

AGREEMENT BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE
NETHERLANDS AND THE CABINET OF MINISTERS OF UKRAINE CONCERNING
TECHNICAL AND FINANCIAL COOPERATION

The Government of the Kingdom of the Netherlands

and

the Cabinet of Ministers of Ukraine, hereafter the Parties,

Intending to reinforce the ties of friendship between the two countries,

Desirous of strengthening these relations and of developing a fruitful technical and financial cooperation between the two countries,

Recognising that the development of this technical and financial cooperation will contribute to an improvement of social and economic conditions in Ukraine in order to promote further the development of a market economy and democracy as well as good governance in general,

Aware that the Cabinet of Ministers of Ukraine is committed to pursuing the reforms in order to establish a market economy under democratic conditions,

Have agreed as follows:

Article 1. Objectives

1.1. The Parties shall promote the realisation of technical and financial assistance projects or programmes in Ukraine. These projects or programmes shall contribute to support the transition process in Ukraine and to mitigate the economic and social costs of adjustment. They shall also contribute to further strengthening of cooperation between Dutch and Ukrainian enterprises.

1.2. The objective of this Agreement is to establish a legal framework of rules and procedures for the conduct and implementation of these projects or programmes.

Article 2. Scope and Application

The provisions of this Agreement shall apply to:

- a) projects or programmes mutually agreed between competent authorities of the Kingdom of the Netherlands and Ukraine;
- b) projects or programmes mutually agreed between the Parties or their competent authorities, with public or private law bodies in the Kingdom of the Netherlands and, with respect to Ukraine, with legal or private persons which in accordance with existing legislation of Ukraine are considered the same;

- c) the ongoing projects or programmes or projects or programmes in preparation from the date of the entry into force of this Agreement;
- d) projects or programmes executed in cooperation with third parties, as mutually agreed upon between the two Parties or their competent authorities.

Both Parties shall agree on a yearly basis on a list of projects which will fall under the scope of this Article.

Article 3. Fields of Cooperation

Section 1. Forms of Cooperation

3.1. The cooperation shall be carried out in the form of Technical Assistance, Financial Assistance and Humanitarian Aid.

3.2. Such cooperation may be carried out on a bilateral basis or in cooperation with third parties.

Section 2. Technical Assistance

3.3. Technical Assistance to the Ukrainian Party shall be carried out by the Dutch Party in the form of know-how transfer through training and consultancy activities and in the form of services, as well as the equipment and materials necessary for the successful implementation of the projects or programmes and for the demonstration of Dutch know-how and technology.

3.4. The projects or programmes under the Technical Assistance for Ukraine shall be related to selected problems of the political and economical transformation process.

Section 3. Financial Assistance

3.5. Financial Assistance to the Ukrainian Party shall be carried out by the Dutch Party in the form of financing of goods, equipment, live stock and materials for projects or programmes, as well as the services and knowhow transfer necessary for the successful implementation of the projects or programmes.

Section 4. Humanitarian Aid

3.6. The provisions of this Agreement shall apply equally to projects or programmes of Humanitarian Aid between the Parties.

Section 5. Representation

3.7. Depending on the nature of the project, the Dutch Party shall be represented by the Minister of Foreign Affairs, the Minister of Economic Affairs or, if the Minister of Economic Affairs so decides, its executive agency Center.

3.8. Coordination of activity envisaged under the present Agreement in Ukraine will be ensured by the body coordinating the international technical assistance acting on behalf of the Cabinet of Ministers of Ukraine.

Article 4. Conditions of Implementation

4.1. In order to facilitate the implementation of any projects or programmes of cooperation, all equipment, services and materials financed by the Dutch Party within the scope of this Agreement shall be exempted from taxes, dues except customs fees which shall be borne by the Ukrainian beneficiaries) and other obligatory charges.

4.2. The Ukrainian Party shall grant the permits necessary for the temporary importation of the equipment required to implement the projects or programmes within the scope of this Agreement free of charge and without delay. The Ukrainian Party shall ensure that any certification and registration required to implement the projects or programmes within the scope of this Agreement shall proceed without delay and free of charge.

4.3. The Ukrainian Party agrees that for the payment procedures related to the projects or programmes of financial assistance, project management units acting on behalf of the corresponding Ukrainian projects or programmes partners can be designated by agreement between the partners of each project or programme. For payments in local currency (Ukrainian hryvnas) counterpart funds, special accounts can be opened with these project management units in accordance with Ukrainian legislation. The use of these deposited funds will be decided upon between the partners of the project or programme.

4.4. The personal possessions of experts commissioned for the implementation of projects or programmes within the scope of this Agreement, who are not citizens of Ukraine and are not permanent residents within the territory of the latter shall be exempted from dues, taxes and other obligatory charges when they are brought into the customs territory of Ukraine. If such goods are disposed of in the customs territory of Ukraine, the excise owing shall be assessed in accordance with the existing legislation of Ukraine.

4.5. The Ukrainian Party shall, within the framework of the national legislation, issue free of charge and without delay entry visas for experts and representatives participating in the agreed projects or programmes.

Article 5. Anti-Corruption Clause

The Parties share a common concern with regard to corruption which undermines good

governance, wastes scarce resources for development and compromises open and transparent competition on the basis of price and quality. They therefore undertake to join forces in fighting corruption and declare that any offer, payment, consideration or benefit which could be construed as an illegal or corrupt practice made, either directly or indirectly, as an inducement or reward for the award of a contract entered into in the frame of this Agreement, shall be grounds for immediate consultation, exchange of all relevant information and appropriate steps, which may include cancelling the procurement and resulting award. Additional actions may be taken in accordance with the applicable laws and regulations.

Article 6. Coordination and Procedure

1. Each project or programme shall, on the basis of this Agreement, be subject to a particular arrangement between the partners of the project or programme stipulating and defining in detail the rights and obligations to be borne by each partner of the project or programme. Each project or programme shall be duly registered at the body coordinating the international technical assistance acting on behalf of the Cabinet of Ministers of Ukraine in accordance with the current legislation of Ukraine free of charge and without delay. The Ukrainian beneficiary or the Embassy of the Kingdom of the Netherlands in Ukraine shall present the documents for registration.

6.2. In order to avoid duplication and overlap with projects or programmes implemented by third parties and to make sure that projects or programmes have the greatest possible effect, the Parties shall provide and share any information needed for effective coordination.

6.3. On the Ukrainian side, this coordination shall be ensured by the body coordinating the international technical assistance acting on behalf of the Cabinet of Ministers of Ukraine.

6.4. On the Dutch side, this coordination shall be ensured by the Dutch offices mentioned in paragraph 3.7 of Article 3 of the present Agreement. The Embassy of the Kingdom of the Netherlands in Ukraine shall liaise with the Ukrainian authorities on the implementation and monitoring of projects or programmes.

6.5. The Parties shall keep each other fully informed about the projects or programmes undertaken under this Agreement. They shall exchange views at regular intervals at working level on the progress of the projects or programmes financed under the present Agreement during their implementation and the initial year of operation.

Article 7. Final Clauses

7.1. This Agreement shall enter into force from the date of exchange of the last notifications confirming the completion by the Parties of their domestic procedures necessary for its entry into force.

7.2. This Agreement shall be provisionally applied from the date of signing insofar as it does not contradict with existing legislation of both Parties.

7.3. Any modification of this Agreement shall be agreed upon in writing between the Parties and shall enter into force on the date on which the Parties have informed each other that the domestic procedures necessary for its entry into force have been completed.

7.4. The Agreement shall remain in force for five years unless either of the Parties notifies the other in writing at least six months before the end of the corresponding period about its intention to denounce it. On the expire1) date of this five-year term this Agreement shall be automatically renewed from year to year, unless terminated by any one of the Parties upon six months' prior written notice.

7.5. In case of its termination the provisions of this Agreement shall continue to apply to all projects or programmes which have been agreed upon prior to its termination.

7.6. With respect to the Kingdom of the Netherlands this Agreement shall apply to the territory in Europe only.

Done at Kyiv this 11 day of May one thousand nine hundred and ninety eight in two originals in Dutch, Ukrainian and English languages, all texts being equally authentic. In case of divergence of interpretation the English language text should prevail.

For the Government of the Kingdom of the Netherlands

(sd.) G. ZALM

For the Cabinet of Ministers of Ukraine

(sd.) SHPEK ROMAN VASYLYOVYCH