

AGREEMENT

BETWEEN THE GOVERNMENT OF UKRAINE AND THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT ON THE PRIVILEGES, IMMUNITIES AND FACILITIES GRANTED TO THE ORGANISATION

THE GOVERNMENT OF UKRAINE and THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, hereafter referred to as the "Parties";

TAKING INTO ACCOUNT the provisions of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

BEARING IN MIND the co-operation existing between the Government of Ukraine and the Organisation for Economic Co-operation and Development and the interest in developing closer co-operation;

HAVE AGREED as follows:

Article 1

For the purposes of this Agreement:

- a) "Government" means the Government of Ukraine;
- b) "Organisation" means the Organisation for Economic Co-operation and Development (OECD);
- c) "officials" means the categories of officials to which the provisions of this Agreement apply as specified by the Secretary-General. The names of the officials included in these categories shall be made known, from time to time, to the Government;
- d) "residents of Ukraine" means citizens of Ukraine, stateless persons and foreigners who permanently resided in Ukraine in accordance with the legislation of Ukraine immediately prior to their employment with the Organisation;

- e) "experts" means persons other than those mentioned in paragraph c) of this Article, who are especially appointed by the Organisation to carry out official missions of the Organisation;
- f) "premises of the Organisation" means buildings or parts thereof (including the land ancillary thereto) utilised permanently or temporarily for official purposes of the Organisation;
- g) "property of the Organisation" means all property including funds and assets belonging to the Organisation or held or administered by the Organisation or on its behalf;
- h) "archives of the Organisation" means all records and correspondence, documents and other materials including tapes and films, sound recordings, computer software and written material, video tapes and discs belonging to or held by the Organisation or on its behalf;
- i) "members" means countries or other entities which are members of the Organisation;
- j) "non-member participants" means countries not members of the Organisation or intergovernmental organisations which have received an invitation from the Organisation to participate, as observers or on any other basis, in a meeting convened by the Organisation;
- k) "representatives" means all delegates, alternates, advisors, technical experts and secretaries of delegations;
- l) "meeting convened by the Organisation" means any meeting of a body of the Organisation, and any other meeting, international conference or gathering convened by the Organisation.

Article 2

The Organisation is recognised by Ukraine as an intergovernmental organisation. The Organisation possesses juridical personality. It has the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

Article 3

1. Subject to the provisions of paragraph 2 of this Article, the Organisation and its property, wherever located and by whomsoever held, shall enjoy immunity from every legal process except insofar as in any particular case the Organisation has expressly waived its immunity. For any measure of execution, a separate waiver of immunity shall be required.
2. There shall be no immunity in case of a civil action brought by a third party claiming compensation for damages resulting from an accident caused by a vehicle belonging to the Organisation, or operated on behalf of the Organisation, if such damage is not covered by appropriate insurance.

Article 4

The property of the Organisation, wherever located and by whomsoever held, shall not be subjected to search, requisition, confiscation, expropriation or any other form of interference whether by administrative, judicial or legislative action.

Article 5

1. The premises of the Organisation, including premises utilised by the Organisation for the duration of a meeting convened by the Organisation, shall be inviolable and shall be under its exclusive control and authority. Representatives of the authorities of Ukraine shall not enter into the premises of the Organisation unless permitted by the Secretary-General of the Organisation or an authorised official acting on his behalf. However, such permission may be presumed in case of fire or other similar emergencies, requiring immediate remedial actions except that representatives of the authorities of Ukraine shall, in such cases, immediately leave the premises upon the request of the Secretary-General or an authorised official acting on his behalf.

2. The Government shall take appropriate measures to ensure the security of the Organisation's premises. In particular, it shall prevent any person or group of persons from penetrating without authorisation into the premises or from causing disorder in the immediate vicinity thereof.

Article 6

The archives of the Organisation, and in general all documents belonging to it or held by it, shall be inviolable wherever located and by whomsoever held.

Article 7

Without being restricted by financial controls, regulations or moratoria of any kind:

- a) the Organisation may hold currency of any kind and operate accounts in any currency;
- b) the Organisation may freely transfer its funds within, into and out of the territory of Ukraine, and convert any currency held by it into any other currency under the same conditions as those which apply to any other international organisation or to any foreign government.

Article 8

The Organisation and its property shall be exempt from:

- a) any form of direct taxation; however, the Organisation will not claim exemption from rates and taxes which constitute no more than payment for public utilities;
- b) customs duties, restrictions or prohibitions in respect of import or export of goods intended for official use, on the understanding that such imported goods will not be sold in Ukraine except under conditions agreed with the Government;
- c) customs duties, restrictions or prohibitions in respect of import and export of publications;
- d) while the Organisation will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form a part of the price to be paid; nevertheless, when the Organisation is making important purchases, for official use, of property on which such duties and taxes have been charged or are chargeable, the Government will make appropriate administrative arrangements for the remission or return of the amount of duties or taxes.

Article 9

1. The Organisation shall enjoy, for its official communications, treatment no less favourable than that accorded by Ukraine to any foreign government, in the matter of priorities, rates and taxes on mail, cables, telegrams, radiograms, telephotos, telefaxes, telephone and other communications, and press rates for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the Organisation.
2. The Organisation shall enjoy the right to use codes for its official communications and send and receive correspondence and other papers and documents by a courier.

Article 10

In order to enable the Organisation to fully and efficiently discharge its responsibilities and fulfill its tasks:

- a) the Government shall assist the Organisation in resolving any difficulty the Organisation may encounter in the procurement of goods, services and facilities on the territory of Ukraine;
- b) essential public services shall be made available to the Organisation on the same basis and conditions as those which apply to diplomatic missions in Ukraine.

Article 11

1. Representatives of members and non-member participants accredited to the Organisation or to a meeting convened by the Organisation shall, while exercising their functions on the territory of Ukraine and during their journey to and from the place of meeting, enjoy the

privileges, immunities and facilities normally enjoyed by diplomatic agents of comparable rank.

2. Privileges, immunities and facilities are accorded to the representatives of members and non-member participants not for the personal benefit of the individuals concerned, but in order to safeguard their functions in connection with the Organisation. Consequently, a member or a non-member participant shall have not only the right to but the duty to waive the immunity of its representative in any case where, in the opinion of the Member or non-member participant, the immunity would impede the course of justice and it can be waived without prejudice to the purpose for which the immunity is accorded.

Article 12

1. Officials of the Organisation shall:

- a) enjoy immunity from arrest and detention for acts performed in their official capacity and from seizure of their baggage;
- b) enjoy immunity from legal process for acts performed in their official capacity, excluding civil liability for damages arising from road traffic accidents caused by them; they shall continue to be so immune after completion of their functions as officials of the Organisation;
- c) be exempt from any form of direct taxation on salaries, emoluments and indemnities paid to them by the Organisation;
- d) be exempt, together with their spouses and members of their families, from immigration restrictions and alien registrations;
- e) be exempt from the national military service;
- f) enjoy, together with their spouses and members of their families, the same benefits in respect of repatriation in cases of international crisis as members of diplomatic missions;
- g) have the right to import free of duty their furniture and effects at the time of first taking up their post in Ukraine;
- h) be accorded the same privileges in respect of currency and exchange restrictions as are accorded to diplomatic agents of comparable rank;
- i) be exempt from any obligation to deposit security payable in respect of goods temporarily admitted into Ukraine;
- j) enjoy the right, for the purpose of communicating with the Organisation, to use codes and send and receive correspondence and other papers and documents by courier.

2. The provisions of paragraph 1 c), d), e), f), g), h), and i) shall not be applicable to officials who are residents of Ukraine.

Article 13

In addition to the privileges, immunities and facilities mentioned in Article 12, the Secretary-General of the Organisation and his/her spouse and children under the age of 18 shall enjoy privileges, immunities and benefits granted to the heads of diplomatic missions accredited in Ukraine. The Deputy and Assistant Secretaries-General, their spouses and children under the age of 18 shall enjoy privileges, immunities and facilities granted to members of comparable rank of diplomatic missions in Ukraine.

Article 14

1. Experts (other than officials) performing a mission for the Organisation in Ukraine shall enjoy on the territory of Ukraine such privileges, immunities and facilities as are necessary for the independent exercise of their functions during the period of their mission, including time spent on journeys in connection with their mission. In particular, they shall enjoy:

- a) immunity from personal arrest or detention and from seizure of their luggage;
- b) immunity from legal process in respect of words spoken or written and all acts done by them in the performance of their mission, excluding civil liability for damages arising from road traffic accidents caused by them; such immunity shall continue after the completion of their mission;
- c) inviolability for all papers and documents;
- d) the right, for the purpose of communicating with the Organisation, to use codes and to send and receive correspondence and other papers and documents by a courier;
- e) the same facilities with respect to currency and exchange restrictions as are accorded to a representative of a foreign government on temporary official mission;
- f) exemption from any obligation to deposit security payable in respect of goods temporarily admitted into Ukraine.

2. The provisions of paragraph 1 e) and f) shall not be applicable to experts who are residents of Ukraine.

Article 15

1. Privileges, immunities and benefits are granted to officials and experts in the interest of the Organisation and not for the sake of personal profit. The Secretary-General of the Organisation shall have the right and duty to waive the immunity of any official or expert where, in his

opinion, the immunity of this official or expert would impede the course of justice and it can be waived without prejudice to the interests of the Organisation.

2. In the cases of the Secretary-General and the Deputy and Assistant Secretaries-General of the Organisation, the Council of the Organisation shall have the right to waive immunity.

Article 16

The Government shall take all appropriate measures to facilitate the entry to, stay in, and exit from the territory of Ukraine, and to ensure the freedom of movement within the territory of Ukraine of representatives of Members and non-member participants, officials and experts of the Organisation and any other person invited by the Organisation for official purposes.

Article 17

The Organisation shall co-operate at all times with the Government to facilitate the proper administration of justice and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Agreement.

Article 18

1. The Parties shall be interpreted and applied in the light of its primary purpose which is to enable the Organisation to fully and efficiently discharge its responsibilities and fulfil its tasks.

2. If the event that the Government grants any more favourable privileges, exemption or immunity to a similar type of international organisation, it will accord like treatment in that respect to the Organisation.

Article 19

1. The Parties shall attempt to settle any dispute as to the interpretation or application of this Agreement by negotiation or by any other mutually agreed means.

2. If the dispute is not settled in accordance with paragraph 1 of this Article, within a period of sixty days from the request by either Party to settle it, it shall, at the request of either Party, be referred to arbitration.

3. The arbitral tribunal shall be composed of three arbitrators. Each Party shall choose one arbitrator and the third, who shall be the chairman of the tribunal, shall be chosen jointly by the Parties. If the tribunal is not constituted within three months of the request for arbitration, the appointment of the arbitrators who have not been designated shall be made by the Secretary-General of the Permanent Court of Arbitration at the request of either Party.

4. The tribunal shall apply the principles and rules of international law and its award shall be final and binding on both Parties.

Article 20

This Agreement shall enter into force on the date on which the Government informs the Organisation of the completion of the constitutional requirements for its entry into force.

Article 21

1. This Agreement shall be applied for five years from the date of its entry into force.
2. This Agreement shall remain in force and may thereafter be tacitly renewed for successive five-year periods unless a contrary intention is notified in writing by one Party to the other no later than six months before the expiry of a five-year period.
3. Notwithstanding the provisions of paragraph 2 of this Article, this Agreement may be terminated at any time by either Party by a written notice of termination which shall take place not earlier than one year after the notice.

Article 22

This Agreement shall be applied on a provisional basis as from the date of its signature, and pending its entry into force, in accordance with the legislation of Ukraine.

Article 23

The Parties may enter into any supplementary agreements as may be necessary within the scope of this Agreement.

DONE in Paris this 19th day of December 1997, in two copies in the English and French languages. In the case of divergence the English version shall prevail.

FOR THE GOVERNMENT OF UKRAINE:

Roman SHPECK
Chairman
National Agency of Ukraine
For Reconstruction and Development

FOR THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT:

Donald J. JOHNSTON
Secretary-General