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European Communities

EUROPEAN PARLIAMENT

Working Documents

1980 - 1981

2 April 1980

DOCUMENT 1-45/80

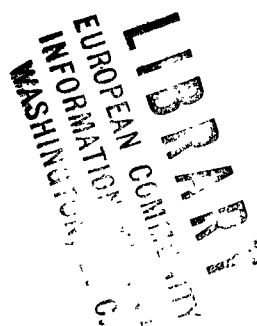
Interim Report

drawn up on behalf of the Committee on External Economic Relations

**on a commercial and economic cooperation agreement between the EEC
and India**

Rapporteur: Mr Barry H. SEAL

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By letter of 20 December 1979 the Committee on External Economic Relations requested authorization to draw up a report on a commercial and economic cooperation agreement between the EEC and India.

Authorization was given by the enlarged Bureau at its meeting of 17 January 1980.

On 21 January 1980 the Committee on External Economic Relations appointed Doctor **SEAL** rapporteur.

It considered the draft report at its meeting of 20 March 1980 when it adopted the Motion for a Resolution and the explanatory statement unanimously, with one abstention.

Present: Sir Fred Catherwood, Chairman; Mrs Wieczorek-Zeul, vice-chairman; Dr Seal, vice-chairman and rapporteur; Mrs Caretoni-Romagnoli, Mr Cohen (deputizing for Mr Fellermaier), Mrs Dienesch, Mr Jonker, Mr Kellett-Bowman, Mr Louwes, Mrs Moreau and Mr Welsh.

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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

on a commercial and economic Cooperation Agreement between the EEC and India

The European Parliament,

- having regard to the special position of India as the second most populous country in the world, with a population equal to that of Africa and South America combined, as a leading member of the Third World and as the world's largest democracy,
 - recognising that although India has some advanced technology and modern industry it is nevertheless one of the world's very poor countries, fifteenth from the bottom with a per capita annual income of only \$150, with forty per cent of its population living below the poverty line and with two-thirds of the world's hungry living on the Indian sub-continent,
 - affirming its belief that because of its extreme poverty India must be classified with the least developed countries of the world and should therefore be regarded as an appropriate recipient of large scale development aid,
 - considering that the only agreement to date between India and the Community has been one for 'Commercial Cooperation', which has now completed its five-year term and its first year of renewal,
 - noting that the Community already gives India substantial food aid as well as financial and technical aid,
 - having regard to the interim report of the Committee on External Economic Relations (Doc. 1-45/80),
1. Calls for the negotiation of a 'Commercial and Economic Cooperation' Agreement with India in order to place the present arrangements within a wider framework. This could be the first stage towards an overall cooperation and aid agreement;
 2. Recognises the political and economic importance of such an agreement with India;

3. Calls for an institutional framework to be established incorporating and strengthening the present Inter-Parliamentary relations and the Joint Committee;
4. Calls for steps to be taken to establish a Commission office in New Delhi;
5. Instructs its President to forward this resolution to the Council and the Commission

EXPLANATORY STATEMENTI. INTRODUCTORY

1. This report has benefited from the work already carried out by Mr RADOUX in the report he prepared for the Committee on External Economic Relations on the renewal of the EEC-India Commercial Cooperation Agreement¹. Though considerations of time made it impossible for Mr RADOUX's Report to be considered in plenary session before direct elections took place, much of the material contained in it has been incorporated in the present Report, subject to such modifications as the passage of time has made necessary.

2. Acknowledgement should also be made of the assistance and cooperation of officials of the Commission and the Indian Mission to the EEC in Brussels. Not only did they provide information, but also stressed the importance which both sides attach to the successful negotiation of an Agreement which will go wider and be more far-reaching than the present, purely commercial Agreement which is currently in force.

II. THE PRESENT COMMERCIAL AGREEMENT

3. The present Agreement, which was concluded on 17 December 1973², and which was the first such Agreement embodying the concepts of commercial and economic cooperation linked with trade concluded with a non-associated developing country, came into force on 1 April 1974. It was concluded for a five year period, to be extended thereafter on a year to year basis as long as neither of the contracting parties denounce it six months before the expiry date. The Agreement is therefore now in its first year of extension, and will be automatically extended for a further year with effect from 1 April 1980.

4. Two points become clear from the text of the Commercial Cooperation Agreement of 1973. In the first place, apart from being based on the "comparative advantage and mutual benefit" of the contracting parties³, the main theme was that of the development and diversification of trade between

¹ PE 57.987

² OJ No. L 82, 27 March 1974

³ Article 1 of the Commercial Cooperation Agreement op. cit.

them - a point covered not only in the preamble to the Agreement, but in Article 4: "The Contracting Parties undertake to promote the development and diversification of the Community's imports from India and India's imports from the Community to the highest possible level", and in Article 9, which specifically charges the Joint Commission for commercial cooperation with the task of seeking "ways and means of encouraging the development of economic and commercial cooperation . . . insofar as this would promote the development and diversification of trade . . ."

5. In the second place, both the preamble and the Articles go wider in their implications than the mere search for mutual trade advantages. Thus the preamble states that "trade is not an end in itself but a means of achieving wider economic and social objectives", a declaration that is reflected in Article 1: "the Contracting Parties are determined to develop their commercial exchanges . . . so as to contribute to their economic and social progress . . ."

6. It is clear then that the current Agreement envisages a type of cooperation between the EEC and the Republic of India which will be spelled out in the conclusion of a new Agreement for commercial and economic cooperation, which is the subject of the present report; cooperation must be reinforced between the two parties by more tangible measures.

Evaluation of the 1973 Agreement

7. Before considering the question of the form a new Agreement should take in the light of relations between the Community and India, it might be useful to look briefly at what has been accomplished in the last six years.

8. As far as the development of trade is concerned, between 1973 and 1977 the percentage of total imports to the EEC taken by imports from India amounted, in 1973, to 0.77%, or 655 million EUA out of the total imports of 84,306m EUA; by 1977 this percentage had risen to 0.96%, or 1,641m EUA out of imports totalling 171,230m EUA. As far as EEC exports were concerned, exports to India accounted for 0.84% of total exports in 1973 and 0.85% in 1977 (or 1,388m EUA out of total exports of 164,140m EUA)¹.

9. The most recent figures available are for the first eight months of 1979, and the comparable position for 1978 is as follows:-

¹ Source: COM(79) 176 final: The Community's Relations with India (Communication from the Commission to the Council)

	1978	1979
	<u>8 months</u>	
EEC imports from India	1.053m EUA	1.242m EUA
EEC exports to India	1.136m EUA	1.266m EUA
	<u>+ 83m EUA</u>	<u>+ 24m EUA</u>

This narrowing of India's deficit with the EEC reflects an encouraging increase in India's exports, at the same time as the EEC has increased its exports to India. Your Rapporteur considers that a deficit of this size is perfectly normal for a developing country, and that it would be surprising to see a positive balance.

10. As far as the aim of diversification of trade is concerned, the comparative figures for exports from India to the Community for 1973 and 1978 were encouraging¹

<u>Product Group by percentage</u>	<u>1973</u>	<u>1978</u>
Agriculture and Food Products	40	24
Primary and energy products	4.5	2.2
Manufactured goods	54.7	71.8

The most significant feature of the development of exports in manufactured goods was in the field of engineering products which increased more than threefold (221%) between 1973 and 1978.

11. The statistics cited in the preceding paragraphs may indicate to some extent the degree of success which the present Agreement has had; though it is obviously difficult to assess the tangible results, it is valuable as a declaration of goodwill and should obviously be continued, and its expansion to include economic cooperation should broaden the basis of its benefit to the Indian economy.

III. RELATIONS BETWEEN INDIA AND THE COMMUNITY

12. India can be said to be the world's largest democracy with a population of about 650 million and an annual population growth of around 12 million (almost the total population of the Netherlands, which is the world's eleventh industrial power). India is also the world's tenth industrial power even though, in the period 1970/75 the contribution of industry to the GNP amounted to only 15%. It seems that there is a real danger that the very success which India has achieved in developing its technology in recent years and in diversifying its industrial

¹ Source: COM(79) 176 final: The Community's Relations with India (Communication from the Commission to the Council)

base may give a somewhat misleading impression of its development¹. Two-thirds of the world's hungry live on the Indian sub-continent.

13. Even though India increased its exports threefold between 1972 and 1978, even though agriculture has been impressively modernised in recent years, India remains a poor country with a per capita income of about \$150 per annum. It is not surprising that the Indian economy is far less export-oriented than that of the Community, but such factors as the improved balance of payments (largely due to the remittances of skilled technical workers emigrating from India to Third World countries, particularly in the Middle East) indicate, at any rate in the view of the Commission, that India is on the threshold of a more outward-looking attitude towards its economic development than was previously the case. Despite this trend however India's economic position is by no means healthy. The balance of trade has and continues to be in an annual deficit of between 4 and 4.5 billion \$ and it is anticipated that the balance of payments which now shows a deficit of 2.5 billion \$ will remain in decline until 1985. Since India's reserves only amount to some 8 billion \$ the urgent need to encourage the Indian economy is clear.

14. Because of the magnitude of its scale, it is possible to overemphasise, perhaps, the state of India's industrial development, which in fact amounts to not more than fifteen per cent of the country's economy. It should also be remembered that India's spending on technology is not significantly different from that of other developing countries, such as Brazil.

15. It is in the light of India's economic development since 1973 and of the operation of the EEC-India Commercial Cooperation Agreement since then that the proposal for a new commercial and economic cooperation agreement, which both sides agree should be more widely based than the present one, should be examined.

16. Obviously any Agreement of the sort being envisaged here which, as both the Commission and the Indian Government stress, is to be "of an essentially evolutionary nature; no sphere for economic cooperation should be ruled out in advance . . ." ², will require understanding and a willingness to compromise from both parties.

17. From the Community's point of view, for example, there may be a reluctance to encourage development in sectors in which there is already over-capacity or which are in decline in Member States. It is quite possible to envisage cases where a particular sector is peculiarly suitable for development

¹ Of the total population of India, approximately 40% still live below the poverty line, 200 million people are illiterate, in 1978, 20 million adults had never had any employment, 80% of poverty and illiteracy are to be found in rural areas where 30% of agricultural land is owned by 4% of the farmers and more than 50% of the farmers farm less than half a hectare of land.

² COM(79) 176 final

in India because of traditional skills, available raw materials and so on but which, if developed, cannot immediately be "mutually beneficial". The rôle of the Joint Commission will be of crucial importance in helping to resolve these sorts of problems; hence the importance of ensuring that its position is strengthened in the new Agreement (see paragraph 31 below).

18. A further task of the Joint Commission could well be that of looking into the type of investment made in India. Politically this is a sensitive point, because the Community may have clear ideas about this which do not necessarily accord with the thinking of the Indian Government in whose prerogative rests the development of the Indian economy. An example is afforded by the question of capital intensive versus labour intensive investment. At first sight, given the statistics quoted in footnote 1 to paragraph 12 above, it would seem clear that labour intensive investment is more likely to contribute to the general improvement of the standard of living in India than capital intensive, where the direct employment generated may well be virtually insignificant. This, of course, is by no means a question peculiar to India; within the Community in regions such as the West of Ireland or the Mezzogiorno the question of what type of investment is best suited to the development of an area is a matter of keen debate. Ultimately, of course, matters such as this are for the Indian Government, with its knowledge of local conditions and specialised expertise, to determine.

19. In favour of capital investment, reference has already been made in paragraph 10 above to the significant increase which has taken place in the development of the export of manufactured goods, with particular emphasis on engineering products. In such areas, capital investment is likely to be high and although the employment created is disappointing, the beneficial effects on the balance of trade and hence on the economy as a whole may be considerable. Many engineering products are of course manufactured by labour intensive industries or find a ready market in Western countries because of their economy of scale.

20. It is worth giving some consideration to this point because it is precisely here that the Joint Commission can be effective.

Investment Protection

21. The question of investment protection is one which has given rise to some anxiety and which has been something of a stumbling block in negotiations between the EEC and India. Here again the position of the two sides is clear. As far as the Indian Government is concerned, it is felt that the existing national legislation concerning not only the protection of

investments by foreign companies, but also the necessary degree of Indian participation in such investment, is not particularly strict or restrictive by national standards. In any event, this was a matter within the legislative prerogative of the Indian Parliament, and was not something which could be negotiated within the context of a Commercial and Economic Cooperation Agreement. By established case law nationalization in India has to be non-discriminatory, that is to say, where a particular sector is nationalised all firms, Indian and foreign, are included.

22. On the other hand, the foreign investor is naturally anxious to safeguard his investment. There are indications that foreign investors are increasingly prepared to sell rights in their expertise which in any case is frequently required under Indian investment or "collaboration" arrangements. The Indian Foreign Exchange Regulation Act requires a dilution of foreign equity to 40% (in Australia under comparable legislation the requirement is 49%), and in the Indian opinion this does not deter foreign investment, but it is only by considering the volume of foreign investment in India pragmatically that one can arrive at any conclusions as to whether the Indian attitude towards investment protection is having a restrictive effect on the promotion of foreign investment which must form an integral part of economic cooperation.

23. Granted that the regulation of foreign investment is essentially a matter for the country concerned, it would seem that this too is a field where the Joint Commission could well have a useful rôle, particularly in the "friendly consultations" which it is proposed should take place within the Joint Cooperation Commission "on questions arising from or relevant to the implementation of the Agreement"¹.

24. The purpose of this section is to provide a very general outline of some of the problems confronting EEC/India cooperation. It now remains to be seen how a new Agreement can contribute towards their solution.

IV. THE COMMERCIAL AND ECONOMIC COOPERATION AGREEMENT

25. The main provisions of the 1973 Commercial Agreement, which is still in force, have been set out in Section II above, and attention has been drawn to the wish of both parties to see the scope of the Agreement

¹ COM (79) 176 final.

enlarged to cover more than commercial cooperation. Mention has also been made of the Joint Commission, not only in the context of the 1973 Agreement but also, in paragraphs 17 to 20 above, in connection with the new, wider Agreement which forms the subject of this Report.

26. Any extension of the scope of the Agreement implies greater responsibilities for the Joint Commission and this is why paragraph 31 below examines ways in which the institutional framework of the Agreement with particular reference to the Joint Commission may be strengthened. This incidentally was a point made by Mr RADOUX in the Motion for a Resolution contained in his draft Report¹, and one which your Rapporteur is glad to re-emphasise here.

27. The wider cooperation that is envisaged in the new Agreement now under negotiation implies not only the increased implementation of the present Commercial Cooperation Agreement and the possibility of supplementing trade relations by increased industrial cooperation, but also that the Commercial Agreement "should go well beyond trade and provide for wider cooperation especially in the field of technology"².

28. Economic cooperation will then, it is envisaged, include cooperation in the fields of industry, science and energy as well as in such matters of research into the development of Agriculture and Fisheries. At the same time there would be economic cooperation, in the words of the draft negotiating directive³, "with and in third countries". The Commission point out that this cooperation with third countries includes both EEC-India collaboration in third countries and EEC-third country collaboration in India; under the present Agreement only the first type of collaboration is covered. In short, the definition of economic cooperation to form part of the new Agreement is, to quote again from the draft negotiating directive, "essentially evolutionary . . . Therefore no field suitable for economic cooperation should be ruled out in advance". Hence it is not intended that the new Agreement should attempt to list the fields to be covered by economic cooperation⁴.

1 PE 57.987

2 COM(79) 176 final, p. 8

3 COM(79) 176 final, Annex III

4 It should be noted that Brazil is seeking the conclusion of a Commercial and Economic Cooperation Agreement with the Community which would be virtually identical to the one under consideration here.

Bilateral agreements between the Member States and India

29. A point which was stressed by members of the Committee on External Economic Relations during the preliminary discussions on this Report was the need to have an overall EEC-India Agreement rather than a series of bilateral agreements between India and the Member States. As far as Trade Agreements are concerned, the competence for their negotiation and conclusion lies exclusively with the Community, and is not a matter for individual Member States¹; on the other hand, in the field of economic cooperation Member States retain their power to undertake bilateral activities and to conclude new cooperation agreements with India "subject . . . to the condition that any bilateral action . . . must not affect the proper functioning of the relations established under the present arrangement".

30. The passage quoted above is taken from the Commission's Communication (paragraph 12), where it is emphasised that, in the Commission's opinion, no mention of this right enjoyed by Member States should be written into the new Agreement since this, being a question of the repartition of competence as between the Community and the Member States, is essentially an internal matter. The Commission therefore suggests that a statement preserving the right to conclude bilateral agreements in the sphere of economic cooperation should be inscribed in the Minutes of the Council of Ministers. The Committee on External Economic Relations endorse the view of the Commission concerning this and note the Commission's statement that "the existence of a formal relationship additional to the bilateral ties between individual Member States and India should facilitate participation in India's economic development by single industries which transcend national boundaries within the Community, or by consortia of industries from several Member States"².

31. Your Rapporteur will return in greater detail in his final Report to consideration of the wider question of EEC-Indian cooperation and of ways and means by which the Commercial and Economic Cooperation Agreement can be made to work as profitably as possible in the interests of both contracting parties. At this stage, before the negotiations are completed he would, however, like to make the following specific points:-

- (i) the mandate enjoyed by the Joint Commission under the new Agreement should be at least as wide as that contained in Annex I to the present Agreement³;

¹ However, just what constitutes a trade or tariff agreement may not be easy to define, leaving a grey area where there could be conflicts of competence.

² COM(79) 176 final, para. 11

³ OJ No. L 82, 27 March 1974

- (ii) without bestowing any new competence on the Joint Commission in the financial field, it should receive a modest endowment from the Community Budget (perhaps up to 5m EUA). Such a budget would make easier the Joint Commission's work in the organization of international conferences for example, since the idea of "friendly consultations" is one to which India attaches great importance. It could also be used for measures to promote trade, such as opening trade offices, market research, etc;
- (iii) the Joint Commission should, as the Commission recommend, and as suggested by the Indian Government, be empowered to draw up a list of priorities and to recommend the allocation of funds for the implementation of the objectives of the new Agreement (as in point (ii) above this should not be seen as bestowing any new financial competence on the Joint Commission);
- (iv) the inclusion in the so-called "mandate" which the Council issues to the Commission for conducting negotiations in accordance with Article 113(3) of the EEC Treaty of a clause on development cooperation on the lines of that provided for in the ASEAN Cooperation Agreement¹, but suitable for the Indian context;
- (v) the intensification of the present contacts between the European Parliament and the Indian Parliament, including possibly the Joint Commission making a twice-yearly report to the members of the joint parliamentary delegation.

V. PROCEDURAL CONSIDERATIONS

32. It may be appropriate here to go beyond the specific question of the EEC-India Commercial and Economic Cooperation Agreement to the rather more general one of the European Parliament's rôle in the negotiating of such Agreements. This is a matter which is being examined by the Committee on External Economic Relations and other committees, and it would be inappropriate to make any specific recommendations in this interim report on one particular negotiation.

33. It seems clear, however, that the most appropriate stage for the European Parliament, and its committees, to seek to bring its influence to bear is that between the Commission formulating its recommendations and the Council authorising the Commission to negotiate through the instrument of Directives which are legally binding on the Commission.

34. If this conviction is justified, and were such an approach to be adopted, it would require close collaboration between Commission and Parliament at the formative stage of the Commission's thinking as expressed in its recommendations, and that both Commission and Council would have to be prepared to pay attention to Parliament's views, if necessary by amending either the recommendation or the consequential Directives.

¹ See PE 61.521/Ann., p. 4, para. 5. One feature of this is to endeavour to coordinate the development cooperation activities of the Community and its constituent Member States with particular reference to national (in the case of India) regional projects.

VI. CONCLUSIONS

35. In an interim Report it would be inappropriate to try to draw too many firm conclusions about matters which require examination in depth. Such matters include, to cite but a few, the question of what further steps India can take to open up her markets to EEC products, bearing in mind the considerable progress she has already made in this respect in recent years, what type of joint investment projects, including projects in third countries would be most beneficial to all parties, India and GSP, the question of intermediate technology, the possibility of an Association Agreement, food aid, development aid, and so on.

36. Certain points can, however, be stressed in addition to the specific recommendations contained in paragraph 32 of this Report:-

- (i) The political importance of strengthening EEC ties with India, the largest democracy in the world, not only in the interest of our own economy and that of India, but in the wider interest, shared by both parties, of political stability in Asia;
- (ii) The importance of concluding the new Agreement as speedily as possible, particularly so that bilateral Agreements between India and the Member States, if they must be concluded, can be arrived at against the background of a formal EEC-India relationship which covers economic cooperation;
- (iii) The need to strengthen the position of the Joint Commission, perhaps by including ministerial representation on appropriate occasions, in order to ensure that it can play an adequate part in the wider cooperation envisaged in the new Agreement.

37. The Committee on External Economic Relations welcome the Commission's recommendation and, subject to the comments made in this Report, urge the Council of Ministers to issue the appropriate Directives without delay so that the Commercial and Economic Cooperation Agreement with India may be concluded as soon as possible.