



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 28.06.1995
COM(95) 305 final

95/0173 (CNS)

Proposal for a

COUNCIL DECISION

concerning the conclusion of the Co-operation Agreement between the European Community and the Socialist Republic of Vietnam.

(presented by the Commission)

Explanatory Memorandum

1. By its decision of 4 October 1993, the Council authorised the Commission to open negotiations with the Socialist Republic of Vietnam with a view of concluding a Co-operation Agreement and adopted directives to this end.
2. The negotiations took place, 16-17 December 1993 and 30-31 May 1995, ending with the initialing of the Agreement between the European Community and the Socialist Republic of Vietnam.
3. The Commission considers that the initialed text is in line with the negotiation directives adopted by the Council on 4 October 1993, revised by the Council on 23 January 1995.
4. The European Parliament must be consulted because the legal basis of the Agreement includes Articles 113, 130 Y in conjunction with the first sentence of Article 228 (2) and the first subparagraph of paragraph 3, thereof of the Treaty establishing the European Community.
5. With a view of the signature and conclusion of this Co-operation Agreement between the European Community and the Socialist Republic of Vietnam, the Commission is proposing to the Council that it approves the Agreement and adopt the attached proposal for a decision.

**Proposal for a
Council decision N°.....**

concerning the conclusion of the Co-operation Agreement between the European Community and the Socialist Republic of Vietnam.

THE COUNCIL OF THE EUROPEAN UNION

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas, under Article 130 U 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 campaign against poverty in those countries ;

Whereas the Community should approve, for the attainment of its aims in the sphere of external relations, the Co-operation Agreement between the European Community and the Socialist Republic of Vietnam.

HAS DECIDED AS FOLLOWS :

Article 1

The Co-operation Agreement between the European Community and the Socialist Republic of Vietnam 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, on behalf of the Community, give the notification provided for in Article 20 of the Agreement (1).

Article 3

The Commission, assisted by representatives of the Member states, shall represent the Community in the Joint Commission provided in Article 14 of the Agreement.

Article 4

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

Done at Brussels,

For the Council

The President

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

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

THE COUNCIL OF THE EUROPEAN UNION,

on the one part,

THE GOVERNMENT OF VIETNAM,

on the other part,

hereafter referred to as "the Parties",

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";

RECOGNISING 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 the respect for human rights and democratic principles and the principles of the United Nations Charter and the respect for national independence and sovereignty;

RECOGNISING 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;

RECOGNISING 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;

RECOGNISING 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;

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[Signature]
31/5/95

HAVING REGARD 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 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 recognising the linkage between the environment and development;

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

THE COUNCIL OF THE EUROPEAN UNION;

THE GOVERNMENT 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 two-way 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 the living conditions of the poorer sections of the population;
3. To enhance economic cooperation in the mutual interest, 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 other's 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 their different systems and the work already done in this connection by international organisations.

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 harmonisation 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. In so far 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 to 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 developmental 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 successfully 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 activities.

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

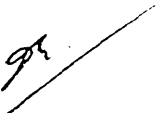
1. The Community recognises Vietnam's need for development assistance and is prepared to enhance its cooperation by providing such assistance through specific projects and programmes in accordance with the priorities set out in Council Regulation EEC No. 443/92 in order to contribute to Vietnam's own 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 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.

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 recognise 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;
- (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 12

Information and Communication

The Parties will co-operate 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 specialised sub-groups to assist in the performance of its tasks and to co-ordinate 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 organisational 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 Plenipotentiaries have signed this Agreement.

For the Council of the European Union
on behalf of the European Community

For the Government of Vietnam

Annex I
Declarations of the European Community

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 Generalised Scheme of Preferences (GSP) autonomously put into effect by the European Community on 1st July 1971 on the basis of Resolution 21 (II) of the 2nd 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.

Annex II

Joint Declaration of the European Community and of the Government of Vietnam

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.

Annex III

Declaration of the Socialist Republic of Vietnam

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, dignity, in accordance with international acceptable practices and the Comprehensive Plan of Action (CPA) 1989, with financial assistance from 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.

FINANCIAL STATEMENT

PART 1 : FINANCIAL IMPLICATIONS

1. Title of Operation

Co-operation Agreement with the Socialist Republic of Vietnam

2. Budget Headings Involved

See annex.

3. Legal Basis

EC Treaty Articles 113, 130Y in liaison with Article 228 par. 2 first sentence and 3 first indent.

4. Description of the Operation

4.1 Aim

Co-operation Agreement

4.2 Duration

Initially 5 years, renewable each year thereafter

4.3 Parties Involved

EC and Vietnam (officials)

5. Classification of Expenditure or Revenue

5.1 Non compulsory

5.2 Differentiated appropriations

5.3 The projects launched under the Agreement will not engender any specific revenue.

6. Type of expenditure

6.1 Subvention up to 100% : 100% subvention

6.2 Community financial contribution as a proportion (%) of the total cost of the operation

To be decided on a case by case basis

7. Financial impact on appropriations for operations

7.1 Method of financing the action during the current year

On the basis of the existing budgetary credits

7.2 Schedule of commitment and payment appropriations

On request, following approval of the project by the Commission departments and up to an amount not exceeding the appropriations to be entered under the relevant budget headings.

8. What Anti-fraud Measures are Planned in the Proposal for the Operation ?

The Vietnamese authorities and the European Commission will apply the normal control measures in the implementation of Cooperation Agreement.

9. Observations

Expenditure derived from the Agreement will be determined, for future budgets, by the usual procedure.

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Part 2 : ADMINISTRATIVE EXPENDITURE

The proposed action will not require an increase of staff in the Commission.

FINANCIAL STATEMENT

1. Title of operation

Co-operation Agreement between the European Community and the Socialist Republic of Vietnam

2. Budget headings involved

B6-7211 Research and technological cooperation with third countries and international organisations

B7-3000 Financial and technical co-operation with Asian developing countries

B7-3001 Economic co-operation with Asian developing countries

B7-302 Aid towards self-sufficiency for refugees and displaced persons

B7-500 Promotion of Community investment developing countries of Asia linked to the Community by economic cooperation and trade agreements

B7-5010 Community contribution towards schemes concerning developing countries carried out by non-governmental organisations

B7-5014 Community aid to non-governmental organisations operating in Vietnam

B7-5020 Commercial and economic co-operation agreements with third countries

B7-5021 Relations with the GATT signatory and applicant countries

B7-5031 Training and promotion of awareness of development issues

B7-5033 Training periods at the Commission for third country nationals

B7-5040 Environment in the developing countries

B7-5041 Tropical forests

B7-5046 Health programmes and the fight against HIV/AIDS in developing countries

B7-5047 Maternal and child health care

B7-5050 Aid for population policies and programmes in developing countries

B7-5051 Women in development

B7-5076 Rehabilitation and reconstruction measures for the developing countries

B7-5077 Decentralised cooperation in the developing countries

B7-5080 North-South co-operation schemes in the context of the campaigns against drug abuse

B7-523 Human rights and democracy in the developing countries

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