

INVESTMENT INCENTIVE AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF UKRAINE

The Government of the United States of America and the
Government of Ukraine;

Affirming their common desire to encourage economic
activities in Ukraine which promote the development of the
economic resources and productive capacities of Ukraine; and

Recognizing that this objective can be promoted through
investment insurance (including reinsurance), loans and
investment guaranties which are backed in whole or in part
by the Government of the United States of America and
provided by the Overseas Private Investment Corporation
("OPIC"), an agency of the Government of the United States
of America;

Have agreed as follows:

ARTICLE 1

As used in this Agreement, the term "Coverage" shall
refer to any investment insurance, reinsurance or
investment guaranty which is provided by an Issuer in
connection with a project in the territory of Ukraine,
and the term "Issuer" shall refer to OPIC, any
successor agency of the Government of the United States
of America, and the duly authorized agent of either.

ARTICLE 2

(a) (i) If the Issuer makes payment to any party under Coverage, the Government of Ukraine shall, subject to the provisions of Article 3 of this Agreement, recognize the transfer to the Issuer of any assets, including those in the form of investment as well as currency or credits, in connection with such payment, as well as the succession of the Issuer to any right, title, claim, privilege, or cause of action existing, or which may arise, in connection therewith.

(ii) If the Issuer, in the exercise of its rights as a creditor, acquires any such assets or succeeds to any right, title, claim, privilege or cause of action, the Government of Ukraine shall, subject to the provisions of Article 3 of this Agreement, recognize such acquisition or succession.

(b) The Issuer shall assert no greater rights than those of the party from whom such rights were acquired as described in paragraph (a) of this Article.

(c) The Issuer, as a non-commercial agency of the Government of the United States of America, shall not be subject to regulation under the laws of Ukraine applicable to commercial insurance or financial organizations.

(d) Interest and fees on loans made or guaranteed by the Issuer shall be exempt from tax in Ukraine. The Issuer shall not be subject to tax in Ukraine as a result of any transfer, succession or other acquisition described in paragraph (a) of this Article. In all other cases, tax treatment of transactions conducted by the Issuer in Ukraine shall be determined by applicable law of Ukraine or specific agreement between the Government of the United States of America and the Government of Ukraine.

ARTICLE 3

To the extent that the laws of Ukraine partially or wholly invalidate or prohibit the transfer, succession or other acquisition, as described in Article 2(a) of this Agreement, of any interest in any property within the territory of Ukraine by the Issuer, the Government of Ukraine shall permit the Issuer to make appropriate arrangements pursuant to which such interests are transferred to a person or entity permitted to own such interests under the laws of Ukraine.

ARTICLE 4

(a) Amounts in the currency of Ukraine, including credits thereof, acquired by the Issuer in connection with payment to a party under Coverage shall be accorded treatment in the territory of Ukraine no less favorable as to use and conversion than the treatment to which such funds would be entitled in the hands of the party under Coverage.

(b) Such amounts and credits may be transferred by the Issuer to any person or entity and upon such transfer shall be freely available for use by such person or entity in the territory of Ukraine in accordance with its laws.

(c) The provisions of this Article shall also apply to any amounts and credits in the currency of Ukraine which may be accepted by the Issuer in settlement of obligations with respect to loans made by the Issuer for projects in Ukraine.

ARTICLE 5

(a) Any dispute between the Government of the United States of America and the Government of Ukraine regarding the interpretation of this Agreement or which, in the opinion of one of the Governments, presents a question of public international law arising out of any

project or activity for which Coverage has been issued shall be resolved, insofar as possible, through negotiations between the two Governments. If, at the end of six months following the request for negotiations, the two Governments have not resolved the dispute by agreement, the dispute, including the question of whether such dispute presents a question of public international law, shall be submitted, at the initiative of either Government, to an arbitral tribunal for resolution in accordance with paragraph (b) of this Article.

(b) The arbitral tribunal referred to in paragraph (a) of this Article, shall be established and function as follows:

(i) Each Government shall appoint one arbitrator; these two arbitrators shall, by agreement, designate a president of the arbitral tribunal who shall be a citizen of a third state and whose appointment shall be subject to acceptance by the two Governments. The arbitrators shall be appointed within three months and the president within six months of the date of receipt of either Government's request for arbitration. If the appointments are not made within the foregoing time limits, either Government may, in the absence of

any other agreement, request the Secretary-General of the Permanent Court of Arbitration to make the necessary appointment or appointments, and both Governments agree to accept such appointment or appointments.

(ii) The arbitral tribunal shall base its decision on the applicable principles and rules of public international law. The arbitral tribunal shall decide by majority vote. Its decision shall be final and binding.

(iii) During the proceedings, each of the Governments shall pay the expense of its arbitrator and of its representation in the proceedings before the arbitral tribunal, whereas the expenses of the president and other costs of arbitration shall be paid in equal parts by the two Governments. In its award, the arbitral tribunal may, in its discretion, reallocate expenses and costs between the two Governments.

(iv) In all other matters, the arbitral tribunal shall regulate its own procedures.

c) Nothing in this Agreement shall limit the right of either government to assert a claim under public international law in its sovereign capacity, as distinct from any rights it may have under this Agreement.

ARTICLE 6

This Agreement shall continue in force until the expiration of twelve months from the date on which either Government shall have given written notice of termination of this Agreement to the other. Provided that in respect of Coverage issued or loans made at any time before the termination of this Agreement, its provisions shall continue in effect with respect to such Coverage or loans for a period of twenty years after the date of termination of this Agreement.

This Agreement shall enter into force on the date of signing.

DONE at Washington on the 6th day of May, 1992, in duplicate, in the English and Ukrainian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
UKRAINE:

The image shows two handwritten signatures in cursive script. The signature on the left is for the United States, and the signature on the right is for Ukraine. Both signatures are written in dark ink and are positioned below their respective labels.