocol; or
- (c) violate an industrial, commercial or professional secret.

2. Assistance may be postponed by the requested authority on the ground that it will interfere with an on-going investigation, prosecution or proceeding. In such a case, the requested authority shall consult with the requesting authority to determine if assistance can be given subject to such terms or conditions as the requested authority may require.

3. Where the requesting authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.

4. For the cases referred to in paragraphs 1 and 2, the decision of the requested authority and the reasons therefor must be communicated to the requesting authority without delay.

Article 10

Information exchange and confidentiality

1. Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential or restricted nature, depending on the rules applicable in each of the Parties. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws of the Party that received it and the corresponding provisions applying to the institutions of the Union.

2. Personal data may be exchanged only where the Party which may receive it undertakes to protect such data in a manner that is considered adequate by the Party that may supply them.

3. The use, in administrative or judicial proceedings instituted in respect of operations in breach of customs legislation, of information obtained under this Protocol, shall be considered to be for the purposes of this Protocol. Therefore, the Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this

Protocol. The competent authority which supplied that information or gave access to those documents shall be notified of such use.

4. The information obtained under this Protocol shall be used solely for the purposes set out in this Protocol. Where one of the Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the requested authority which provided the information. Such use shall then be subject to any restrictions laid down by requested authority.

Article 11

Experts and witnesses

An official of a requested authority may be authorised to appear, within the limitations of the authorisation granted, as an expert or a witness in administrative or judicial proceedings regarding the matters covered by this Protocol, and may produce such objects, documents or certified copies thereof, as may be needed for the proceedings. The request to the official is made by the requesting authority and must indicate specifically before which administrative or judicial authority the official will have to appear, on which matters and in which capacity (title or qualification).

Article 12

Assistance expenses

The Parties shall waive all claims against each other for the reimbursement of expenses incurred pursuant to this Protocol, except, as appropriate, for expenses related to experts and witnesses, and those related to interpreters and translators who are not public service employees.

Article 13

Implementation

1. The implementation of this Protocol shall be entrusted on the one hand to the customs authorities of Georgia and on the other hand to the competent services of the European Commission and the customs authorities of the Member States, as appropriate. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration the rules in force, in particular in the field of data protection.

2. The Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Protocol.

Article 14

Other agreements

1. Taking into account the respective competencies of the Union and the Member States, the provisions of this Protocol shall:

- (a) not affect the obligations of the Parties under any other international agreement or convention;
- (b) be deemed complementary to agreements on mutual assistance which have been or may be concluded between individual Member States and Georgia; and
- (c) not affect the Union's provisions governing the communication between the competent services of the European Commission and the customs authorities of the Member States of any information obtained under this Protocol which could be of interest to the Union.

2. Notwithstanding the provisions of paragraph 1, the provisions of this Protocol shall take precedence over the provisions of any bilateral agreement on mutual assistance which has been or may be concluded between individual Member States and Georgia in so far as the provisions of such a bilateral agreement are incompatible with those of this Protocol.

Article 15

Consultations

In respect of questions relating to the applicability of this Protocol, the Parties shall consult each other to resolve the matter in the framework of the Customs Sub-Committee set up under Article 74 of this Agreement.