

No. 23223

FEDERAL REPUBLIC OF GERMANY
and
INDIA

**Agreement concerning financial co-operation in 1984 (with
annex). Signed at Bonn on 4 May 1984**

Authentic texts: German and English.

Registered by the Federal Republic of Germany on 28 December 1984.

RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
INDE

**Accord de coopération financière en 1984 (avec annexe).
Signé à Bonn le 4 mai 1984**

Textes authentiques : allemand et anglais.

Enregistré par la République fédérale d'Allemagne le 28 décembre 1984.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY CONCERNING FINANCIAL CO-OPERATION IN 1984

The Government of the Republic of India and the Government of the Federal Republic of Germany,

In the spirit of the friendly relations existing between the Republic of India and the Federal Republic of Germany,

Desiring to strengthen and intensify those friendly relations through financial co-operation in a spirit of partnership,

Aware that the maintenance of those relations constitutes the basis of this Agreement,

Intending to contribute to social and economic development in the Republic of India,

With reference to the negotiations of 2/4 May 1984 and the Minutes of 4 May 1984,

Have agreed as follows:

Article 1. The Government of the Federal Republic of Germany shall enable the Government of the Republic of India or other recipients to be determined jointly by the two Governments to obtain from the Kreditanstalt für Wiederaufbau (Development Loan Corporation), Frankfurt/Main, subject to the fulfilment of the applicable budgetary requirements, loans up to a total of DM 347.5 million (three hundred and forty-seven million five hundred thousand Deutsche Mark) for the projects referred to in article 2 of this Agreement as well as a financial contribution of up to DM 2.5 million (two million five hundred thousand Deutsche Mark) for the preparation of the projects and for attendant measures required for their implementation and support.

Article 2. (1) The loans and the financial contribution referred to in article 1 of this Agreement shall be utilized in accordance with the provisions of paragraphs 2 to 5 below.

(2) Loans up to a total of DM 207.5 million (two hundred and seven million five hundred thousand Deutsche Mark) shall be utilized for the following projects if, after examination, they have been found eligible for promotion:

- (a) Neyveli Lignite Corporation (expansion phase II),
- (b) Neyveli Lignite Corporation (expansion phase III),
- (c) Thermal power station Ramagundam,
- (d) Thermal power station Trombay VI,
- (e) EWS programme HUDCO II (Housing and Urban Development Corporation),
- (f) additional projects to be agreed upon.

¹ Came into force on 4 May 1984 by signature, in accordance with article 8.

(3) The financial contribution of up to DM 2.5 million (two million five hundred thousand Deutsche Mark) shall be utilized for the project “Study and Expert Fund”.

(4) A loan of up to DM 60 million (sixty million Deutsche Mark) shall be made available to finance capital goods to meet India’s civilian requirements whose order value in individual cases does not exceed DM 5 million (five million Deutsche Mark). In exceptional cases supplies worth up to DM 7 million (seven million Deutsche Mark) may be included in this procedure. Orders worth over DM 2 million (two million Deutsche Mark) shall be subject to the prior approval of the Kreditanstalt für Wiederaufbau. The disbursement of the amount so loaned shall extend over a period ending on 31 July 1987. The Government of the Federal Republic of Germany proceeds on the understanding that the Government of the Republic of India will utilize the counterpart Rupee funds accruing from the sale of the Deutsche Mark so loaned for development projects.

(5) Loans up to a total of DM 50 million (fifty million Deutsche Mark) shall be made available to Indian financing institutions for the purpose of promoting investment projects of medium-sized private enterprises of the processing industry.

Of this amount,

- (a) The Industrial Credit and Investment Corporation of India Limited (ICICI) shall receive up to DM 25 million (twenty-five million Deutsche Mark) and
- (b) The Industrial Finance Corporation of India (IFCI) shall receive up to DM 25 million (twenty-five million Deutsche Mark).

(6) Loans up to a total of DM 30 million (thirty million Deutsche Mark) shall be used to meet foreign exchange costs resulting from the purchase of goods and services to cover current civilian requirements, and to meet foreign exchange and local currency costs of transport, insurance and assembly arising in connection with the importation of goods financed under this Agreement. The supplies and services must be such as are covered by the list annexed to this Agreement and for which shipping documents have been drawn up after 1 April 1984 or which have been provided after that date. When utilizing this amount favourable consideration shall be given to the requirements of enterprises established in India with German financial participation, as well as to holders of German licences, to the extent that such requirements are not to be met within the scope of the measures adopted by the Government of the Republic of India for the liberalization of imports. The Government of the Federal Republic of Germany proceeds on the understanding that the Government of the Republic of India will utilize the counterpart Rupee funds accruing from the sale of the Deutsche Mark so loaned for development projects.

(7) The projects referred to in paragraphs 2, 3 and 4 above may be replaced by other projects if the Government of the Republic of India and the Government of the Federal Republic of Germany so agree.

(8) This Agreement shall also apply if at a later date, the Government of the Federal Republic of Germany enables the Government of the Republic of India to obtain from the Kreditanstalt für Wiederaufbau further loans or financial contributions for the preparation of the projects referred to in paragraphs 2 to 4 above or financial contributions for attendant measures required for their implementation and support.

Financial contributions for preparatory and attendant measures shall be converted into loans in the event that they are not used for such measures.

(9) The Government of the Federal Republic of Germany will endeavour, on the basis of existing national directives and provided the other conditions for cover are met, to assume guarantees up to a maximum amount of DM 168 million (one hundred and sixty-eight million Deutsche Mark) in respect of that part of the value of an order not financed from loans granted within the scope of financial cooperation, and pertaining to export deals concluded by enterprises having their place of business in the German area of application of this Agreement for the implementation of the projects referred to in paragraph 2 (b), (c), (d) and (f) above.

The following articles of this Agreement shall also apply to the loan to be granted outside the scope of financial co-operation, provided that the Kreditanstalt für Wiederaufbau is the lender.

Article 3. (1) The utilization of the amount referred to in article 1 of this Agreement, the terms and conditions on which it is made available as well as the procedure to be followed in awarding the contracts shall be governed by the provisions of the agreements to be concluded between the recipients of the loans and the Kreditanstalt für Wiederaufbau, which shall be subject to the laws and regulations applicable in the Federal Republic of Germany.

(2) The sponsors of the projects referred to in article 2 (2) of this Agreement shall be free to avail themselves of the financing and guarantee facilities provided by the Industrial Development Bank of India. The Government of the Republic of India shall ensure that the said bank has, in each case, sufficient Rupee funds available to cover the requirements of such projects.

(3) The Government of the Republic of India, insofar as it is not itself the borrower, shall guarantee to the Kreditanstalt für Wiederaufbau all payments in Deutsche Mark to be made in fulfilment of the borrowers' liabilities under the agreements to be concluded pursuant to paragraph 1 above.

Article 4. The Government of the Republic of India shall exempt the Kreditanstalt für Wiederaufbau from all taxes and other public charges levied in the Republic of India in connection with the conclusion and implementation of the agreements referred to in article 3 of the present Agreement.

Article 5. Both Governments shall allow passengers and suppliers free choice of transport enterprises for such transportation by sea or air of persons and goods as results from the granting of the loans and the financial contribution, abstain from taking any measures that might exclude or impair the participation on equal terms of transport enterprises having their place of business in the area of application of this Agreement, and grant any necessary permits for the participation of such enterprises.

Article 6. With regard to supplies and services resulting from the granting of the loans and the financial contribution, the Government of the Federal Republic of Germany attaches particular importance to preferential use being made of the economic potential of Land Berlin.

Article 7. With the exception of those provisions of article 5 which refer to air transport, this Agreement shall also apply to Land Berlin, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Government of the Republic of India within three months of the date of entry into force of this Agreement.

Article 8. This Agreement shall enter into force on the date of signature thereof.

DONE at Bonn on 4 May 1984 in duplicate in the English and German languages, both texts being equally authentic.

For the Government
of the Republic of India:

[Signed — Signé]¹

[Signed — Signé]²

For the Government
of the Federal Republic of Germany:

[Signed — Signé]³

[Signed — Signé]⁴

ANNEX TO THE AGREEMENT OF 4 MAY 1984 BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY CONCERNING FINANCIAL CO-OPERATION IN 1984

1. List of goods and services eligible for financing from the loans under article 2 (6) of the above-mentioned Agreement up to a total of DM 30 million (thirty million Deutsche Mark):

- (a) Industrial raw and auxiliary materials as well as semi-manufactures,
- (b) Industrial equipment as well as agricultural machinery and implements,
- (c) Spare parts and accessories of all kinds,
- (d) Chemical products, in particular fertilizers, plant protection agents, pesticides, medicaments,
- (e) Other industrial products of importance for the economic development of India,
- (f) Equipment and apparatus for scientific and technical civilian research institutes as well as hospital supplies,
- (g) Advisory services, patents and licence fees.

2. Imports not included in the above list may only be financed with the prior approval of the Government of the Federal Republic of Germany.

3. The importation of luxury and consumer goods for personal needs as well as any goods and facilities serving military purposes may not be financed from the loans.

¹ Signed by Mukherji — Signé par Mukherji.

² Signed by S. D. Sathe — Signé par S. D. Sathe.

³ Signed by Jürgen Ruhfus — Signé par Jürgen Ruhfus.

⁴ Signed by Ehmann — Signé par Ehmann.