COOPERATION AGREEMENT between the European Community and the Democratic Socialist Republic of Sri Lanka on partnership and development

THE COUNCIL OF THE EUROPEAN UNION, on the one part,

THE GOVERNMENT OF SRI LANKA on the other part,

CONSIDERING the excellent relations and traditional links of friendship between the European Community and its Member States, hereinafter referred to as 'the Community', and the Democratic Socialist Republic of Sri Lanka, hereinafter referred to as 'Sri Lanka';

RECOGNIZING the importance of strengthening the links and enhancing the partnership between the Community and Sri Lanka;

RE-AFFIRMING the importance they attach to the principles of the United Nations Charter and the respect of democratic principles and human rights;

HAVING REGARD to the foundations for close cooperation between Sri Lanka and the Community laid by the Agreement between Sri Lanka and the Community signed on the 22 July 1975;

NOTING with satisfaction the achievements resulting from that Agreement;

INSPIRED by their common will to consolidate, deepen and diversify their relations in areas of mutual interest on the basis of equality, non-discrimination and mutual benefit;

RECOGNIZING the positive consequences of the process of economic reforms for liberalization and modernization of the economy undertaken in Sri Lanka for enhancing commercial and economic relations between Sri Lanka and the Community;

DESIROUS of creating favourable conditions for a substantial development and diversification of trade and industry between the Community and Sri Lanka, which will further investment flows, commercial and economic cooperation in areas of mutual interest including science and technology, and foster cultural cooperation;

RECOGNIZING the need to support Sri Lankan efforts for economic and social development especially improving the living standards of the poor and disadvantaged sections of the population;

CONSIDERING the importance attached by the Community and Sri Lanka to the protection of the environment on a global and on a local level and to the sustainable use of natural resources recognizing the linkage between the environment and development;

NOTING their common interest in fostering and strengthening regional cooperation and the north-south dialogue;

TAKING INTO ACCOUNT their membership of the General Agreement on Tariffs and Trade (GATT), the importance of its principles and of the need to uphold and reinforce the rules which promote free and unhindered trade in a stable, transparent and non-discriminatory manner;

BELIEVING that relations between them have developed beyond the scope of the Agreement concluded in 1975,

HAVE DECIDED, as Contracting Parties, to conclude this Agreement and to this end have designated as their Plenipotentiaries:

THE COUNCIL OF THE EUROPEAN UNION,

Klaus KINKEL,

Federal Minister for Foreign Affairs and Deputy Federal Chancellor of the Federal Republic of Germany,

President-in-Office of the Council of the European Union,

Manuel MARIN,

Vice-President of the Commission of the European Communities,

THE GOVERNMENT OF SRI LANKA,

Abdul Cader Shahul Hameed,

Minister of Foreign Affairs of the Democratic Socialist Republic of Sri Lanka,

WHO, having exchanged their Full Powers, found in good and due from,

HAVE AGREED AS FOLLOWS:

Article 1. Democratic Basis of the Cooperation

Cooperation ties between the Community and Sri Lanka and this Agreement in its entirety are based on respect for democratic principles and human rights which inspire the domestic and external polices of both the Community and Sri Lanka and which constitute an essential element of the Agreement.

Article 2. General Objectives

1. The general objectives of this Agreement are to enhance and develop, through dialogue and partnership, the various aspects of cooperation between the contracting Parties in order to achieve a closer and upgraded relationship.

This cooperation will focus in particular on:

- Further development and diversification of trade and investment in their mutual interest, taking into account their respective economic situations,

- Development in their mutual interest of existing and new forms of economic cooperation directed at promoting and facilitating exchanges and connections between their business communities, taking into account the implementation of Sri Lankan economic reforms and opportunities for the creation of a suitable environment for investment,

- Facilitation of better mutual understanding and strengthening of ties in respect of technical,

Economic and cultural matters,

- Building up of Sri Lanka's economic capability to interact more effectively with the Community,

- Acceleration of the pace of Sri Lanka's development, supporting Sri Lanka's efforts in building up its economy and in particular to improve the living conditions of the poorer sections of the population,

- Support of environmental protection and sustainable management of natural resources.

2. The Contracting Parties acknowledge the value in the light of the objectives of this Agreement, of consulting each other on international issues of mutual interest.

Article 3. Trade and Commercial Cooperation

1. The Community and Sri Lanka shall continue to grant each other most-favoured-nation treatment in their trade in accordance with the provisions of the General Agreement on Tariffs and Trade.

2. In the interest of strengthening new relations in a dynamic and complementary way, thereby providing mutual benefits, the Contracting Parties undertake to develop and diversify their commercial exchanges and to improve market access, to the highest possible degree, in a manner compatible with their economic situations.

3. The Contracting Parties are committed to a policy of improving the terms of access for their products to each other's markets. They shall grant each other the highest degree of liberalization of imports and exports which they generally apply third countries and they agree to examine ways and means of progressively eliminating barriers to trade between them, notably non-tariff barriers, taking account of the work already done in this connection by international organizations.

4. The Contracting Parties agree to promote the exchange of information about mutually beneficial market opportunities and to hold consultations in a constructive spirit on the issues of tariff, non-tariff, services, health, safety or environmental measures, and technical requirements.

5. The Contracting Parties agree to improve cooperation in customs matters between the respective authorities, especially in professional training, the simplification and harmonization of customs procedures, and the prevention, investigation and suppression of infractions of customs regulations.

6. The Contracting Parties also undertake to give consideration, each in accordance with its laws, to exempting from duty, tax and other charges, goods admitted temporarily to their territories for subsequent re-expot unaltered or for goods which re-enter their territories after processing in the other Contracting Party which is not sufficient for the goods to be treated as originating from the territory of that Contracting Party.

7. The contracting Parties agree to consult each other, without prejudice to their rights and obligations under GATT, on any dispute which may arise in connection with trade. If the Community or Sri Lanka request such consultation, it shall take place at the earliest opportunity. The Contracting Party making the request shall provide the other Party with all information necessary for a detailed examination of the situation. Attempts shall be made

Through such consultations to resolve trade disputes as rapidly as possible.

Article 4. Economic Cooperation

1. The Contracting Parties undertake, in accordance with their respective polices and objectives and within their financial means available, to foster economic cooperation for mutual benefit.

2. The Contracting Parties agree that economic cooperation will involve three broad fields of action:

(a) improving the economic environment in Sri Lanka by facilitating access to Community know-how, technology and capital;

(b) facilitating contracts between economic operators and other measures designed to promote commercial exchanges and investments;

(c) reinforcing mutual understanding of their respective economic, social and cultural environment as a basis for effective cooperation.

3. In the broad fields described above, and without excluding any area from the outset, the aims of the Contracting Parties shall be in particular to:

- Improve the economic environment and business climate,

- Cooperate in the protection of the environment and natural resources,

- Cooperate in the field of energy, including non conventional sources and energy efficiency,

- Cooperate in the field of telecommunications, information technology, and related matters,

- Cooperate in the field of metrology and industrial standards,

- Cooperate in the field of intellectual property,

- Cooperate in the area of regional integration, through transfer of experience,

- Encourage technology transfer in other sectors of mutual benefit,

- Exchange information on monetary matters and the macroeconomic environment,

- Reinforce and diversify economic links between them,

- Encourage, by means of a favourable climate, the two-way flow of Community-Sri Lanka trade and investment,

- Promote cooperation in order to develop agriculture, fisheries, mining, transport and communication, health, drug abuse control, banking and insurance, tourism and other services,

- Facilitate the establishment of conditions conducive to job creation,

- Encourage close cooperation between their private sectors,

- Promote cooperation between small and medium-sized enterprises,

- Activate cooperation in the industrial sector, including agro-industry and industry with a heavy technological bias,

- Promote cooperation in industrial and urban ecology,

- Support Sri Lankan efforts in the field of trade promotion and market development,

- Promote cooperation between education and training institutions,

- Promote scientific and technological cooperation,

- Encourage cooperation in the field of privatization in Sri Lanka,

- Cooperate in the fields of information and culture.

Cooperation in certain of the abovementioned sectors is set out in more detail in Articles 5 to 12 of this Agreement.

4. The Contracting Parties shall consider, each in their mutual interests and in accordance with their respective polices and objectives, the following means to achieve these aims:

- Exchange of information and ideas,

- Preparation of studies,

- Provision of technical assistance,

- Training programmes including vocational training,

- Establishment of links between research and training centres, specialized agencies, business organizations,

- Promotion of investment and joint ventures,

- Institutional development of public and private agencies and administrations,

- Access to each other's existing databases and creation of new ones,

- Workshops and seminars,

- Exchanges of experts.

5. The Contracting Parties will determine together and to their mutual advantage the areas and priorities to be covered by concrete actions of economic cooperation, in conformity with their long-term objectives.

Article 5. Investment

1. The Contracting Parties shall encourage an increase in mutually beneficial investment by establishing a more favourable climate for private investments including better conditions for the transfer of capital and exchange of information on investment opportunities.

2. Taking into account work done in this area in relevant international fora, recognizing the bilateral investment treaties concluded between Sri Lanka and a number of Member States of the Community, that Sri Lanka is a contracting party to the Multilateral Investment Guarantee Agency (MIGA) Convention, and a signatory to the International Convention for the Settlement of Investment Disputes (ICSID), the Contracting Parties will support further agreements on the promotion and protection of investments between the Member States of the Community and Sri Lanka on the basis of the principles of non-discrimination and reciprocity.

3. The Contracting Parties undertake to encourage cooperation between their respective financial institutions.

Article 6. Private Sector

1. Contracting Parties agree to promote the involvement of the private sector in their cooperation programmes in order to strengthen economic and industrial cooperation between themselves.

The Contracting Parties shall take measures to:

(a) encourage the private sectors of both geographical regions to find effective ways of joint consultations, results of which

could then be transmitted to the Joint Commission, referred to in Article 20 of this Agreement, for the required follow-up action;

(b) involve the private sectors of the Contracting Parties in activities developed within the framework of this Agreement.

2. The Contracting Parties shall facilitate within the relevant rules, access to available information and capital facilities in order to encourage projects and operations promoting cooperation between firms, such as joint ventures, sub-contracting transfer of technology, licences, applied research and franchises.

Article 7. Standards

Without prejudice to their international obligations, within the scope of their responsibilities and in accordance with their laws, the Contracting Parties shall take steps to reduce differences in respect of metrology, standardization and certification by promoting the use of compatible systems of standards and certification. To that end, they shall encourage the following in particular:

- Establishing links between experts in order to facilitate exchanges of information and studies on metrology, standards, quality control and promotion and certification,

- Encouraging interchange and contact between bodies and institutions specializing in these fields including consultations to ensure that standards do not constitute a barrier to trade,

- Promoting measures aimed at achieving mutual recognition of systems of quality certification,

- Developing technical assistance in connection with metrology, standards and certification, and in connection with quality promotion programmes,

- Providing technical assistance for institutional development to upgrade standards and quality certification orgnizations as well as for the setting up of a national accreditation scheme for conformity assessment in Sri Lanka.

Article 8. Intellectual Property

1. In so far as their competences, regulations and policies permit, the Contracting Parties will:

(a) aim to improve the conditions for adequate and effective protection and reinforcement of intellectual, industrial and commercial property rights in conformity with the highest international standards;

(b) cooperate to secure these objectives.

2. The Contracting Parties agree that they shall avoid discriminatory treatment in relation to intellectual property rights and to engage, if necessary, in consultations if intellectual property problems affecting trading relations arise.

Article 9. Science and Technology

1. The Contracting Parties will, in accordance with their mutual interest and the aims of their development strategy in this area, promote scientific and technological cooperation with a view to:

(a) fostering the transfer of know-how and stimulating innovation;

(b) disseminating information and expertise in science and technology;

(c) opening up opportunities for future economic, industrial and trade cooperation.

2. The Contracting Parties undertake to establish appropriate procedures to facilitate the greatest possible degree of participation by their scientists and research centres in cooperation between them.

Article 10. Agriculture and Fisheries

The Contracting Parties agree to promote cooperation in agriculture, including horticulture and food processing and in fisheries, including fish processing. To this end in a spirit of cooperation and goodwill and taking into account the laws of both Parties on such issues, they undertake to examine in particular:

(a) the opportunities for increasing trade in agricultural and fishery products;

(b) health, plant and animal health and environmental measures to prevent them hindering trade;

(c) the linkage between agriculture and the rural environment;

(d) agricultural and fishery research.

Article 11. Tourism

The Contracting Parties agree to cooperate on tourism, through measures, which will take account of environmental issues and which will include interchange of information undertaking studies, training and promotion of investment including joint ventures.

Article 12. Information, Culture and Communication

The Contracting Parties will cooperate in the field of information, culture and communication, both to create better mutual understanding and to strengthen cultural ties between them, such as preparatory studies and technical assistance for the preservation of cultural heritage.

Article 13. Development Cooperation

1. The Community recognizes Sri Lanka's need for development assistance and is prepared to strengthen its cooperation and enhance its efficiency in order to contribute to Sri Lanka's own efforts in achieving sustainable economic development and social progress of its people through concrete projects and programmes. Community support will be in accordance with Community policies, regulations and the limits of the financial means available for cooperation.

2. Projects and programmes will continue to be targeted towards the poorer sections of the population. Particular attention will be given to rural development with participation of the groups to be targeted and, where appropriate, the involvement of qualified non-governmental organizations mutually acceptable to the Contracting Parties. Cooperation in this area will also cover policies on population and for the promotion of employment in rural towns, and of the role of women in development and training and institution building for the protection and promotion of human rights.

3. The cooperation will concentrate on mutually agreed priorities, including poverty alleviation as defined in Article 14, which will ensure programme efficiency and sustainability.

Article 14. Poverty Alleviation

The Contracting Parties undertake to direct their cooperation activities, wherever possible, towards alleviation of poverty in Sri Lanka. In this regard the Community may support, under development cooperation, measures launched by the Government of Sri Lanka.

Article 15. Environment

1. The Contracting Parties recognize that respect for environmental issues will form an integral part of economic and development cooperation. Moreover, they underline the importance of environmental issues and their will to establish, within the framework of this Agreement, cooperation in protecting and improving the environment taking into account the work done in international fora.

2. Particular attention will be paid to:

(a) the sustainable management of natural eco-systems;

(b) protection and conservation of natural forests;

(c) the strengthening of forestry institutes;

(d) the finding of practical solutions to rural and urban energy problems;

(e) prevention of industrial pollution;

(f) protection of the urban environment.

Article 16. Human Resource Development

The Contracting Parties recognize the importance of human resource development in improving economic development and the living conditions of the disadvantaged sections of the population. They agree that human resource development should constitute an integral part of both economic and development cooperation.

Article 17. Drug Abuse Control

The Contracting Parties affirm their resolve, in conformity with their respective competences, to increase the efficiency of policies and measures, to counter the supply and distribution of narcotics as well as preventing drug abuse, where necessary by offering technical assistance, taking into account work done in this connection by international bodies.

Article 18. Regional Cooperation

The cooperation between the Contracting Parties will extend to action undertaken within the context of cooperation or integration agreements with other countries in the same region, provided that such action is compatible with those agreements.

Without excluding any area the following could be given particular consideration:

(a) technical assistance (services of outside experts, training of technical staff in certain practical aspects of integration);

(b) promotion of inter-regional trade;

(c) support for regional institutions and for joint projects and initiatives established under regional organizations such as the South Asian Agreement on Regional Cooperation (SAARC);

(d) studies concerning regional links and communications.

Article 19. Resources for Undertaking Cooperation

The Contracting Parties will, within the limits of their available financial means and within the framework of their respective procedures and instruments, make available funds to facilitate the achievement of the aims set out in this Agreement especially as concerns economic cooperation.

Concerning development aid, and within the framework of its programme in favour of Asian and Latin American (ALA) countries, the Community will support Sri Lanka's development programmes, through direct concessional transfers, as well as through institutional and other sources of finance in accordance with the rules and practices of such European Community institutions.

Article 20. Joint Commission

1. The Contracting Parties agree to maintain the Joint Commission set up under Article 8 of the Commercial Cooperation Agreement between the Community and Sri Lanka of 1975.

2. The Joint Commission is in particular required to:

(a) ensure the proper functioning and implementation of the Agreement;

(b) make suitable recommendations for promoting the objectives of the Agreement;

(c) establish priorities in relation to the aims of the Agreement;

(d) examine ways and means of enhancing the cooperation in the areas covered under the provisions of this Agreement.

3. The Joint Commission shall be composed of representatives of both Contracting Parties, at an appropriately high level. The Joint Commission shall normally meet every year, alternately in Brussels and Colombo, on a date fixed by mutual agreement. Extraordinary meetings may be convened by agreement between the Contracting Parties.

4. The Joint Commission may set up specialized sub-groups to assist in the performance of its tasks and to coordinate the formulation and implementation of projects and programmes within the framework of this Agreement.

5. The agenda for meetings of the Joint Commission shall be determined by agreement between the Contracting Parties.

6. The Contracting Parties agree that it shall be the task of the Joint Commission to ensure the proper functioning of any

sectoral agreements concluded or which may be concluded between the Community and Sri Lanka.

7. Consultations in the fields covered by the Agreement may be held if any problem arises in the intervals between the meetings of the Joint Commission. These consultations shall be dealt with by the specialized sub-groups according to their responsibilities or be the subject of ad hoc consultations.

Article 21. Future Developments

1. The Contracting Parties may, by mutual consent, expand this Agreement in order to enhance the level of cooperation and add to it by means of agreements on specific sectors or activities.

2. Within the framework of this Agreement, either of the Contracting Parties may put forward suggestions for expanding the scope of the cooperation, taking into account the experience gained in its application.

Article 22. Other Agreements

1. Without prejudice to the relevant provisions of the Treaties establishing the European Communities neither this Agreement nor any action taken thereunder shall in any way affect the powers of the Member States of the Communities to undertake bilateral activities with Sri Lanka in the framework of economic cooperation or to conclude, where appropriate, new economic cooperation agreements with Sri Lanka.

2. Subject to the provisions of paragraph 1 concerning economic cooperation, the provisions of this Agreement shall replace provisions of Agreements concluded between Member States of the Communities and Sri Lanka where such provisions are either incompatible with or identical to the provisions of this Agreement.

Article 23. Facilities

To facilitate cooperation within the framework of this Agreement, the Sri Lankan authorities will grant to European Community officials and experts the normal guarantees and facilities necessary for the performance of their functions. The detailed provisions will be set out by way of a separate exchange of letters.

Article 24. Territorial Application

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in the Treaty and, on the other, to the territory of Sri Lanka.

Article 25. Annexes

The Annexes attached to this Agreement shall form an integral part of the Agreement.

Article 26. Entry Into Force and Renewal

This Agreement shall enter into force on the first day of the month following the date on

Which the Contracting Parties have notified each other of the completion of the procedures necessary for this purpose. Upon entry into force, it shall replace the Commercial Cooperation Agreement signed on 22 July 1975.

This Agreement is concluded for a period of five years. It shall be automatically renewed on a yearly basis unless one of the Contracting Parties denounces it six months before its expiry date.

Article 27. Authentic Texts

This Agreement is drawn up in duplicate in the Danish, Dutch, English, French, German, Greek, Italian, Portuguese and Spanish and Sinhala languages, each text being equally authentic.

In witness whereof the undersigned have signed this Agreement.

Done at Brussels on the eighteenth day of July in the year one thousand nine hundred and ninety-four.

For the Council of the European Union

For the Government of Sri Lanka

ANNEX

Declaration of the Community concerning tariff adjustments

The Community reaffirms its declaration annexed to the Cooperation Agreement signed on 22 July 1975 on the Generalized Scheme of Preferences (GSP) autonomously put into force by the European Economic Community on 1 July 1971 on the basis of Resolution 21 (II) of the second United Nations Conference on Trade and Development held in 1968.

The Community also undertakes to examine proposals or issues related to origin rules raised by Sri Lanka which aim at enabling Sri Lanka to make best use of the opportunities afforded by the system.

The Community is also willing to organize workshops in Sri Lanka for public and private users of the system with a view to ensuring maximum use of it.

Declarations of the Community and Sri Lanka

1. In the course of the negotiations on the Cooperation Agreement between the European Community and Sri Lanka on Partnership and Development, the Contracting Parties declared

That the provisions of the Agreement should be without prejudice to their rights and obligations under the GATT, and that, in accordance with Article 30 (4) of the Vienna Convention on the Law of Treaties of 1969, any subsequent agreements which form part of the final outcome of the Uruguay Round of Multilateral Trade Negotiations and to which they both become parties shall prevail in the event of any inconsistency.

2. The Contracting Parties agree that for the purpose of this Agreement 'intellectual, industrial and commercial property' includes in particular protection of copyright (including computer software) and related rights; trade and service marks; geographical indications, including indications of origin; industrial designs; patents; layout designs of integrated circuits as well as protection of undisclosed information and protection against unfair competition.