



Macro-Financial Assistance for Ukraine
Loan Facility from the European Union of up to 1 billion EUR

MEMORANDUM OF UNDERSTANDING

between

THE EUROPEAN UNION
as Lender

and

UKRAINE
as Borrower

MEMORANDUM OF UNDERSTANDING
between THE EUROPEAN UNION
and UKRAINE

1. On 14 April 2014, the Council of the European Union adopted a decision to make available to Ukraine macro-financial assistance of up to 1 billion EUR in the form of a loan (Decision /2014/EU). The objective of this assistance is to ease Ukraine's urgent external financing constraints, alleviate its balance of payments and budgetary needs and strengthen its foreign exchange reserve position. This assistance from the European Union is complementary to the resources provided to Ukraine by International Financial Institutions and bilateral donors in support of the authorities' economic stabilisation and reform programme.
2. The assistance will be disbursed in two instalments of EUR 500 million each. The disbursements will be conditional upon a satisfactory track record in the implementation of the Stand-By Arrangement (SBA) to be agreed between Ukraine and the International Monetary Fund (hereafter referred to as "the IMF"). The first instalment of the assistance will be disbursed upon entry into force of this Memorandum and the corresponding Loan Agreement, provided that Ukraine receives disbursements under the SBA to be agreed with the IMF. The disbursement of the second instalment shall not take place earlier than three months after the release of the first instalment and will also be conditional upon a positive assessment by the European Commission (hereafter referred to as "the Commission") on behalf of the European Union, of progress made with respect to a set of macroeconomic and structural adjustment policy conditions specified hereinafter. These conditions are based on the economic stabilisation and reform programme endorsed by Ukraine's authorities, and are consistent with the agreement reached by Ukraine with the IMF.
3. Prior to the release of the second instalment by the Commission, Ukraine's authorities shall provide the Commission with a Compliance Statement on the fulfilment of the conditionality attached to the instalment in question. Upon receipt of this compliance statement, the Commission will evaluate, in co-operation with the authorities of Ukraine, progress made with respect to the fulfilment of the conditionality. The policy measures and frame of reference for this evaluation are made explicit in Annex I. In case of a negative evaluation, the Commission may withhold the disbursement of the second instalment until Ukraine proves the compliance with the conditionality. If necessary, Annex I may be amended upon mutual agreement, following the completion of the respective approval processes of the EU and Ukraine.

The Commission will also continuously verify the financing needs of Ukraine and may reduce, suspend or cancel the assistance in case the financing needs of Ukraine have decreased fundamentally during the period of disbursement compared to the initial projections.

4. The effective payment of different instalments shall be subject to the signature of the corresponding Loan Agreement by the parties and its entry into force.
5. The Commission will make available the proceeds of the assistance to Ukraine through the National Bank of Ukraine (hereafter referred to as "the Agent"). Given the substantial budgetary financing needs faced by the country, the proceeds of the loan may be used to finance Ukraine's budget.

The authorities of Ukraine undertake to timely and fully service all financial obligations stemming from loans provided or guaranteed by the European Union.

6. During the implementation of the assistance, the authorities of Ukraine shall supply the Commission with all information that is relevant for the monitoring of its economic and financial situation and for the assessment of progress in structural reforms. In particular, the authorities will supply to the Commission on a timely basis the relevant information as set out in Annex II.
7. With a view to preventing irregularities and fraud related to the use of the assistance and ensuring the protection of the EU's financial interests, the relevant provisions of the Loan Facility Agreement will apply, notably those regarding regular checks on the use of EU assistance, and checks and audits performed by the Commission and the Court of Auditors. Also, the provisions of the Loan Facility Agreement on early repayment will apply in case it has been established that Ukraine has engaged, in relation to the management of this assistance, in any act of fraud, corruption or any other illegal activity.
8. The Commission, represented by its own agents or its duly mandated experts, shall have the right to carry out operational assessments of the administrative procedures and financial circuits of the government of Ukraine and of the Agent that relate to the management of EU macro-financial assistance throughout the duration of this MoU and for five years after the disbursement of the last instalment (*ex-post* period).
9. An independent *ex-post* evaluation of the assistance may be carried out by the Commission or its duly authorised representatives. The authorities of Ukraine are committed to supply all necessary information to the Commission, represented by its own agents or its duly mandated experts, for the duration of this process. The evaluation report will be made available to the authorities of Ukraine for comments.
10. The authorities will ensure, as appropriate, close co-operation with the European Commission. Confidential information under this Memorandum shall be exchanged in accordance with the Agreement between Ukraine and the European Union on the security procedures for the exchange of classified information of 13 June 2005.
11. This assistance is implemented on the understanding that the authorities of Ukraine will continue to respect effective democratic mechanisms, including a multi-party parliamentary system and the rule of law and to guarantee the respect for human rights.
12. The assistance will be made available for one year starting from the first day after the entry into force of the Memorandum of Understanding (MoU).
13. Annexes I and II are an integral part of this MoU.

14. All notices in relation with the present MoU shall validly be given if in writing and sent to:

For the European Union

European Commission
Directorate General for
Economic and Financial Affairs
Rue de la Loi, 170 - CHAR 11/248
B-1040 Brussels

For Ukraine

Ministry of Finance of Ukraine
12/2 Hrushevskiy Street, Kyiv
01008 Ukraine
For the attention of: Minister, Deputy Minister, and
Head of Debt and International Financial Policy
Department

With copy to:

National Bank of Ukraine
9 Instytutska Street, Kyiv
01601 Ukraine
For the attention of: Governor or Deputy Governor

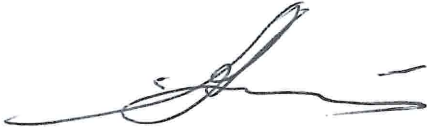
15. The present Memorandum shall become effective following the signature by Ukraine and the European Union and following receipt by the European Union of written notification by Ukraine of fulfilment of internal procedures envisaged by the law of Ukraine.
16. This Memorandum may be amended upon mutual agreement of the parties in form of a written Addendum. The Addendum will be an integral part of this MoU and will enter into force according to the same procedure as the MoU.

This Memorandum of Understanding has been signed in four originals in the English language.

For UKRAINE

as Borrower

Represented by



Signed in ^{Brussels} ~~Kyiv~~ on ^{May} ~~13 April~~ 2014 by

Oleksandr Shlapak
Minister of Finance

For the EUROPEAN UNION

as Lender

Represented by
the EUROPEAN COMMISSION



Signed in Brussels on ²⁸ ~~...~~ April 2014 by

Siim Kallas
Vice-President



12.05.2014

Signed in Kyiv on ... ~~April~~ 2014 by

Stepan Kubiv
Governor of the National Bank
of Ukraine

Structural Reform Policy Measures

At the time of the Commission review that will precede the decision with respect to the disbursement of the second loan instalment, the authorities are committed to have fulfilled the following conditions:

Public Finance Management and Anti-corruption
1. Elaboration and publication of draft Annual Procurement Plans for the year 2015 by each of the Procurement Entities or Contracting Authorities financed by the State Budget by 15 September 2014.
2. The government submits to the Verkhovna Rada and publishes (after submission to the Parliament) the first draft of the national Budget for the year 2015 at the latest on 15 September 2014 in line with the Budget Code.
3. In order to improve budget transparency, publication of monthly data on budget execution in line with article 28 of the Budget Code.
4. Implementation of the Law on Principles of Preventing and Counteracting Corruption (2011), article 12, which foresees annual declaration of assets (property, income, expenses and financial obligations) by persons defined in the legislation as declaration subjects. The government will prepare a draft law setting up an independent body with sufficient financial and human resources to ensure proper implementation and enforcement of the legislation.
5. Submission to the Verkhovna Rada a draft law updating the existing legislation on the ACU and extending its remit to include state-owned enterprises.
Trade and Taxation
6. Ukraine will consult with EU and other WTO members on its request for renegotiation of its WTO commitments under article XXVIII of the GATT, so as to address systemic concerns raised by WTO members. These consultations will include the consideration of other WTO compatible instruments, such as the BOP exception. The consultations should result in a further substantial reduction of the number of tariff lines affected by the renegotiation request..
7. Ensure that all legitimate VAT refund claims are paid in cash, or netted out against VAT obligations of the taxpayer in question, in a timely manner.
Energy
8. In order to increase transparency on the operations of Naftogaz, prepare an Annual Financial Report of Naftogaz and its subsidiaries segmented into i) production, ii) import/supply, and iii) network management and storage in line with International Financial Reporting Standards.
Financial sector
9. The NBU will prepare norms and regulations on systemic banks for adoption later in the year.

10. Improvement of implementation of the legislation on the disclosure of ultimate ownership of banks. Publication of data on ultimate ownership for all banks by 1 September on the NBU website.

11. The government submits to the Verkhovna Rada the draft law amending the "law on financial services and state regulation of financial services markets concerning disclosure of information".

Monitoring System

During the implementation of the European Union's assistance, the following indicators and reports shall be provided to the Commission by the relevant authorities on a quarterly basis.

1. Monitoring of macroeconomic and financial developments and policies

- Level and composition of general government revenue and expenditure, including extra-budgetary public funds and state-owned enterprises, including Naftogaz
- External debt, including external arrears, as per the IMF Arrangement to be agreed with Ukraine
- General government debt and publicly guaranteed debt, including payment arrears, based on the definition used in the IMF Arrangement to be agreed with Ukraine
- Interest payments on external debt and principal repayments on external debt
- Interest payments on general government debt and publicly guaranteed debt and principal repayments on general government debt and publicly guaranteed debt
- Projections of interest and principal on external debt falling due over the next four quarters
- Interest and principal on general government debt and publicly guaranteed debt falling due over the next 12 quarters
- Payments (disbursements, interests and amortisation) made on publicly guaranteed loans by the following state-owned enterprises or agencies: Naftogaz, UkrAvtoDor and the State Mortgage Institution
- Provide, on a quarterly basis, monthly data on VAT refunds in the following format: (i) beginning stock of refund requests; (ii) refund requests paid in cash; (iii) refunds netted out against obligations of the taxpayer; (iv) denied requests; (v) new refund requests; (vi) end-of-period stock of requests; and (vii) stock of VAT refund arrears (unsettled VAT refund claims submitted to the Ministry of Revenues and Duties more than 74 days before the end of period).
- Collection rates of Naftogaz, by type of customer (including an appropriate span of historical data for comparison purposes)
- Number and total financial value of public procurement procedures and breakdown into sole-source and competitive procedures (including an appropriate span of historical data for comparison purposes)

2. Monitoring of structural policies

- Progress report on public finance reform and administration (quarterly)
- Progress report on banking sector reform (quarterly)

3. Publication of economic data

In addition, the following information shall be published in a timely manner and in at least the same frequency and degree of detail as previously, by the relevant authorities:

- GDP or national income (yearly and quarterly)
- Main demand components of GDP (yearly and quarterly)
- Industrial production (monthly)
- Wages (monthly)
- Employment and unemployment rates (monthly)
- Price level indicators (monthly)
- Interest rates (short and long term, monthly)
- Foreign trade (monthly)
- Balance-of-payments (monthly and quarterly)
- Official international reserves (monthly)
- Exchange rates

