



COMMISSION OF THE EUROPEAN COMMUNITIES

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98/0199 (CNS)

Proposal for a

COUNCIL DECISION

concerning the conclusion of the Cooperation Agreement between the European Community and the Islamic Republic of Pakistan

(presented by the Commission)

Explanatory Memorandum

Co-operation Agreement between the European Community and Pakistan

1. By a decision of 15 July 1996, the Council authorised the Commission to open negotiations with the Islamic Republic of Pakistan with a view to concluding a cooperation agreement and adopted directives to that end.
2. Two rounds of negotiations were held on 2 December 1996 and 24 April 1997 but could not be concluded at the time, due to lack of agreement on some issues, namely intellectual property rights, maritime transport, the social clause and the declaration on illegal immigrants. However, at the Presidency's request, new informal talks were held from the beginning of 1998 between the European Commission and Pakistan. These finally led to a compromise proposal which could be accepted by the Council working group. The text of the Agreement was therefore initialled on 22 April 1998.
3. This is a non-preferential agreement and has no financial protocol. The following annexes are an integral part of the Agreement:
 - (a) the declaration concerning Article 19 on non-execution of the Agreement;
 - (b) the joint declaration on intellectual, industrial and commercial property;

The Joint Declaration on the readmission of illegal immigrants, though not an integral part of the Agreement, will be published in the Official Journal.

Pakistan has the intention of making a unilateral declaration on this subject. The text of this declaration is attached to the Joint Declaration
4. The European Parliament must be consulted because the legal basis of the Agreement includes Articles 113 and 130Y, in conjunction with the first sentence of Article 228 §2 and the first subparagraph of Article 228 §3 of the Treaty establishing the European Community.
5. With a view to the signing and conclusion of the Cooperation Agreement between the European Community and Pakistan, the Council is requested to approve the Agreement and adopt the proposal for a Council Decision concluding the Cooperation Agreement between the European Community and the Islamic Republic of Pakistan, and to sign it.

Proposal for a Council Decision

concerning the conclusion of the Cooperation Agreement between the European Community and the Islamic Republic of Pakistan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 113 and 130Y, in conjunction with the first sentence of Article 228 §2 and the first subparagraph of Article 228 §3 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament

Whereas, under Article 130U of the treaty, Community policy in the sphere of development cooperation should foster the sustainable economic and social development of the developing countries, their smooth and gradual integration into the world economy and the alleviation of poverty in these countries;

Whereas the Community should approve, in pursuit of its objectives in the sphere of external relations, the Cooperation Agreement between the European Community and the Islamic Republic of Pakistan,

HAS DECIDED AS FOLLOWS:

Article 1

The Cooperation Agreement between the European Community and the Islamic Republic of Pakistan is hereby approved on behalf of the Community.

The text of this Agreement is attached to this Decision.

Article 2

The President of the Council shall give the notification provided for in Article 23 of the Agreement.¹

Article 3

The Commission, assisted by representatives of the member States, shall represent the Community in the Joint Commission provided for in Article 16 of the Agreement

¹ The date of entry into force of the Cooperation Agreement will be published in the Official Journal of the European Communities by the General Secretariat of the Council.

Article 4

This Decision shall be published in the Official Journal of the European Communities.

Done at Brussels,

For the Council

The President

4

COOPERATION AGREEMENT

between the European Community and the Islamic Republic of Pakistan
on partnership and development

THE EUROPEAN COMMUNITY

on the one part,

THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN

on the other part,

CONSIDERING the excellent relations and links of friendship and co-operation between the European Community, hereinafter referred to as 'the Community', and the Islamic Republic of Pakistan, hereinafter referred to as 'Pakistan';

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

RE-AFFIRMING the importance the Community and Pakistan attach to the principles of the United Nations Charter and to the Universal Declaration on Human Rights;

BEARING IN MIND the 1993 Declaration of Vienna and the Programme of Action of the World Conference on Human Rights, the 1995 Copenhagen Declaration on social development and programme of action, the 1995 Beijing Declaration and platform of action for the 4th World Conference on Women, the 1992 Rio Declaration on Environment and Development and the International Strategy for the Fourth Development Decade;

HAVING REGARD to the foundations for close co-operation between the Community and Pakistan laid by the Agreement between Pakistan and the Community signed on the 16 November 1976;

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 and reciprocity;

ACKNOWLEDGING the great importance of social development which should go hand in hand with economic development;

RECOGNIZING the need to support Pakistan's efforts for development, especially improving the living conditions of the poor and disadvantaged sections of the population;

CONSIDERING the importance attached by the Community and Pakistan to the promotion of balanced demographic growth, to the eradication of poverty, to the protection of the environment and to the sustainable use of natural resources, and recognising the link between the environment and development;

DESIROUS of creating favourable conditions for a substantial development and diversification of trade between the Community and Pakistan and enhancing co-operation in commercial, economic, investment, science and technology and cultural fields;

TAKING INTO ACCOUNT their commitment to conduct trade in accordance with the Agreement establishing the WTO;

RECOGNISING the specific needs of developing countries under the WTO;

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

NOTING their common interest in fostering and strengthening regional co-operation and the North-South dialogue;

BELIEVING that relations between them have developed beyond the scope of the Agreement concluded in 1986,

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 EUROPEAN COMMUNITY,

.....
President-Office of the Council of the European Union

Manuel MARIN
Vice-President of the Commission of the European Communities

THE GOVERNMENT OF PAKISTAN,

.....
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 as laid down in the Universal Declaration on Human Rights underpins the domestic and international policies of the Community and the Islamic Republic of Pakistan, and constitutes an essential element of this Agreement.

Article 2

Objectives

The principal objectives of this Agreement are to enhance and develop, through dialogue and partnership, the various aspects of co-operation between the Parties in the areas which fall within the bounds of their respective competences, with the following aims:

1. to secure the conditions for and to promote the increase and development of two-way trade between the Parties in accordance with the Agreement establishing the World Trade Organisation (WTO);
2. to support Pakistan's efforts for comprehensive and sustainable development, including economic and social development policies which take account of the poor and disadvantaged sections of its population, particularly women in these sections, as well as sustainable management of natural resources;
3. to promote investment and economic, technical and cultural links in their mutual interest;
4. to build Pakistan's economic capability to interact more effectively with the Community.

Article 3

Trade and commercial co-operation

1. Within the bounds of their respective competences the Parties are committed to conduct trade in accordance with the Agreement establishing the WTO.
2. Each Party agrees to inform the other Party of the initiation of anti-dumping procedures against products of the other Party.

In full respect of the WTO Agreements on anti-dumping and anti-subsidy measures, the Parties shall afford sympathetic consideration to, and shall afford adequate opportunity for consultation regarding representations made by either Party with respect to anti-dumping procedures and anti-subsidy procedures.

3. The Parties also undertake to promote, within the framework of their current legislation, the expansion and diversification of trade between them. The objective of co-operation in this field is to develop and diversify two-way trade by seeking ways and means to improve market access.
4. The Parties shall seek:
 - (a) to work towards the elimination of barriers to trade and implement measures to improve transparency, in particular through the timely removal of non-tariff barriers in accordance with work done in this connection by WTO;
 - (b) within the limits of their respective competences, to improve co-operation in customs matters between the respective authorities, especially in professional training, the simplification and harmonisation of customs procedures and the prevention, investigation and penalisation of customs offences, including fraudulent practices, consistent with work done by the World Customs Organisation (WCO);
 - (c) to pursue the consideration of transit/re-export matters;
 - (d) to exchange information about mutually beneficial market opportunities, statistical co-operation and competition matters;
 - (e) to work towards suitable protection of personal data.
5.
 - (a) Pakistan shall take all necessary measures to improve the conditions for adequate and effective protection and enforcement of intellectual, industrial and commercial property rights, in conformity with international standards.
 - (b) By the end of the fifth year following entry into force of the Agreement, and without prejudice to the commitments undertaken under the TRIPs Agreement, Pakistan shall accede to the following multilateral conventions on intellectual, industrial and commercial property rights to which Member States are parties or which are de facto applied by Member States, according to the relevant provisions contained in these conventions:
 - (i) Paris Convention for the Protection of Industrial Property as last revised at Stockholm (Stockholm Act 1967);
 - (ii) Madrid Agreement concerning the International Registration of Marks as last revised at Stockholm (Stockholm Act 1967);
 - (iii) Protocol relating to the Madrid Agreement concerning the International Registration of Marks (1989);
 - (iv) Patent Co-operation Treaty (PTC Union) as modified in 1984.

- (c) In order to enable Pakistan to fulfil the above mentioned undertakings and obligations, technical assistance may be envisaged.
6. Within the limits of their respective competences, the Parties agree that they will work to improve exchange of information and access to their respective public procurement markets on the basis of reciprocity.

Article 4

Development co-operation

1. The Parties recognise that there is a potential for a Community contribution to the development efforts of Pakistan in order to achieve the sustainable economic development and social progress of its people.

Projects and programmes under development co-operation will place emphasis on the health, education, human resource development, specially for women, population welfare, environment and rural development sectors and will be specifically targeted towards the poorer and disadvantaged section of the population.

In light of the above and in accordance with Community policies, regulations and the limits of financial means available for co-operation, the Parties agree that co-operation will continue to be developed within the context of a clear co-operation strategy and dialogue aimed at defining mutually agreed priorities, and pursuing effectiveness and sustainability.

2. The Parties acknowledge the need for enhanced attention to and co-operation in the fields of drug control and AIDS, taking into account work done in this connection by international bodies. The Parties affirm their resolve to co-operate in the prevention, monitoring and reduction of drug abuse and AIDS, in particular through the strengthening of health services capabilities and support to key health education activities.

Article 5

Environmental co-operation

1. The Parties recognise the need to take account of environmental protection as an integral part of economic and development co-operation. Moreover, they underline the importance of environmental issues and their will to establish co-operation 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) prevention of industrial pollution;
 - (d) protection of the urban environment;
2. Co-operation 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 6

Economic co-operation

1. In accordance with their respective policies and objectives and to the extent of their available resources, the Parties undertake to foster economic co-operation for mutual benefit. They will determine together, to their mutual advantage and within the limits of their respective competences, a co-operation strategy, defining the areas and priorities for economic co-operation programmes and activities.
2. The Parties agree to co-operate in the following broad fields:
 - (a) developing a creative competitive economic environment in Pakistan by facilitating the use of know-how and technology from the Community, including, in the fields of design, packaging, standards, such as consumer and environmental standards, new materials and products;
 - (b) facilitating contacts between economic operators and other measures designed to promote commercial exchanges, market development and investment;
 - (c) facilitating exchanges of information on policies relating to enterprise and to small and medium scale enterprises (SMEs), particularly with a view to improving the business environment and encouraging closer contacts between SMEs, in order to promote trade and increase industrial co-operation opportunities;

- (d) strengthening management training in Pakistan with a view to develop business operators who are able to interact effectively with the European business environment;
 - (e) Promoting dialogue between Pakistan and the Community in the fields of energy policy and transfer of technology;
 - (f) developing and improving communication, information, technology, agriculture, fisheries, mining and tourism.
3. The Parties agree to pursue the following means to achieve their aims:
- (a) exchange of information and ideas;
 - (b) preparation of studies;
 - (c) provision of technical assistance;
 - (d) training programmes;
 - (e) establishment of links between research and training centres, specialised agencies and business organisations;
 - (f) promotion of investment and joint ventures;
 - (g) institutional development of public and private agencies and administrations;
 - (h) access to each other's existing data bases and creation of new ones;
 - (i) workshops and seminars;
 - (j) exchanges of experts.
4. Within the limits of their respective competences, the Parties undertake to encourage an increase in mutually beneficial investment by establishing a more favourable climate for private investments through better conditions for the transfer of capital and by supporting, where appropriate, the conclusion of conventions on the promotion and protection of investments between the Member States of the Community and Pakistan.

Article 7

Industry and Services

1. The Parties shall facilitate:
 - (a) The identification of sectors of Industry on which co-operation will centre and the means to promote industrial co-operation;
 - (b) the expansion and diversification of Pakistan's production base in the industrial and service sectors, including modernisation and reform of the public sector, directing their co-operative activities at small and medium-sized enterprises and taking steps to facilitate their access to sources of capital, markets and technology directed especially towards promoting trade between the Parties as well as at third country markets.
2. The Parties shall facilitate within the sphere of their respective competences, access to available information and capital facilities in order to encourage projects and operations promoting co-operation between firms, such as joint ventures, sub-contracting, transfer of technology, licences, applied research and franchises.

Article 8

Agriculture, Livestock and Fisheries

The Parties agree to co-operate and develop the agriculture, livestock and fisheries sector. In this connection, they undertake to explore the possibility of joint ventures in the establishment of food processing units, increasing trade opportunities and collaborating in agricultural research.

Article 9

Tourism

The Parties agree to co-operate on tourism, through specific measures, including exchange of information and the carrying out of studies, training programmes and the promotion of investment and joint ventures in industries serving the tourism sector.

Article 10

Energy

The Parties recognise the importance of the energy sector to economic and social development and undertake to step up co-operation relating particularly to the generating, saving and efficient use of energy. Such improved co-operation will include planning concerning energy, non-conventional energy and the consideration of its environmental implications.

Article 11

Regional Co-operation

1. The Parties agree that co-operation between them may include actions undertaken under co-operation agreements with other countries in the same region, provided that such action is compatible with this agreement.
2. Without excluding any area, the Parties agree to give particular consideration to the following actions:
 - (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 organisations such as the South Asian Association for Regional Co-operation (SAARC) and the Economic Co-operation Organisation (ECO);
 - (d) support for studies on regional/sub-regional issues including, *inter alia*, transport, communications, environmental matters and human and animal health.

Article 12

Co-operation in Science and Technology

The Parties, in accordance with their respective policies and competences, will promote scientific and technological co-operation in areas of common interest, namely through training and joint research programmes, links between research institutions, exchange of information and seminars. The Parties will endeavour to foster the transfer of know-how and exchange of information on research projects especially in the fields of environment, information technology, telecommunications, space technology, biotechnology and marine biology.

Drug Precursor Chemicals and Money Laundering

1. In conformity with their respective competences and the pertinent legal provisions, the Parties agree to co-operate in order to prevent the diversion of drug precursor chemicals. They also agree on the necessity of making every effort to prevent money laundering.
2. Both Parties shall consider special measures against the illicit cultivation and production of, and trade in drugs, narcotics and psychotropic substances as well as prevention and reduction of drug abuse. Co-operation in this area shall include:
 - (a) assistance for the training and rehabilitation of addicts;
 - (b) measures for alternative economic development;
 - (c) exchanges of relevant information, ensuring that personal data are suitably protected.

Article 14

Human Resource Development

The Parties agree that human resource development constitutes an integral part of both economic and social development.

The Parties recognise that both education and skills development as well as improving the living conditions of the poorer and disadvantaged section of the population, with special emphasis on women and child welfare in this section, will contribute to creating a favourable economic and social environment.

The Parties recall the importance of the observance of internationally recognized core labour standards set in the relevant instruments of the International Labour Organization, which is the competent body to set and deal with these standards, as a major factor of social and economic progress. They also recognise that economic growth and development fostered by increased trade and further trade liberalisation contribute to the promotion of these standards.

They commit their support to the promotion of these standards and to the discussion between the WTO and ILO Secretariats.

The Community will provide assistance to programmes, including ILO initiated programmes, aimed at supporting Pakistan's efforts in this respect.

Article 15

Information, Culture and Communication

Within the sphere of their respective competences, the Parties shall co-operate in the field of information, culture and communications, both to create a better mutual understanding and to strengthen cultural ties between them, including, *inter alia*, through studies and technical assistance for the preservation of cultural heritage.

The Parties also recognise the importance of co-operation in the fields of telecommunications, the information society and multimedia applications which contribute to increased economic development and trade.

The Parties consider that co-operation in this area, within the sphere of their respective competences, may facilitate:

- (a) regulation and policy for telecommunications;
- (b) development of new information technologies and telecommunications including mobile communication;
- (c) the information society, including the promotion of the Global Navigation Satellite Systems;
- (d) multimedia technologies for telecommunication;
- (e) telematic networks and applications (transportation, health, education, environment);
- (f) promotion of investment and joint ventures.

Article 16

Institutional Aspects

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) set priorities in relation to the aims of the Agreement;
 - (c) make recommendations for promoting the objectives of the Agreement.

Provisions will be laid down on the chairmanship of the meetings and the setting up of subgroups.

2. The Joint Commission shall be composed of representatives of both sides, at an appropriate high level. The Joint Commission shall normally meet on an annual basis, alternately in Brussels and in Islamabad, on a date to be 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 co-ordinate the formulation and implementation of projects and programmes in 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 to be concluded between the Community and Pakistan.

Article 17

Evolutionary Clause

The Parties may by mutual consent expand this Agreement with a view to enhancing the level of co-operation and add to it by means of agreements on specific sectors or activities.

With regard to the implementation of this Agreement, either of the Parties may put forward suggestions for widening the scope of co-operation, taking into account the experience gained in its application.

Article 18

Other Agreements

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 Pakistan in the framework of economic and development co-operation or to conclude, where appropriate, new economic and development co-operation agreements with Pakistan.

This Agreement shall not affect the application or implementation of commitments undertaken by the respective Parties in relations with third parties.

Article 19

Non-execution of the Agreement

1. If either Party considers that the other Party has failed to fulfil any of its obligations under the Agreement, it may take appropriate measures.
2. 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.

3. In the selection of measures, priority shall be given to those which least disturb the functioning of the Agreement. These measures shall be notified immediately to the other Party and shall be the subject of consultations if the other Party so requests.

Article 20

Facilities

To facilitate co-operation in the framework of this Agreement, the Pakistani authorities will grant to EC officials and experts involved in implementing co-operation 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 21

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 Pakistan.

Article 22

Annexes

Annexes I and II to this Agreement shall form an integral part thereof.

Article 23

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 notify 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 renounces it at least six months before its expiry date.

Article 24

Authentic texts

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

In witness whereof the undersigned Plenipotentiaries have signed this Agreement.

Done at Brussels on the in the year one thousand nine hundred and ninety-eight.

FOR THE EUROPEAN COMMUNITY:

FOR THE ISLAMIC REPUBLIC OF PAKISTAN

ANNEX I

Interpretative Declaration on Article 19 – Non-Execution of the Agreement

- (a) "For the purposes of the interpretation and practical application of this Agreement, the parties agree that the cases of special urgency referred to in Article 19 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 I.
- (b) "The Parties agree that the 'appropriate measures' referred to in Article 19 are measures taken in accordance with international law. If a Party takes a measure in case of special urgency pursuant to Article 19, the other Party may avail itself of the dispute settlement procedure."

ANNEX II

Joint Declaration on Intellectual, Industrial and Commercial Property

The Parties agree for the purpose of this Agreement, that "intellectual, industrial and commercial property" includes in particular protection of copyright and related rights, patents, industrial designs, trademarks and service marks, software, topographies of integrated circuits, geographical indications, as well as protection against unfair competition and protection of undisclosed information on know-how.

Declaration by the European Community and the Islamic Republic of Pakistan

The European Community recalls the importance attached by its Member States to the effective co-operation with third countries to facilitate the readmission of nationals of the latter who are present illegally in the territory of a Member State.

The Islamic Republic of Pakistan undertakes to conclude readmission agreements with the Member States of the European Union which so request.

**Statement by the Islamic Republic of Pakistan on the
Declaration on Readmission Agreements**

In agreeing to the undertaking 'to conclude readmission agreements with the Member States of the European Union which so request', the Islamic Republic of Pakistan desires to make it clear that the undertaking exclusively represents Pakistan's readiness to enter into negotiations with the objective of concluding mutually acceptable readmission agreements with the member States of the European Union which so request. At present Pakistan does not have such readmission agreements with any Member State of the European Union. However, on the request of EU Member States, Pakistan is willing to start negotiations or intensify where such negotiations are already underway. Pakistan considers these negotiations as independent of any other bilateral or multi-lateral agreements that we have concluded or are in the process of negotiating with EU Member States or the European Commission. Also, Pakistan does not accept any non-negotiable text for such bilateral readmission agreements.

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23