



HUMAN RESOURCE MANAGEMENT

**Memorandum of Agreement  
for the loan of staff**

**between**

**The Ministry of the Environment of the Czech Republic** (hereinafter referred to as the “Sending Institution”), located at Vršovická 65, 100 10 Praha 10, Czech Republic, represented by Mr. Jan Landa, State Secretary;

**and**

**the Organisation for Economic Co-operation and Development** (hereinafter referred to as the “OECD”), an international organisation with headquarters located at 2, rue André-Pascal, 75016 Paris, France, represented by Ms Michèle Pagé, Head of Human Resource Management;

**1. Purpose**

1.1 This Memorandum of Agreement (MoA) is executed by the OECD and the Sending Institution (hereinafter individually referred to as a “Party” and collectively as “the Parties”) so as to promote their co-operation and provide development opportunities for staff, support greater familiarity with each others’ working methods and foster cross fertilisation. It enumerates the specific terms and conditions of the loan of Mr. [REDACTED] a staff member of the Sending Institution, to the OECD, hereinafter “the Person on loan”.

1.2 This MoA is governed by the Policy and Guidelines applicable to Persons on Loan to the OECD (hereinafter referred to as the “Policy”) adopted by the Secretary-General and set out as Annex 1 to this MoA. Annex 1 is an integral part of this MoA. In the event of contradiction between the provisions of this MoA and Annex 1, the provisions of the MoA shall prevail over Annex 1.

**2. Assignment and participation in the work of the OECD**

The Person on loan shall be assigned on a temporary basis by the Sending Institution to the OECD Environment Directorate and EPI Division, 2 rue André Pascal, 75775 Paris Cedex 16, to participate in work as described in Annex 2, under the supervision of Mr [REDACTED] Administrator, the official who will be designated for that purpose by the Secretary-General.

**3. Duration**

The duration of the loan (hereinafter referred to as the “Loan”) shall be for an initial period of 5 months, from 04/02/2019 to 28/06/2019, and may be extended for additional periods up to a total period of loan of thirty-six months, including the



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extension, subject to the terms and conditions mutually agreed by the Parties. Any request for an extension must be made at least three months before the end of the Loan.

### **4. Status of the Person on loan**

Throughout the duration of the Loan, the Person on loan shall not in any capacity be considered a member of the staff, employees or representatives of the OECD, and shall remain subject to the laws, regulations and rules that apply to him/her as an employee of his/her Sending Institution. The Person on loan must carry out the tasks specified in the MoA under the exclusive authority of the Secretary-General of the OECD, while meeting his/her obligations as an employee of his/her Sending Institution. In particular, the Person on loan must comply with the provisions of Regulations 2 to 5 of the Regulations applicable to officials of the OECD and its related Rules and Instructions. The Person on loan must also comply with the Code of conduct applicable to officials of the OECD. In addition, the Person on loan will observe all rules of the OECD applicable to those present on its premises, in particular security rules.

### **5. Financial arrangements**

- 5.1 During the Loan, the Person on loan will continue to receive his salary, benefits and allowances from the Sending Institution. The Person on loan shall remain affiliated to the Sending Institution's pension scheme and medical and social protection system.
- 5.2 The OECD shall not be liable for the cost of expenses relating to the Loan, other than those specifically provided for in this MoA, in accordance with the Policy set out as Annex 1 to this MoA.
- 5.3 The travel costs to the OECD or to the Sending Institution and all travel costs relating to the rights of the Person on loan as an employee of the Sending Institution shall be paid by the Sending Institution. The expenses related to missions undertaken by the Person on loan for the OECD during the Loan shall be paid by the OECD.
- 5.4 A monthly subsistence allowance of 1,550 Euros shall be paid to the Person on loan by the OECD throughout the duration of the Loan. This subsistence allowance shall in no circumstances be considered a salary or a benefit and, as in the case of such payments, the Person on loan may not benefit from any tax exemption by virtue of the Loan.
- 5.5 The administrative charges for the Person on Loan, which include the provision of office space, information technology services and other support services, shall be partly reimbursed by the Sending Institution to the OECD. These administrative charges amount to EUR 7,340. The Sending Institution will cover half of these costs, in the amount of EUR 3,670. The OECD will cover half of these costs, in the amount of EUR 3,670, with funds other than the voluntary contribution sent by the Czech Republic.

The Sending Institution shall transfer this amount to the OECD upon signature of the MoA.



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### 6. Social and medical coverage

The Sending Institution or, if and when applicable, the Person on loan shall remain responsible, throughout the duration of the Loan, for the social and medical insurance coverage for the Person on loan and his/her family members with regard to the risks relating to illness, accidents (including work-related accidents), invalidity and death.

### 7. Performance

Performance objectives shall be agreed between the Person on loan and the OECD and shall be set out in an evaluation report, assessing the work of the Person on loan, communicated to the Sending Institution. Any potential difficulty regarding the performance of the Person on loan which is not resolved between him/her and the OECD will be discussed between the Parties.

### 8. Working hours

Hours of work of the Person on loan shall be those in place at the OECD for full-time employment. This may include occasions where work will have to be performed outside official working hours, in accordance with the OECD Staff Regulations, Rules and Instructions applicable to officials. In the event that the Person on loan works overtime, the Sending Institution and the OECD shall allow the Person on loan to take leave, the amount of which shall be calculated on a prorated basis according to the overtime worked and be taken before the end of the Loan, after consultation with the Person on loan's supervisor at the OECD.

The Person on loan's supervisor shall inform him/her of the time allowed for lunch and of the time at which the work day begins and ends.

### 9. Intellectual property rights

9.1 Any intellectual property rights arising from the work done by the Person on loan during the Loan will be held by the Organisation.

9.2 The terms on which the Sending Institution may access and use the work completed the Person on loan within the framework of the Loan shall be agreed by an exchange of letters between the Sending Institution and the OECD.

### 10. Expiry and termination

10.1 The Person on loan may no longer continue to assist the OECD within the framework of the Loan once its term has expired. The OECD may not employ the Person on loan upon completion of the Loan without the prior written agreement of the Sending Institution, the Person on loan and the OECD, subject to the completion of the selection procedure set out in the regulations and rules applicable to officials and to temporary staff members of the OECD.

10.2 The OECD, the Sending Institution or the Person on loan may terminate the Loan without indemnity by giving three months' notice in writing to the other parties.



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**11. Settlement of disputes**

Given the status of the OECD as an international organisation, the Parties specifically agree that their rights and obligations shall be governed exclusively by the terms and conditions of this MoA.

Any dispute, controversy or claim arising out of or relating to the interpretation, application or performance of this MoA, including its existence, validity or termination, shall be settled by final and binding arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration between International Organizations and Private Parties, as in effect on the date of this MoA. The number of arbitrators shall be one. The language to be used in the arbitral proceedings shall be English. The place of arbitration shall be Paris (France). The appointing authority shall be the Secretary-General of the Permanent Court of Arbitration. The Parties expressly renounce their right to seek annulment or set-aside of any award rendered by the arbitral tribunal.

Nothing in this MoA shall be construed as a waiver of the OECD's immunities and privileges as an international organisation.

After having carefully read the above provisions and Annex 1 to this MoA, the Parties hereby confirm their agreement by entering the date and their signatures below.

Done at Paris, in three original copies, of which one has been given to each Party and to the Person on loan.

The Ministry of the Environment of the Czech Republic	OECD
Mr. Jan Landa State Secretary	Ms Michèle Pagé Head of Human Resource Management
Date 17/12/2018	Date 9/1/2019
Signature	Signature
<b>The Person on loan</b>	
I have taken note of the terms of this Memorandum of Agreement and agree with them. Date : 13.12.2018 Signature:	



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**Annex 1: Policy and Guidelines Applicable to Persons on Loan to the Organisation**

**PREAMBLE**

These Policy and Guidelines (hereinafter the “Policy”) set out the conditions under which persons employed by a public or a private institution may be on loan to the Organisation, in order to contribute to the execution of the Organisation’s Programme of Work and Budget.

This Policy shall be adopted and amended by the Secretary-General. The Secretary-General may delegate his/her authority for the application of this Policy to the Executive Director, the Head of Human Resource Management or any other official the Secretary-General has designated for this purpose.

**GENERAL**

**1 – Loan**

- 1.1 The Secretary-General may agree to the loan to the Organisation of persons by their employer, which may be a public or a private institution.
- 1.2 For the purposes of this Policy: the persons on loan to the Organisation shall be hereinafter referred to as “Persons on loan”; the public or private institution referred to in Section 1.1 above shall be hereinafter referred to as “the Sending Institution”; Persons on loan may include employees on unpaid leave from their employer, provided that all the conditions laid down in the present Policy are met.
- 1.3 A loan is established once a Memorandum of Agreement (hereinafter referred to as “the Agreement”) has been signed between the Organisation, the Sending Institution and the persons concerned. The Agreement shall detail the conditions of the loan to the Organisation, which shall be in full accordance with this Policy.
- 1.4 Prior to signing the Agreement, the Secretary-General should determine whether the loan is compatible with the mission and objectives of the Organisation and its efficient and effective operations. In this regard, the Secretary-General may require the Persons on loan to sign a statement of absence of conflict of interest with the mission, objectives and operations of the Organisation.



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### 2 – Duration of the loan

- 2.1 The duration of the loan to the Organisation shall be for a fixed-term period of not less than one month, which may be renewed once or more, subject to the prior approval of the Sending Institution, up to a total period not exceeding 36 months, in accordance with the Agreement. Unless otherwise decided by the Sending Institution and the Organisation, the Persons on loan shall return to their Sending Institution at the expiry of the loan's term.
- 2.2 Notwithstanding Section 2.1 above, the duration of the loan with the Organisation of a person on unpaid leave shall not exceed a total period of 12 months.

### 3 – Rights and obligations

- 3.1 Throughout the duration of their loan with the Organisation, Persons on loan shall remain employed by their Sending Institution. Under no circumstances shall a Person on loan be considered an employee of the Organisation.
- 3.2 Persons on loan shall remain subject to the laws, regulations and rules applicable to them in their quality as employees of their Sending Institution, except as otherwise provided for in this Policy and in the Agreement.
- 3.3 While honouring their obligations as employees of their Sending Institution, Persons on loan shall carry out the tasks specified in the Agreement under the exclusive authority of the Secretary-General of the Organisation. Persons on loan shall notably abide by the provisions laid down in Staff Regulations 2 to 5, and their related Rules and Instructions, applicable to Officials of the Organisation. Persons on loan shall also respect the *Code of Conduct for OECD Officials*. In the event of conflict of obligations or of authority, the Organisation and the Sending Institution will consult each other on possible solutions, which may include an immediate termination of the loan.
- 3.4 Persons on loan shall not disclose to any third party, including the Sending Institution, information of the Organisation defined as and deemed to be confidential. Where it deems it appropriate, the Organisation may however authorise the Persons on loan to disclose confidential information to the Sending Institution, subject to prior written agreement.

### 4 – Intellectual property rights

- 4.1 The Sending Institution and the Organisation shall retain ownership of their background intellectual property rights.
- 4.2 Intellectual property rights arising from work done by Persons on loan will be held by the Organisation in accordance with the *Decision of the Secretary-General on the intellectual property rights*<sup>1</sup>.

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<sup>1</sup> On the date of entry into force of the present Policy, this Decision is set out in *Annex XXII to the Staff Regulations, Rules and Instructions applicable to officials of the Organisation*.



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- 4.3 Access to and use of the work of Persons on loan by their Sending Institution and the conditions pertaining to any joint ownership shall be specified in the Agreement or agreed upon by an exchange of letters between their Sending Institution and the Organisation.

### LOAN CONDITIONS

#### 5 – Functional immunities

In the execution of the tasks specified in the Agreement, Persons on loan shall be considered experts on mission under the *Convention on the Organisation for Economic Co-operation and Development* and its *Protocols on Privileges and Immunities* and be accorded such privileges, immunities and facilities as are necessary for the independent exercise of their tasks during the period of their loan. However, Persons on loan shall not benefit from the exemption from taxation provided for under the above-mentioned Convention with respect to either their salary and any related benefits paid to them by their Sending Institution, or any subsistence allowance paid to them by the Organisation in accordance with Section 11.4 below.

#### 6 – Medical and Social Protection

The Organisation shall not assume social and medical insurance coverage for Persons on loan and their family members. The Sending Institution and, if and when applicable, the Persons on loan shall therefore keep the Organisation immune from any obligations with regard to illness, accident, including work-accident, invalidity and death incurred by Persons on loan.

#### 7 – Working hours

Hours of work shall be those agreed between the Organisation, the Sending Institution and the Persons on loan on the basis of policies and practices concerning full-time employment applicable in the Organisation. Part-time working hours may also be agreed on the same basis.

#### 8 – Teleworking

The Organisation's Policy on teleworking<sup>2</sup> shall be applicable *mutatis mutandis* to Persons on loan.

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<sup>2</sup> On the date of entry into force of the present Policy, this Policy is set out in *Annex XXIV to the Staff Regulations, Rules and Instructions applicable to officials of the Organisation*.





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### 9 – Public holidays and leave

- 9.1 Persons on loan shall observe exclusively the public holidays applicable in the Organisation during the period of their loan.
- 9.2 Entitlements of Persons on loan to annual leave and other leave shall be exclusively those provided for by the law, regulations and rules applicable to them in their quality as employees of their Sending Institutions. Persons on loan shall however consult with the Organisation before fixing their dates of leave and ensure that the proposed dates are compatible with the work needs of the Organisation.

### 10 – Training

Persons on loan may have access to training opportunities offered by the Organisation, subject to the needs of the Staff members of the Organisation.

### 11 – Financial arrangements

- 11.1 The Sending Institution shall continue to be liable for the payment of the Persons on loan salary and benefits and the Organisation may apply administrative cost recovery in accordance with its relevant policies.
- 11.2 The Organisation shall not be liable for any costs in relation to the loan, except for those specifically provided for in this Policy.
- 11.3 All costs related to the missions undertaken by Persons on loan for the Organisation during their loan shall be paid by the Organisation, in accordance with the *Staff Regulations, Rules and Instructions applicable to officials of the Organisation*. The Organisation shall also provide a specific insurance coverage for such missions.
- 11.4 Upon prior approval by the Director or Head of Programme supervising the Persons on loan and the Head of the Human Resource Management, the Organisation may pay a lump sum to the Sending Institution in order to cover all or part of the costs for the loan, as specified in the Agreement.
- 11.5 Upon prior approval by the Director or Head of Programme supervising the Persons on loan, the Organisation may pay a monthly subsistence allowance to them. This subsistence allowance, which shall be specified in the Agreement, shall in no circumstances exceed 40 % of the subsistence allowance an Official of the Organisation would receive if on mission in the same duty station as the Persons on loan. Such subsistence allowance shall not be considered as a salary or a benefit.





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**12 – Discipline**

The procedural rules applicable for a disciplinary action against Persons on loan shall remain those of their Sending Institution. However, the Organisation may ask the Sending Institution to initiate such disciplinary action and take part in it where necessary.

**13 – Termination**

13.1 The loan may be terminated at the initiative of the Organisation, the Sending Institution or the Persons on loan, in accordance with the conditions set out in the Agreement.

13.2 Notwithstanding Section 12 and 13.1 above, the Secretary-General may terminate a loan, without any notice, where he/she deems that Persons on loan are in breach of one or more of their obligations under this Policy, and in particular those mentioned in Section 3 above. In such a case, the Secretary-General shall inform the Sending Institution.

13.3 In accordance with Section 3.3 above, the Secretary-General may also terminate a loan, without any notice, in the event of conflict of obligations or of authority that cannot be resolved to the satisfaction of the Organisation.

**14 – Entry into force**

14.1 This Policy shall be applicable to Persons on loan as well as to the current “unpaid consultants” as of the date of its adoption by the Secretary-General.



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**Annex 2**

**Main functions of the Person on loan while assigned to the OECD**

Under the supervision of the administrators in charge, [REDACTED] and [REDACTED], the person on loan will contribute to the following tasks:

- Ex-post CBA case study - Czech air pollution tax evaluation (50 %)
- Work on the Taxing Energy Use database (25 %)
- Research for the Environmental Tax Reform paper - adding complexity to tax reform implications (25 %)