

COOPERATION AGREEMENT between the European Community and the Republic of India on partnership and development

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

THE GOVERNMENT OF INDIA, 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 Republic of India, hereinafter referred to as 'India';

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

HAVING REGARD to the foundations for close cooperation between India and the Community laid by the first Agreement between India and the Community signed on 17 December 1973 and later developed by the Agreement for Commercial and Economic Cooperation signed on 23 June 1981;

NOTING with satisfaction the achievements resulting from these Agreements;

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

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 modernization of the economy undertaking in India for enhancing commercial and economic relations between India and the Community;

DESIROUS of creating favourable conditions for a substantial development and diversification of trade and industry between the Community and India, within the framework of the more dynamic relationship which both India and the Community desire, which will further, in their mutual interest and consistently with their developmental needs, investment flows, commercial and economic cooperation in areas of mutual interest including science and technology, and foster cultural cooperation;

HAVING REGARD TO the need to support Indian efforts for economic development especially improving the living conditions of the poor;

CONSIDERING the importance attached by the Community and India to the protection of the environment on a global and on a local level and to the sustainable use of natural resources

And recognizing the linkage between the environment and development;

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 1981;

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

THE COUNCIL OF THE EUROPEAN UNION:

Willy CLAES,

Minister for External Relations of the Kingdom of Belgium,

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

Manuel MARIN,

Member of the Commission of the European Communities,

THE GOVERNMENT OF INDIA:

Pranab MUKHERJEE,

Minister for Trade,

WHO, having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

Article 1. Basis and Objectives

1. Respect for human rights and democratic principles is the basis for the cooperation between the Contracting Parties and for the provisions of this Agreement, and it constitutes an essential element of the Agreement.

2. The principal objective of this Agreement is 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;
- Facilitation of better mutual understanding and strengthening of ties between the two regions in respect of technical, economic and cultural matters;
- Building up of India's economic capability to interact more effectively with the Community;
- Acceleration of the pace of India's economic development, supporting India's efforts in building up its economic capabilities, by way of provision of resources and technical assistance by the Community within the framework of its cooperation policies and regulations, in particular to improve the living conditions of the poorer sections of the population;
- 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 Indian economic reforms and opportunities for the creation of a suitable environment for investment;
- Support of environmental protection and sustainable management of natural resources.

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

Article 2. Most-favoured-nation Treatment

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

Article 3. Trade and Commercial Cooperation

1. 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.

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

3. 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.

4. 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.

5. 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-export 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.

6.1. The Contracting Parties agree to consult each other on any dispute which may arise in connection with trade. If the Community or India request such consultation, it shall take place at the earliest opportunity. The Contracting Party making the request shall provide the other Party with all the information necessary for a detailed examination of the situation. Attempts shall be made through such consultations to resolve trade disputes as rapidly as possible.

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

6.3. Paragraphs 6.1. and 6.2. shall be without prejudice to the Contracting Parties' rights and obligations under the GATT, which shall prevail in the event of any inconsistency.

Article 4. Economic Cooperation

1. The Contracting Parties undertake, in their mutual interests and in accordance with their respective policies and objectives, to foster economic cooperation of the widest possible scope in order to contribute to the expansion of their respective economies and their developmental needs.

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

(a) improving the economic environment in India by facilitating access to Community knowhow and technology;

(b) facilitating contacts 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, the aims 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 and energy efficiency,
- Cooperate in the field of telecommunications, information technology, and related matters,
- Cooperate in all aspects of industrial standards and intellectual property,
- Encourage technology transfer in other sectors of mutual benefit,
- Exchange information on monetary matters and the macro-economic environment,
- Reinforce and diversify economic links between them,
- Encourage the two-way flow of Community-Indian trade and investments,
- Activate industrial cooperation including agro-industry,
- Promote cooperation in order to develop agriculture, fisheries, mining, transport and communication, health, banking and insurance, tourism and other services,

- Encourage close cooperation between the private sectors of both regions,
- Promote cooperation in industrial and urban ecology,
- Promote support of undertaking by means of trade promotion and market development,
- Promote scientific and technological development,
- Promote training and specific training programmes,
- Cooperate in the fields of information and culture.

Cooperation in a number of the abovementioned sectors is set out in more detail in Articles 5 to 15 included which follow.

4. The Contracting Parties shall consider in particular the following means to achieve these aims:

- Exchange of information and ideas,
- Preparation of studies,
- Provision of technical assistance,
- Training programmes,
- Establishment of links between research and training centres, specialized agencies and business organizations,
- Promotion of investment and joint ventures,
- Institutional development of public and private agencies and administrations,
- Access to each other's existing data bases 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. In view of the importance of long-term enhancement of cooperation between the Community and India, no sector shall be excluded a priori from the field of economic cooperation.

Article 5. Industry and Services

1. The Contracting Parties shall:

- (a) identify sectors of industry on which cooperation will centre and the means to promote industrial cooperation with a heavy technological bias;
- (b) promote the expansion and diversification of India's production base in the industrial and service sectors, including modernization and reform of the public sector, directing their cooperation activities at small and medium-sized enterprises in particular and taking steps to facilitate their access to sources of capital, markets and technology directed especially towards promoting trade between the Contracting Parties as well as at third country markets.

2. The Contracting Parties shall facilitate, within the relevant existing 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 6. Private Sector

The 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 22 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.

Article 7. Energy

The Contracting Parties recognize the importance of the energy sector to economic and social development and undertake to step up cooperation relating particularly to the generation, saving and efficient use of energy. Such improved cooperation will include planning concerning energy, non-conventional energy including solar energy and the consideration of its environmental implications.

Article 8. Telecommunications, Electronics, and Information and Satellite Technologies

The Contracting Parties recognize the importance of cooperation in the fields of telecommunications, electronics, and information technologies which contribute to increased economic development and trade. Such cooperation may include:

- (a) standardization, testing and certification;
- (b) earth and space-based telecommunications;
- (c) electronics and micro-electronics;
- (d) information and automation;
- (e) high definition television;
- (f) research and development in new information technologies and telecommunications;
- (g) promotion of investment and joint investment.

Article 9. 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, and quality control, 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 organizations as well as for the setting up of a national accreditation scheme for conformity assessment in India.

Article 10. Intellectual Property

The Contracting Parties undertake to ensure as far as their laws, regulations and policies allow that suitable and effective protection is provided for intellectual property rights, including patents, trade or service marks, copyright and similar rights, geographical designations (including marks of origin), industrial designs and integrated circuit topographics, reinforcing this protection where desirable. They also undertake, wherever possible, to facilitate access to the data bases of intellectual property organizations.

Article 11. Investment

1. The Contracting Parties shall encourage an increase in mutually beneficial investment by establishing a 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, and recognizing in particular the recent signing by India of the Multilateral Investments Guarantee Agency (MIGA) Convention, the Contracting Parties agree to support the promotion and protection of investments between the Member States of the Community and India 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 12. Agriculture and Fisheries

The Contracting Parties agree to promote cooperation in agriculture and fisheries, including horticulture and food processing. To this end, they undertake to examine:

- (a) the opportunities for increasing trade in agricultural and fishery products;
- (b) health, plant and animal health, environmental measures and any obstacles to trade which they might engender;
- (c) the linkage between agriculture and the rural environment;
- (d) agricultural and fishery research.

Article 13. Tourism

The Contracting Parties agree to contribute to cooperation on tourism, to be achieved through specific measures, including:

- (a) interchange of information and the carrying out of studies;
- (b) training programmes;
- (c) promotion of investment and joint ventures.

Article 14. Science and Technology

1. The Contracting Parties will, in accordance with their mutual interest and aims of their development strategy in this area, promote scientific and technological cooperation including in high-level fields, e.g. life-sciences, bio-technology, new materials, and geo and marine sciences, 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.

This will be implemented through:

- (a) joint research projects between the Parties' research centres and other appropriate institutions;
- (b) exchange and trading of scientists and researchers, particularly promoting the establishment of permanent links between the scientific and technical communities of the Parties;
- (c) exchange of scientific information.

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

Article 15. Information and Culture

The Contracting Parties will cooperate in the fields of information and culture, both to create better mutual understanding and to strengthen cultural ties between the two regions. Such cooperation may include:

- (a) exchange of information on matters of cultural interest;
- (b) preparatory studies and technical assistance in the preservation of cultural heritage;

(c) cooperation in the field of media and audio-visual documentation;

(d) organizing cultural events and exchanges.

Article 16. Development Cooperation

1. The Community recognizes India's need for development assistance and is prepared to strengthen its cooperation and enhance its efficiency in order to contribute to India'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 limits of the financial means available for cooperation and be in accordance with an elaborated development strategy.

2. Projects and programmes will 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. Cooperation in this area will also cover the promotion of employment in rural towns, and of the role of women in development, with appropriate emphasis on their education and family welfare.

3. Public health, especially in the form of primary health care including control of both communicable and non-communicable diseases will also be covered. The aim will be to increase the quality of health care in India of the most disadvantaged sections of the population both in urban and in rural areas.

4. The cooperation will concentrate on mutually agreed priorities and will pursue project and programme efficiency, sustainability and respect for the environment.

Article 17. Environment

1. The Contracting Parties recognize the need to take account of environmental protection as an integral part of economic and development cooperation. Moreover, they underline the importance of environmental issues and their will to establish cooperation in protecting and improving the environment with particular emphasis on water, soil and air pollution, erosion, deforestation and sustainable management of natural resources, taking into account the work done in international fora.

Particular attention will be paid to:

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

(b) protection and conservation of natural forests;

(c) the strengthening of forestry institutes;

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

(e) prevention of industrial pollution;

(f) protection of the urban environment.

2. Cooperation in this area will centre on:

(a) reinforcing and improving environmental protection institutions;

(b) developing legislation and upgrading standards;

(c) research, training and information;

(d) executing studies and pilot programmes and providing technical assistance.

Article 18. 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.

In their mutual interest, particular attention should be paid to promoting cooperation between Community and Indian higher education and training institutes.

Article 19. Drug Abuse Control

1. 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 and psychotropic substances as well as preventing and reducing drug abuse, taking into account work done in this connection by international bodies.

2. Cooperation between the Parties shall comprise the following:

- (a) training, education, health promotion and rehabilitation of addicts, including projects for the reintegration of addicts into work and social environments;
- (b) measures to encourage alternative economic opportunities;
- (c) technical, financial and administrative assistance in the monitoring of precursors trade, prevention, treatment and reduction of drug abuse;
- (d) exchange of all relevant information, including that relating to money laundering.

Article 20. South-south and Regional Cooperation

The Contracting Parties recognize their mutual interest in furthering economic and trade relations with other developing countries within a concept of regional and south-south cooperation.

Article 21. 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 India'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 Community institutions.

Article 22. Joint Commission

1. The Contracting Parties agree to retain the Joint Commission set up under Article 10 of the 1981 Agreement for Commercial and Economic Cooperation.

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 partnership and development cooperation in the areas covered by the Agreement.

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

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 the Agreement.

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

The Contracting Parties agree that it shall also 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 India.

Article 23. Consultations

The Contracting Parties shall hold friendly consultations in the fields covered by the Agreement if any problem arises in the intervals between the meetings of the Joint Commission. These shall be dealt with by the specialized sub-groups according to their responsibilities or be the subject of ad hoc consultations.

Article 24. 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 25. Other Agreements

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 India in the framework of economic cooperation or to conclude, where appropriate, new economic cooperation agreements with India.

Article 26. Facilities

To facilitate cooperation within the framework of this Agreement, the Indian authorities will grant to Community officials and experts the 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 27. Territorial Application

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

Article 28. Annex

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

Article 29. 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 Cooperation Agreements signed on 17 December 1973 and 23 June 1981.

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 30. Authentic Texts

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

In witness whereof the undersigned Plenipotentiaries have signed this Agreement.

Done at Brussels on the twentieth day of December in the year one thousand nine hundred and ninety-three.

For the Council of the European Union

For the Government of India