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DOCUMENT 1-536/81

Report

drawn up on behalf of the Committee on External Economic Relations

on the proposal from the Commission of the European Communities to the Council (doc. 1-397/81) for a Regulation on the conclusion of the Agreement for Commercial and Economic Cooperation between the European Economic Community and India

Rapporteur: Mr Barry H. SEAL

By letter of 7 July 1981 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 235 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a regulation on the conclusion of the Agreement for Commercial and Economic Cooperation between the European Economic Community and India.

The President of the European Parliament referred this proposal on 9 July 1981 to the Committee on External Economic Relations as the committee responsible and to the Committee on Development and Cooperation for its opinion.

The Committee on External Economic Relations had already appointed Mr Seal rapporteur on 26 February 1980 for an interim report on an Agreement for Commercial and Economic Cooperation between the European Economic Community and India; Parliament adopted the motion for a resolution contained in this interim report on 18 April 1980.

The Committee considered this proposal at its meeting of 21 September 1981 when it unanimously adopted the motion for a resolution and the explanatory statement.

Present: Sir Frederick Catherwood, chairman; Mrs Wiczorek-Zeul, vice-chairman
Mr Seal, vice-chairman and rapporteur; Mr Galluzzi; Mr Irmer;
Mr Jonker; Mr de Lipkowski; Mr Majonica; Mr Martinet;
Mrs Moreau; Lord O'Hagan; Mr Pannella; Mrs Poirier; Mrs Pruvot
(deputizing for Mrs Agnelli); Mr Rieger; Mr Seeler; Mr Segre
(deputizing for Mr Gremetz); Mr Vandemeulebroucke and
Sir Frederick Warner

The opinion of the Committee on Development and Cooperation is attached.

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A

The Committee on External Economic Relations hereby submits to the European Parliament the following Motion for a Resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a regulation on the conclusion of the Agreement for Commercial and Economic Cooperation between the European Economic Community and India

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council pursuant to Article 235 of the EEC Treaty (Doc 1-397/81),
 - having regard to the report of the Committee on External Economic Relations and the opinion of the Committee on Development and Cooperation (Doc 1-536/81),
 - recalling the interim report of the Committee on External Economic Relations on the negotiation of an Agreement for Commercial and Economic Cooperation between the European Economic Community and India (Doc 1-45/80),
 - having regard to its vote in plenary session on the proposal for a regulation on the conclusion of the Agreement for Commercial and Economic Cooperation between the European Economic Community and India,
1. Welcomes the successful outcome of the negotiations to conclude a wider agreement between India and the Community which will include economic as well as commercial cooperation;
 2. Emphasizes the importance it attaches to its being able to express its views on the content of negotiations of this nature in addition to their outcome;

¹

OJ No. C 173, 14.7.1981, p.3

3. Stresses that the Agreement must be applied in such a way that it will not only make a significant contribution towards India's economic and social development but will also help to reduce India's increasing balance of trade deficit with the Community;
4. Calls on the Commission to report to it at intervals of not less than one year on the working of the Agreement with particular reference to the economic and social development of India;
5. Charges its appropriate Committee, on the basis of such reports to draw the Commission's attention to ways of improving and strengthening the Agreement in order to ensure its dynamic evolution;
6. Welcomes the proposal for opening an office in New Delhi, as already agreed by Parliament in its resolution of 18 April 1980, and urges the Budgetary Authority to give all necessary support to this initiative to ensure the proper functioning of this new Agreement;
6. Instructs its President to forward this resolution and the report of its Committee to the Council and Commission.

EXPLANATORY STATEMENTI. INTRODUCTORY

1. The new Agreement for Commercial and Economic Cooperation between the European Economic Community and India, which replaces the Commercial Cooperation Agreement between the two parties and which has been in operation since 1974, was signed in Luxembourg on 23 June 1981. Following signature the European Parliament is called to give its opinion on the Agreement under the provisions of Article 235 of the Treaty.

2. Parliament has however already given a preliminary opinion when it agreed, in April 1980¹, the Motion for a Resolution contained in the Interim Report on a commercial and economic agreement between the EEC and India² drawn up on behalf of the Committee on External Economic Relations by the present Rapporteur. It was thus possible for both Committee and Parliament to comment on the proposed content of the Agreement before negotiations were opened between the Commission and India following the so called "negotiating mandate" given to the Commission by the Council of Ministers on 22 April 1980.

3. It is worth stressing this point because of the frequently expressed criticisms concerning the inadequate role given to the Parliament in the negotiation and conclusion of trade agreements between the Community and third countries. Attention was drawn to this in paragraphs 32 to 34 of the Explanatory Statement in the Interim Report where the Rapporteur commented on the necessity of Parliament's influence being brought to bear at the stage of the Commission's formulation of its recommendations and before final adoption by the Council of the Directive authorizing the Commission to negotiate. Substantially the same point is made in the opinion prepared for the Committee on Development and Cooperation prepared by Sir Fred Warner and annexed to this Report, "we envisage a new procedure whereby the negotiating mandate is considered by Parliament, with the right to express an opinion, before it is issued to the Commission".

¹ OJ C 117/78, 18 April 1980

² Doc 1-45/80

4. In the case of the Agreement now under consideration Parliament was fortunate in that it was able to express its views before the negotiating mandate was issued - and indeed, as is shown in paragraphs 18 and 19 below, some of the Committee's principal recommendations are contained in the final Agreement. It was, however, largely fortuitous that the Interim Report was made at a stage when it could have some bearing on the negotiations. This only serves to endorse the Committee's view that is essential to strengthen Parliament's role in the Community's negotiating procedure so that it is informed at an earlier stage than provided for under the present Luns/Westerterp procedure (which basically only provides information as to what has been negotiated) and that it has a more positive part in the decision-making procedure than is the case in Agreements such as the present one where Parliament's opinion is basically confined to rubber stamping an Agreement which has already been concluded.

5. Since the Interim Report covered much of the basic factual information including not only trade statistics between the EEC and India but also an account of the previous Commercial Cooperation Agreement it will not be necessary to cover this ground again in the present report except where it is necessary to bring it up to date.

II. RELATIONS BETWEEN INDIA AND THE COMMUNITY

Trade with India represents about 1% of the Community's external trade while being in 1977 India's most important market taking 26% of India's exports compared with 14% by the United States.

6. The Community is in trade surplus with India as the following table indicates¹:

Trade of EEC(9) with India (million ECU)

	Food Beverages Tobacco	Fuel Products	Raw Materials	Chemicals	Machinery, Transport Equipment	Other Manufactured Goods	TOTAL
EC IMPORTS							
<u>1979</u>	450	-	120	30	44	1172	<u>182</u>
<u>1980</u>	416	14	110	27	47	1171	<u>179</u>
EC EXPORTS							
<u>1979</u>	79	9	90	313	655	828	<u>200</u>
<u>1980</u>	80	99	61	351	897	781	<u>229</u>

¹ Source: Eurostat - Supplement to the Monthly External Trade Bulletin

While a deficit in India's balance of trade with the EEC is not abnormal for a developing country it should be noted that it has increased sharply between 1979 and 1980 and that this increased deficit was the result not only of an increase of Community exports to India but also of a reduction in India's exports to the Community. In view of the by no means healthy state of the Indian economy¹ a substantial worsening of the deficit must be regarded as a danger signal.

7. It is clear that this increase in the deficit is not a temporary phenomenon and it may well be in part a result of the liberalization of India's import regime. India would also claim that the deficit arises partly from remaining tariff and non-tariff barriers and from difficulties of access to the Community market, particularly in the textile sector².

If there are signs that for the year 1980-81 the Indian economy has taken a turn for the better as compared with 1979-80 when GNP declined by about 4.5% in real terms and prices increased by about 21%, this improvement does not extend to the balance of payments. Foreign exchange reserves started to decline in 1979-80 and this decline has been accentuated in 1980-81. The deficit in India's foreign trade has also increased sharply since 1977 and is estimated to be around Rs 50,000 million or 4,490m eua in 1980-81. This means that export promotion has assumed paramount importance for the Indian economy.

8. Clearly the question of Indian exports of certain products is a delicate one which the Rapporteur has already touched on in the Interim Report. Article 4 of the Agreement refers to the promotion of "new relations of dynamics complementarity, based on comparative advantage and mutual benefit, in the industrial field...". It will be one of the most important, and difficult, tasks of the Joint Commission to ensure that the concept of "dynamic complementarity" will evolve in such a way that India's possibilities in regard to traditional skills, available raw materials and cheap labour can be developed to the maximum without further endangering sectors in the Community which are already in difficulties. To achieve this will require understanding by both partners and a willingness to consider industrial restructuring and making the optimum use of the difference in the degree of development in India and the Community. There is for example an obvious need for investment in labour intensive industry in India, where twenty million adults have never had any employment but at the same time the Community is faced with a grave unemployment crisis of its own so complementarity in the industrial field will be essential.

9. The Committee on External Economic Relations are convinced that the immediate aim in commercial relations between the Community and India should be the halting of India's growing deficit. All areas for cooperation provided by the Agreement, including the technological and scientific fields, should be looked at in this light since effective cooperation is almost

¹ See Interim Report Doc 1-45/80, paragraphs 12 and 13

² Under Article 10 of the Agreement the Joint Commission is required to "study and devise ways and means of overcoming trade barriers, tariff and non-tariff".

impossible when the disparities between the partners are too great.

10. To the extent that this disparity between India and the Community, expressed in terms of the balance of trade, has increased under the Commercial Cooperation Agreement of 1973 the efficacy of that Agreement must be in question. The new Commercial and Economic Cooperation Agreement will be judged, at any rate at first, by what it can do towards restoring a more favourable balance.

III. THE AGREEMENT FOR COMMERCIAL AND ECONOMIC COOPERATION

11. The preamble to the Agreement states that it is now opportune to give a new impetus to the relationship between India and the Community and that to achieve this closer cooperation is requires "across the whole range of commercial and economic endeavour". This aim is reflected in Article 5 of the Agreement which covers cooperation in such fields as transfer of technology, a fuller utilisation of each partner's material, manpower and technological resources and the encouragement of technological and scientific cooperation.

12. Article 7 gives the contracting parties wide-ranging powers to hold 'friendly consultations' on the whole range of problems that may arise in the achievement of the objectives of the Agreement, including "any problems adversely affecting bilateral commercial and economic relations". This Article is something of an innovation in such Agreements and should enable both sides to discuss various issues in a global context; it will for example be possible for such matters as the impact of the enlargement of the Community to be discussed in these consultations.

13. Article 8 provides for cooperation in the field of exports to, and economic relations with, third countries, especially developing countries. The Committee believe that development cooperation, to which attention was drawn in paragraph 31(iv) of the Interim Report, will be an important feature of the new Agreement. Such cooperation should obviously not only be to the "mutual benefit" of the Contrasting Parties as stated in Article 8, but equally to the developing countries and the Committee stress that both parties will have to operate cooperation in this field in a vigorous and progressive manner in order to achieve this.

14. Article 9 provides that the Agreement shall not affect the powers of Member States to undertake bilateral activities with India including the conclusion of new economic cooperation agreements.

15. Article 10 sets up a Joint Commission charged with ensuring the proper functioning of the Agreement.

16. Annexes I and II to the Agreement cover the improvement of the GSP with respect to India.

17. The Rapporteur considers that detailed comment is called for on a number of Articles in the Agreement. Though there is no possibility of proposing amendments to it the operation of the Agreement should be followed carefully by Parliament with a view to recommending possible alterations and improvements in the light of experience. Such recommendations shall contribute to the 'dynamic' concept behind the Agreement which is referred to in the preamble.¹

The Joint Committee

18. As indicated in paragraph 4 above the Agreement, as finally concluded, contains much of what was suggested in the Interim Report. The Rapporteur particularly welcomes the fact that the Joint Commission set up under Article 10 of the Agreement will have some degree of financial autonomy. Article 10(d) requires the Joint Commission "to make recommendations on the use of Community funds available for the implementation of the objectives of the present Agreement. In respect of such funds as may be put at the disposal of the Joint Commission by the Contracting Parties in a jointly agreed manner and in accordance with their respective, to decide expenditure on relevant studies and activities".

19. This meets the proposals made in Paragraph 31(ii) and (iii) of the Explanatory Statement in the Interim Report. It is particularly significant that the Joint Commission will not only be able to make recommendations on the use of Community funds but that it will also be empowered to make decisions in respect of the funds which are actually allocated to it. The position of the Joint Commission is obviously central if the Agreement is really to break new ground in the field of economic cooperation which is intended to be "essentially evolutionary Therefore no field suitable for economic cooperation should be ruled out in advance."² The provisions of Article 10 would appear to give a real measure of independence to the Joint Commission and the Rapporteur therefore hopes that the composition of the Commission, which is described in Article 11 of the Agreement as being of "representatives of both sides at an appropriately high level", will in fact reflect the importance of its role.

20. No provision is made in the Agreement for reports and recommendations of the Joint Commission being transmitted to the European Parliament. If however Parliament is to follow the development of this "essentially evolutionary" agreement, particularly with a view to making recommendations concerning its provisions at the end of the initial five year period, then the European Commission should send Parliament, for information, copies of the relevant material submitted to it by the Joint Commission.

1 "MINDFUL that the more dynamic relationship which both the European Community and India desire calls for closer cooperation across the whole range of commercial and economic endeavour".

2 COM (79) 176 final

Development cooperation

21. The opinion of the Committee on Development and Cooperation considers that the Commercial and Economic Cooperation Agreement "should be extended to form a framework for overall Community development cooperation with India". The Committee on External Economic Relations endorses this view - the Interim Report has also drawn attention to the paradox of India's position as the world's tenth industrial power while approximately 40% of its population still live below the poverty line.¹

22. Article 6 of the Agreement provides that "The Community will take all possible measures to intensify its support, within the framework of its programmes in favour of non-associated developing countries, for India's development programmes, through direct concessional transfers as well as through institutional and other sources of finance in accordance with the rules and policies of such institutions ...".²

23. Clearly one of the areas of the Agreement which the Parliament will be monitoring closely over the next five years will be its effectiveness as an instrument of development and the way in which Article 6 operates will need careful examination. From India's point of view access to the Community's financial institutions is important as a means of speeding up the process of investment in technology in India. How effective Article 6 will prove to be, as at present interpreted, remains to be seen.

Investment Protection

24. The question of investment protection was considered at some length in the Interim Report where it was noted that the Indian position was that Indian legislation already provided sufficient protection for foreign investment and that in any event any changes in this respect were within the legislative prerogative of the Indian Parliament and could not be negotiated within the context of a Commercial and Economic Cooperation Agreement.

25. Despite this however there is evidence of some reluctance by foreign investors to take advantage of the opportunities afforded to foreign investment in India. In view of the importance of such investment for India's development this too is a matter which should be monitored carefully in the first five year period of the new Agreement, Article 5 of which provides for the promotion and facilitation of "increased and mutually beneficial investment, consistent with the relevant laws and policies".

¹ Doc 1-45/80, paragraph 12

² This is interpreted by the Commission and Council as not providing for the intervention of the European Investment Bank, whereas it does not confine the intervention of financial institutions only to institutions of private nature (Declaration of 14 April 1981)

A Commission Office in New Delhi

26. Though the question of the Commission establishing an office in India naturally does not arise in the Agreement paragraph 4 of the Motion for a Resolution in the Interim Report called for the establishment of a Commission office in New Delhi. It was the view of the Committee on External Economic Relations that the potential importance of the new Agreement was such that the opening of a Commission office to deal exclusively with India would become essential. Provision for this has been included in the Draft Budget for 1982 and the Committee urges that this decision should be maintained.

IV. CONCLUSIONS

27. Attention has already been drawn to the unsatisfactory position of the European Parliament in the negotiation of Community treaties. The fact that in the case of this particular Agreement Parliament's involvement was greater than usual and that real attention was paid to its views only serves to demonstrate the need for Parliament to be able to give its opinion before negotiations are even entered into. As it is the present Report is virtually confined firstly to commenting on any differences between the content of what the Commission sought authorization to negotiate and what was finally negotiated and secondly on what changes or modifications might be made to the Agreement in accordance with Article 15 which permits amendments to "be introduced at any time to take account of emerging situations and evolving policies".

28. It has been pointed out in paragraphs 18 and 19 above that the new Agreement reflects the most important comments and suggestions put forward by the Committee and in view of this the Committee has no hesitation in recommending Parliament's approval of the implementing Regulation, subject to the minor amendment proposed to Article 3 of the proposed Regulation. At the same time the Agreement is, to a certain extent, experimental and the way in which it operates, in particular with respect to the development of the Indian economy, will require careful monitoring. It is for this reason that the Committee considers that it is essential that Parliament be kept fully informed of the work of the Joint Commission.

OPINION OF THE COMMITTEE ON DEVELOPMENT AND COOPERATION

Draftsman: Sir Fred WARNER

On 5 December 1980 the Committee on Development and Cooperation appointed Sir Fred WARNER draftsman.

It considered the draft opinion at its meeting of 21 January 1981 and adopted it unanimously.

Present: Mr Poniatowski, Chairman; Mr Bersani and Mr Kühn, vice-chairmen; Sir Fred Warner, draftsman; Mr Barbi, Mrs Carrettoni-Romagnoli, Mrs Castellina, Mr Clement, Mr Cohen, Mr Enright, Mr Estgen, Mr Ferrero, Mrs Focke, Mr Fotilas, Mr Glinne, Mr De Gucht, Mr Irmer, Mr Jaquet, Mr Kellett-Bowman, Mr Lezzi, Mr Lückner, Mr Michel, Mr Narducci, Mr Pearce, Mrs Rabbethge, Mr Sablé, Mr Sherlock, Mr Vardakas, Mr Vergeer and Mr Wawrzik.

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Introduction

In April 1974 a commercial cooperation agreement between the EEC and India came into force. After its five years of operation this agreement was tacitly extended for a further year, and should now be replaced by a new agreement. The Committee on External Economic Relations drew up an own-initiative interim report (Doc. 1-45/80, rapporteur Mr Seal) on the new agreement with India, and a final version of this report is at present being prepared. An own-initiative report was required as the European Parliament is not normally consulted until after the initialling of external agreements. The formulation of a report at this time enables Parliament to make its views known before the conclusion of the agreement.

Your draftsman wishes to concentrate on the following three aspects which are of relevance to the Committee on Development and Cooperation:

- the competence of the European Parliament with regard to external agreements
- development issues
- generalised system of tariff preferences (GSP)

(i) The competence of the European Parliament with regard to external agreements

Your draftsman takes the view that the European Parliament's competence in respect of external agreements is of such importance to the standing and function of this Parliament that every committee which provides a report or opinion should raise this point so that the whole of Parliament can be seen to be concerned with this vital issue. A highly regrettable feature of the present procedure is that the European Parliament is consulted for its opinion on external agreements only after such agreements have been initialled. The Luns-Westerterp procedure merely informs Parliament of what has already been decided without giving this institution a say in the decision-making process. The Committee on External Economic Relations is, at present, studying possible means of strengthening the European Parliament's participation in the drawing up of external agreements by the Community, possibly through involvement at the stage when the Commission's negotiating mandate is being drawn up.

The Committee on Development and Cooperation questions the utility of the present procedure whereby parliamentary consultation takes place at a stage when it cannot possibly have any effect on the content of the agreement. Instead, we envisage a new procedure whereby the negotiating mandate is considered by Parliament, with the right to express an opinion, before it is issued to the Commission.

(ii) Development issues

India, though the world's 10th industrial power, is one of the world's poorest countries with a GNP per capita¹ of only \$180 (1978). Some 40% of India's 650 million population lives below the poverty line, the adult literacy rate was estimated at 36% in 1975 and in 1978 some 20 million adults never had any employment.

¹Source: World Bank, World Development Report 1980

According to an information note sent to the European Parliament by the Council on 23 April 1980¹ the new agreement, as envisaged in the Commission's mandate, will concentrate on commercial and economic cooperation, with a Joint Cooperation Commission which can provide a framework for mutual consultation on commercial or economic problems raised by either party. The agreement is specifically stated to be evolutionary in nature and no area suitable for economic cooperation and falling within Community competence is ruled out in advance.

The agreement would appear not to cover development aid, though India is by far the major recipient of aid under the Community's programme for financial and technical assistance to non-associated developing countries, having received 68m EUA out of a total of 253m EUA granted under the 1976-1979 programmes². India is also a major recipient of Community food aid. During the years 1977, 1978 and 1979 it received 83,439 tonnes of skimmed-milk powder from the Community (21.5% of total Community food aid in the form of skimmed-milk powder), and 37,860 tonnes of butter oil (28% of total Community food aid in the form of butter oil)³.

The Committee on Development and Cooperation has consistently taken the view that commercial and economic cooperation constitute vital aspects of development. The Committee feels that an agreement such as this should be extended to form a framework for overall Community development cooperation with India. The Committee on Development and Cooperation would remind the Committee on External Economic Relations of the views it expressed in the Ferrero report on Hunger in the World⁴, and in particular paragraphs 4, 12, 13, 15 and 32. Paragraph 32 is of special relevance, requesting "the Council and Commission to ensure that as far as possible food aid goes hand in hand with practical agricultural and rural development projects, to plan accordingly the technical and financial aid to the ACP countries and the non-associated developing countries and to provide for multiannual food aid commitments."

It should be noted that, despite the absence of any mention of Community to Government aid, the mandate does include the principle of development through joint investment by private and public enterprise.

¹ PE 64.894

² Source: COM(80) 538 final

³ Source: Court of Auditors Special Report on Community food aid, October 1980

⁴ Doc. 1-341/80, OJ No C265 of 13.10.80

(iii) Generalised system of tariff preferences (GSP)

In 1977, some 20% of Community imports from India, amounting to 322,699m EUA¹ entered the Community under the GSP. In that year India was the 4th beneficiary country coming after Yugoslavia, Brazil and Hong Kong.

Certain Indian exports to the Community could be considered sensitive, in particular textiles. In this regard the Joint Cooperation Commission could play a vital role as the forum in which possible difficulties could be discussed. However, it is understood that nothing in any new arrangements envisaged under the commercial and economic cooperation agreement with India would affect the quotas already negotiated in the framework of the multifibre agreement.

Conclusion

The Committee on Development and Cooperation strongly supports the principle of a new and extended commercial and economic cooperation agreement with India. It particularly hopes that the Committee on External Economic Relations will look into the suitability of an agreement such as this as an appropriate framework for development cooperation.

¹Source: Pearce Report, Doc. 1-455/80, page 11