

AGREEMENT

BETWEEN THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT AND THE GOVERNMENT OF THE REPUBLIC OF POLAND ON THE PRIVILEGES AND IMMUNITIES OF THE ORGANISATION

THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT AND THE GOVERNMENT OF THE REPUBLIC OF POLAND (HEREAFTER CALLED THE CONTRACTING PARTIES),

HAVING REGARD to the Memorandum of Understanding between the Organisation for Economic Co-operation and Development and the Government of the Republic of Poland concerning the programme "Partners in Transition" signed in Paris on 4 June 1991,

HAVING REGARD to paragraph 25 of the Communiqué adopted by the Council of the Organisation meeting at ministerial level on 8 June 1994, calling for negotiations with the Republic of Poland concerning membership,

HAVING REGARD to Supplementary Protocol No. 2 to the Convention on the Organisation for Economic Co-operation and Development, in particular its section (d),

HAVE AGREED as follows:

Article 1

For the purposes of this Agreement:

- (a) "Organisation" means the Organisation for Economic Co-operation and Development, established by the Convention on the Organisation for Economic Co-operation and Development, signed in Paris on 14 December 1960;
- (b) "Government" means the Government of the Republic of Poland;
- (c) "representatives" means all delegates, alternates, advisers, technical experts and secretaries of delegations accredited to the Organisation or participating in a meeting convened by the Organisation;
- (d) "Members" means states which are Members of the Organisation;

- (e) "observers" means states or international 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;
- (f) "officials" means the categories of officials to which the provisions of this Agreement apply as specified by the Secretary-General and submitted to the Council of the Organisation. The names of the officials included in these categories shall from time to time be made known to the Government;
- (g) "meetings convened by the Organisation" means any meeting of a body of the Organisation, and any other meeting, international conference or other gathering convened by the Organisation;
- (h) "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;
- (i) "archives of the Organisation" means all records and correspondence, documents and other material, including tapes and films, sound recordings, computer software and written material, video tapes and discs, as well as discs and tapes containing data belonging to or held by the Organisation.

Article 2

The Organisation shall possess juridical personality. It shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

Article 3

The Organisation and its property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

Article 4

The premises of the Organisation, including premises utilised by the Organisation for the duration of a meeting convened by the Organisation, shall be inviolable. The property of the Organisation, wherever and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference whether by administrative, judicial or legislative action.

Article 5

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

Article 6

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 Poland and convert any currency held by it into any other currency under the same conditions as provided for diplomatic missions.

Article 7

The Organisation and its property shall be exempt from:

- (a) any form of direct taxation. It is understood however that the Organisation will not claim exemption from rates and taxes which are in fact no more than a payment for public utility services;
- (b) customs duties, prohibitions or restrictions on imports and exports in respect of articles imported or exported by the Organisation for its official use. It is understood, however, that the articles imported under such exemptions will not be sold in Poland except under conditions approved by the Government;
- (c) customs duties, restrictions and prohibitions on imports and exports in respect of its publications;
- (d) indirect taxes, including taxes forming part of the price to be paid for goods or services, under the same conditions as applied with respect to diplomatic missions in Poland.

Article 8

The Organisation shall enjoy in the territory of Poland, for its official communications, treatment not less favourable than that accorded by Poland to any government, including its diplomatic mission, or any other international organisation, in the matter of priorities, rates and taxes on mails, 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.

Article 9

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

- (a) the Government shall take all appropriate measures for the purpose of facilitating entry to, staying in, and exit from the territory of Poland, as well as freedom of movement within the territory of Poland, of representatives of Members, representatives of observers, officials and experts of the Organisation or any other person invited by the Organisation for official purposes;
- (b) essential public services shall be made available to the Organisation on the same basis as to diplomatic missions.

Article 10

1. Representatives of Members and of observers shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the privileges, immunities and facilities normally enjoyed by diplomatic envoys of comparable rank.

2. In order to secure for representatives of Members and of observers to the bodies of the Organisation and to meetings convened by the Organisation, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Members or of observers.

3. Any representative having Polish citizenship shall enjoy the privileges, immunities and facilities specified in paragraphs 1 and 2 only with respect to official acts performed in the discharge of his or her duties.

Article 11

1. Officials of the Organisation shall:

- (a) be immune from legal process in respect of things done by them in their official capacity; they shall continue to be so immune after completion of their functions as officials of the Organisation;
- (b) be exempt from any form of direct taxation on salaries, emoluments and indemnities paid to them by the Organisation;

- (c) be exempt, together with their spouses and dependent relatives, from immigration restrictions and alien registration;
- (d) be accorded the same privileges in respect of exchange facilities as are accorded to the diplomatic agents of comparable rank accredited in Poland;
- (e) be given, together with their spouses and dependent relatives, the same repatriation facilities in cases of international crisis as members of diplomatic missions;
- (f) be exempt from the obligation to deposit security for customs duties in respect of goods temporarily admitted into Poland;
- (g) have the right to import free of duty their furniture and effects at the time of first taking up their post in Poland.

2. The Secretary-General of the Organisation, his/her spouse and children under the age of 21, shall enjoy the privileges, immunities and benefits granted to the heads of diplomatic missions. The Deputy and Assistant Secretaries-General, their spouses and children under the age of 21, shall enjoy privileges, immunities and benefits accorded to diplomatic representatives accredited in Poland.

3. The Secretary-General of the Organisation shall inform the Ministry of Foreign Affairs of the Republic of Poland of the full names of the persons to whom the provisions of this article apply.

4. The provisions of paragraph 1 (c), (d), (e) and (f) of this article shall not apply to persons permanently residing in Poland immediately prior to their employment with the Organisation.

Article 12

1. Experts performing missions for the Organisation shall enjoy such privileges, immunities and facilities as are necessary for the independent exercise of their functions during the period of their missions, including time spent on journeys in connection with their missions. In particular they shall enjoy:

- (a) immunity from arrest or detention and from seizure of their personal baggage;
- (b) immunity from legal process of every kind in respect of words spoken or written and acts done by them in the course of the performance of their mission; such immunity shall continue after the completion of their mission;
- (c) inviolability for their 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;

- (e) the same facilities with respect to currency and exchange restrictions as are accorded to members of diplomatic missions;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

2. The Secretary-General of the Organisation shall inform the Ministry of Foreign Affairs of the Republic of Poland of the full names of the persons to whom the provisions of this article apply.

3. The provisions of paragraph 1 (a), (e) and (f) of this article shall not apply to persons permanently residing in Poland immediately prior to their appointment by the Organisation.

Article 13

1. The privileges and immunities accorded to the persons referred to in Articles 10, 11 and 12 of the present Agreement are granted exclusively in the interests of the Organisation and not for the personal benefit of the individuals concerned.

2. A Member or an observer has not only the right but the duty to waive the immunity of its representative in any case where, in its opinion, the immunity would impede the course of justice and it can be waived without prejudice to the purpose for which the immunity is accorded.

3. The Secretary-General of the Organisation shall have the right and duty to waive the immunity of any official or expert where, in his/her 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.

4. In the case 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 14

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

Article 15

1. In the case of a dispute between the Contracting Parties as to the interpretation or application of this Agreement, they shall seek a solution by consultations, negotiations, conciliation or by some other mutually agreed method.

2. If the dispute is not settled in accordance with paragraph 1 within a period of sixty days from the request by either party to settle it or upon the completion of a mutually agreed settlement procedure, either party may refer it to arbitration.

3. The arbitral tribunal shall be composed of three arbitrators: one to be chosen by the Government, one to be chosen by the Organisation, and the third, who shall be the chairman of the tribunal, to be chosen jointly by the Contracting Parties. If the tribunal is not constituted within three months of the request for arbitration, the appointment of the arbitrators not yet designated shall be made by the president of the International Court of Justice at the request of either party. The award by the tribunal shall be final and binding on both parties and shall apply the principles and rules of international law.

Article 16

In the event that the Government grants any more favourable privilege, exemption or immunity to a similar type of international organisation, it shall seek to accord like treatment in that respect to the Organisation.

Article 17

This Agreement shall enter into force on the date on which the Government informs the Organisation of the completion of its procedures of acceptance.

Article 18

Prior to the accession of Poland to the Convention on the Organisation for Economic Co-operation and Development, this Agreement may be terminated by either Contracting Party after giving the other Contracting Party a six months notice of its intention to terminate.

Article 19

This Agreement shall be applied provisionally, as far as it is possible to do so under the national law of the Republic of Poland, from the date of its signature and pending its entry into force.

DONE in PARIS this 16th day of January, Nineteen Hundred and Ninety-Five, in two originals each in the English, French and Polish languages. In case of divergence the English version shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF POLAND:

Grzegorz KOLODKO

Deputy Prime Minister
Minister of Finance

**FOR THE ORGANISATION FOR ECONOMIC CO-OPERATION AND
DEVELOPMENT:**

Jean-Claude PAYE

Secretary-General