

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(75) 96 final

Brussels, 10 March 1975

## RECOMMENDATION FOR A REGULATION (EEC) OF THE COUNCIL

on the conclusion of a Commercial Cooperation Agreement between the  
European Economic Community and the Republic of Sri Lanka

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(submitted to the Council by the Commission)

com(75) 96 final

Commission  
EXPLANATORY MEMORANDUM

1. On 15 October 1974 the Council authorized the Commission to enter into negotiations with Sri Lanka on a Commercial Cooperation Agreement; simultaneously the Council approved a series of directives for the negotiations.

2. Two negotiating sessions were held, on 5 November and 3/4 December 1974. On both occasions, meetings of the Special Committee set up under Article 113 of the Rome Treaty were separately convened, to advise the Commission on points arising out of the negotiation.

By the end of the second session, subject to the remarks and reservations recorded in paragraphs 3 to 5 below, both delegations were agreed on the following English texts:

- The Commercial Cooperation Agreement between the European Economic Community and the Republic of Sri Lanka;
- Annex I, being a Joint Declaration on Article 8 of the Agreement (regarding certain aspects of the work of the proposed Joint Commission);
- Annex II, being an exchange of letters on certain tariff concessions made by the Community;
- Annex III, being a Declaration of the European Economic Community concerning tariff adjustments;
- Annex IV, being a Declaration of the Republic of Sri Lanka concerning tariff adjustments.

3. Attention is drawn to Article 3 of the proposed agreement which is closely modelled on the corresponding article of the Indian agreement. Two changes have, however, been brought in:

- (a) The words "undertake to discuss ways and means of providing (maximum facilities .....)" have been replaced by "shall endeavour to provide (maximum facilities .....)".

It was felt to be inappropriate, in an article defining the obligations of the Parties, to lay down what is in effect a guideline ("discuss") for the Joint Commission. At the same time care has been taken to lay no compelling obligations upon the Parties ("endeavour").

(b) The Indian "model" contained the phrase "... (providing) maximum facilities ...." with regard to products of interest to either Party." In the corresponding phrase in the Sri Lanka agreement, the word "products" has been replaced by "goods and services". In regard to the inclusion of "services", clearly this notion is fully covered by the authorization to negotiate on "commercial cooperation" and the Commission is convinced that the addition constitutes a significant potential improvement on the Indian text. The Sri Lanka delegation eventually accepted a wording of Article 3 which included "services". When this formulation was discussed in the 113 Committee, it was supported by eight of the Member States; the remaining delegation, however, expressed reservations.

4. In the negotiation directives, the Commission was asked to explore the terms on which the Community might obtain from Sri Lanka a unilateral undertaking on non-discriminatory access to its natural resources. The Sri Lanka delegation declared, in the course of exploratory talks, that their Government was not ready to give such an undertaking; only a commitment involving full reciprocity could be considered on their side, and this should not, in substance, go beyond the provisions envisaged for Article 3.

It was recalled in the 113 Committee, however, that reciprocity could not be conceded by at least two of the Member States. Furthermore, doubts were expressed whether a declaration having more or less the character of an interpretation of the contents of Article 3 would be in the interests of the Community. Under the circumstances, and seeing that a clause on access to natural resources, particularly if it added nothing to Article 3, could not be regarded as an indispensable element of a Commercial Cooperation Agreement (the Indian agreement contains no such clause), the Commission decided not to pursue the idea.

It should be emphasized that, in the event of one party experiencing difficulty in purchasing on a non-discriminatory basis raw materials produced by the other, the problem can be brought up in the Joint Commission under several provisions of the Agreement.

.../...

5. As anticipated when the negotiation directives were discussed in the various forums of the Council, the Sri Lanka side did in fact, on the eve of the negotiations, present a request for specific tariff concessions on a series of six items of special interest to their country. The concessions would be in the form of a declaration on the part of the Community that it was prepared to bind, in respect of the agreed items, the reduced or suspended rates of duty already applied autonomously.

Four of these items, for which a similar concession already exists in the Commercial Cooperation Agreement with India, should cause no difficulty. With regard to the other two items, it was found upon examination of the trade statistics, that they concerned products, desiccated coconut and cinnamon, for which Sri Lanka is a major exporter, supplying some 70% and 25% respectively of total Community imports of those commodities in 1973. The list submitted by the Sri Lanka delegation was therefore agreed by the Community side, after taking the advice of the 113 Committee, and is included in the draft exchange of letters now appended as Annex II to the draft agreement.

The wording of the first paragraph of the letters to be exchanged is identical with the corresponding text in the Commercial Cooperation Agreement with India. In connection with the conclusion of the negotiations with India under Article XXIV para. 6 of GATT, the question arose of the correct interpretation of the undertaking given by the Community to bind reduced tariff rates already applied autonomously. An exchange of notes between India and the Commission was necessary to clarify this matter and, in order to avoid any possible misunderstanding with Sri Lanka, it is agreed that the point will be dealt with in a similar manner.

6. The Commission is of the opinion that the Sri Lanka delegation, after consulting their Government, will not request any changes to the proposed text and annexes thereto, which are the outcome of the negotiations between the Community and Sri Lanka delegations. The Commission also believes that the terms of the proposed agreement are fully consistent with the directives given by the Council.

.../...

The Commission accordingly recommends that the Council:

- place on record that the Commission has complied with the Council's request to explore the possibility of inserting in the Agreement a clause relating specifically to non-discriminatory access by the Community to Sri Lanka's natural resources;
- declare that it is prepared to agree to the tariff concessions requested by Sri Lanka;
- initiate the procedures for signature and conclusion of the Commercial Cooperation Agreement with Sri Lanka.

7. With a view to concluding the Agreement, the Commission herewith lays before the Council:

- a Recommendation for a Regulation (EEC) of the Council on the conclusion of the Commercial Cooperation Agreement with Sri Lanka.

## RECOMMENDATION FOR REGULATION (EEC) OF THE COUNCIL

on the conclusion of a Commercial Cooperation Agreement  
between the European Economic Community and the Republic  
of Sri Lanka

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAVING REGARD to the Treaty establishing the European Economic Community,  
and in particular Articles 113 and 114 thereof;

HAVING REGARD to the Recommendation of the Commission;

WHEREAS the Commercial Cooperation Agreement negotiated between the European  
Economic Community and the Republic of Sri Lanka should be concluded;

HAS ADOPTED THIS REGULATION:

Article 1

The Commercial Cooperation Agreement between the European Economic Community  
and the Republic of Sri Lanka, the text of which is appended to this Regulation,  
shall be concluded on behalf of the Community.

Article 2

The President of the Council is hereby authorized to designate the persons  
empowered to sign the Agreement and to confer on them the powers required  
in order to bind the Community.

Article 3

The Community shall be represented on the Joint Commission provided for in Article VIII of the Agreement by the Commission, assisted by representatives of the Member States.

Article 4

This Regulation shall enter into force on the third day following its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

The President

COMMERCIAL COOPERATION AGREEMENT  
between the European Economic Community and  
the Republic of Sri Lanka

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

of the one part,

THE GOVERNMENT OF THE REPUBLIC OF SRI LANKA,

of the other part,

HAVING REGARD to the friendly relations and historic links between the Member States of the European Economic Community and the Republic of Sri Lanka and their common desire to consolidate and expand their commercial and economic relations;

INSPIRED by their determination to strengthen, deepen and diversify their commercial and economic relations on the basis of comparative advantage and mutual benefit;

VIEWING modern commercial policy as an important instrument for furthering international economic cooperation;

AFFIRMING their common will to contribute to a new phase of international economic cooperation and to facilitate the development of their respective human and material resources on the basis of freedom, equality and justice;

HAVE DECIDED to conclude a Commercial Cooperation Agreement and to this end have designated as their Plenipotentiaries:

THE COUNCIL OF THE EUROPEAN COMMUNITIES:

THE GOVERNMENT OF THE REPUBLIC OF SRI LANKA:

WHO, having exchanged their Full Powers, found in good and due form,

HAVE AGREED AS FOLLOWS:



Article 1

The Contracting Parties are determined to develop their commercial exchanges on the basis of comparative advantage and mutual benefit so as to contribute to their economic and social progress and to the improvement of the balance of their mutual trade to as high a level as possible.

Article 2

The Contracting Parties shall, in their commercial relations, grant each other most-favoured-nation treatment in accordance with the provisions of the General Agreement on Tariffs and Trade.

Article 3

The Contracting Parties shall grant each other the highest degree of liberalization of imports and exports which they apply to third countries in general, and shall endeavour to provide maximum facilities compatible with their respective policies and obligations with regard to goods [ and services ] of interest to either Party.

Article 4

The Contracting Parties undertake to promote the development and diversification of their mutual trade to the highest possible level. They shall take all appropriate steps to achieve these results, including particular measures which are relevant to the pattern and potential of their mutual trade.

.../...

Article 5

The Contracting Parties may develop their economic cooperation, when linked with trade, in fields of mutual interest and in the light of developments in their economic policies.

Article 6

With a view to implementing Articles 4 and 5, the Contracting Parties agree to enhance contacts and cooperation between their economic organisations and to support the institutions which have been or may be set up to this end.

Article 7

The Contracting Parties shall endeavour to increase their cooperation in commercial and related economic matters in third countries, so far as it is in their mutual interest.

Article 8

1. A Joint Commission shall be established comprising representatives of the Community and of Sri Lanka. It shall hold one session each year. Additional sessions may be convened by common agreement at the request of either Contracting Party.
2. The Joint Commission shall adopt its own rules of procedure and programme of work.
3. The Joint Commission may set up specialised Sub-Commissions to assist it in the performance of such tasks as it may mandate.

.../...

Article 9

The Joint Commission shall ensure the proper functioning of this Agreement and shall devise and recommend practical measures for achieving its objectives. It shall examine any difficulties likely to hinder the development and diversification of trade between the Contracting Parties.

Article 10

The Joint Commission shall in particular

- (a) study and devise ways of overcoming trade barriers and in particular non-tariff and quasi-tariff barriers in the various sectors of trade, taking into account the relevant work undertaken in this field by the international organisations concerned;
- (b) endeavour to find ways of encouraging the development of economic and commercial cooperation between the Contracting Parties, in so far as this would promote the development and diversification of their trade;
- (c) facilitate exchanges of information and encourage contacts on all subjects bearing upon the prospects for cooperation in the economic field between the Contracting Parties on a mutually advantageous basis and the creation of favourable conditions for such cooperation.

Article 11

The Joint Commission shall also ensure the proper functioning of any sectoral Agreements between the Contracting Parties and, to this end, shall exercise the responsibilities entrusted to the joint bodies which have been or may be set up under such Agreements.

Article 12

The provisions of this Agreement shall be substituted for provisions of Agreements concluded between Member States of the Community and Sri Lanka to the extent to which the latter are either incompatible or identical with the former.

.../...

Article 13

This Agreement shall apply to the territories where the Treaty establishing the European Economic Community applies, on the conditions established in the said Treaty, and to the territories where the Constitution of the Republic of Sri Lanka applies.

Article 14

Annexes I to IV form an integral part of this Agreement.

Article 15

1. This Agreement shall enter into force on the first day of the month following the date on which the Contracting Parties notify each other of the completion of the procedures necessary for this purpose.
2. This Agreement is concluded for a period of five years and shall be extended from year to year if neither Contracting Party denounces it six months before it expires.
3. If both Contracting Parties agree, this Agreement may, however, be amended at any time, to take account of emerging situations in the economic field and the evolution of economic policies on both sides.

Article 16

This Agreement is drawn up in two copies in the Danish, Dutch, English, French, German, Italian and Sinhala languages, each text being authentic.

ANNEX IJoint Declaration concerning Article 8  
of the Agreement

1. The representatives of the Contracting Parties in the Joint Commission will transmit the agreed recommendations to their respective authorities, for consideration and action to be taken as speedily and effectively as possible. In the event of the Joint Commission being unable to evolve a recommendation on a matter considered by either Contracting Party to be urgent or important, it shall submit the views of the two sides to the respective authorities for further consideration.
2. The Joint Commission should, when making proposals and recommendations, have due regard to the Republic of Sri Lanka's development plans and to the progress of economic, industrial, social, environmental and scientific policies of the Community as well as to the level of economic development of the Contracting Parties.
3. The Joint Commission would examine possibilities of and make recommendations for the efficient utilization of all available instruments, besides most-favoured-nation tariffs and Generalized Preferences, to promote trade in items of interest to the Republic of Sri Lanka.

ANNEX IIa

Your Excellency,

During the discussion which led to the conclusion this day of the Commercial Cooperation Agreement between the European Economic Community and the Republic of Sri Lanka, the Community declared that it is prepared to bind the tariff reductions and suspensions already applied autonomously in respect of the products listed below which are of particular interest to Sri Lanka. These concessions shall remain valid until they are confirmed or modified, under the General Agreement on Tariffs and Trade, with the agreement of both Contracting Parties.

List of products concerned

<u>CCT heading No</u>	<u>Description</u>	<u>Binding proposed %</u>
08.01	Dates, bananas, coconuts, Brazil nuts, cashew nuts, pineapples, avocados, mangoes, guavas and mango-steens, fresh or dried, shelled or not: ex E: desiccated coconut	2%
09.02	Tea: A. in immediate packings of a net capacity not exceeding 3 kg B. other	5 Free
09.04	Pepper of the genus "Piper"; pimento of the genus "Capsicum" or the genus "Pimenta": A. neither crushed nor ground: I. Pepper: (a) for the industrial manufacture of essential oils or resinoids (a)	Free
09.06	Cinnamon and cinnamon-tree flowers: A. ground B. other	10% 8%
09.08	Nutmeg, mace and cardamoms: B. crushed or ground: III. Cardamoms	Free
41.02	Bovine cattle leather (including buffalo leather) and equine leather, except leather falling within heading No 41.06, 41.07 or 41.08: A. East India kip, whole, whether or not the heads and legs have been removed, weighing each not more than 4,5 kg net, not further prepared than vegetable tanned, whether or not having undergone further preservative treatment with oil, but obviously unsuitable for immediate use in the manufacture of leather articles	Free

(a) Entry under this subheading is subject to conditions to be determined by the competent authorities

.../...

We should be grateful if you would kindly confirm the agreement of the Government of the Republic of Sri Lanka to the contents of this letter.

Please accept, Your Excellency, the assurance of our highest consideration.

For the Council  
of the European Communities

H.E. Mr Ambassador Tilak E. Gooneratne  
Chairman of the Sri Lanka Delegation

Sir,

I have the honour to acknowledge receipt of your letter of today, which reads as follows:

"During the discussions which led to the conclusion this day of the Commercial Cooperation Agreement between the European Economic Community and the Republic of Sri Lanka, the Community declared that it is prepared to bind the tariff reductions and suspensions already applied autonomously in respect of the products listed below which are of particular interest to Sri Lanka. These concessions shall remain valid until they are confirmed, or modified, under the General Agreement on Tariffs and Trade, with the agreement of both Contracting Parties.

List of products concerned

CCT heading No	Description	Binding proposed %
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(a) Entry under this subheading is subject to conditions to be determined by competent authorities

.../...



We should be grateful if you would kindly confirm the agreement of the Government of the Republic of Sri Lanka to the contents of this letter."

I have the honour to confirm the agreement of the Government of the Republic of Sri Lanka to the contents of that letter.

Please accept, Sir, the assurance of my highest consideration.

For the Government  
of the Republic of Sri Lanka

Mr  
Head of the Delegation of the  
European Economic Community

Declaration of the European Economic Community concerning  
tariff adjustments

On 1st July 1971, the Community autonomously introduced a Generalized Scheme of Preferences on the basis of Resolution 21(II) of the Second United Nations Conference on Trade and Development, 1968. The Community is prepared, in the course of its endeavours to improve this system, to take into account the interests of the Republic of Sri Lanka in the extension and strengthening of its trade relations with the Community.

The Community is also prepared to examine in the Joint Commission the possibilities for further tariff adjustments to promote the development of trade between the Republic of Sri Lanka and the Community.

The Community understands that the Republic of Sri Lanka will also be prepared to discuss in the Joint Commission the Community's proposals, if any, with regard to tariff adjustments by the Republic of Sri Lanka bearing on the development of trade between the Contracting Parties, taking into consideration the Republic of Sri Lanka's development needs.

Declaration of the Government of the Republic of Sri Lanka  
concerning tariff adjustments

The Republic of Sri Lanka notes that the Community is prepared, in the course of its endeavours to improve the system of Generalized Preferences, to take into account the interests of the Republic of Sri Lanka in the extension and strengthening of its trade relations with the Community. In this connection, the Republic of Sri Lanka will identify for consideration by the Community the areas in which the Community's Generalized Scheme of Preferences can be improved, more especially in the context of the provisions of the Joint Declaration of Intent.

The Republic of Sri Lanka further notes that the Community is also prepared to examine in the Joint Commission the possibilities for further tariff adjustments to promote the development of trade between the Republic of Sri Lanka and the Community.

In this connection the Republic of Sri Lanka may notify the Community of the products in respect of which tariff concessions are desired, for examination in the Joint Commission.

The Republic of Sri Lanka will also be prepared to discuss in the Joint Commission the Community's proposals, if any, with regard to tariff adjustments by the Republic of Sri Lanka bearing on the development of trade between the Contracting Parties, taking into consideration the Republic of Sri Lanka's development needs.