

No. 29888

**GERMANY
and
INDIA**

**Agreement concerning financial cooperation. Signed at Bonn
on 6 September 1991**

Authentic texts: German, Hindi and English.

Registered by Germany on 2 April 1993.

**ALLEMAGNE
et
INDE**

**Accord de coopération financière. Signé à Bonn le 6 sep-
tembre 1991**

Textes authentiques : allemand, hindi et anglais.

Enregistré par l'Allemagne le 2 avril 1993.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY AND THE GOVERNMENT OF THE REPUBLIC OF INDIA CONCERNING FINANCIAL COOPERATION IN 1991

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

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

desiring to strengthen and intensify those friendly relations through financial cooperation 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 Agreement of 28 February 1991 between the Government of the Federal Republic of Germany and the Government of the Republic of India concerning Financial Cooperation in 1991 and the negotiations held from 29 April to 1 May 1991 and the Minutes of 1 May 1991,

have agreed as follows:

Article 1

- (1) The Government of the Federal Republic of Germany shall enable the Government of the Republic of India or other

¹ Came into force on 6 September 1991 by signature, in accordance with article 7.

recipients to be determined jointly by the two Governments to obtain from the Kreditanstalt für Wiederaufbau (Development Loan Corporation), Frankfurt/Main, loans up to a total of DM 311,000,000 (three hundred and eleven million Deutsche Mark) for the projects referred to in Article 2 of this Agreement.

- (2) 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, Frankfurt/Main, financial contributions up to a total of DM 70,000,000 (seventy million Deutsche Mark) for the projects referred to in Article 3 of this Agreement.

Article 2

- (1) The loans referred to in Article 1 (1) of this Agreement shall be used for the following projects:
- (a) a loan of up to DM 90,000,000 (ninety million Deutsche Mark) shall be used for one or several energy projects if, after examination, they have been found eligible for promotion;
 - (b) a loan of up to DM 15,000,000 (fifteen million Deutsche Mark) shall be used for the expansion of the Orissa irrigation project if, after examination, the project has been found eligible for promotion;
 - (c) a loan of up to DM 61,000,000 (sixty-one million Deutsche Mark) shall be made available to increase former loans provided to finance capital goods, mainly for private sector enterprises; the capital goods shall

serve to meet India's civilian requirements; their order value in individual cases shall not exceed DM 7,000,000 (seven million Deutsche Mark). In exceptional cases, supplies worth up to DM 10,000,000 (ten million Deutsche Mark) may be included in this procedure. Orders worth over DM 2,000,000 (two million Deutsche Mark) shall be subject to the prior approval of the Kreditanstalt für Wiederaufbau. 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;

- (d) loans up to a total of DM 50,000,000 (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 if, after examination, the projects have been found eligible for promotion.

Of this amount

- (aa) the Industrial Credit and Investment Corporation of India (ICICI) shall receive up to DM 25,000,000 (twenty-five million Deutsche Mark) and
 - (bb) the Industrial Finance Corporation of India (IFCI) shall receive up to DM 25,000,000 (twenty-five million Deutsche Mark);
- (e) a loan of up to DM 50,000,000 (fifty million Deutsche Mark) shall be utilized to meet foreign exchange costs resulting from the purchase of fertilizers from the Federal Republic of Germany and to meet foreign

exchange and local currency costs of transport and insurance arising in connection with the importation of goods financed under this Agreement (Fertilizer Sector Programme) if, after examination, the project has been found eligible for promotion. The shipping documents in respect of the supplies and services must have been drawn up after 10 August 1991 or the supplies and services provided after that date. 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;

- (f) a loan of up to DM 45,000,000 (forty-five million Deutsche Mark) shall be used to co-finance a sector-related or a general structural adjustment programme to be agreed upon by the Government of the Republic of India and the World Bank. The funds 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 conditions for the provision and disbursement of the loan shall conform to those of the World Bank.

- (2) The projects referred to in paragraph 1 (a), (b), (c) and (d) above may be replaced by other projects if the Government of the Federal Republic of Germany and the Government of the Republic of India so agree.

- (3) 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, Frankfurt/Main, further loans or financial contributions for the preparation of the projects referred to in paragraph 1 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.
- (4) 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 90,000,000 (ninety 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 for the implementation of the projects referred to in paragraph 1 (a) above concluded with enterprises having their place of business in the Federal Republic of Germany. The following Articles of this Agreement shall also apply to the loans granted in addition to those envisaged within the scope of financial cooperation, provided that the Kreditanstalt für Wiederaufbau is the lender.

Article 3

- (1) The financial contributions referred to in Article 1 (2) of this Agreement shall be used for the following projects if, after examination, they have been found eligible for promotion and it has been confirmed that, as environmental pro-

tection or social infrastructure projects, they fulfil the special conditions for promotion via financial contributions:

- (a) Sundarban environmental protection project;
 - (b) Low-cost House-Building for lower income groups (HUDCO IV).
- (2) In the event that the aforementioned confirmation cannot be provided in respect of a project referred to in paragraph 1 above, the Government of the Federal Republic of Germany shall enable the Government of the Republic of India to obtain from the Kreditanstalt für Wiederaufbau a loan up to the amount of the envisaged financial contribution.
- (3) The projects referred to in paragraph 1 above may be replaced by other projects if the Government of the Federal Republic of Germany and the Government of the Republic of India so agree.
- (4) In the event that a project referred to in paragraph 1 above is replaced by a project relating to environmental protection, social infrastructure or a self-help-oriented measure for the eradication of poverty, which project fulfils the special prerequisites for promotion via financial contributions, a financial contribution may be granted; otherwise a loan may be made available.
- (5) 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, Frankfurt/Main, loans or financial contributions for the preparation of the projects referred to in paragraph 1 above or further financial contri-

butions for attendant measures required for their implementation and support.

Article 4

- (1) The utilization of the amounts referred to in Article 1 of this Agreement and the terms and conditions on which they are made available, as well as the procedure for awarding contracts, shall be governed by the provisions of the agreements to be concluded between the recipients of the loans and financial contributions and the Kreditanstalt für Wiederaufbau, which agreements 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 (1) (a) and (b) 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, in so far 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 5

The Government of the Republic of India shall exempt the Kreditanstalt für Wiederaufbau from all taxes and other public charges levied in India in connection with the conclusion and implementation

of the agreements referred to in Article 4 (1) of the present Agreement.

Article 6

The Government of the Federal Republic of Germany and the Government of the Republic of India 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 financial contributions, 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 Federal Republic of Germany, and grant any necessary permits for the participation of such enterprises.

Article 7

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

DONE at Bonn on 6th September 1991
in duplicate in the German, Hindi and English languages, all three texts being authentic. In case of divergent interpretations of the German and Hindi texts, the English text shall prevail.

For the Government
of the Federal Republic
of Germany:

[Signed — Signé]¹

[Signed — Signé]²

For the Government
of the Republic of India:

[Signed — Signé]³

¹ Signed by Dr Dieter Kastrup — Signé par Dieter Kastrup.

² Signed by Michaela Geiger — Signé par Michaela Geiger.

³ Signed by M. Dubey — Signé par M. Dubey.