

Cooperation Agreement between the European Community and the Socialist Republic of Vietnam

THE COUNCIL OF THE EUROPEAN UNION, of the one part, and THE GOVERNMENT OF VIETNAM, if the other part,

WELCOMING the increase in trade and cooperation which have taken place since the normalization of relations in November 1990 between the European Community on the one hand, hereinafter referred to as the Community, and the Socialist Republic of Vietnam on the other, hereinafter referred to as Vietnam;

RECOGNIZING the importance of further strengthening the links and enhancing the relations between the Community and Vietnam;

REAFFIRMING the importance which the Community and Vietnam attach to respect for human rights and democratic principles and the principles of the United Nations Charter and respect for national independence and sovereignty;

RECOGNIZING the steps taken by Vietnam to normalize its relations with all partners, both regional and international and underlining those measures of cooperation which could assist the process of regional cooperation;

RECOGNIZING the responsibility of all States, in accordance with basic international principles and practices to accept back those of its citizens who have left their country for one reason or another;

HAVING REGARD to the important new opportunities for trade in textiles and clothing through bilateral contractual rights and obligations between the Community and Vietnam;

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

RECOGNIZING the positive consequences of the ongoing process of economic reform in Vietnam to secure the transition to a market economy and the commitment to continue with this process;

DESIROUS of creating favourable conditions for a substantial development and diversification of trade between the Community and Vietnam;

HAVING REGARD to the need to uphold the principles and practices which promote free and unhindered two-way trade in a stable, transparent and non-discriminatory manner, taking into account the different economic conditions of each Party;

HAVING REGARD to the need to create favourable conditions for direct investment;

HAVING REGARD to the need to support Vietnam in its efforts to achieve sustainable economic development and to improve the living conditions of the poorer sections of the population;

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

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

THE COUNCIL OF THE EUROPEAN UNION:

Javier SOLANA MADARIAGA

Minister of Foreign Affairs of the Kingdom of Spain,

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

Manuel MARIN

Vice-President of the Commission of the European Communities,

THE GOVERNMENT OF VIETNAM:

NGUYEN MANH CAM

Minister of Foreign Affairs of the Socialist Republic of Vietnam, WHO, having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

Article 1. Basis

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

Article 2. Objectives

The principal objectives of this Agreement are:

1. to secure the conditions and to promote the increase and development of bilateral trade and investment between the two parties in their mutual interest taking into account their respective economic situations;
2. to support the sustainable economic development of Vietnam and the improvement of living conditions of the poorer sections of the population;
3. to enhance economic cooperation in the mutual interest of the parties, including support to the Government of Vietnam's ongoing efforts to restructure its economy and to move towards a market economy;
4. to support environmental protection and the sustainable management of natural resources.

Article 3. Most-favoured-nation Treatment

The Community and Vietnam shall grant each other most-favoured-nation treatment in their trade in conformity with the provisions of the General Agreement on Trade and Tariffs (GATT) 1994.

The provisions of this Article shall not apply to preferences accorded by either Party under an arrangement establishing a customs union, a free trade area or an area of preferential treatment.

Article 4. Trade and Commercial Cooperation

1. The Parties undertake to develop and diversify their commercial exchanges and to improve market access to the highest possible degree in a manner taking into account their respective economic situations.
2. The Parties, within the current framework of their respective laws and regulations, are committed to a policy for improving the terms of access for their products to each others markets. In this context, they shall grant each other the most favourable conditions for imports and exports and they agree to examine ways and means of eliminating barriers to trade between them, notably nontariff barriers, taking account of their different systems and the work already done in this connection by international organizations.
3. The provisions of paragraphs 1 and 2 shall not limit the right of either Party to apply measures which are necessary for the protection of its essential security interests or for the protection of public health or morals and the protection of environment and animal or plant life or health. In respect of the latter such measures shall not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade.
4. The Parties agree to promote the exchange of information concerning 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. Training programmes should take place in these fields as part of economic cooperation between the two Parties.
5. The Parties agree to improve cooperation in customs matters between the respective authorities, especially with regard to the possibility of professional training, the simplification and harmonization of customs procedures, and the prevention, investigation and suppression of infractions of customs regulations.

6. The Parties agree to consult each other on any dispute which may arise in connection with trade or trade-related matters.

Article 5. Investments

The 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. In particular the Parties will, where appropriate, support agreements on the promotion and protection of investments between the Member States of the European Union and Vietnam on the basis of the principles of non-discrimination and reciprocity.

Article 6. Intellectual Property Rights

1. Insofar as their competencies, regulations and policies permit, the 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, including, where appropriate, through the means of technical assistance.

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

Article 7. Economic Cooperation

1. The 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 development needs.

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

(a) improving the economic environment in Vietnam by facilitating access to Community know-how and technology;

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

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

3. In the broad fields described above, the aims shall be in particular:

(a) to assist Vietnam in its continued efforts to achieve the transition to a market economy and thus to improve the economic environment and business climate;

(b) to encourage cooperation between their respective economic sectors, particularly between private sectors.

4. The Parties, within the limits of their financial means and of their respective procedures, will determine together and to their mutual advantage the areas and priorities for economic cooperation programmes and actions.

Article 8. Science and Technology

The Parties shall, in accordance with their mutual interest and the aims of their strategy in this area, promote scientific and technological cooperation including in such practical areas as standards and quality control with a view to:

(a) fostering the transfer of know-how, technology and disseminating information and expertise;

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

Article 9. Development Cooperation

1. The Community recognizes Vietnam's need for development assistance and is prepared to enhance its cooperation by providing such assistance through specific projects and programmes in accordance with the priorities set out in Regulation (EEC) No 443/92 in order to contribute to Vietnam's own efforts and strategies to achieve sustainable economic development and the social progress of its people.

2. Projects and programmes will be targeted towards the poorer sections of the population, including those areas receiving returning citizens and towards social and economic infrastructure development. Particular attention will be given to balanced agricultural development with the participation of the groups to be targeted. 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. Particular attention will be paid to actions to enhance regional economic integration within Vietnam.

4. The development cooperation will concentrate on mutually agreed priorities and will pursue project and programme efficiency and sustainability.

(d) the protection of the urban environment;

(e) the prevention of industrial pollution;

(f) the protection of the marine environment and its ecological systems;

(g) the increase of management capacity of the central and local environmental agencies.

Article 10. Regional Cooperation

1. The cooperation between the Parties in this field may with their mutual agreement extend to actions undertaken within the context of cooperation with other countries in the Southeast Asia region and shall not prejudice the right of each Party to conduct cooperation with other partners in the region.

2. Particular attention will be paid to:

(a) promotion of intra-regional trade;

(b) support for regional projects and initiatives;

(c) studies promoting regional links and communications.

Article 11. Environmental Cooperation

1. The Parties recognize the need to take full account of environmental protection as an integral part of economic and development cooperation. Moreover, they underline the importance of environmental issues and sustainable development and assert 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.

2. Particular attention will be paid to:

(a) the protection and conservation of natural forests and their sustainable management;

(b) the importance of the energy/environment linkage;

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

Article 12. Information and Communication

The Parties will cooperate in the fields of information and communication to create better mutual understanding and to strengthen the ties between the two regions.

Article 13. Drug Abuse Control

1. The Parties affirm their resolve, in conformity with their respective competencies, to increase the efficiency of policies and measures to prevent the production and distribution of all kinds of drugs, 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) technical assistance in and training for the prevention of money laundering;
- (e) exchange of relevant information.

Article 14. Joint Commission

1. The Parties agree to establish a Joint Commission whose tasks are to:
 - (a) ensure the proper functioning and implementation of the Agreement and the dialogue between the two Parties;
 - (b) make suitable recommendations for promoting the objectives of the Agreement;
 - (c) establish priorities in relation to the possible actions necessary to achieve the aims of the Agreement.
2. The Joint Commission shall be composed of representatives of both sides, at the senior official level. The Joint Commission shall normally meet every other year, alternately in Brussels and in Hanoi, on a date fixed by mutual agreement. Extraordinary meetings may also be convened by agreement between the Parties.
3. The Joint Commission may set up specialized subgroups 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.
4. The agenda for meetings of the Joint Commission shall be determined by agreement between the Parties.
5. The 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 Vietnam.
6. The organizational structures and operational regulations of the Joint Commission will be determined and agreed upon by the two Parties.

Article 15. Future Developments

1. The Parties may, by mutual consent, improve 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 Parties may put forward suggestions for expanding the scope of the cooperation, taking into account the experience gained in its application.

Article 16. 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 European Union to undertake bilateral activities with Vietnam in the framework of economic cooperation or to conclude, where appropriate, new economic cooperation agreements with Vietnam.

Article 17. Facilities

To facilitate cooperation within the framework of this Agreement, the Vietnamese 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 18. 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 Vietnam.

Article 19. Annexes

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

Article 20. Entry Into Force and Renewal

1. This Agreement shall enter into force on the first day of the month following the date on which the Parties have notified each other of the completion of the procedures necessary for this purpose.

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

Article 21. Authentic Texts

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

In witness whereof the undersigned have signed this Agreement.

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

For the European Community

For the Government of Viet Nam

Official Journal of the European Communities

Declaration of the European Community on the fifth recital of the preamble of the Cooperation Agreement

The European Community declares that it is willing to consider within the framework of its development cooperation projects and whenever possible the opportunity to contribute to the economic reintegration of Vietnamese citizens returning to their country.

Declaration of the European Community concerning tariff adjustments

The European Community confirms that Vietnam has access to the Generalized Scheme of Preferences (GSP) autonomously put into effect by the European 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 is also willing to organize workshops in Vietnam for public and private users of the GSP with a view to ensuring maximum use of it.

Declaration of the European Community

In the course of the negotiations on the Cooperation Agreement between the European Community and Vietnam, the Community declared that subject to the provisions of Article 16 of the Agreement, the provisions of the Agreement shall replace provisions of agreements concluded between Member States of the European Union and Vietnam where such agreements are either incompatible with or identical to the provisions of the Agreement.

The 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.

The Government of the Socialist Republic of Vietnam declares that the repatriation of its citizens will be carried out on the basis of mutual agreement between Vietnam and the country concerned in order to ensure the principles of orderly repatriation in conditions of safety and dignity, in accordance with international acceptable practices and the Comprehensive Plan of Action (CPA) 1989, with financial assistance from the international community.

Declaration by the European Community

1. The European Community recalls the importance that it and its Member States attach to the principle of readmission of nationals to their countries of origin, reference to which is made in the fifth recital of the preamble to the Agreement
2. The European Community points out that the provisions of that Agreement in no way affect the obligations in the matter deriving from bilateral agreements concluded between the Socialist Republic of Vietnam and its Member States.

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Notice concerning the entry into force of the Cooperation Agreement between the European Community and the Socialist Republic of Vietnam (*)

The exchange of instruments notifying the completion of the procedures necessary for the entry into force of this Agreement, signed on 17 July 1995, took place in Brussels, on 20 May 1996. The Agreement will accordingly enter into force, pursuant to Article 20 thereof, on 1 June 1996.

(*) See page 28 of this Official Journal.

OJ No C 12, 17. 1. 1996, p. 4. () OJ No C 47, 19. 2. 1996, p. 25.

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