ANNEX

‘ANNEX XVI

PUBLIC PROCUREMENT

ANNEX XVI-A

THRESHOLDS

The value thresholds mentioned in Article 142(3) of this Agreement shall be for both Parties:

(a) EUR 144,000 for public supply and service contracts awarded by central government authorities and design contests awarded by such authorities;

(b) EUR 221,000 in the case of public supply and public service contracts not covered by point (a);

(c) EUR 5,548,000 in the case of public works contracts;

(d) EUR 5,548,000 in the case of works contracts in the utilities sector;

(e) EUR 5,548,000 in the case of concessions;

(f) EUR 443,000 in the case of supply and service contracts in the utilities sector;

(g) EUR 750,000 for public service contracts for social and other specific services;

(h) EUR 1,000,000 for service contracts for social and other specific services in the utilities sector.
ANNEX XVI-B

INDICATIVE TIME SCHEDULE FOR INSTITUTIONAL REFORM, APPROXIMATION AND MARKET ACCESS

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<td>Three years after the entry into force of this Agreement</td>
<td>Supplies for central government authorities</td>
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<td>2</td>
<td>Approximation and implementation of basic elements of Directive 2014/24/EU and of Directive 89/665/EEC</td>
<td>Five years after the entry into force of this Agreement</td>
<td>Supplies for state, regional and local authorities and bodies governed by public law</td>
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<td>Phase</td>
<td>Approximation and implementation of basic elements of Directive 2014/25/EU and of Directive 92/13/EEC</td>
<td>Indicative time schedule</td>
<td>Market access granted to the EU by Georgia</td>
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<tr>
<td>-------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>--------------------------</td>
<td>------------------------------------------</td>
</tr>
<tr>
<td>3</td>
<td>Six years after the entry into force of this Agreement</td>
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<td>Supplies for all contracting entities</td>
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<td>4</td>
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<td>Service and works contracts and concessions for all contracting authorities</td>
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**BASIC ELEMENTS OF DIRECTIVE 2014/24/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

(Phase 2)

**TITLE I**

**SCOPE, DEFINITIONS AND GENERAL PRINCIPLES**

**CHAPTER I**

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Subject-matter and scope: paragraphs 1, 2, 5 and 6

**Article 2**

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Mixed procurement

**Section 2**

Thresholds

**Article 4**

Threshold amounts

**Article 5**

Methods for calculating the estimated value of procurement

**Section 3**

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**Article 7**

Contracts in the water, energy, transport and postal services sectors

**Article 8**

Specific exclusions in the field of electronic communications

**Article 9**

Public contracts awarded and design contests organised pursuant to international rules

**Article 10**

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**Article 11**

Service contracts awarded on the basis of an exclusive right

**Article 12**

Public contracts between entities within the public sector

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Article 13 Contracts subsidised by contracting authorities
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Subsection 2: Procurement involving defence and security aspects
Article 15 Defence and security
Article 16 Mixed procurement involving defence or security aspects
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CHAPTER II General Rules
Article 18 Principles of procurement
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Article 21 Confidentiality
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Article 24 Conflicts of interest

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Article 29 Competitive procedure with negotiation
Article 32 Use of the negotiated procedure without prior publication
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Article 41  Prior involvement of candidates or tenderers
Article 42  Technical specifications
Article 43  Labels
Article 44  Test reports, certification and other means of proof: paragraphs 1, 2
Article 45  Variants
Article 46  Division of contracts into lots
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Section 2  Publication and transparency
Article 48  Prior information notices
Article 49  Contract notices
Article 50  Contract award notices: paragraphs 1 and 4
Article 51  Form and manner of publication of notices: first subparagraph of paragraph 1, first subparagraph of paragraph 5
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Article 54  Invitations to candidates
Article 55  Informing candidates and tenderers
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Article 56  General principles
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Article 57 Exclusion grounds
Article 58 Selection criteria
Article 59 European Single Procurement Document: paragraph 1 *mutatis mutandis*, paragraph 4
Article 60 Means of proof
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Article 63 Reliance on the capacities of other entities
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Article 66 Reduction of the number of tenders and solutions
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Article 67 Contract award criteria
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and of the Council² and Directive 2014/23/EU
of the European Parliament and of the Council³,⁴
(Phase 2)

Article 1  Scope and availability of review procedures
Article 2  Requirements for review procedures
Article 2a Standstill period
Article 2b Derogations from the standstill period
Point (b) of the first paragraph

⁴ Georgian legislation implementing Annex XVI-D shall become effective with regard to review procedures relating to award of concessions (Directive 2014/23/EU) as from phase 4.
| Article 2c | Time limits for applying for review |
| Article 2d | Ineffectiveness |
|           | Point (b) of paragraph 1 |
|           | Paragraph 2 and 3 |
| Article 2e | Infringements of this Directive and alternative penalties |
| Article 2f | Time limits |
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OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL¹
(Phase 3)

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Article 19  Contracts and design contests awarded or organised for purposes other than the pursuit of a covered activity or for the pursuit of such an activity in a third country: paragraph 1

Article 20  Contracts awarded and design contests organised pursuant to international rules

Article 21  Specific exclusions for service contracts

Article 22  Service contracts awarded on the basis of an exclusive right

Article 23  Contracts awarded by certain contracting entities for the purchase of water and for the supply of energy or of fuels for the production of energy

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Article 27  Contracts and design contests involving defence or security aspects which are awarded or organised pursuant to international rules
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Article 74  Invitations to candidates
Article 75  Informing applicants for qualification, candidates and tenderers
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Article 78 Criteria for qualitative selection
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ANNEX XI Information to be included in contract notices (as referred to in Article 69)
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ANNEX XIV List of International Social and Environmental Conventions referred to in Article 36(2)
ANNEX XVI Information to be included in notices of modifications of a contract during its term (as referred to in Article 89(1))
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(Phase 3)

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⁴ Georgian legislation implementing Annex XVI-F shall become effective with regard to review procedures relating to award of concessions (Directive 2014/23/EU) as from phase 4.
I. OTHER NON-MANDATORY ELEMENTS OF DIRECTIVE 2014/24/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

The elements of Directive 2014/24/EU set out in this Annex are not mandatory but recommended for approximation. Georgia may approximate these elements within the time-frame set in Annex XVI-B.

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TITLE III PARTICULAR PROCUREMENT REGIMES
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II. NON-MANDATORY ELEMENTS OF DIRECTIVE 2014/23/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL\(^1\)

The elements of Directive 2014/23/EU set out in this Annex are not mandatory but recommended for approximation. Georgia may approximate these elements within the time-frame set in Annex XVI-B.

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I. OTHER MANDATORY ELEMENTS OF DIRECTIVE 2014/24/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL¹

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OTHER ELEMENTS OF COUNCIL DIRECTIVE 89/665/EEC\(^1\)
(Phase 4)

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ANNEX XVI-J

(Phase 5)


The elements of Directive 2014/25/EU set out in this Annex are not mandatory but recommended for approximation. Georgia may approximate these elements within the time-frame set in Annex XVI-B.

TITLE I SCOPE, DEFINITIONS AND GENERAL PRINCIPLES
CHAPTER I Subject-matter and definitions
Article 2 Definitions: points 10-12
CHAPTER IV General principles
Article 38 Reserved contracts

TITLE II RULES APPLICABLE TO CONTRACTS
CHAPTER II Techniques and instruments for electronic and aggregated procurement
Article 55 Centralised purchasing activities and central purchasing bodies

TITLE III PARTICULAR PROCUREMENT REGIMES
CHAPTER I Social and other specific services
Article 94 Reserved contracts for certain services

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II. OTHER MANDATORY ELEMENTS OF DIRECTIVE 2014/25/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

TITLE I SCOPE, DEFINITIONS AND GENERAL PRINCIPLES
CHAPTER I Subject-matter and definitions
Article 2 Definitions: point 17
CHAPTER III Material scope
Section 1 Thresholds
Article 16 Methods for calculating the estimated value of procurement: paragraphs 5, 6

TITLE II RULES APPLICABLE TO CONTRACTS
CHAPTER I Procedures
Article 44 Choice of procedures: paragraph 3
Article 48 Competitive dialogue
Article 49 Innovation Partnership
Article 50 Use of the negotiated procedure without prior call for competition: point (j)
CHAPTER II Techniques and instruments for electronic and aggregated procurement
Article 51 Framework agreements
Article 52 Dynamic purchasing systems
Article 53 Electronic auctions
Article 54 Electronic catalogues
Article 56 Occasional joint procurement
CHAPTER III Conduct of the procedure
Section 2 Publication and transparency
Article 70 Contract award notices: paragraph 2

Section 3 Choice of participants and award of contracts
Subsection 1: Qualification and qualitative selection
Article 77 Qualification systems
Article 79 Reliance on the capacities of other entities: paragraph 1
TITLE III PARTICULAR PROCUREMENT REGIMES
CHAPTER II Rules governing design contests
Article 95 Scope
Article 96 Notices
Article 97 Rules on the organisation of design contests, the selection of participants and the jury
Article 98 Decisions of the jury
ANNEXES
ANNEX VII Information to be included in the procurement documents relating to electronic auctions (Article 53(4))
ANNEX XIX Information to be included in the design contest notice (as referred to in Article 96(1))
ANNEX XX Information to be included in the results of design contest notices (as referred to in Article 96(1))
ANNEX XVI-K


Article 2b Derogations from the standstill period
Point (c) of the first paragraph

Article 2d Ineffectiveness
Point (c) of paragraph 1
Paragraph 5


I. PROVISIONS OF DIRECTIVE 2014/24/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL1 OUTSIDE THE SCOPE OF APPROXIMATION

The elements listed in this Annex are not subject to the process of approximation.

TITLE I SCOPE, DEFINITIONS AND GENERAL PRINCIPLES
CHAPTER I Scope and definitions
Section 1 Subject-matter and definitions
Article 1 Subject-matter and scope: paragraphs 3 and 4
Article 2 Definitions: paragraph 2
Section 2 Thresholds
Article 6 Revision of the thresholds and of the list of central government authorities

TITLE II RULES ON PUBLIC CONTRACTS
CHAPTER I Procedures
Article 25 Conditions relating to the GPA and other international agreements
CHAPTER II Techniques and instruments for electronic and aggregated procurement
Article 39 Procurement involving contracting authorities from different Member States

CHAPTER III Conduct of the procedure
Section 1 Preparation
Article 44 Test reports, certification and other means of proof: paragraph 3

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The elements listed in this Annex are not subject to the process of approximation.

TITLE I SUBJECT MATTER, SCOPE, PRINCIPLES AND DEFINITIONS
CHAPTER I Scope, general principles and definitions
Section I Subject-matter, scope, general principles, definitions and threshold
Article 1 Subject-matter and scope: paragraph 3
Article 6 Contracting authorities: paragraphs 2 and 3
Article 9 Revision of the threshold
Section II Exclusions
Article 15 Notification of information by contracting entities
Article 16 Exclusion of activities which are directly exposed to competition

TITLE II RULES ON THE AWARD OF CONCESSIONS: GENERAL PRINCIPLES AND PROCEDURAL GUARANTEES
CHAPTER I General principles
Article 30 General principles: paragraph 4
Article 33 Form and manner of publication of notices: second subparagraph of paragraph 1, paragraphs 2, 3 and 4

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TITLE IV  AMENDMENTS TO DIRECTIVES 89/665/EEC AND 92/13/EEC
Article 46 Amendments to Directive 89/665/EEC
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TITLE V  DELEGATED POWERS, IMPLEMENTING POWERS AND FINAL PROVISIONS
Article 48 Exercise of the delegation
Article 49 Urgency procedure
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Article 54 Entry into force
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ANNEX XVI-M

PROVISIONS OF DIRECTIVE 2014/25/EU
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

OUTSIDE THE SCOPE OF APPROXIMATION

The elements listed in this Annex are not subject to the process of approximation.

TITLE I  SCOPE, DEFINITIONS AND GENERAL PRINCIPLES
CHAPTER I  Subject-matter and definitions
Article 1  Subject matter and scope: paragraphs 3 and 4
Article 3  Contracting authorities: paragraphs 2 and 3
Article 4  Contracting entities: paragraph 4

CHAPTER III  Material scope
Section 1  Thresholds
Article 17  Revision of the thresholds
Section 2  Excluded contracts and design contests; special provisions for procurement involving defence and security aspects
Subsection 1:  Exclusions applicable to all contracting entities and special exclusions for the water and energy sector
Article 18  Contracts awarded for purposes of resale or lease to third parties: paragraph 2
Article 19  Contracts and design contests awarded or organised for purposes other than the pursuit of a covered activity or for the pursuit of such an activity in a third country: paragraph 2

Subsection 3: Special relations (cooperation, affiliated undertakings and joint ventures)

Article 31 Notification of information

Subsection 4: Specific situations

Article 33 Contracts subject to special arrangements

Subsection 5: Activities directly exposed to competition and procedural provisions relating thereto

Article 34 Activities directly exposed to competition

Article 35 Procedure for establishing whether Article 34 is applicable

TITLE II RULES APPLICABLE TO CONTRACTS

CHAPTER I Procedures

Article 43 Conditions relating to the GPA and other international agreements

CHAPTER II Techniques and instruments for electronic and aggregated procurement

Article 57 Procurement involving contracting entities from different Member States

CHAPTER III Conduct of the procedure

Section 2 Publication and transparency

Article 71 Form and manner of publication of notices: paragraphs 2, 3, 4, second subparagraph of paragraph 5, paragraph 6

Article 72 Publication at national level

Section 3 Choice of participants and award of contracts

Subsection 1: Qualification and qualitative selection

Article 81 Quality assurance standards and environmental management standards: paragraph 3
Subsection 2: Award of the contract

Article 83 Life-cycle costing: paragraph 3

Section 4 Tenders comprising products originating in third countries and relations with those countries

Article 85 Tenders comprising products originating in third countries

Article 86 Relations with third countries as regards works, supplies and service contracts

TITLE IV GOVERNANCE

Article 99 Enforcement

Article 100 Individual reports on procedures for the award of contracts

Article 101 National reporting and statistical information

Article 102 Administrative cooperation

TITLE V DELEGATED POWERS, IMPLEMENTING POWERS AND FINAL PROVISIONS

Article 103 Exercise of the delegation

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Article 105 Committee procedure

Article 106 Transposition and transitional provisions

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PROVISIONS OF COUNCIL DIRECTIVE 89/665/EEC¹
AS AMENDED BY DIRECTIVE 2007/66/EC OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL³
OUTSIDE THE SCOPE OF APPROXIMATION

The elements listed in this Annex are not subject to the process of approximation.

- Article 2b: Derogations from the standstill period
  Point (a) of the first paragraph
- Article 2d: Ineffectiveness
  Point (a) of paragraph 1
  Paragraph 4
- Article 3: Corrective mechanism
- Article 3a: Content of a notice for voluntary ex ante transparency
- Article 3b: Committee procedure
- Article 4: Implementation
- Article 4a: Review

ANNEX XVI-O

PROVISIONS OF COUNCIL DIRECTIVE 92/13/EEC¹
AS AMENDED BY DIRECTIVE 2007/66/EC OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL³

OUTSIDE THE SCOPE OF APPROXIMATION

The elements listed in this Annex are not subject to the process of approximation.

Article 2b Derogations from the standstill period
Point (a) of the first paragraph
Article 2d Ineffectiveness
Point (a) of paragraph 1
Paragraph 4
Article 3a Content of a notice for voluntary ex ante transparency
Article 3b Committee procedure
Article 8 Corrective mechanism
Article 12 Implementation
Article 12a Review


ANNEX XVI-P

GEORGIA: INDICATIVE LIST OF ISSUES FOR COOPERATION

1. Training, in Georgia and EU Member States, of Georgian officials from government bodies engaged in public procurement;

2. Training of suppliers interested participating in public procurement;

3. Exchange of information and experience on best practice and regulatory rules in the sphere of public procurement;

4. Enhancement of the functionality of the public procurement website and establishment of a system of public procurement monitoring;

5. Consultations and methodological assistance from the EU Party in application of modern electronic technologies in the sphere of public procurement;

6. Strengthening the bodies charged with guaranteeing a coherent policy in all areas related to public procurement and the independent and impartial consideration (review) of contracting authorities’ decisions. (Cf. Article 143 paragraph 2 of this Agreement).’