COOPERATION AGREEMENT Between the European Community and the Kingdom of Nepal

THE COUNCIL OF THE EUROPEAN UNION on the one part,

HIS MAJESTYS GOVERNMENT OF NEPAL 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 Kingdom of Nepal, hereinafter referred to as Nepal;

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

RE-AFFIRMING 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 and reciprocity;

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

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

RECOGNIZING the need to support Nepalese 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 Nepal 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 the need to uphold and reinforce the rules which promote free and unhindered trade in a stable, transparent and non-discriminatory manner,

HAVE DECIDED, as Contracting Parties, hereinafter referred to as the Parties, 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

HIS MAJESTYS GOVERNMENT OF NEPAL,

Prakash Chandra LOHANI Minister of Foreign Affairs

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 to enhance and develop the various aspects of cooperation between the Parties, in particular:

(a) to secure the conditions and to promote the increase and development of two-way trade and investment between the two Parties;

(b) to support the sustainable economic development of Nepal, taking into account its current least developed status;

(c) to promote economic, technical and cultural links in their mutual interest;

(d) to support environmental protection and the sustainable management of natural resources;

(e) to assist Nepal in developing its trading capacity, taking into account its land-locked nature.

Article 3. Trade and Commercial Cooperation

1. The Community in conformity with the provisions of Article 1 of the General Agreement on Trade and Tariffs (GATT 1994) and Nepal shall grant each other most-favoured-nation treatment with respect to tariffs.

These provisions shall not apply to preferences accorded by either Party under any arrangement establishing a customs union, a free trade area or a preferential treatment area.

2. The 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 Parties are committed to 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 non-tariff barriers, taking account of the work already done in this connection by international fora.

4. The Parties agree to promote the exchange of information concerning mutually beneficial market opportunities.

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 repression of customs offences.

6. The 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 Party which is not sufficient for the goods to be treated as originating from the territory of that Party.

7. Insofar as their competencies, regulations and policies permit, the Parties agree to inform and consult each other in connection with trade or trade-related matters, including property rights and public procurement, on any dispute which may arise. They will also hold consultations in a constructive spirit on the issues of tariff, non-tariff, services, health, safety or environmental measures and technical requirements.

Article 4. Intellectual Property

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.

2. The 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 5. Development Cooperation

1. The Community recognizes Nepals need for development assistance, taking into account its current least developed status and its land-locked situation. The Community is prepared to enhance its cooperation in order to contribute to Nepals own efforts in achieving sustainable economic development and social progress of its people through specific projects and programmes. Support will be in accordance with Community policies, regulations and the limits of the financial means available for cooperation.

2. Projects and programmes will particularly aim to improve the quality and standard of living of the poorest sections of the population. Cooperation will give priority to balanced agricultural development, including the creation of non-agricultural and off-farm employment in rural areas.

Cooperation will also support policies on primary health care, population and the role of women. It will, as far as possible, be established with the participation of the targeted groups and, where appropriate, will involve qualified mutually acceptable non-governmental organizations.

3. Community development cooperation activities and priorities will be mutually agreed on the basis of Nepals development objectives and will pursue efficiency and sustainability.

Article 6. Economic Cooperation

1. The Parties undertake, in accordance with their respective policies and objectives and within their available resources, to foster economic cooperation for mutual benefit.

2. The Parties agree that economic cooperation will involve the following broad fields of action:

(a) improving the economic environment and the business climate in Nepal by facilitating access to Community know-how and technology, including, inter alia, telecommunications, transport and energy;

(b) facilitating contracts and promoting viable and efficient business links between economic operators and other measures designed to promote commercial exchanges and investments, including tourism;

(c) facilitating exchange of information on enterprise and small and medium-sized enterprises (SME) policies, particularly in respect of improving the business environment and encouraging closer contacts between SMEs, with a view to promoting trade and industrial cooperation opportunities;

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

3. In particular, the Parties will:

(a) establish cooperation in information and communication;

(b) promote, in the framework of their respective strategies, science, technology and energy, as defined in Articles 7 and 8;

(c) promote practical areas, such as standards and quality control.

4. The Parties, within the limits of their resources and in accordance with their respective procedures, will determine together and to their mutual advantage, the areas and priorities for economic cooperation programmes and activities.

Article 7. Science and Technology

The Parties will promote scientific and technological cooperation and undertake to encourage interinstitutional relationships in fields of mutual interest.

Article 8. Energy

The Parties recognize the importance of the energy sector to economic and social development and undertake to encourage cooperation relating to generation, saving and efficient use of energy.

Article 9. Agriculture

The Parties agree to promote cooperation in agriculture, including livestock, horticulture and food 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 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 research.

Article 10. Investments

The Parties will undertake to encourage an increase in mutually beneficial investment by establishing a more favourable climate for private investment through better conditions for the transfer of capital and by supporting agreements on the promotion and protection of investments between the Member States of the European Union and Nepal on the basis of the principles of non-discrimination and reciprocity.

Article 11. Human Resource Development

The Parties recognize the importance of human resource development, both primary education and skills development as well as improving the living conditions of the disadvantaged sections of the population. They agree human resource development should constitute an integral part of both economic and development cooperation.

Specific projects may be funded by the Community with the objective of improving human resources development, including training to ameliorate workers conditions.

Article 12. 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 development and measures against soil erosion;

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

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

(d) the protection of the urban environment;

(e) the prevention and mitigation of industrial pollution;

(f) the impact of tourism on the environment.

Article 13. Drugs and Aids

The Parties affirm their resolve to cooperate in the field of prevention and reduction of drug abuse and AIDS, in particular through the strengthening of health services capabilities and support to key health education activities.

Article 14. Regional Cooperation

The cooperation between the Parties may extend to actions 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 may be given particular consideration:

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

(b) promotion of intra-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 15. Joint Commission

1. The Parties agree to set up a Joint Commission whose tasks shall be to:

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

(b) establish priorities in relation to the possible actions including projects and programmes necessary to achieve the aims of the Agreement;

(c) make suitable recommendations for promoting the objectives 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, alternatively in Brussels and in Kathmandu, 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 which may be concluded between the Community and Nepal.

Article 16. Future Developments

1. The Parties may, by mutual consent, enlarge the scope of 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 17. Other Agreements

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

2. Subject to the provisions of paragraph 1, the provisions of this Agreement shall replace provisions of Agreements concluded between Member States of the European Union and Nepal where such provisions are either incompatible with or identical to the provisions of this Agreement.

Article 18. Non-execution of the Agreement

If either Party considers that the other Party has failed to fulfil any of its obligations under the Agreement, it may take appropriate measures.

Before doing so, except in cases of special urgency, it shall supply the other Party with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In the selection of measures, priority must be given to those which least disturb the functioning of this Agreement. The measures shall be notified immediately to the other Party and consultations shall be held on them if the other Party requests.

Article 19. Facilities

To facilitate cooperation within the framework of this Agreement, the Nepalese authorities will grant to EC officials and experts involved in implementing cooperation

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 20. 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 that Treaty and, on the other, to the territory of the Kingdom of Nepal.

Article 21. Annex

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

Article 22. 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 23. Authentic Texts

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

In witness whereof the undersigned Plenipotentiaries have signed this Agreement.

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

For the European Community

For the Kingdom of Nepal

Som skedde i Bryssel den tjugonde november nittonhundranittiofem.

Annex

Joint Declarations of the European Community and His Majestys Government of Nepal

1. The Parties agree that for the purpose of this Agreement intellectual, industrial and commercial property includes inter alia copyright (including computer software) and related rights; trade and service marks; geographical indications, including indications of origin; industrial designs; layout designs of integrated circuits; undisclosed information and protection against unfair competition.

2. (a) For the purposes of the interpretation and practical application of this Agreement, the Parties agree

That cases of special urgency referred to in Article 18 of the Agreement mean cases of material breach of the Agreement by one of the two Parties. A material breach of the Agreement consists in:

Repudiation of the Agreement not sanctioned by the general rules of international law,

Violation of the essential elements of the Agreement set out in Article 1.

(b) The Parties agree that appropriate measures referred to in Article 18 are measures taken in accordance with international law. If a Party takes a measure in a case of special urgency pursuant to Article 18, the other Party may request

consultations on that measure.

Declaration by the European Community on Generalized Preferences

The European Community is prepared to assist Nepal to enable them to make the best use of the advantages afforded by the Generalized Scheme of Preferences (GSP), put into force on 1 January 1995.

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