# PARTNERSHIP AND CO-OPERATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, AND UKRAINE

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE PORTUGUESE REPUBLIC,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the European Community, the Treaty establishing the European Coal and Steel Community, and the Treaty establishing the European Atomic Energy Community,

Hereinafter referred to as "Member States", and

THE EUROPEAN COMMUNITY, THE EUROPEAN COAL AND STEEL COMMUNITY AND THE EUROPEAN ATOMIC ENERGY COMMUNITY,

Hereinafter referred to as "the Community", of the one part,

And UKRAINE,

Of the other part,

TAKING ACCOUNT of the wish of the Parties to establish close relations building upon the existing historical links between them;

CONSIDERING the importance of developing co-operative links between the Community, its Member States and Ukraine and the common values that they share;

RECOGNIZING that the Community and Ukraine wish to strengthen these links and to establish partnership and co-operation which would strengthen and widen the relations established in the past in particular by the Agreement between the European Economic Community and the European Atomic Energy Community and the Union of Soviet Socialist Republics on Trade and Commercial and Economic Co-operation, signed on 18 December 1989;

CONSIDERING the commitment of the Community and its Member States and of Ukraine to strengthening the political and economic freedoms which constitute the very basis of the partnership;

CONSIDERING the commitment of the Parties to promote international peace and security as well as the peaceful settlement of disputes and to co-operate to this end in the framework of the United Nations and the Conference on Security and Co-operation in Europe;

CONSIDERING the firm commitment of the Community and its Member States and of Ukraine to the full implementation of all principles and provisions contained in the Final Act of the Conference on Security and Co-operation in Europe (CSCE), the concluding documents of the Madrid and Vienna follow up meetings, the document of the CSCE Bonn Conference on Economic Co-operation, the Charter of Paris for a New Europe and the CSCE Helsinki Document 1992, "the Challenges of Change";

RECOGNIZING in that context that support of independence, sovereignty and territorial integrity of Ukraine will contribute to safeguarding of peace and stability in the region of Central and Eastern Europe and on the European Continent as a whole;

CONFIRMING the attachment of the Community and its Member States and of Ukraine to the European Energy Charter and to the Declaration of the Lucerne Conference, April 1993;

CONVINCED of the paramount importance of the rule of law and respect for human rights, particularly those of minorities, the establishment of a multiparty system with free and democratic elections and economic liberalization aimed at setting up a market economy;

BELIEVING that there is a necessary connection between full implementation of partnership on the one hand, and continuation of the actual accomplishment of Ukraine's political, economic and legal reforms on the other hand, as well as the introduction of the factors necessary for co-operation, notably in the light of the conclusions of the CSCE Bonn Conference;

DESIROUS of encouraging the process of regional co-operation in the areas covered by this agreement with the neighbouring countries in order to promote the prosperity and stability of the region;

DESIROUS of establishing and developing regular political dialogue on bilateral and international issues of mutual interest;

RECOGNIZING AND SUPPORTING the wish of Ukraine to establish close co-operation with European institutions;

TAKING ACCOUNT of the Community's willingness to develop economic co-operation and provide technical assistance, as appropriate, for the implementation of economic reform in Ukraine;

BEARING IN MIND the utility of the Agreement in favouring a gradual rapprochement between Ukraine and a wider area of co-operation in Europe and neighbouring regions and Ukraine's progressive integration into the open international trading system;

CONSIDERING the commitment of the Parties to liberalize trade, based on the principles contained in the General Agreement on Tariffs and Trade (GATT), as amended by the Uruguay Round;

CONSCIOUS of the need to improve conditions affecting business and investment, and conditions in areas such as establishment of companies, labour, provision of services and capital movements;

WELCOMING AND RECOGNIZING the importance of Ukraine's efforts, aimed at transition of its economy away from a state trading country with a centrally planned economy into a market economy;

CONVINCED that continued progress towards a market economy will be fostered by co-operation between the Parties in the forms set out in this Agreement;

CONVINCED that this Agreement will create a new climate for economic relations between the Parties and in particular for the development of trade and investment, which are essential to economic restructuring and technological modernization;

DESIROUS of establishing close co-operation in the area of environmental protection taking into account the interdependence existing between the Parties in this field;

BEARING in mind the intention of the Parties to develop their co-operation in the field of civil science and technologies, including space research, in view of the complementarity of their activities in this area;

DESIROUS of establishing cultural co-operation and improving the flow of information,

HAVE AGREED AS FOLLOWS:

## Article 1.

A Partnership is hereby established between the Community and its Member States, of the one part, and Ukraine, of the

other part. The objectives of this Partnership are:

- To provide an appropriate framework for the political dialogue between the Parties allowing the development of close political relations;

- To promote trade and investment and harmonious economic relations between the Parties and so to foster their sustainable development;

- To provide a basis for mutually advantageous economic, social, financial, civil scientific technological and cultural co-operation;

- To support Ukrainian efforts to consolidate its democracy and to develop its economy and to complete the transition into a market economy.

## Article 2.

Respect for the democratic principles and human rights as defined in particular in the Helsinki Final Act and the Charter of Paris for a New Europe, as well as the principles of market economy, including those enunciated in the documents of the CSCE Bonn Conference, underpin the internal and external policies of the Parties and constitute an essential element of partnership and of this Agreement.

## Article 3.

The Parties consider that it is essential for the future prosperity and stability of the region of the former Soviet Union that the newly independent States which have emerged from the dissolution of the Union of Soviet Socialist Republics (hereinafter called "Independent States") should maintain and develop co-operation among themselves in compliance with the principles of the Helsinki Final Act and with international law and in the spirit of good neighbourly relations and will make every effort to encourage this process.

In view of the above the Parties consider that the development of their relations should take due account of Ukraine's wish to maintain co-operative relations with other Independent States.

## Article 4.

The Parties undertake to consider, in particular when Ukraine has further advanced in the process of economic reform, developments of the relevant Titles of this Agreement, in particular Title III and Article 49, with a view to the establishment of a free trade area between them. The Co-operation Council may make recommendations on such developments to the Parties. Such developments shall only be put into effect by virtue of an agreement between the Parties in accordance with their respective procedures. The Parties shall consult each other in the year 1998 whether circumstances, and in particular Ukraine's advances in market oriented economic reforms and the economic conditions prevailing there at that time, allow the beginning of negotiations on the establishment of a free trade area.

## Article 5.

The Parties undertake to examine together, by mutual consent, amendments which it may be appropriate to make to any part of the Agreement in view of changes in circumstances, and in particular of the situation arising from Ukraine's accession to GATT. The first examination shall take place three years after the entry into force of the Agreement or when Ukraine becomes a Contracting Party of GATT, whichever is earlier.

## Article 6.

A regular political dialogue shall be established between the Parties which they intend to develop and intensify. It shall accompany and consolidate the rapprochement between the Community and Ukraine, support the political and economic changes underway in that country and contribute to the establishment of new forms of co-operation. The political dialogue:

- Shall strengthen the links of Ukraine with the Community, and thus with the community of democratic nations. The economic convergence achieved through this Agreement will lead to more intense political relations;

- Shall bring about an increasing convergence of positions on international issues of mutual concern thus increasing security and stability;

- Shall foresee that the Parties endeavour to co-operate on matters pertaining to the strengthening of stability and security in Europe, the observance of the principles of democracy, the respect and promotion of human rights, particularly those of minorities and shall hold consultations, if necessary, on the relevant matters.

## Article 7.

Consultations as appropriate shall be held between the Parties at the highest political level.

At ministerial level, political dialogue shall take place within the Co-operation Council established in Article 85 and on other occasions including with the Union Troika by mutual agreement.

## Article 8.

Other procedures and mechanisms for political dialogue shall be set up by the Parties by establishing appropriate contacts, exchanges and consultations, in particular in the following forms:

- Regular meetings at the level of the senior officials between representatives of Ukraine and representatives of the Community;

- Taking full advantage of all diplomatic channels between the parties, including appropriate contacts in the bilateral as well as the multilateral field, such as United Nations, CSCE meetings and elsewhere;

- Exchanging regular information on matters of mutual interest concerning political co-operation in Europe;

- Any other means which would contribute to consolidating and developing political dialogue.

## Article 9.

Political dialogue at parliamentary level shall take place within the framework of the Parliamentary Co-operation Committee which shall be established under Article 90.

## Article 10.

1. The Parties shall accord to one another most-favoured-nation treatment according to Article I, paragraph 1 of the GATT.

2. The provisions of paragraph 1 shall not apply to:

(a) advantages granted with the aim of creating a customs union or a free-trade area or

Pursuant to the creation of such a union or area;

(b) advantages granted to particular countries in accordance with the GATT and with other

International arrangements in favour of developing countries;

(c) advantages accorded to adjacent countries in order to facilitate frontier traffic.

## Article 11.

1. The Parties agree that the principle of freedom of transit of goods is an essential condition of attaining the objectives of this Agreement.

In this connection each Party shall provide for unrestricted transit via or through its territory of goods originating in the customs territory or destined for the customs territory of the other Party.

2. The rules described in Article V, paragraphs 2, 3, 4 and 5 of the GATT are applicable between the two Parties.

3. The rules contained in this Article are without prejudice to any special rules relating to specific sectors, in particular such as transport, or products agreed between the Parties.

## Article 12.

The provisions of Article 10(1) and Article 11(2) shall not apply, during a transitional period expiring on 31 December 1998 or

the accession of Ukraine to the GATT, whichever is earlier, to advantages defined in Annex I granted by Ukraine to other Independent States as from the day preceding the date of entry into force of the Agreement.

## Article 13.

Without prejudice to the rights and obligations stemming from international conventions on the temporary admission of goods which bind both Parties, each Party shall furthermore grant the other Party exemption from import charges and duties on goods admitted temporarily, in the instances and according to the procedures stipulated by any other international convention on this matter binding upon it, in conformity with its legislation. Account shall be taken of the conditions under which the obligations stemming from such a convention have been accepted by the Party in question.

## Article 14.

Goods originating in Ukraine and the Community respectively shall be imported into the Community and Ukraine respectively free of quantitative restrictions without prejudice to the provisions of Articles 18, 21, 22 and Annex II to this Agreement and to the provisions of Articles 77, 81, 244, 249 and 280 of the Act of Accession of Spain and Portugal to the Community.

## Article 15.

1. The products of the territory of one Party imported into the territory of the other Party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products.

2. Moreover, these products shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provision of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

## Article 16.

The following Articles of the GATT shall be applicable mutatis mutandis between the two Parties.

1) Article VII, paragraphs 1, 2, 3, 4a, 4b, 4d, 5;

2) Article VIII;

3) Article IX;

4) Article X.

## Article 17.

Goods shall be traded between the Parties at market-related prices.

## Article 18.

1. Where any product is being imported into the territory of one of the Parties in such increased quantities and under such conditions as to cause or threaten to cause substantial injury to domestic producers of like or direct competitive products, the Community or Ukraine, whichever is concerned, may take appropriate measures in accordance with the following procedures and conditions.

2. Before taking any measures, or in cases to which paragraph 4 applies as soon as possible thereafter, the Community or Ukraine, as the case may be, shall supply the Co-operation Committee with all relevant information with a view to seeking a solution acceptable to both Parties.

3. If, as a result of the consultations, the Parties do not reach agreement within 30 days of referral to the Co-operation Committee on actions to avoid the situation, the Party which requested consultations shall be free to restrict imports of the products concerned to the extent and for such time as is necessary to prevent or remedy the injury, or to adopt other appropriate measures.

4. In critical circumstances where delay would cause damage difficult to repair, the Parties may take the measures before the consultations, on the condition that consultations shall be offered immediately after taking such action.

5. In the selection of measures under this Article, the Parties shall give priority to those which cause least disturbance to the achievement of the aims of this Agreement.

### Article 19.

Nothing in this Title, and in Article 18 in particular shall prejudice or affect in any way the taking, by either Party, of anti-dumping or countervailing measures in accordance with Article VI of the GATT, the Agreement on implementation of Article VI of the GATT, the Agreement on interpretation and application of Articles VI, XVI and XXIII of the GATT or related internal legislation.

In respect of anti-dumping or subsidies investigations, each Party agrees to examine submissions by the other Party and to inform the interested parties concerned of the essential facts and considerations on the basis of which a final decision is to be made. Before definitive anti-dumping and countervailing duties are imposed, the Party shall do the utmost to bring about a constructive solution to the problem.

### Article 20.

The Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of natural resources; the protection of national treasures of artistic, historic or archaeological value or the protection of intellectual, industrial and commercial property or rules relating to gold and silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

### Article 21.

This Title shall not apply to trade in textile products falling under Chapters 50 to 63 of the Combined Nomenclature. Trade in these products shall be governed by a separate agreement, initialled on 5 May 1993 and applied provisionally since 1 January 1993.

### Article 22.

1. Trade in products covered by the Treaty establishing the European Coal and Steel Community shall be governed by the provisions of this Title, with the exception of Article 14 and upon entry into force, by the provisions of an agreement on quantitative arrangements concerning exchanges of ECSC steel products.

2. A contact group on coal and steel matters has been set up, comprizing representatives of the Community on the one hand, and representatives of Ukraine on the other.

The contact group shall exchange, on a regular basis, information on all coal and steel matters of interest to the Parties.

### Article 23.

Trade in nuclear materials shall be subject to the provisions of a specific Agreement to be concluded between the European Atomic Energy Community and Ukraine.

## Part IV. Provisions Affecting Business and Investment

### Article 24.

1. Subject to the laws, conditions and procedures applicable in each Member State, the Community and the Member States shall endeavour to ensure that the treatment accorded to Ukrainian nationals, legally employed in the territory of a Member State shall be free from any discrimination based on nationality, as regards working conditions, remuneration or dismissal, as compared to its own nationals.

2. Subject to the laws, conditions and procedures applicable in Ukraine, Ukraine shall endeavour to ensure that the treatment accorded to nationals of a Member State, legally employed in the territory of Ukraine shall be free from any discrimination based on nationality, as regards working conditions, remuneration or dismissal, as compared to its own

nationals.

## Article 25.

Co-ordination of Social Security The Parties shall conclude agreements in order:

1) to adopt, subject to the conditions and modalities applicable in each Member State, the provisions necessary for the co-ordination of social security systems for workers of Ukrainian nationality, legally employed in the territory of a Member State. These provisions will in particular ensure that:

- All periods of insurance, employment or resident completed by such workers in the various Member States shall be added together for the purpose of pensions in respect of old age, invalidity and death and for the purpose of medical care for such workers;

- Any pensions in respect of old age, death, invalidity, industrial accidents or occupational disease, with the exception of the special non-contributory benefits, shall be freely transferable at the rate applied by virtue of the law of the debtor Member State or States;

2) to adopt, subject to the conditions and modalities applicable in Ukraine, the provisions necessary to accord to workers who are nationals of a Member State and legally employed in Ukraine, treatment similar to that specified in the second indent of paragraph (i) .

## Article 26.

The measures to be taken in accordance with Article 25 shall not affect any rights or obligations arising from bilateral agreements linking Ukraine and the Member States where those agreements provide for more favourable treatment of nationals of Ukraine or of the Member States.

## Article 27.

The Co-operation Council shall examine which joint efforts can be made to control illegal immigration taking into account the principle and practice of readmission.

## Article 28.

The Co-operation Council shall examine which improvements can be made in working conditions for business people consistent with the international commitments of the Parties, including those set out in the document of the CSCE Bonn Conference.

## Article 29.

The Co-operation Council shall make recommendations for the implementation of Articles 24, 27 and 28.

## Article 30.

1. (a) The Community and its Member States shall grant for the establishment of Ukrainian companies in their territories treatment no less favourable than that accorded to companies of any third country, and this in conformity with their legislation and regulations.

(b) Without prejudice to the reservations listed in Annex IV, the Community and its member States shall grant to subsidiaries of Ukrainian companies established in their territories a treatment no less favourable than that granted to any Community companies, in respect of their operation, and this in conformity with their legislation and regulations.

(c) The Community and its Member States shall grant to branches of Ukrainian companies established in their territories a treatment no less favourable than that accorded to branches of companies of any third country, in respect of their operation, and this in conformity with their legislation and regulations.

2. (a) Without prejudice to the reservations listed in Annex V, Ukraine shall grant for the establishment of Community companies in its territory, a treatment no less favourable than that accorded to its own companies or to companies of any third country whichever is the better, and this in conformity with its legislation and regulations.

(b) Ukraine shall grant to subsidiaries and branches of Community companies, established in its territory, treatment no less favourable than that accorded to its own companies or branches respectively or to companies or branches of any third country respectively, whichever is the better, in respect of their operations, and this in conformity with its legislation and regulations.

3. The provisions of paragraphs 1 and 2 cannot be used so as to circumvent a Party's legislation and regulations applicable to access to specific sectors or activities by subsidiaries of companies of the other Party established in the territory of such first Party.

The treatment referred to in paragraph 1 and 2 shall benefit companies established in the Community and Ukraine respectively at the date of entry into force of this Agreement and companies established after that date once they are established.

## Article 31.

1. The provisions of Article 30 shall not apply to air transport, inland waterways transport and maritime transport, without prejudice to the provisions of Article 104.

2. However, in respect of activities undertaken by shipping agencies for the provision of international maritime transport services, including intermodal activities involving a sea leg, each Party shall permit to the companies of the other Party their commercial presence in its territory in the form of subsidiaries or branches, under conditions of establishment and operation no less favourable than those accorded to its own companies or to subsidiaries or branches of companies of any third country, whichever are the better.

Such activities include, but are not limited to:

(a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, whether these services are operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;

(b) purchase and use, on their own account or on behalf of their customers (and the resale to rheir customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of an integrated service;

(c) preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;

(d) provision of business information of any means, including computerised information systems and electronic data interchange (subject to any non-discriminatory restrictions concerning telecommunications);

(e) setting up of any business arrangement, including participation in the company's stock and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the relevant provisions of this Agreement), with any locally established shipping agency;

(f) acting on behalf of the companies, organizing the call of the ship or taking over cargoes when required.

## Article 32.

For the purposes of this Agreement:

(a) A "Community company" or a "Ukrainian company" respectively shall mean a company set up in accordance with the laws of a Member State or of Ukraine respectively and having its registered office or central administration or principal place of business in the territory of the Community or Ukraine respectively. However, should the company, set up in accordance with the laws of a Member State or Ukraine respectively, have only its registered office in the territory of the Community or Ukraine respectively, the company shall be considered a Community or Ukrainian company respectively if its operations possess a real and continuous link with the economy of one of the Member States or Ukraine respectively.

(b) "Subsidiary" of a company shall mean a company which is effectively controlled by the first company.

(c) "Branch" of a company shall mean a place of business not having legal personality which has the appearance of permanency, such as the extension of a parent body, has a management and is materially equipped to negotiate business with third parties so that the latter, although knowing that there will if necessary be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of

business constituting the extension.

(d) "Establishment" shall mean the right of Community or Ukrainian companies as referred to in point (a) to take up economic activities by means of the setting up of subsidiaries and branches in Ukraine or in the Community respectively.

(e) "Operation" shall mean the pursuit of economic activities.

(f) "Economic activities" shall mean activities of an industrial, commercial and professional character.

(g) With regard to international maritime transport, including intermodal operations involving a sea leg, nationals of the Member States or of Ukraine established outside the Community or Ukraine respectively, and shipping companies established outside the Community or Ukraine and controlled by nationals of a Member State or Ukrainian nationals respectively, shall also be beneficiaries of the provisions of this Chapter and Chapter III, if their vessels are registered in that Member State or in Ukraine respectively in accordance with their respective legislations.

## Article 33.

1. Notwithstanding any other provisions of this Agreement, a Party shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the obligations of a Party under this Agreement.

2. Nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

## Article 34.

The provisions of this Agreement shall not prejudice the application by each Party of any measure necessary to prevent the circumvention of its measures concerning third country access to its market, through the provisions of this Agreement.

## Article 35.

1. Notwithstanding the provisions of Chapter I, a Community company or a Ukrainian company established in the territory of Ukraine or the Community respectively shall be entitled to employ, or have employed by one of its subsidiaries or branches, in accordance with the legislation in force in the host country of establishment, in the territory of Ukraine and the Community respectively, employees who are nationals of Community Member States and Ukraine respectively, provided that such employees are key personnel as defined in paragraph 2, and that they are employed exclusively by companies, subsidiaries or branches. The residence and work permits of such employees shall only cover the period of such employment.

2. Key personnel of the above mentioned companies herein referred to as "organizations" are "intra-corporate transferees" as defined in (c) in the following categories, provided that the organization is a legal person and that the persons concerned have been employed by it or have been partners in it (other than as majority shareholders), for at least the year immediately preceding such movement:

(a) Persons working in a senior position with an organization, who primarily direct the management of the establishment, receiving general supervision or direction principally from the board of directors or stockholders of the business or their equivalent, including:

- Directing the establishment or a department or subdivision of the establishment;

- Supervizing and controlling the work of other supervisory, professional or managerial employees;

- Having the authority personally to engage and dismiss or recommend engaging, dismissing or other personnel actions.

(b) Persons working within an organization who possess uncommon knowledge essential to the establishment's service, research equipment, techniques or management. The assessment of such knowledge may reflect, apart from knowledge specific to the establishment, a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession.

(c) An "intra-corporate transferee" is defined as a natural person working within an organization in the territory of a Party, and being temporarily transferred in the context of pursuit of economic activities in the territory of the other Party; the

organization concerned must have its principal place of business in the territory of a Party and the transfer be to an establishment (branch, subsidiary) of that organization, effectively pursuing like economic activities in the territory of the other Party.

## Article 36.

1. The Parties shall use their best endeavours to avoid taking any measures or actions which render the conditions for the establishment and operation of each other's companies more restrictive than the situation existing on the day preceding the date of signature of the Agreement.

2. The provisions of this Article are without prejudice to those of Article 44: the situations covered by such Article 44 shall be solely governed by its provisions to the exclusion of any other.

3. Acting in the spirit of partnership and co-operation and in light of provisions contained in Article 51 the Government of Ukraine shall inform the Community of its intentions to submit new legislation or adopt new regulations which may render the conditions for the establishment or operation in Ukraine of subsidiaries and branches of Community companies more restrictive than the situation existing on the day preceding the date of signature of the Agreement. The Community may request Ukraine to communicate the drafts of such legislation or regulations and to enter into consultations about those drafts.

4. Where new legislation or regulations introduced in Ukraine would result in rendering the conditions for establishment of Community companies into its territory and for the operation of subsidiaries and branches of Community companies established in Ukraine more restrictive than the situation existing on the day of signature of the Agreement, such respective legislation or regulations shall not apply during three years following the entry into force of the relevant act to those subsidiaries and branches already established in Ukraine at the time of entry into force of the relevant act.

## Article 37.

1. The Parties undertake in accordance with the provisions of this Chapter to take the necessary steps to allow progressively the supply of services by Community or Ukrainian companies who are established in a Party other than that of the person for whom the services are intended, taking into account the development of the services sectors in the Parties.

2. The Co-operation Council shall make recommendations for the implementation of paragraph 1.

## Article 38.

The Parties shall cooperate with the aim of developing a market-oriented service sector in Ukraine.

## Article 39.

1. The Parties undertake to apply effectively the principle of unrestricted access to the international maritime market and traffic on a commercial basis.

(a) The above provision does not prejudice the rights and obligations arising from the United Nations Code of Conduct for Liner Conferences, as applicable to one or other Contracting Party to this Agreement. Non-conference lines will be free to operate in competition with a conference as long as they adhere to the principle of fair competition on a commercial basis.

(b) The Parties affirm their commitment to a freely competitive environment as being an essential feature of the dry and liquid bulk trade.

2. In applying the principles of paragraph 1, the Parties shall:

(a) not apply, as from entry into force of this Agreement, any cargo sharing provisions of bilateral agreements between any Member State of the Community and the former Soviet Union;

(b) not introduce cargo sharing clauses in future bilateral agreements with third countries, other than in those exceptional circumstances where liner shipping companies from one or other Party to this Agreement would not otherwise have an effective opportunity to ply for trade to and from the third country concerned;

(c) prohibit cargo sharing arrangements in future bilateral agreements concerning dry and liquid bulk trade;

(d) abolish, upon entry into force of this Agreement, all unilateral measures, administrative, technical and other obstacles

which could have restrictive or discriminatory effects on the free supply of services in international maritime transport.

Each Party shall grant, inter alia, no less favourable treatment, than that accorded to a Party's own ships for the ships flying the flag of the other Party with regard to access to ports open to international trade, the use of infrastructure and auxiliary maritime services of the ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.

The same treatment shall also be accorded by each Party in respect of ships operated by the other Party's nationals and companies, which fly the flag of a third country, after a transitional period, but not later than 1 July 1997.

3. Nationals and companies of the Community providing international maritime transport services shall be free to provide international sea-river services in the inland waterways of Ukraine and vice versa.

## Article 40.

With a view to assuring a coordinated development of transport between the Parties, adapted to their commercial needs, the conditions of mutual market access and provision of services in transport by road, rail and inland waterways and, if applicable, in air transport may be dealt with by specific agreements where appropriate negotiated between the Parties as defined in Article 99 after entry into force of this Agreement.

## Article 41.

1. The provisions of this Title shall be applied subject to limitations justified on grounds of public policy, public security or public health.

2. They shall not apply to activities which in the territory of either Party are connected, even occasionally, with the exercise of official authority.

## Article 42.

For the purpose of this Title, nothing in the Agreement shall prevent the Parties from applying their laws and regulations regarding entry and stay, work, labour conditions and establishment of natural persons and supply of services, provided that - in so doing - they do not apply them in a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific provision of the Agreement. This provision does not prejudice the application of Article 41.

## Article 43.

Companies which are controlled and exclusively owned by Ukrainian companies and Community companies jointly shall also be beneficiaries of the provisions of Chapters II, III and IV.

## Article 44.

Treatment granted by either Party to the other hereunder shall, as from the day one month prior to the date of entry into force of the relevant obligations of the General Agreement on Trade in Services (GATS), in respect of sectors or measures covered by the GATS, in no case be more favourable than that accorded by such first Party under the provisions of GATS and this in respect of each service sector, sub-sector and mode of supply.

## Article 45.

For the purposes of Chapters II, III and IV, no account shall be taken of treatment accorded by the Community, its Member States or Ukraine pursuant to commitments entered into in economic integration agreements in accordance with the principles of Article V of the GATS.

## Article 46.

1. The most-favoured-nation treatment granted in accordance with the provisions of this Title shall not apply to the tax advantages which the Parties are providing or will provide in the future on the basis of agreements to avoid double taxation, or other tax arrangements.

2. Nothing in this Title shall be construed to prevent the adoption or enforcement by the Parties of any measure aimed at

preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation and other tax arrangements, or domestic fiscal legislation.

3. Nothing in this Title shall be construed to prevent Member States or Ukraine from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in identical situations, in particular as regards their place of residence.

## Article 47.

Without prejudice to Article 35, no provision of Chapters II, III and IV hereof shall be interpreted as giving the right to:

- Nationals of the Member States or of Ukraine respectively to enter, or stay in, the territory of Ukraine or the Community respectively in any capacity whatsoever, and in particular as a shareholder or partner in a company or manager or employed thereof or supplier or recipient of services;

- Community subsidiaries or branches of Ukrainian companies to employ or have employed in the territory of the Community nationals of Ukraine;

- Ukrainian subsidiaries or branches of Community companies to employ or have employed in the territory of Ukraine nationals of the Member States;

- Ukrainian companies or Community subsidiaries or branches of Ukrainian companies to supply Ukrainian persons to act for and under the control of other persons by temporary employment contracts;

- Community companies or Ukrainian subsidiaries or branches of Community companies to supply workers who are nationals of the Member States by temporary employment contracts.

## Article 48.

1. The Parties undertake to authorize in freely convertible currency, any payments on the current account of balance of payments between residents of the Community and of Ukraine connected with the movement of goods, services or persons made in accordance with the provisions of this Agreement.

2. With regard to transactions on the capital account of balance of payments, from entry into force of this Agreement, the free movement of capital relating to direct investments made in companies formed in accordance with the laws of the host country and investments made in accordance with the provisions of Chapter II of Title IV, and the liquidation or repatriation of these investments and of any profit stemming therefrom shall be ensured.

3. Without prejudice to paragraph 2 or to paragraph 5, as from entry into force of this Agreement, no new foreign exchange restrictions on the movement of capital and current payments connected therewith between residents of the Community and Ukraine shall be introduced and the existing arrangements shall not become more restrictive.

4. The Parties shall consult each other with a view to facilitating the movement of forms of capital other than those referred to in paragraph 2 between the Community and Ukraine in order to promote the objectives of this Agreement.

5. With reference to the provisions of this Article, until a full convertibility of the Ukrainian currency within the meaning of Article VIII of the Articles of Agreement of the International Monetary Fund (IMF) is introduced, Ukraine may in exceptional circumstances apply exchange restrictions connected with the granting or taking up of short and medium-term financial credits to the extent that such restrictions are imposed on Ukraine for the granting of such credits and are permitted according to Ukraine's status under the IMF. Ukraine shall apply these restrictions in a non-discriminatory manner. They shall be applied in such a manner as to cause the least possible disruption to this Agreement. Ukraine shall inform the Co-operation Council promptly of the introduction of such measures and of any changes therein.

6. Without prejudice to paragraphs 1 and 2, where, in exceptional circumstances, movements of capital between the Community and the Ukraine cause, or threaten to cause, serious difficulties for the operation of exchange rate policy or monetary policy in the Community or Ukraine, the Community and Ukraine, respectively, may take safeguard measures with regard to movements of capital between the Community and Ukraine for a period not exceeding six months if such measures are strictly necessary.

## Article 49.

1. The Parties agree to work to remedy or remove through the application of their competition laws or otherwise,

restrictions on competition by enterprises or caused by State intervention insofar as they may affect trade between the Community and the Ukraine.

2. In order to attain the objectives mentioned in paragraph 1:

2.1 The Parties shall ensure that they have and enforce laws addressing restrictions on competition by enterprises within their jurisdiction.

2.2 The Parties shall refrain from granting State aids favouring certain undertakings or the production of goods other than primary products as defined in the GATT, or the provision of services, which distort or threaten to distort competition insofar as they affect trade between the Community and the Ukraine.

2.3 Upon request by one Party, the other Party shall provide information on its aid schemes or on particular individual cases of State aid. No information needs to be provided which is covered by legislative requirements of the Parties on professional or commercial secrets.

2.4 In the case of State monopolies of a commercial character, the Parties declare their readiness, as from the fourth year from the date of entry into force of this Agreement, to ensure that there is no discrimination between nationals of the Parties regarding the conditions under which goods are procured or marketed.

2.5 In the case of public undertakings or undertakings to which Member States or the Ukraine grant exclusive rights, the Parties declare their readiness, as from the fourth year from the date of entry into force of this Agreement, to ensure that there is neither enacted nor maintained any measure distorting trade between the Community and the Ukraine to an extent contrary to the Parties' respective interests. This provision shall not obstruct the performance, in law or fact, of the particular tasks assigned to such undertakings.

2.6 The period defined in paragraphs 2.4 and 2.5 may be extended by agreement of the Parties.

3. Consultations may take place within the Co-operation Committee at the request of the Community or Ukraine on the restrictions or distortions of competition referred to in paragraphs 1 and 2 and on the enforcement of their competition rules, subject to limitations imposed by laws regarding disclosure of information, confidentiality and business secrecy. Consultations may also comprise questions on the interpretation of paragraphs 1 and 2.

4. The Parties with experience in applying competition rules shall give full consideration to providing other Parties, upon request and within available resources, technical assistance for the development and implementation or competition rules.

5. The above provisions in no way affect the Parties' rights to apply adequate measures, notably those referred to in Article 19, in order to address distortions of trade in goods or services.

## Article 50.

1. Pursuant to the provisions of this Article and of Annex III, Ukraine shall continue to improve the protection of intellectual, industrial and commercial property rights in order to provide, by the end of the fifth year after the entry into force of the Agreement for a level of protection similar to that existing in the Community, including effective means of enforcing such rights.

2. By the end of the fifth year after entry into force of the Agreement, Ukraine shall accede to the multilateral conventions on intellectual, industrial and commercial property rights referred to in Paragraph 1 of Annex III to which Member States are parties or which are de facto applied by Member States according to the relevant provisions contained in these conventions.

## Article 51.

1. The Parties recognize that an important condition for strengthening the economic links between Ukraine and the Community is the approximation of Ukraine's existing and future legislation to that of the Community. Ukraine shall endeavour to ensure that its legislation will be gradually made compatible with that of the Community.

2. The approximation of laws shall extend to the following areas in particular: customs law, company law, banking law, company accounts and taxes, intellectual property, protection of workers at the workplace, financial services, rules on competition, public procurement, protection of health and life of humans, animals and plants, the environment, consumer protection, indirect taxation, technical rules and standards, nuclear laws and regulations, transport.

3. The Community shall provide Ukraine with technical assistance as appropriate for the implementation of these measures. which may include i.e. :

- The exchange of experts;

- The provision of early information especially on relevant legislation;

- Organization of seminars;

- Training activities;

- Aid for translation of Community legislation in the relevant sectors.

## Article 52.

1. The Community and Ukraine shall establish economic co-operation aimed at contributing to the process of economic reform and recovery and sustainable development of Ukraine. Such co-operation shall strengthen and develop economic links, to the benefit of both parties.

2. Policies and other measures will be designed to bring about economic and social reforms and restructuring of the economic system in Ukraine and will be guided by the requirements of sustainability and harmonious social development; they will also fully incorporate environmental considerations.

3. To this end the co-operation will concentrate, on industrial co-operation, investment promotion and protection, public procurement, standards and conformity assessments, mining and raw materials, science and technology, education and training, agriculture and agro-industrial sector, energy, civil nuclear sector, environment, transport, space, telecommunications, financial services, money laundering, monetary policy, regional development, social co-operation, tourism, small and medium-sized enterprises, information and communication, consumer protection, customs, statistical co-operation, economics and drugs.

4. Special attention shall be devoted to measures capable of fostering co-operation between the Independent States and other neighbouring countries with a view to stimulating a harmonious development of the region.

5. Where appropriate, economic co-operation and other forms of co-operation provided for in this Agreement may be supported by technical assistance from the Community, taking into account the Community's relevant Council regulation applicable to technical assistance in the Independent States, the priorities agreed upon in the indicative programme related to Community technical assistance to Ukraine and its established coordination and implementation procedures.

6. The Co-operation Council shall make recommendations as to the development of co-operation in fields identified in paragraph 3.

## Article 53. Industrial Co-operation

1. Co-operation shall aim at promoting the following in particular:

- The development of business links between economic operators of both sides, e.g. in view of the transfer of technologies and know-how;

- Community participation in Ukraine's efforts to restructure and technically upgrade its industry;

- The improvement of management;

- The development of appropriate commercial rules and practices, including product marketing;

- Environmental protection.

- Adaptation of the structure of industrial production to the standards of an advanced market economy;

- The conversion of the military-industrial complex.

2. The provisions of this Article shall not affect the enforcement of Community competition rules applicable to undertakings.

## Article 54. Investment Promotion and Protection

1. Bearing in mind the respective powers and competences of the Community and the Member States, co-operation shall aim to establish a favourable climate for investment, both domestic and foreign, especially through better conditions for investment protection, the transfer of capital and the exchange of information on investment opportunities.

2. The aims of this co-operation shall be in particular:

- The conclusion, where appropriate, between the Member States and Ukraine, of agreements for the promotion and protection of investment;

- The conclusion, where appropriate, between the Member States and Ukraine, of agreements to avoid double taxation;

- The creation of favourable conditions for attracting foreign investments into the Ukrainian economy;

- To establish stable and adequate business law and conditions, and to exchange information on laws, regulations and administrative practices in the field of investment;

- To exchange information on investment opportunities in the form of inter alia trade fairs, exhibitions, trade weeks and other events.

## Article 55. Public Procurement

The Parties shall cooperate to develop conditions for open and competitive award of contracts for goods and services in particular through calls for tenders.

## Article 56. Co-operation In the Field of Standards and Conformity Assessment

1. Co-operation between the Parties shall promote alignment with internationally agreed criteria, principles and guidelines followed in the field of quality. The required actions will facilitate progress towards mutual recognition in the field of conformity assessment, as well as the improvement of Ukrainian product quality.

2. To this end they shall seek:

- To promote appropriate co-operation with organizations and institutions specialised in these fields;

- To promote the use of Community technical regulations and the application of European standards and conformity assessment procedures;

- To permit the sharing of experience and technical information in the field of quality management.

## Article 57. Mining and Raw Materials

1. The Parties shall aim at increasing investment and trade in mining and raw materials.

2. The co-operation shall focus in particular on the following areas:

- Exchange of information on the developments in the mining and non-ferrous metals sectors;

- The establishment of a legal framework for co-operation;

- Trade matters;

- The development of legislative and other measures in the field of environmental protection;

- Training;

- Safety in the mining industry.

## Article 58. Co-operation In Science and Technology

1. The Parties shall promote co-operation in civil scientific research and technological development (RTD) on the basis of mutual benefit and, taking into account the availability of resources, adequate access to their respective programmes and subject to appropriate levels of effective protection of intellectual, industrial and commercial property rights (IPR).

2. Science and technology co-operation shall cover:

- The exchange of scientific and technical information;

- Joint RTD activities,

- Training activities and mobility programmes for scientists, researchers and technicians engaged in RTD in both sides.

Where such co-operation takes the form of activities involving education and/or training, it should be carried out in accordance with the provisions of Article 59.

The Parties, on the basis of mutual agreement, can engage in other forms of co-operation in science and technology.

In carrying out such co-operation activities, special attention shall be devoted to the redeployment of scientists, engineers, researchers and technicians who are or have been engaged in research on/and production of weapons of mass destruction.

3. The co-operation covered by this article shall be implemented according to specific arrangements to be negotiated and concluded in accordance with the procedures adopted by each party, and which shall set out, inter alia, appropriate IPR provisions.

## Article 59. Education and Training

1. The Parties shall co-operate with the aim of raising the level of general education and professional qualifications in Ukraine, both in the public and private sectors.

2. The co-operation shall focus in particular on the following areas:

- Updating higher education and training systems in Ukraine including the system of certification of higher educational establishments and diplomas of higher education;

- The training of public and private sector executives and civil servants in priority areas to be determined;

- Co-operation between educational establishments co-operation, between educational establishments and firms;

- Mobility for teachers, graduates, administrators, young scientists and researchers, and young people;

- Promoting teaching in the field of European Studies within the appropriate institutions;

- Teaching Community languages;

- Post-graduate training of conference interpreters;

- Training journalists;

- Training of trainers.

3. The possible participation of one Party in the respective programmes in the field of education and training of the other Party could be considered in accordance with their respective procedures and, where appropriate, institutional frameworks and plans of co-operation will then be established building on participation of Ukraine in the Community's TEMPUS programme.

## Article 60. Agriculture and the Agro-industrial Sector

The purpose of co-operation in this area shall be the pursuance of agrarian reform, the modernization, privatization and restructuring of agriculture, the agro-industrial and services sectors in Ukraine, development of domestic and foreign markets for the Ukrainian products, in conditions that ensure the protection of the environment, taking into account the necessity to improve security of food supply. The Parties shall also aim at the gradual approximation of Ukrainian standards to Community technical regulations concerning industrial and agricultural food products including sanitary and phytosanitary standards.

## Article 61. Energy

1. Co-operation shall take place within the principles of the market economy and the European Energy Charter, against a background of the progressive integration of the energy markets in Europe.

2. The co-operation shall include among others the following areas:

- The environmental impact of energy production supply and consumption, in order to prevent or minimise the environmental damage resulting from these activities;

- Improvement of the quality and security of energy supply, including diversification of suppliers, in an economic and environmentally sound manner;

- Formulation of energy policy;

- Improvement in management and regulation of the energy sector in line with a market economy;

- The introduction of the range of institutional, legal, fiscal and other conditions necessary to encourage increased energy trade and investment;

- Promotion of energy saving and energy effectiveness;

- Modernization, development and diversification of energy infrastructure;

- Improvement of energy technologies in supply and end use across the range of energy types;

- Management and technical training in the energy sector.

## Article 62. Co-operation In the Civil Nuclear Sector

1. Bearing in mind the respective powers and competences of the Community and its Member States, co-operation in the civil nuclear sector shall take place through the implementation of specific agreements on i.e. trade in nuclear materials, nuclear safety and thermonuclear fusion and in accordance with the legal procedures of each Party.

2. The Parties shall co-operate, including in international fora, in addressing the problems which have arisen as a consequence of the Chernobyl disaster; co-operation could involve in particular:

- A joint study of the scientific problems related to the accident at Chernobyl;

- Combating the radioactive contamination of air, soil and water;

- Monitoring and supervision of the radioactive condition of the environment;

- Dealing with emergency nuclear/radioactivity situations;

- De-contamination of radioactively polluted land and handing of nuclear waste;

- Medical problems related to the impact of nuclear accidents on the population health;

- Solution of the safety problem of the destroyed 4th power unit at Chernobyl;

- Economic and administrative aspects of efforts to overcome the disaster;

- Training in the area of preventing and mitigating nuclear accidents;

- Scientific and technical aspects of the remedial activities relating to the eradication of the consequences of the Chernobyl disaster;

- Other areas subject to agreement of the Parties.

## Article 63. Environment

1. Bearing in mind the European Energy Charter and the Declaration of the Lucerne Conference 1993, the Parties shall develop and strengthen their co-operation on environment and human health.

2. Co-operation shall aim at combating the deterioration of the environment and in particular:

- Effective monitoring of pollution levels and assessment of environment; system of information on the state of the environment;

- Combating local, regional and transboundary air and water pollution;

- Ecological restoration;

- Sustainable, efficient and environmentally effective production and use of energy; safety of industrial plants;

- Classification and safe handling of chemicals;

- Water quality;

- Waste reduction, recycling and safe disposal, implementation of the Basle Convention;

- The environmental impact of agriculture, soil erosion, and chemical pollution;

- The protection of forests;

- The conservation of biodiversity, protected areas and sustainable use and management of biological resources;

- Land-use planning, including construction and urban planning;

- Use of economic and fiscal instruments;

- Global climate change;

- Environmental education and awareness;

- Implementation of the Espoo Convention on Environmental Impact Assessment in a transboundary context.

3. Co-operation shall take place particularly through:

- Planning for the handling of disasters and other emergency situations;

- Exchange of information and experts, including information and experts dealing with the transfer of clean technologies and the safe and environmentally sound use of biotechnologies;

- Joint research activities;

- Improvement of laws towards Community standards;

- Co-operation at regional level, including co-operation within the framework of the European Environment Agency, and at international level;

- Development of strategies, particularly with regard to global and climatic issues and also in view of achieving sustainable development;

- Environmental impact studies.

## Article 64. Transport

The Parties shall develop and strengthen their co-operation in the field of transport.

This co-operation shall, inter alia, aim at restructuring and modernizing transport systems and networks in Ukraine and developing and ensuring, where appropriate, compatibility of transportation systems in the context of achieving a more global transport system.

The co-operation shall include, inter alia:

- The modernizing of management and operations of road transport, railways, ports and airports;

- Modernization and development of railways, waterways, road, port, airport and air navigation infrastructure including the modernization of major routes of common interest and the trans-European links for the above modes;

- Promotion and development of multi-modal transport;

- The promotion of joint research and development programmes;

- Preparation of the legislative and institutional framework for policy development and implementation including privatization of the transport sector.

## Article 65. Space

Bearing in mind the respective competences of the Community, its Member States and the European Space Agency the Parties shall promote, where appropriate, long term co-operation in the areas of civil space research, development and commercial applications. The Parties will pay particular attention to initiatives making full use of the complementarity of their respective space activities.

## Article 66. Postal Services and Telecommunications

Within their respective powers and competences the Parties shall expand and strengthen

Co-operation in the following areas:

- The establishment of policies and guidelines for the development of the telecommunications sector and postal services;

- Development of principles of a tariff policy and marketing in telecommunications and postal services;

- Encourage the development of projects for telecommunications and postal services and attracting investment;

- Enhancing efficiency and quality of the provision of telecommunications and postal services, amongst others through liberalization of activities of sub-sectors;

- Advanced application of telecommunications, notably in the area of electronic funds transfer;

- Management of telecommunications networks and their "optimization";

- An appropriate regulatory basis for the provision of telecommunicational and postal services and for the use of a radio frequency spectrum;

- Training in the field of telecommunications and postal services for operations in market conditions.

## Article 67. Financial Services

Co-operation shall in particular aim at facilitating the involvement of Ukraine in universally accepted systems of mutual settlements. Technical assistance shall focus on:

- The development of banking and financial services, the development of a common market of credit resources, the involvement of Ukraine in a universally accepted system of mutual settlements;

- The development of a fiscal system and its institutions in Ukraine, exchange of experience and personnel training;

- The development of insurance services, which would inter alia create a favourable framework for Community companies' participation in the establishment of joint ventures in the insurance sector in Ukraine, as well as the development of export credit insurance.

- This co-operation shall in particular contribute to foster the development of relations between Ukraine and the Member States in the financial services sector.

## Article 68. Money Laundering

1. The Parties agree on the necessity of making efforts and cooperating in order to prevent the use of their financial systems for laundering of proceeds from criminal activities in general and drug offences in particular.

2. Co-operation in this area shall include administrative and technical assistance with the purpose of establishing suitable standards against money laundering equivalent to those adopted by the Community and international fora in this field, including the Financial Action Task Force (FATF).

## Article 69. Monetary Policy

At the request of the Ukrainian authorities, the Community shall provide technical assistance designed to support the efforts of Ukraine towards the creation and strengthening of its own monetary system and the introduction of a new monetary unit which is to become a convertible currency and the gradual adjustment of its policies to those of the European Monetary System. This will include informal exchange of views concerning the principles and the functioning of the European Monetary System.

## Article 70. Regional Development

1. The Parties shall strengthen co-operation on regional development and land-use planning.

2. To this end, they shall encourage exchange of information by national, regional and local authorities on regional and land-use planning policy and on methods of formulation of regional policies with special emphasis on the development of disadvantaged areas.

They shall also encourage direct contacts between the respective regions and public organizations responsible for regional development planning with the aim, inter alia, to exchange methods and ways of fostering regional development.

## Article 71. Social Co-operation

1. With regard to health and safety, the parties shall develop co-operation between them with the aim of improving the level of protection of the health and safety of workers.

The co-operation shall include notably:

- Education and training on health and safety issues with specific attention to high risk sectors of activity;

- Development and promotion of preventive measures to combat work related diseases and other work related ailments;

- Prevention of major accident hazards and the management of toxic chemicals;

- Research to develop the knowledge base in relation to working environment and the health and safety of workers.

2. With regard to employment, the co-operation shall include notably technical assistance to:

- Optimization of the labour market;

- Modernization of the job-finding and consulting services;

- Planning and management of the restructuring programmes;

- Encouragement of local employment development;

- Exchange of information on the programmes of flexible employment, including those stimulating self-employment and promoting entrepreneurship.

3. The Parties shall pay special attention to co-operation in the sphere of social protection which, inter alia, shall include co-operation in planning and implementing social protection reforms in Ukraine.

These reforms shall aim to develop in Ukraine methods of protection intrinsic to market economies and shall comprise all directions of social protection.

## Article 72. Tourism

The Parties shall increase and develop co-operation between them, which shall include: - facilitating the tourist trade;

- Co-operation between official tourism bodies

- Increasing the flow of information;

- Transferring know-how;

- Studying the opportunities for joint operations;

- Training for tourism development.

## Article 73. Small and Medium-sized Enterprises

1. The Parties shall aim to develop and strengthen small and medium-sized enterprises and their associations and co-operation between SMEs in the Community and Ukraine.

2. Co-operation shall include technical assistance, in particular in the following areas:

- The development of a legislative framework for SMEs;

- The development of an appropriate infrastructure (an agency to support SMEs, communications, assistance to the creation of a fund for SMEs);

- The development of technology parks.

## Article 74. Information and Communication

The Parties shall support the development of modern methods of information handling, including the media, and stimulate the effective mutual exchange of information. Priority shall be given to programmes aimed at providing the general public with basic information about the Community, and Ukraine including, where possible, mutual access to databases in full respect of intellectual property rights.

## Article 75. Consumer Protection

The Parties will enter into close co-operation aimed at achieving compatibility between their systems of consumer protection. This co-operation shall comprise in particular the provision of expertise on legislative and institutional reform, the establishment of permanent systems of mutual information on dangerous products, the improvement of information provided to consumers especially on prices, characteristics of products and services offered, training activities for administration officials and other consumer interest representatives, the development of exchanges between the consumer interest representatives, and increasing the compatibility of consumer protection policies.

## Article 76. Customs

1. The aim of co-operation shall be to guarantee compliance with all the provisions scheduled for adoption in connection with trade and fair trade and to achieve the approximation of Ukraine's customs system to that of the Community.

2. Co-operation shall include the following in particular:

- The exchange of information;

- The improvement of working methods;

- The introduction of the combined nomenclature and the single administrative document;

- The interconnection between the transit systems of the Community and Ukraine;

- The simplification of inspections and formalities in respect of the carriage of goods;

- The support in the introduction of modern customs information systems;

- The organization of seminars and training periods.

3. Without prejudice to further co-operation foreseen in this Agreement and in particular Article 79 the mutual assistance between administrative authorities in customs matters of the Parties shall take place in accordance with the provisions of the Protocol attached to this Agreement.

## Article 77. Statistical Co-operation

Co-operation in this area shall have as its aim the development of an efficient statistical system to provide the reliable statistics needed to support and monitor the process of economic reform and contribute to the development of private enterprise in Ukraine.

The Parties, in particular, shall cooperate in the following fields:

- Adaptation of Ukrainian statistical system to international methods, standards and classification;

- Exchange of statistical information;

- Provision of necessary statistical macro and microeconomic information to implement and manage economic reforms;

The Community shall contribute to this end by rendering technical assistance to Ukraine.

## Article 78. Economics

The Parties shall facilitate the process of economic reform and the coordination of economic policies by cooperating to improve understanding of the fundamentals of their respective economies and the design and implementation of economic

policy in market economies. To this end the Parties shall exchange information on macro economic performance and prospects.

The Community shall provide technical assistance so as to:

- Assist Ukraine in the process of economic reform by providing expert advisory and technical assistance,

- Encourage co-operation among economists in order to expedite the transfer of know-how for the drafting of economic policies, and provide for wide dissemination of policy-relevant research.

## Article 79. Drugs

Within the framework of their respective powers and competences the Parties shall co-operate in increasing the effectiveness and efficiency of policies and measures to counter the illicit production, supply and traffic of narcotic drugs and psychotropic substances, including the prevention of diversion of precursor chemicals, as well as in promoting drug demand prevention and reduction. The co-operation in this area shall be based on mutual consultation and close coordination between the Parties over the objectives and measures on the various drug-related fields.

## Article 80.

The Parties undertake to promote, encourage and facilitate cultural co-operation. Where appropriate, the Community's cultural co-operation programmes or those of one or more Member States may be the subject of co-operation and further activities of mutual interest may be developed.

## Article 81.

In order to achieve the objectives of this Agreement and in accordance with Articles 82, 83 and 84 Ukraine shall benefit from temporary financial assistance from the Community by way of technical assistance in the form of grants to accelerate the economic transformation of Ukraine.

## Article 82.

This financial assistance shall be covered within the framework of TACIS foreseen in the Community's relevant Council Regulation.

## Article 83.

The objectives and the areas of the Community's financial assistance shall be laid down in an indicative programme reflecting established priorities to be agreed between the two Parties taking into account Ukraine's needs, sectoral absorption capacities and progress with reform. The Parties shall inform the Co-operation Council thereof.

## Article 84.

In order to permit optimum use of the resources available, the Parties shall ensure that Community technical assistance contributions are made in close coordination with those from other sources such as the Member States, other countries, and international organizations such as the International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development as well as the United Nations Development Programme (UNDP) and the IMF.

## Article 85.

A Co-operation Council is hereby established which shall supervise the implementation of this Agreement. It shall meet at ministerial level once a year and when circumstances require. It shall examine any major issues arising within the framework of the Agreement and any other bilateral or international issues of mutual interest for the purpose of attaining the objectives of this Agreement. The Co-operation Council may also make appropriate recommendations, by agreement between the two Parties.

## Article 86.

1. The Co-operation Council shall consist of the members of the Council of the European Union and members of the

Commission of the European Communities, on the one hand, and of members of the Government of Ukraine, on the other.

2. The Co-operation Council shall establish its rules of procedure.

3. The office of President of the Co-operation Council shall be held alternately by a representative of the Community and by a member of the Government of Ukraine.

## Article 87.

1. The Co-operation Council shall be assisted in the performance of its duties by a Co-operation Committee composed of representatives of the members of the Council of the European Union and of members of the Commission of the European Communities on the one hand and of representatives of the Government of Ukraine on the other, normally at senior civil servant level. The office of President of the Co-operation Committee shall be held alternately by the Community and by Ukraine.

In its rules of procedure the Co-operation Council shall determine the duties of the Co-operation Committee, which shall include the preparation of meetings of the Co-operation Council, and how the Committee shall function.

2. The Co-operation Council may delegate any of its powers to the Co-operation Committee, which will ensure continuity between meetings of the Co-operation Council.

## Article 88.

The Co-operation Council may decide to set up any other special committee or body that can assist it in carrying out its duties and shall determine the composition and duties of such committees or bodies and how they shall function.

## Article 89.

When examining any issue arising within the framework of this Agreement in relation to a provision referring to an article of the GATT, the Co-operation Council shall take into account to the greatest extent possible the interpretation that is generally given to the Article of the GATT in question by the Contracting Parties to the GATT.

## Article 90.

A Parliamentary Co-operation Committee is hereby established. It shall be a forum for Members of the Ukrainian Parliament and the European Parliament to meet and exchange views. It shall meet at intervals which it shall itself determine.

## Article 91.

1. The Parliamentary Co-operation Committee shall consist of members of the European Parliament, on the one hand, and of members of the Ukrainian Parliament, on the other.

2. The Parliamentary Co-operation Committee shall establish its rules of procedure.

3. The Parliamentary Co-operation Committee shall be presided in turn by the European Parliament and the Ukrainian Parliament respectively, in accordance with the provisions to be laid down in its rules of procedure.

## Article 92.

The Parliamentary Co-operation Committee may request relevant information regarding the implementation of this Agreement from the Co-operation Council, which shall then supply the Committee with the requested information.

The Parliamentary Co-operation Committee shall be informed of the recommendations of the Co-operation Council.

The Parliamentary Co-operation Committee may make recommendations to the Co-operation Council.

## Article 93.

1. Within the scope of this Agreement, each Party undertakes to ensure that natural and legal persons of the other Party have access free of discrimination in relation to its own nationals to the competent courts and administrative organs of the Parties to defend their individual rights and their property rights, including those concerning intellectual, industrial and

commercial property.

2. Within the limits of their respective powers, the Parties:

- Shall encourage the adoption of arbitration for the settlement of disputes arising out of commercial and co-operation transactions concluded by economic operators of the Community and those of Ukraine;

- Agree that where a dispute is submitted to arbitration, each Party to the dispute may, except where the rules of the arbitration centre chosen by the Parties provide otherwise, choose its own arbitrator, irrespective of his nationality, and that the presiding third arbitrator or the sole arbitrator may be a citizen of a third state;

- Will recommend their economic operators to choose by mutual consent the law applicable to their contracts;

- Shall encourage recourse to the arbitration rules elaborated by the United Nations Commission on International Trade Law (Uncitral) and to arbitration by any centre of a state signatory to the Convention on Recognition and Enforcement of Foreign Arbitral Awards done at New York on 10 June 1958.

## Article 94.

Nothing in the Agreement shall prevent a Party from taking any measures:

(a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests;

(b) which relate to the production of, or trade in arms, munitions or war materials or to research,

Development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes;

(c) which it considers essential to its own security in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security;

(d) which it considers necessary to respect its international obligations and commitments on the control of dual use industrial goods and technologies.

## Article 95.

1. In the fields covered by this Agreement and without prejudice to any special provisions contained therein:

- The arrangements applied by Ukraine in respect of the Community shall not give rise to any discrimination between the Member States, their nationals or their companies or firms;

- The arrangements applied by the Community in respect of Ukraine shall not give rise to any discrimination between Ukrainian nationals, or its companies or firms.

2. The provisions of paragraph 1 are without prejudice to the right of the Parties to apply the relevant provisions of their fiscal legislation to tax payers who are not in identical situations as regards their place of residence.

## Article 96.

1. Each of the two Parties may refer to the Co-operation Council any dispute relating to the application or interpretation of this Agreement.

2. The Co-operation Council may settle the dispute by means of a recommendation.

3. In the event of it not being possible to settle the dispute in accordance with paragraph 2, either Party may notify the other of the appointment of a conciliator; the other Party must then appoint a second conciliator within two months. For the application of this procedure, the Community and the Member States shall be deemed to be one Party to the dispute.

The Co-operation Council shall appoint a third conciliator.

The conciliator's recommendations shall be taken by majority vote. Such recommendations shall not be binding upon the Parties.

## Article 97.

The Parties agree to consult promptly through appropriate channels at the request of either party to discuss any matter concerning the interpretation or implementation of this Agreement and other relevant aspects of the relations between the Parties.

The provisions of this Article shall in no way affect and are without prejudice to Articles 18, 19, 96 and 102.

## Article 98.

Treatment granted to Ukraine hereunder shall in no case be more favourable than that granted by the Member States to each other.

## Article 99.

For the purposes of this Agreement, the term "Parties" shall mean Ukraine on the one part, and the Community, or the Member States, or the Community and the Member States, in accordance with their respective powers, on the other part.

## Article 100.

Insofar as matters covered by this Agreement are covered by the European Energy Charter Treaty and Protocols thereto, such Treaty and Protocols shall upon entry into force apply to such matters but only to the extent that such application is provided for therein.

## Article 101.

This Agreement is concluded for an initial period of ten years. The Agreement shall be automatically renewed year by year provided that neither Party gives the other Party written notice of denunciation of the Agreement six months before it expires.

## Article 102.

1. The Parties shall take any general or specific measures required to fulfil their obligations under the Agreement. They shall see to it that the objectives set out in the Agreement are attained.

2. If either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take the appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Co-operation Council with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In the selection of these measures, priority must be given to those which least disturb the functioning of the Agreement. These measures shall be notified immediately to the Co-operation Council if the other Party so requests.

## Article 103.

Annexes I, II, III, IV, V, and the Appendix thereto and the Protocol shall form an integral part of this Agreement.

## Article 104.

This Agreement shall not, until equivalent rights for individuals and economic operators have been achieved hereunder, affect rights assured to them through existing Agreements binding one or more Member States, on the one hand, and Ukraine, on the other, except in areas falling within Community competence and without prejudice to the obligations of Member States resulting from this Agreement in areas falling within their competence.

## Article 105.

This Agreement shall apply, on the one hand, to the territories in which the Treaties establishing the European Community, the European Atomic Energy Community and the European Coal and Steel Community are applied and under the conditions

laid down in those Treaties and, on the other hand, to the territory of Ukraine.

## Article 106.

The Secretary-General of the Council of the European Union shall be the depositary of this Agreement.

## Article 107.

This original of the Agreement, of which the Danish, Dutch, English, French, German, Italian, Spanish, Greek, Portuguese and Ukrainian languages are equally authentic, shall be deposited with the Secretary-General of the Council of the European Union.

## Article 108.

This Agreement will be approved by the Parties in accordance with their own procedures.

This Agreement shall enter into force on the first day of the second month following the date on which the Parties notify the Secretary-General of the Council of the European Union that the procedures referred to in the first paragraph have been completed.

Upon its entry into force, and as far as relations between Ukraine and the Community are concerned, this Agreement shall replace the Agreement between the European Economic Community and the European Atomic Energy Community and the Union of Soviet Socialist Republics on trade and economic and commercial co-operation signed in Brussels on 18 December 1989.

## Article 109.

In the event that, pending the completion of the procedures necessary for the entry into force of this Agreement, the provisions of certain parts of this Agreement are put into effect in 1994 by means of an Interim Agreement between the Community and Ukraine, the Contracting Parties agree that, in such circumstances, the term "date of entry into force of the Agreement" shall mean the date of entry into force of the Interim Agreement.

# Annex III. Intellectual, industrial and commercial property conventions referred to in Article 50(2)

1. Paragraph 2 of Article 50 concerns the following multilateral conventions:

- Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971);

- International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome, 1961);

- Protocol relating to the Madrid Agreement concerning the International Registration of Marks (Madrid, 1989);

- Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks (Geneva 1977, amended 1979);

- Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the purposes of Patent Procedures (1977, modified in 1980);

- International Convention for the Protection of New Varieties of Plants (UPOV) (Geneva Act, 1978)

2. Ukraine shall make its best endeavours to accede, without undue delay, to the 1991 Act of the International Convention for the Protection of New Varieties of Plants (UPOV).

3. The Co-operation Council may recommend that paragraph 2 of Article 50 shall apply to other multilateral conventions. If problems in the area of intellectual, industrial and commercial property affecting trading conditions were to occur, urgent consultations will be undertaken, at the request of either Party, with a view to reaching mutually satisfactory solutions.

4. The Parties confirm the importance they attach to the obligations arising from the following multilateral conventions:

- Paris Convention for the Protection of Industrial Property (Stockholm Act, 1967 and amended in 1979);

- Madrid Agreement concerning the International Registration of Marks (Stockholm Act, 1967, and amended in 1979);

- Patent Cooperation Treaty (Washington 1970, amended and modified in 1979 and 1984);

5. From the entry into force of this Agreement Ukraine shall grant to Community companies and nationals, in respect of the recognition and protection of intellectual, industrial and commercial property, treatment no less favourable than that granted by it to any third country under bilateral agreements.

6. The provisions of paragraph 5 shall not apply to advantages granted by Ukraine to any third country on an effective reciprocal basis or to advantages granted by Ukraine to another country of the former USSR.

## Annex IV. Community reservations in accordance with Article 30(1)(b)

Mining

In some Member States, a concession may be required for mining and mineral rights for non-EC controlled companies.

Fishing

Access to and use of the biological resources and fishing grounds situated in the maritime waters coming under the sovereignty or within the jurisdiction of Member States is restricted to fishing vessels flying the flag of a Member State and registered in Community territory unless otherwise provided for.

Real estate purchase

In some Member States, the purchase of real estate by non-EC companies is subject to restrictions.

Audiovisual services including radio

National treatment concerning production and distribution, including broadcasting and other forms of transmission to the public, may be reserved to audiovisual works meeting certain origin criteria.

Telecommunications services including mobile and satellite services

Reserved services

In some Member States market access concerning complementary services and infrastructures is restricted.

Professional services

Services reserved to natural persons nationals of Member States. Under certain conditions those persons may create companies.

Agriculture

In some Member States national treatment is no applicable to non-EC controlled companies which wish to undertake an agricultural enterprise. The acquisition of vineyards by non-EC controlled companies is subject to notification, or, as necessary, authorization.

News agency services

In some Member States limitations of foreign participation in publishing companies and broadcasting companies.

## Annex V. Ukrainian reservations in accordance with Article 30(2)(a)

The application of the reservations in this Annex shall in no case result in treatment less favourable than that accorded to companies of any third country.

1. Financial services (as defined in the Appendix hereto)

1.1 Banking and related financial services

During a transitional period not exceeding five years from the date of signature of this Agreement, Ukraine may, in respect of the establishment of subsidiaries and branches of Community companies in Ukraine, continue to apply the provisions of

the Ukrainian laws:

- "on the system of currency regulation and currency control"

- "on banks and banking activities"

- "on collateral"

- "on stocks and stock exchange"

- "on privatization papers" (related to the distribution and trading of privatization vouchers)

During the transitional period referred to above, no new regulations or measures shall be introduced which increase the level of discrimination applying to subsidiaries or branches of Community companies as compared to Ukrainian companies.

1.2 Insurance (as defined in the Appendix hereto)

No later than five years following the date of signature of this Agreement Ukraine shall create the necessary conditions for the establishment of Community insurance companies as well as joint insurance companies in accordance with Article 30(2)(a).

During the transitional period referred to above, no new regulations or measures shall be introduced which increase the level of discrimination applying to subsidiaries or branches of Community companies as compared to Ukrainian companies.

Insurance activities in some sectors for foreigners are closed, limited or are subject to special requirements during the transitional period.

2. Other areas

Brokerage of immovable property including land

Ownership and use of natural resources

Use of subsoil and natural resources including mining

Acquisition and sale of natural resources

Fishing

Access to and use of the biological resources and fishing grounds situated in Ukrainian territorial waters and in Ukraine's exclusive economic zone is subject to restrictions.

Hunting is restricted in accordance with the legislation of Ukraine.

Agriculture

Acquisition and sale of agricultural land and forests.

Lease of state property

The lease of state property may be required to be paid in freely convertible currency.

Telecommunications

Authorization may be required for companies controlled by foreigners in respect of establishment.

Mass media companies

Some limitation of foreign participation in mass media activities.

Some professional activities

Professional activities in some sectors are reserved to Ukrainian nationals or are subject to special requirements (medicine, education, legal services not including business consultancy involving relevant legal aspects).

Historical buildings and monuments

## Appendix to Annex V. Financial Services: definitions

A financial service is any service of a financial nature offered by a financial service supplier of a party. Financial services include the following activities:

A. All insurance and insurance-related services.

1. Direct insurance (including co-insurance).

(i) life

(ii) non-life

2. Reinsurance and retrocession.

3. Insurance intermediation, such as brokerage and agency.

4. Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

B. Banking and other financial services (excluding insurance).

1. Acceptance of deposits and other repayable funds from the public.

2. Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction.

3. Financial leasing.

4. All payment and money transmission services, including credit charge and debit cards, travellers cheques and bankers drafts.

5. Guarantees and commitments.

6. Trading for own account or for the account of customers, whether on an exchange, in an over the counter market or otherwise, the following:

(a) money market instruments (including cheques, bills, certificates of deposits, etc.)

(b) foreign exchange

(c) derivative products including, but not limited to, futures and options

(d) exchange rates and interest rate instruments, including products such as swaps, forward rate agreements, etc.

(e) transferable securities

(f) other negotiable instruments and financial assets, including bullion.

7. Participation in issues of all kinds of securities, including under-writing and placement as agent (whether publicly or privately) and provision of services related to such issues.

8. Money broking

9. Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services.

10. Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments.

11. Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services.

12. Advisory intermediation and other auxiliary financial services on all the activities listed in points 1 to 11 above, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

The following activities are excluded from the definition of financial services:

(a) Activities carried out by central banks or by any other public institution in pursuit of monetary and exchange rate policies.

(b) Activities conducted by central banks, government agencies or departments, or public institutions, for the account or

with the guarantee of the government, except when those activities may be carried out by financial service suppliers in competition with such public entities.

(c) Activities forming part of a statutory system of social security or public retirement plans, except when those activities may be carried out by financial service suppliers in competition with public entities or private institutions.

## JOINT DECLARATION CONCERNING ARTICLE 30

Without prejudice to the reservations listed in Annexes IV and V and to the provisions of Articles 44 and 47, the Parties agree that the words "in conformity with their legislation and regulations" mentioned in paragraphs 1 and 2 of Article 30 mean that each Party may regulate the establishment and operation of companies on its territory, provided that these regulations do not create for the establishment and operations of companies of the other Party any new reservations resulting in a less favourable treatment than that accorded to their own companies or to companies or branches or subsidiaries of companies of any third country.

## JOINT DECLARATION CONCERNING ARTICLE 31

Commercial presence of a Party's internal waterways transport companies in the other Party's territory shall be governed in accordance with legislation applicable within Member States or Ukraine, until specific more favourable provisions governing such commercial presence can be agreed upon, and if such presence is not governed by other legislative instruments binding on the Parties.

It is understood that a commercial presence shall take the form of subsidiaries or branches as defined in Article 32.

"Legislation applicable" shall be translated into Ukrainian by the phrase...

## JOINT DECLARATION CONCERNING THE NOTION OF "CONTROL" IN ARTICLE 32(b) AND ARTICLE 43

1. The Parties confirm their mutual understanding that the question of control shall depend on the factual circumstances of the particular case.

2. A company shall, for example, be considered as being "controlled" by another company, and thus a subsidiary of such other company if:

- The other company holds directly or indirectly a majority of the voting rights, or

- The other company has the right to appoint or dismiss a majority of the administrative organ, of the management organ or of the supervisory organ and is at the same time a shareholder or member of the subsidiary.

3. Both Parties consider the criteria in paragraph 2 to be non-exhaustive.

## JOINT DECLARATION CONCERNING ARTICLE 50

The Parties agree that for the purpose of the Agreement, intellectual, industrial and commercial property includes in particular copyright, including the copyright in computer programs, and neighbouring rights, the rights relating to patents, industrial designs, geographical indications, including appellations of origin, trademarks and service marks, topographies of integrated circuits as well as protection against unfair competition as referred to in Article 10 bis of the Paris Convention for the protection of Industrial Property and protection of undisclosed information on know-how.

The Parties declare that the term "intellectual, industrial and commercial property" shall be translated into Ukrainian as...

## JOINT DECLARATION CONCERNING ARTICLE 102

The Parties agree, for the purpose of its correct interpretation and its practical application, that the term "cases of special urgency" included in Article 102 of the Agreement mean cases of material breach of the Agreement by one of the Parties. A material breach of the Agreement consists in

(a) repudiation of the Agreement not sanctioned by the general rules of international law, or

(b) violation of the essential elements of the Agreement set out in Article 2.

# EXCHANGE OF LETTERS BETWEEN THE COMMUNITY AND UKRAINE IN RELATION TO THE ESTABLISHMENT OF COMPANIES

A. Letter from Ukraine

Dear Sir,

I refer to the Partnership and Co-operation Agreement initialled on 23 March 1994.

As I underlined during the negotiations, Ukraine grants to Community companies establishing and operating in Ukraine in certain respects a privileged treatment. I explained that this reflects the Ukrainian policy to promote by all means the establishment of Community companies in Ukraine.

With this in mind, it is my understanding that during the period between the date of initialling of this agreement and the entry into force of the relevant articles on establishment of companies, Ukraine shall not adopt measures or regulations which would introduce or worsen discrimination of Community companies vis-a-vis Ukrainian companies or companies from any third country as compared to the situation existing on the date of initialling of this agreement.

I would be obliged if you could acknowledge receipt of this letter.

Please accept, Sir, the assurance of my highest consideration.

For the Government of the Ukraine

B. Letter from the Community

Dear Sir,

Thank you for letter of today's date, which reads as follows:

"Dear Sir,

I refer to the Partnership and Co-operation Agreement initialled on 23 March 1994.

As I underlined during the negotiations, Ukraine grants to Community companies establishing and operating in Ukraine in certain respects a privileged treatment. I explained that this reflects the Ukrainian policy to promote by all means the establishment of Community companies in Ukraine.

With this in mind, it is my understanding that during the period between the date of initialling of this agreement and the entry into force of the relevant articles on establishment of companies, Ukraine shall not adopt measures or regulations which would introduce or worsen discrimination of Community companies vis-a-vis Ukrainian companies or companies from any third country as compared to the situation existing on the date of initialling of this agreement.

I would be obliged if you could acknowledge receipt of this letter."

I can acknowledge receipt of this letter.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the European Communities