

Free Trade Agreement between the Government of Georgia and the Government of Kazakhstan

Overview

I Background information on the agreement

1. Membership, Dates of Signature, Ratification and Entry into Force

The Parties to the Agreement are Georgia and Kazakhstan. The Agreement applies in respect of the territory to which the customs laws of Georgia and Kazakhstan are applicable respectively. The Agreement was signed on 11 November 1997 in Almatish. The Agreement entered into force after the date of exchanges of notifications on implementation of intergovernmental procedures that were necessary for Agreement's entry into force. It will be effective within six months since the date, when one of the Parties forwards the written notification to another one with the purpose of Agreement's termination.

The agreement was ratified on May 28, 1997 by the Parliament of Georgia and has entered into force on July 16, 1999.

2. Type of Agreement

The Agreement establishes a free trade area in conformity with the definition set out in Article XXIV:8 (b) of GATT 1994.

3. Scope

The free-trade area established by this Agreement provides the framework for future trade relations between the Government of Georgia and the Government of Kazakhstan.

The agreement covers commodity and service.

With the entry into force of this Agreement, Parties to the Agreement do not impose customs duties, taxes and charges, which have an equivalent effect with the exception of those concerned to the customs processes, as well as quantitative restrictions towards export and/or import of commodity originated from the customs area of one of the Parties and designed for delivery to the customs area of another Party.

Parties to the Agreement also will not impose the local taxes or charges, directly or indirectly for goods, covered by this Agreement, with that exceed the rate of relevant taxes and charges imposed on analogous goods of the local production or those produced in third countries.

Trade data

Georgia - Import from Kazakhstan (in mln. US\$)

	Total Trade	Trade Covered	% of Trade Covered
1997	2,7	-	

1998	7,0	-	
1999	1,4	1,0	72,5%
2000	11,2	11,2	100.0%

II Trade provisions

1. Import Restrictions

Parties to agreement apply only the general restrictions on import of goods. The import of weapon, military equipment and technique and also import of toxic and radioactive industrial wastes for the purpose of their utilization, safe disposal, interment and any other purposes is prohibited.

1.1 Duties and charges

Parties will refrain from implementation of discriminative measures in reciprocal trade, as well as from application of quantitative restrictions towards export and/or import of goods or their equivalent measures in the framework of this Agreement.

Parties do not use custom duties and charges on import of product provided by present agreement.

The draft of the protocol of exemption from free trade treatment is considered as the inherent part of the agreement, covers the following products:

Title of the commodity	Code	Tariff rate
alcoholic and nonalcoholic beverage	group 22 (except 2201,2202, 2204, 2208, 2209)	12%
tobacco and industrial substitutes for tobacco	group 24	12%
sugar		12%

According to the agreed commodity nomenclature, exceptions from such trade regime are annually drawn up through protocol.

Parties annually elaborate and coordinate the general list of exceptions from free trade regime and the methods on application of such exceptions as well.

1.2 Quantitative restrictions

Parties will refrain from application of quantitative restrictions towards import of goods or their equivalent measures in the framework of the present Agreement. Parties may unilaterally ascertain quantitative or other special restrictions within reason and with strictly determined period.

Such restriction must be of exclusive character and may be applied only in cases envisaged by the agreements in the frameworks of GATT and WTO.

2. Export restrictions

The export of -Military weapons and ammunition, works of art of museum value and antiquary is prohibited

2.1. Duties and charges

Parties do not charge the export of goods

2.2. Quantitative restriction

Parties will refrain from implementation of discriminative measures, as well as from application of quantitative restrictions towards export of goods or their equivalent measures in the framework of the present Agreement.

3. Rules of Origin

According to the decision of the Council of Head of government of CIS of November 30, 2000 were determined the rules of origin.

4. Standards

4.1 Georgia recognized product certificates from the CIS countries.

“GOST” and other regional standards are mandatory only to products produced in Georgia or imported from non-WTO member CIS states.

4.2 Sanitary and phytosanitary measures

Georgia applies sanitary and phytosanitary measures provided by WTO agreement.

5. Safeguards

Georgia does not apply safeguard mechanisms differ from those applied on MFN bases.

Parties may unilaterally ascertain quantitative or other special restrictions within reason and with strictly determined period.

Such restrictions must be of exclusive character and may be applied only in cases envisaged by the agreements in the frameworks of GATT and WTO.

The Party, which applies quantitative restrictions will provide another Party with full information about the reason for establishment, forms and possible dates of the application of these restrictions.

6. Anti-Dumping and Countervailing measures

Parties consider that unfair business practice is incompatible with Agreement's objectives and undertake not to permit particularly, but not exceptionally the following methods:

Agreements between enterprises, decisions of their corporations and common methods of business practice, which aim to prevent or restrict competition or infringe conditions on the areas of the Parties;

Actions, through which one or several companies, applying their dominant conditions, restrict competition on the whole areas of the Parties or on the substantial part of the Party.

III General Provisions of the Agreement

This agreement does not contradict the right of any Party to implement the measures accepted in the international practice, which it considers necessary for protection of its fundamental interests and which are essential for fulfillment of

international agreements, participants of which the Parties are or intend to be, if these measures concern the following:

- Interests of national defense;
- Trade in weapon, military materials, military equipment;
- Investigations concerning the production of defensive needs;
- Supply with materials and equipment applied in nuclear industry;
- Protection of the public moral and public order;
- Protection of industrial or intellectual property;
- Gold, silver or other precious stones and metals;
- Care of human, animal, plant health and environment;

2. Dispute Settlement procedures

Disputes, concerning explanation and application of Agreement's provisions, will be settled through negotiations. Parties will avoid conflicts in reciprocal trade. Each Party provides the existence of measures on its area for recognition and implementation of arbitration decision

3. Relation with Other Trade Agreements

Regulations of this Agreement replace the regulations of bilateral agreement concluded between the Parties according to whether they are identical or inappropriate with each other.

4. Institutional Framework

In order to implement agreed policy on export control towards third countries, the Parties will hold regular consultations and take mutually agreed measures for establishing effective export control system

**AGREEMENT ON FREE TRADE BETWEEN THE GOVERNMENT OF GEORGIA
AND THE GOVERNMENT OF THE REPUBLIC OF KAZAKSTAN**

The Government of Georgia and the Government of the Republic of Kazakstan, hereinafter referred to as the "Sides" to the agreement,

Confirming their tendency towards free development of economic cooperation;

Taking into account integral economic relations between Georgia and Kazakstan;

Acknowledging that free movement of commodity and service requires implementation of mutually agreed measures;

Confirming the support of Georgia and Kazakstan to the principles of the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO),

Agreed on the following:

Article 1

Guided by the principles of equality, mutual advantage and interests, Sides will develop and enhance trade and economic relations between the subjects of economic activity independently from their property forms, taking into account legislative acts operating in the States of the Sides on the basis of the direct economic links.

Each Side refrains from actions that can cause the damage to another Side.

Article 2

1. Sides do not impose customs duties, taxes and charges, having equivalent effect, with the exception of charges concerning the customs processes, as well as quantitative restrictions towards export and/or import of commodity originated from the customs area of one of the Sides and designated for the customs area of another Side. According to the agreed commodity nomenclature, exclusions from such trade regime are annually drawn up through protocol.
2. In accordance with the paragraph 1 of this Article Sides annually elaborate and coordinate the general list of exclusions from free trade regime and the methods of application of such exclusions as well.
3. For objectives and during the operating period of the present agreement, commodity originated from the customs areas of the Sides is determined by regulations determining the originator country of the commodity, in accordance with international standards.

Article 3

Each Side will not impose local taxes or charges directly or indirectly on goods, covered by the present agreement, at the rate that exceeds the level of relevant taxes or charges imposed on analogous goods of the local production or those produced in third countries;

Each Side will not use different rules towards warehousing, unloading, storage, shipment of goods originated from another country to the agreement as well as towards repayments and remittances, with the exception of the rules that in similar cases are used towards domestic goods or those originated from third country.

Article 4

Sides will refrain from carrying out discriminative measures in reciprocal trade as well as from applying quantitative restrictions or their equivalent measures on export and/or import of goods within the framework of the present agreement.

Sides may unilaterally ascertain quantitative or other special restrictions but only within reason and in strictly determined terms.

Such restrictions must be of exclusive character and may be applied only in cases envisaged by the agreements concluded within the framework of GATT and WTO.

The Side, which will apply quantitative restrictions in accordance with this Article, will provide another Side with full information about reasons for establishment, forms and possible terms of application of these restrictions; hence consultations are appointed.

Quantitative restrictions noted in paragraph 1 of this Article may be ascertained through mutual agreement between the Sides and may be annually drawn up through protocol.

Article 5

Sides will not permit unauthorized re-export of goods, in regard to the export of which their originator Side applies tariff and non-tariff regulation measures.

Sides will exchange the lists of goods to which tariff and non-tariff regulations are used. The re-export of such goods to third countries may be implemented only through the letter of consent and in terms defined by the authorized body of the producer country. In case of nonobservance of this provision, the Side, whose interests were violated, has the right to introduce unilaterally the measures on regulation of exportation of the commodity at the territory of the Side, which has committed unauthorized re-export. In case of unauthorized re-export, the originator Side of the commodity may require compensation for damage and may apply sanctions.

Under the re-export, noted in this Article, is considered the export of commodity originated from the customs area of one of the Sides, by another one out of its customs area with the purpose of commodity's exportation to the third country.

Article 6

All repayments and remittances in trade and economic cooperation between the Sides must be implemented in accordance with the agreement between the authorized banks of the Sides.

Article 7

Sides will exchange, on regular basis, information about laws and other regulatory acts, concerning economic activity, including trade, investment, taxation, banking and insurance activity as well as other financial services, transport and customs issues, including customs statistics.

Sides will immediately inform each other about changes taking place in the national legislation that may affect on the implementation of the present agreement.

Authorized bodies to the Sides coordinate regulation of such exchange of information.

Provisions of this Article will not be defined as the obligation of competent bodies to any Side to submit the information, which may not be accepted by legislation or during the usual administrative practice of one of the Sides.

Provisions of this Article will not be the ground for submitting the information, which may disclose any trade, manufacturing, industrial, commercial or professional secrecy or other information disclosure that resist the governmental interests of the Sides.

Article 8

Sides consider that unfair business practice is incompatible with agreement's objectives and undertake not to permit, in particular, but not exceptionally, the following methods:

- Agreements between enterprises, decisions of their associations and common methods of business practice that aim to prevent or restrict competition or violate its conditions at the territories of the Sides;
- Actions, through which one or several companies using their dominant condition, restrict competition on the whole areas of the Sides or on the substantial part of the Side's territory.

Article 9

During implementation of tariff and non-tariff regulation of bilateral economic relations, for the exchange of statistics and for implementation of customs procedures Sides will apply common nine-digit commodity nomenclature of foreign economic

activity based on the harmonized system of description and coding of goods and on the combined tariff and statistic nomenclature of European Economic Community. Herewith, for their governmental needs, the Sides implement, in case of necessity, enhancement of commodity nomenclature beyond the bounds of nine-digits.

Establishment of standard pattern of commodity nomenclature is implemented on the basis of mutual agreements through representatives in relevant international organizations.

Article 10

Sides are agreed that the maintenance of the principle of free transit is the most significant term for achieving objectives of the present agreement, and the essential element of the process of their linking up in the system of cooperation and international division of labour.

In this regard, each Side insures free transit, through its territory, of the commodity, originated from the customs area of another Side and/or of third country and designated for another Side and/or for any other third country. Each Side will provide exporters, importers or conveyors with all necessary facilities and services for transit security, in terms not worse than the ones with facilities and services that are given to own exporters, importers and conveyors or those of any other third country.

Rules and conditions for transition of goods through territories of the Sides are regulated in accordance with the international rules on transportation.

Article 11

This agreement does not prevent the right of any Side to implement the measures adopted in international practice that are considered necessary for protection of the Side's fundamental interests and that are unconditionally essential for fulfilment of international agreements, participants of which this Side is or intends to be, if such measures concern the following:

- Interests of national defense;
- Trade in weapon, ammunition and military equipment;
- Investigations and production concerning defensive needs;
- Supply with materials and equipment applied in nuclear industry;
- Protection of public moral and public order;
- Protection of industrial and intellectual property;
- Gold, silver or other precious stones and metals;
- Protection of human health and environment.

Article 12

In order to implement agreed policy on export control towards third countries, Sides will hold regular consultations and take mutually agreed measures for establishing an effective export control system.

Article 13

Provisions of this agreement replace the provisions of bilateral agreements concluded earlier between the Sides, where these provisions are identical or incompatible.

Article 14

Disputes between Sides, concerning interpretation and application of the agreement's provisions, will be settled through negotiations.

Sides will endeavour to avoid conflicts in reciprocal trade.

Each Side insures the existence of measures on its territory for recognition and implementation of arbitrations.

Article 15

In case of necessity, amendments and annexes may be entered into agreement according to the Sides' consent.

Article 16

The present agreement comes into effect from the date of exchanging the notifications on implementation of intergovernmental procedures that are necessary for the agreement's coming into force and will be in force within six months since the date, when one of the Sides sends the written notification on agreement's termination to another one.

Provisions of the present agreement will be applied within five years, after its termination, towards contracts of enterprises and organizations of both countries that were concluded but not fulfilled during the operating period of the agreement.

DONE in Almatish, on 11 November 1997 in two originals, each in Georgian, Kazakh and Russian languages. All texts are equally authentic.

Text in Russian language is used during interpretation of agreement's provisions.

Protocol on Exclusion from Free Trade Regime
Annexed to the Agreement (11 November 1997) on Free Trade
between the Government of Georgia and the Government of the Republic of
Kazakhstan

Authorized representatives of Georgia and the Republic of Kazakhstan drew up the protocol on the following:

Article 1

Exclusions, provided in the Article 2 of the Agreement on Free Trade concluded between the Government of Georgia and the Government of Kazakhstan (11 November 1997), cover the commodity exported from Georgia to the Republic of Kazakhstan in accordance with the Annex 1.

Article 2

1. In regard to the commodity covered by the exclusions from free trade regime in accordance with the Article 1 of this protocol, the Sides render each other with the MFN, which includes:

- Payments and charges taken out during export (towards the commodity listed in the Annex 1), including the methods for taking out such payments and charges;
- Condition of customs procedures, transportation, unloading, storage and other similar services;
- Methods of payment and remittance;
- Issuance of import licenses;
- Rules concerning the sale, purchase, transportation, distribution and the use of commodity at the domestic market.

2. Regulations of paragraph 1 of this Article do not apply to:

- Privileges rendered to third countries by any Side with the aim of establishing customs union or free-trade area, or rendered as the result of establishment of such union or area;
- Privileges that will be rendered to developing countries in accordance with the legislation of the Sides;
- Privileges that will be rendered to neighbour countries with the aim of facilitation of frontier trade;
- Privileges rendered by the Sides to each other in accordance with the special agreements.

Article 3

In accordance with their legislation, Sides maintain, in reciprocal trade, application of non-tariff regulation measures on export and import licensing and quotation of commodity. These measures are operating during the customs procedures as well as during exportation and importation of commodity on or within the customs areas of the countries.

Article 4

1. This protocol is an integral part of the Agreement on Free Trade concluded between the government of Georgia and the government of the Republic of Kazakstan (11 November 1997) and comes into effect simultaneously with this Agreement.
2. This protocol remains in force until the drawing up of the new protocol provided by Article 1 of the Agreement on Free Trade concluded between the government of Georgia and the government of the Republic of Kazakstan on 11 November 1997.

DONE in Almatish, on 11 November 1997, in two originals, each in Georgian, Kazakh and Russian languages.

Annex 1 to the Protocol on Exclusion from Free Trade

Attachment to the Agreement on Free Trade (November 1997)
between the Government of Georgia and the Government of the Republic of
Kazakstan

List of the commodity, covered by the exclusion from a free trade regime during exportation from Georgia to Kazakstan.

Title of the Commodity	Code TH B? ?
Alcoholic and non-alcoholic beverage	Group 22 (except 2201, 2202, 2204, 2208, 2209)
Tobacco and industrial substitutes for tobacco	Group 24
Sugar	1701 99 100