

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

GPR/M/14

30 January 1985

Special Distribution

Committee on Government Procurement

MINUTES OF MEETING OF 14-15 NOVEMBER 1984

Chairman: Mr. B. Henrikson

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A. STOCKTAKING OF ARTICLE IX:6(b) NEGOTIATIONS

(i) Improvements of the Agreement

2. The Committee discussed the revised "Consolidated List of Suggestions Made for Improvements of the Agreement" (GPR/W/56/Rev.1). Parties made a number of comments and expressed views with respect to several items in the

document. Clarifications were also sought and precisions made on some of the proposals. These are not reproduced in these minutes.

3. The representative of the European Economic Community tabled additional proposals concerning qualification procedures (dealing with Article V:2(b) and a new paragraph 3 to Article V). He also put forward a new text concerning delivery times.

4. With respect to item 6 in the document (Special and Differential Treatment for Developing Countries) the observer for the Philippines recalled that his delegation had previously expressed concern in respect of difficulties and obstacles confronting developing countries interested in adhering to the Agreement. Having in particular underscored the need for implementation of the provisions on special and differential treatment it was encouraged by the suggestion that Parties should show necessary flexibility in accepting entity offers of developing countries and the suggestion that qualitative and quantitative criteria used by Parties be clarified. This might, if agreed upon, lead aspiring developing countries to take another look at the desirability of pursuing membership.

5. The Committee took note of the statements made and requested the secretariat to revise the background document. Delegations remain free to present additional suggestions concerning improvements of the Agreement by way of precise texts or otherwise.

(ii) Broadening of the Agreement

6. The Chairman noted that the United States remained the only Party to have tabled request lists, that no offers had been made by observers and that some Parties had still not provided the agreed information concerning non-covered entities. This area of the negotiations was, therefore, well behind schedule.

7. The representative of Canada stated that her authorities were in the process of seeking Ministerial authority to table a draft preliminary indicative request list.

8. The representative of Sweden stated that preparations of requests had been retarded for various reasons, the most important being the lack of information. He urged the Parties that had still not submitted data to try to overcome any obstacles they might have. In Sweden's preparations the main substantive issues had been covered, including aspects relating to the Swedish entity coverage. He believed a request list should be ready by the next meeting.

9. The representative of Canada associated herself with the Swedish remarks; the lack of information was one reason why the list, when tabled, would be preliminary.

10. The representative of the United States expressed great disappointment with the lack of progress in this area. It was not clear that Parties other than Canadian and Nordic countries had made particular efforts which was disturbing because the entity negotiations formed an important part of the process. He had sympathy for the statements made concerning lack of information and was ready to provide data shortly on products purchased by non-covered entities.

11. The representative of Singapore stated that his country's manufacturers, despite being efficient developing country manufacturers, were still unable to take advantage of the commercial opportunities offered by the Agreement. Hence, his authorities were unable to think in terms of establishing a list for extension of the entity coverage.

12. The representative of the European Economic Community stated that the EEC entity lists already covered most central government departments. To go into the area of public enterprises would create very serious problems. Article I of the Agreement dealt with entities under government control with respect to procurement activity, which was not the case with public enterprises. The EEC had not submitted such entity lists because even if they would be without prejudice to the extension or otherwise of the Agreement, they could mislead other delegations to think that there existed a slight possibility of moving forward in this area. However, sufficient opportunities for extension of the Agreement existed in other areas of government.

13. The representative of Japan stated that the question of non-covered entities was still under consideration by his authorities.

14. The Committee took note of the statements made, noting with satisfaction that requests would be put forward in the near future by at least some Parties.

(iii) Service contracts

15. The Chairman informed the Committee that information had been received only from Finland, Norway, Sweden and the United States (the latter submission covering insurance services). There was therefore no background document on this issue for the present meeting. He recalled that since the last meeting the EEC had provided a list of services purchased by central member State Governments (GPR/W/60).

16. The representative of the European Economic Community stated that his delegation would submit very shortly a substantial part of its contribution to the pilot studies and hoped outstanding contributions would also be available in the near future. Canada tabled the contribution to both studies and would shortly submit additional statistics on purchases of insurance services. The United States submitted the contribution to the architectural and consulting engineering study.

17. Turning to further work, the representative of the United States reiterated that the purpose of pilot studies was to enable delegations to assess (i) whether it would be technically feasible to extend the Agreement to cover services, and (ii) whether it would be in their interest to do so. The exercise was without prejudice to anybody's position as to whether or not services would eventually be covered. The two studies agreed upon did not provide a sufficiently broad sampling to reach the objective. Some delegations were informally proceeding on a third study. In order to broaden the exercise in a meaningful way and to put value to the work already undertaken the characteristics of each of the different types of services should be covered. These could be (i) regulated industries, which would cover insurance already under study; (ii) professional services with licensing involved, e.g. accounting, medical and health services or architectural and engineering services. Again, this type of service was

already being studied; (iii) professional services of an unlicensed nature; e.g. management consulting and advertizing; (iv) technical services, such as education and training services, freight forwarding and travel arrangements; and (v) computer services, which represented a category in itself, with close ties to a product, high technology and rapid change. Bearing in mind the resource problems delegations had, he suggested that the Committee agree to carry out one study in each of these five groupings on the understanding that these would be the final studies.

18. The representative of Finland stated that the Nordic countries were prepared to submit material formally or on an informal basis on computer services. In the general interest to move the discussion forward, they were ready to consider a decision in principle that further final studies be undertaken.

19. The representative of the United Kingdom for Hong Kong reiterated his reserve on initiating a study on computer services, adding that this reserve extended to the question of additional studies in general. He recalled that in the GATT itself there was no consensus on services; had the Agreement not had a specific provision on exploring this area, his delegation would not have agreed on pilot studies in the first place.

20. The representative of Austria was also not in a position to lift his reserve. Taking into account the lack of progress on services in GATT in general, he felt that the Committee could not go much further.

21. The representative of Switzerland hoped that the work would be limited to the minimum necessary and that any decision on further studies be taken after examination of the studies presently underway.

22. The representative of the European Economic Community was not in a position to define additional sectors at this meeting. It was possible that the EEC would present alternative propositions with regard to technical and professional services. He anticipated that his delegation's position would be clarified by the end of the year.

23. The representative of Canada agreed in principle to the launching of two additional pilot studies covering technical services and unlicensed professional services. Prior to confirming participation, a definition of the service sectors was needed; as a preliminary reaction Canada could accept the following technical services in descending order of preference: freight forwarding; education and training; health/laboratory services; or travel arrangements. For unlicensed professional services, Canada could preliminarily accept management consulting. Her delegation might make alternative proposals and its understanding was that only Code-covered entities would be included and that a reasonable time-table be agreed upon.

24. The representative of Japan agreed in principle with the United States proposal, but needed a clarification as to the choice of service sectors.

25. The representative of the United States stated that it was disappointing that no concrete decision had been taken at this meeting on an exercise which ought to be relatively non-controversial. He proposed informal discussions before the next meeting to try to reach consensus on formally launching further studies at that meeting and possibly start informal work prior to that date.

26. The Committee took note of the statements made and agreed to revert to questions relating to service contracts at its next meeting on the basis of the secretariat's study. In this connection, the Chairman urged delegations to submit replies to the agreed questionnaire for the studies so far launched, so that the secretariat would be in a position to carry out the work assigned to it.

(iv) Stock-taking of the negotiations as a whole

27. The Chairman recalled that the time-table provided for an assessment of "the overall results achieved to date, with a view to the completion of the negotiations by mid-1985". He therefore invited Parties to review the status of the work and to consider how to proceed further.

28. The representative of the United States stated that in reviewing the work of the Committee since November 1983 he could not but be disappointed at the lack of progress towards the goals set. These goals had been quite ambitious but equally important, viz. to open procurement markets and through this process to forestall forces in all member countries who were pushing for greater closure of these markets. It was unfortunate at this point that delegations could not tell domestic constituencies that much positive movement had been accomplished except in the area of improvements. His delegation was very disappointed by the lack of work on services and the inability of the Committee even to agree to prepare pilot studies, without prejudice to national positions. His delegation was even more disappointed that the entity discussions had proceeded at such a slow pace and that so far only his delegation had tabled requests. He hoped the Committee would redouble efforts to increase the pace of work in all areas within the established time-frame. Movement on all three tracks was important; they were interrelated and his delegation was not willing to proceed on one track to the exclusion of the other two. Progress in the work was in the interests of future and present trade and he hoped other countries would attach the same seriousness to the negotiations as the United States did.

29. The representative of Finland, on behalf also of Norway and Sweden, considered that more progress could have been achieved. Discussions on improvements had come to a stage where it was necessary to narrow down differences by intensive and informal exchanges of views and technical explanations. An updated consolidated list could serve as a basis for such discussions with experts from capitals prior to the next meeting. It was crucial that all delegations fulfilled the commitments on information gathering; it was particularly unfortunate that two major Parties had not yet provided the Committee with information on non-Code covered entities. If there were difficulties in deciding what constituted an entity, he suggested that information be presented also on entities or enterprises where there were doubts; such doubts and reservations might be recorded in the submissions. The present time-table could still stand. It was in many ways useful to have a tight time-table.

30. The representative of the European Economic Community stated that, given the considerable difficulties involved, he was less dissatisfied than the United States with what had been accomplished. A number of very useful proposals for improvements had been tabled and the Committee might not be very far from agreeing on those issues. It might be useful to put on paper the position of each delegation on these issues to establish where the

problems were. One extension, the EEC's silence should not be interpreted as lack of interest. It had major difficulties in proceeding in the area of entity negotiations but there were many other possible areas for broadening the coverage of the Agreement. The EEC was actively studying these possibilities and hoped by the next meeting to be in a position to present proposals. Services had imposed a great extra burden and the Committee had therefore done quite well in arriving at the stage at which it was now. The EEC was ready to go forward with other studies. The widely held impression amongst suppliers was that a broadening of the Agreement would serve little purpose. The Committee might therefore at least in this phase concentrate on improvements in preparation for a further phase of negotiations.

31. The representative of Canada stated that her delegation was committed to making more rapid progress in all three areas of the negotiations. Canada hoped to be able to table requests shortly and suggested that all delegations tried to do so, or that they informed others of their stand with regard to requests or the question of extension in general. She hoped the informal discussions would also settle the question of two further pilot studies on services. It was in the interest of all Parties that the business community be convinced of the benefits that could be obtained through the existing and an improved Agreement, before governments succumbed to attempts at further restrictions in procurement practices.

32. The representative of Japan made comments on the proposals and stressed the efforts by his Government.

33. The representative of Switzerland attached priority to improvement aspects and thought that an improved Agreement might convince governments and business circles to make subsequent efforts to extend it. At this stage, the broadening element seemed somewhat premature. It should be possible to finalize work on improvements on the basis of the existing documentation by mid-1985.

34. The Committee took note of the statements made and agreed to take stock of the Article IX:6(b) negotiations again at the February 1985 meeting.

B. REVIEW OF 1983 STATISTICS

(i) General statements

35. The representatives of Austria and the European Economic Community stated that their statistics would be transmitted in the near future. The representative of the United States recalled that the deadline for submissions was 30 September 1984. Very few reports had been in by then and some Parties had still not honoured the commitment to send in data on time so that a meaningful discussion could be held.

(ii) Hong Kong's statistics (GPR/24)

36. The representative of the United States noted that the overall rate of single tendering was low but that it was as high as 54 per cent in the medical and pharmaceutical product area. Even if foreign suppliers had won all the contracts, single tendering procedures had failed to provide commercial opportunities for all potential suppliers.

37. The representative of the United Kingdom for Hong Kong stated that the major concern was to ensure the quality of supply and product reliability. Single tendering had not been used with a view to protecting producers or avoiding competition, which was clear from the fact that ten contracts had been shared between six foreign countries. There had been two cases of non-compliance with requirements; the other cases concerned patented or proprietary products and products specified by Government physicians and surgeons. In reply to a further United States question whether it had been considered to invite open bids for a certain product "or equivalent", he stated that truly established generic medicines were procured; their use had been somewhat restricted in that doctors had particular views. United States suppliers did well in this area.

(iii) Sweden's statistics (GPR/24/Add.2)

38. The representative of the United States noted that above-threshold purchases had dropped from an already low level to 20.5 per cent and that considerably reduced above-threshold figures were registered for entities with large increases in total procurement, such as the Road Administration, the Civil Aviation Administration, the Police Board and the Medical Board of the Armed Forces. The figures for the Defence Material Administration were also not satisfactory in this regard. Concerning single tendering, the use of Article V:15(b) had almost quadrupled from 1982 to 1984; the Board of Forestry, the Agency for Administrative Development and the Police Board had made extensive use of this provision and of Article V:15(d).

39. The representative of Sweden stated that according to paragraph 3 of the Swedish Ordinance entities were obliged to look for competitive foreign alternatives also in below-threshold purchases. The level of foreign penetration was in fact not much different from that existing in above-threshold procurement. The proportion of above-threshold purchases depended on the average size of entities and Sweden's level was similar to those recorded by other Parties with economies of similar size. Concerning the decrease in above-threshold purchases, no firm conclusions should be drawn because variations were inevitable. Moreover, the decrease was almost entirely due to reduced above-threshold procurement by the Road Administration and increased below-threshold purchases by the Industries Corporation and the Industrial Board. The Defence Material Administration's misinterpretation of Annex I of the Agreement had been rectified in July 1983 only and he had reason to believe that its implementation would continue to improve. Sweden did not regard its overall level of single tendering as high and it had decreased from 24 per cent to 16 per cent from 1981 to 1983, when twenty-eight out of a total of forty-one such contracts had been with foreign companies. The increase of sub-paragraph (b) cases had been from an extremely low level, from three to four contracts. He did not consider the use of the additional delivery justification by the Police and Forestry Boards to be excessive. The Agency for Administrative Development had admittedly used this practice frequently, but twenty-three out of twenty-five contracts had gone to foreign suppliers, of which eighteen or nineteen had been United States suppliers.

(iv) United States' statistics (GPR/24/Add.3)

40. The representative of the European Economic Community stated that the figures of total purchases by some agencies, e.g. the Department of

Agriculture, the Health and Human Services, the Interior Department, the State Department and NASA, were not in proportion to advertisements in the CBD. Footnote 12 - invitations in the CBD very rarely appeared from e.g. the NASA, although it accounted for 246 contracts according to the 1983 statistics. The representative of Japan wondered why single tendering due to category (c) had increased so sharply i.e. from 57 per cent in 1982 to 72 per cent in 1983.

41. The representative of the United States replied that category (c) cases had increased in relation to overall single tendering due to a decrease in category (d), where purchases had been erroneously overcounted earlier. The United States procurement process had many procedures designed to guarantee that money was not spent improperly, to ensure that technical specifications did not discriminate and to ensure sufficient time for competition. The result was that although the bidding time might be only thirty to forty days, the time between a decision to buy and an entity's ability to buy could stretch up to a year. It was not always possible to plan purchases so that urgent cases never arose. In view of this as well as budgetary constraints, recourse to this exceptional procedure was relatively modest.

(v) Switzerland's statistics (GPR/24/Add.4)

42. The representative of the United States wondered why so much of Code-covered procurement (46 per cent) had been under single tendering procedures.

43. The representative of Switzerland stated that the figure might appear high but that there were no indications that the conditions of the Agreement had not been fulfilled. Single tendering had not been used for protective reasons, borne out by the fact that more than 50 per cent for these purchases were of foreign origin. Mainly three entities used single tendering notably for additional deliveries.

(vi) Canada's statistics (GPR/24/Add.5)

44. The representative of Japan wondered about concrete cases of procurement under Article V:15(a). The representative of the United States noted that the value of single tendering had increased by 38 per cent, and that the increase was particularly large for Article V:15(d) and (e) cases. Domestic sourcing had accounted for 94 per cent in the Post Office, 95 per cent in the Department of Supply and Services, 97 per cent in the Solicitor General and 100 per cent in the Public Works Department.

45. The representative of Canada stated that responses would be provided bilaterally and to the Committee as soon as possible.

(vii) Finland's statistics (GPR/24/Add.6/Rev.1)

46. The representative of the United States raised a number of questions arising from document GPR/24/Add.6. Some of these had been answered in the revised version of that document, as pointed out by the representative of Finland, who in response to an additional question indicated that the shares of origin given concerning the Government Purchasing Centre was based on contract values.

(viii) Norway's statistics (GPR/24/Add.7)

47. The representative of the United States noted that above-threshold procurement had fallen by 20 per cent between 1981 and 1983 and by 39 per cent for non-mineral products. The Central Government Purchasing Office had made no above-threshold purchases in 1983. Although the overall rate of single tendering was not unreasonably high (11 per cent) the incidence had doubled each year since 1981; categories (b) and (c) purchases were growing rapidly.

48. The representative of Norway stated that the total value of contracts had shown a declining tendency and that it was normal that this was reflected in the above-threshold purchases. The lower purchasing activity the last two years was a result of the Government's efforts to keep public spending down. One should not conclude, however, that the trend was permanent as coincidence could be at play over this short time frame. Another more specific factor was decentralization of the Central Government Purchasing Office.¹ The use of single tendering remained at a low rate; 11 per cent was more realistic than the close to zero rate reported for 1981 because, among other things, entities were aware of their right to use single tendering in specific circumstances. Single tendering was not motivated by protectionism, as more than 50 per cent of these contracts went abroad. The figures and period under consideration did not permit firm conclusions as to the trend, if any, in purchases under categories (b) and (c).

(ix) Japan's statistics (GPR/24/Add.8)

49. The representative of the United States noted concerning single tendering that its rate had dropped only slightly and was 37 per cent of above-threshold purchases in 1983, that non-responsive bids accounted for 41 per cent of all single tendering, and that all Parties who had so far submitted 1983 statistics, except Japan, had given figures for sourcing. He further noted that in 1983, 61 per cent of contracts were below the threshold. This was exceptionally large for a country the size of Japan, and represented an increase over the 1982 rate. The representative of the EEC stated that questions to Japan would be taken up under agenda item C.

50. The representative of Japan stated that the rate of single tendering had decreased in 1983, both in terms of values and numbers. Concerning the use of category (a), each entity followed procedures for competition in accordance with the Agreement but, because of the absence of tenders or no successful tenderers, used the single tendering procedure. The entities made efforts to reduce the use of single tendering after the second round of competition. He recalled that although the Committee had decided that number and values on foreign sourcing would be optional, Japan would consider whether to include such data as from the 1984 statistics. The rate of below-threshold contracts was high because Japan's Code-covered entities included subsidiary agencies whose purchases were small in size. More than 6,000 entities did in fact make autonomous purchases (public corporations excluded). Contracts below the threshold had increased because the threshold expressed in Yen for the period 1 April-31 December 1983 had been 7.9 per cent higher than that of the preceding period.

¹See also item (vi) under "Other business".

51. The representative of the United States noted with disappointment that Japan had chosen not to break down single tendering on foreign and domestic sources, particularly in the light of concern expressed by a number of delegations about the extensive use of single tendering in Japan. He hoped Japan would reconsider the matter and provide data retroactively. The representative of Canada associated herself by this statement of the United States.

52. The representative of Japan stated that these concerns would be conveyed to his authorities.

(x) Conclusion

53. The Committee took note of the statements made and agreed to revert to this item at the next meeting.

C. IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

(i) High-priced bids

54. The representative of Japan reiterated his delegation's proposal (ref. GPR/M/13, paragraph 35). The representatives of the European Economic Community and Canada stated that most of the information sought by Japan was ready and would be made available.

55. The Committee agreed that the Parties be requested to supply the information requested by Japan.

(ii) Questions concerning the European Economic Community

- France

56. The representative of Israel informed the Committee that the problem taken up previously concerning the UGAP continued to be discussed bilaterally.

- Federal Republic of Germany

57. The representative of the United States noted that the Bundespost had recurring problems with short deadlines, especially for complicated high-technology goods and that a new procurement regulation - the VOL - contained an EEC provision to the effect that procurement entities should sub-divide contracts to encourage procurement from small businesses. He wondered whether this could lead to more contracts falling below the threshold.

58. The representative of the European Economic Community stated that the disposition in the VOL did not concern threshold calculations. Entities were asked, when they decided to publish invitations to tender, to consider the possibility of breakdowns into smaller contracts at the time of award. Therefore, the EC Official Journal contained quite often invitations carrying the possibility to bid for a few or many parts of a total contract. This practice was being actively monitored to avoid possible abusive interpretations. The question concerning Bundespost would be reverted to.

- Italy

59. The representative of the United States noted that a number of questions remained unanswered and that Italian implementation remained unsatisfactory four years after the Agreement had come into force. In October 1984 only four notices had been published, two of which with less than fifteen day bid deadlines. He wondered when the Agreement would be properly implemented.

60. The representative of the European Economic Community stated that for the first nine months of 1984 Italy had published more invitations than for the whole of 1983. He hoped this improvement would continue. Problems with time-limits which had arisen could not only be attributed to procuring entities but also to the operation of the post. Concerning the product structure in procurement, he noted, citing examples, that also United States' entities procured minor products. These entities also used small business set-asides and sometimes published bids for information only.

61. The representative of the United States objected to parallels being drawn to problems in other countries, since each Party had an obligation to comply with the Agreement. Italy had essentially not implemented the Agreement in the first two years and in the second two years only in a minimal way. He wondered why Italian entities purchased only a small range of products, contrary to other countries' purchases. He assumed from the few notices and the few product categories procured that Italian entities were either not applying the Agreement to a large number of Code-covered purchases or were making extreme use of single tenders. If the latter was the case, he wondered what the reasons were and which of the provisions of Article V:15 were most frequently used.

62. The representative of the European Economic Community reiterated that efforts were being made to improve implementation in Italy; one practical step was to improve the transmission of notices to the Official Journal to avoid time-limits problem; other actions were also contemplated together with the Italian Government. The question on single tendering would be reverted to as soon as possible.

63. The representative of Finland, on behalf also of Norway and Sweden, stated that while these delegations had not examined Italian implementation in the same detail as the United States, they shared its general impression and concerns.

- The Netherlands

64. The representative of the United States noted recurring and worsening problems with short deadlines in the Governmental Centre for Office Mechanization and Automation (KMC). He wondered how it was possible to procure complex products such as computers when sufficient time was not permitted. The representative of the European Economic Community stated that the matter would be reverted to.

- United Kingdom

65. The representative of the United States stated that short deadlines for computers had re-occurred with the regional health authorities. He wondered what measures were being taken. The representative of the European Economic Communities stated that the matter would be reverted to.

(iii) Questions concerning Israel

66. The representative of the United States sought confirmation that a tug boat purchase by the Israeli Port Authority would be considered Code-covered. The representative of Israel stated that the purchasing decision had been taken before Israel acceded to the Agreement.

(iv) Questions concerning Japan

67. The representative of the United States stated that questions concerning Japanese implementation were being pursued under the dispute settlement provisions of the Agreement.

68. The representative of the European Economic Community noted that he had put a number of questions previously which had not been answered to his satisfaction. Single tendering by entities other than NTT had increased - in value terms - from a share of 50 per cent in 1981 to 57 per cent in 1982. In 1981 single tendering had accounted for 100 per cent in the Science and Technology Agency, 99 per cent in the Ministry of Post and Telecommunications, 59 per cent the Japan Tobacco and Salt Company, 57 per cent in the Ministry of Education, etc. Such statistics were not given for 1982. However, the Kanpō showed that the situation had not changed much. Thus, if NTT did not use single tendering, the 1983 statistics indicated that the other entities had used single tendering to the extent of 456 million SDR, or 55.4 per cent. The breakdown on single tendering justifications had also changed very little. The Japanese National Railways announced purchases of various products at the beginning of each year, without any indication as to when such purchases would take place. Subsequent invitations were published with very short (e.g. ten days) bid times. This practice was not in line with the spirit of the Agreement because the market was effectively closed to foreign competition. These practices, together with some other techniques such as those referred to by the United States, brought him to conclude again that the Japanese market was not very open.

69. The representative of Japan stated that the practices of JNR were, as already explained, in full conformity with the Agreement and were probably not fully understood by the EEC. He would nevertheless convey the EEC's concern to the capital. Concerning the use of single tendering his authorities considered that the EEC used this procedure more often than Japan. While the EEC was interested in the value figures, he considered that the number of contracts was also relevant.

70. The representative of the United States noted that the Agreement was not drafted in a perfect way. For it to work, therefore, good faith was required on the part of all Parties. With respect to single tendering and JNR practices he considered that the flexibilities permitted by the Agreement had been taken to the limit in Japan. Whether or not an individual action was consistent with the Agreement was one question: one had also to consider whether the overall effect of a country's implementing actions was consistent with its intent.

71. The representative of the European Economic Community added that it was true that EEC statistics reported a high percentage of single tendering but that this had to do with negotiated competitive tenders being counted as single tender by a number of member States. This question was discussed in the negotiations.

(v) Questions concerning the United States

72. The representative of the European Economic Community noted that a number of entities which awarded many contracts, appeared to publish invitations to tender rather infrequently. As examples he mentioned the Department of Agriculture, the Commerce Department, Health and Human Services, the Interior Department, the Justice Department, the State Department and the NASA. A second point was the return to short bid times. Out of 190 invitations published under the Agreement during September 1984, more than half had had short bid times. In addition, a number of notices had been for information only.

73. The representative of the United States stated that there had been more publications by the Commerce Department and the Health and Human Services than indicated by the EEC. Nevertheless, his delegation was concerned as to the low number of footnote 12 advertisements. The matter was being looked into and he hoped the situation would improve. He was surprised that there should be short bid times since the law had been strengthened on this point. However, some delays of publication had occurred. This matter was also being looked into. Publications for information only was a quite frequent practice and intended to make suppliers aware of intended future tenders.

(vi) Conclusions

74. The Committee took note of the statements made.

D. PRACTICAL GUIDE TO THE AGREEMENT

75. A draft of the Practical Guide was before the Committee as a working paper without symbol.

76. The Chairman enquired whether there were any comments concerning Part I. The representative of Switzerland stated that some comments of a non-substantive nature had been communicated to the secretariat. The Committee then agreed on the final text.

77. The Chairman enquired whether there were any comments concerning Part II. The representative of Israel stated that some pieces of information were outstanding but that others were so detailed that it should be possible for interested parties to obtain all necessary information. The representative of the European Economic Community stated that all basic information had been collected and would be furnished as soon as possible. The representative of Japan stated that comments might be made in the near future.

78. The Committee agreed:

- (i) that the secretariat should take any further comments duly into account and that further data from individual Parties be made available to the secretariat by 10 December 1984;
- (ii) that the Guide be made available to all contracting parties as soon as practicable after that date, and that it would be available for sale to delegations and the general public;

- (iii) that it would replace the present loose-leaf sets of Annexes I-IV of the Agreement ("the orange folder"), which would be discontinued; and
- (iv) that revised pages would be issued and that the Committee should revert to this question.

E. NATIONALIZED ENTERPRISES

79. The representative of Switzerland reiterated his delegation's suggestion that the Committee examine, on the basis of a questionnaire (GPR/W/41), how governments might influence the procurement policies of nationalized enterprises, with a view that these policies be inspired by the principles of the Agreement or possibly be made subject to it. He recalled that some delegations had, at the April 1984 meeting, indicated preliminarily and in general that their nationalized enterprises acted like private enterprises without government intervention in day-to-day activities. He wondered whether delegations, including those who had not yet pronounced themselves, might be ready at least to initiate the procedure so as to get a better view of the situation and so as to avoid a theoretical discussion.

80. The representatives of Austria and the European Economic Community stated that their positions had not changed.

81. The representative of the United States continued to support the Swiss proposals, adding that statements to the effect that nationalized enterprises behaved like private companies, had to be treated with a great deal of scepticism, in view of actual purchasing practices.

82. The representative of Finland, also on behalf of Norway and Sweden, again expressed doubts as to the need and possibility to discuss this question at this stage.

83. The representative of Canada stated that her delegation was studying the Swiss proposal with an open mind. The Committee would most likely have to look into the problem sooner or later, directly or indirectly. Therefore, the proposal had some benefits.

84. The representative of Switzerland regretted that some delegations had not made their positions known. The matter was complex and time-consuming and priority seemed now rather to be given to the negotiations. Nevertheless, the Committee should sooner or later analyse this area, because it was one where governments might contribute to a better realization of GATT's objectives. He suggested to revert to the matter later, after the negotiations.

85. The Committee took note of the statements made and agreed to revert to the matter at a later date.

F. FOURTH ANNUAL REVIEW AND ADOPTION OF 1984 REPORT TO THE CONTRACTING PARTIES

(1) Fourth annual review document

86. The Committee went through the secretariat draft GPR/W/61. The representative of the United States stated that he wished to see included the matter referred to Article VII:4 consultations.

87. The Committee agreed that a revised version, to reflect the present meeting, be prepared by the secretariat for final comments, if any.

(ii) 1984 report to the CONTRACTING PARTIES

88. The Committee had before it a secretariat draft. The Chairman suggested that he and the secretariat be authorized to make the necessary modifications to reflect the present meeting, adding that some paragraphs might be shortened in order not to repeat unnecessary matters dealt with in previous meetings and the present one.

89. There were not comments and the Committee so agreed.

G. OTHER BUSINESS

(i) Panelists

90. The Chairman quoted the relevant provisions of Article VII:8 and invited Parties to nominate panelists at the latest in January 1985.

(ii) 1985 threshold expressed in national currencies

91. The Chairman reminded delegations about the agreed procedures. The United States had already informed the secretariat that its 1985 threshold would be US\$156,000. He invited other Parties to make their notifications as soon as possible.

(iii) Rectifications notified by the EEC (GPR/22)

92. The representative of the United States stated that he had a non-substantive objection to the French entity list because the proposals were quite extensive and further changes were expected. His delegation would respond when the final rectifications had been made. He also sought a clarification on the Dutch entity list before withdrawing his objection. The rectification proposed a footnote 2: "Land Material Directorate" to the Ministry of Defence and he wondered whether only this directorate would be Code-covered and the rest of the Ministry be excluded, or whether only the directorate would be excluded. In reply to the Chairman, he confirmed that the objections concerning the lists of Belgium and Luxembourg were lifted.

93. The representative of the European Economic Community stated that he took note of the observations but that he was not in a position to reply at the meeting.

(iv) Follow-up on VAT Panel report

94. The representative of the United States recalled the Committee action on the VAT Panel report in June 1984 and sought a progress report.

95. The representative of the European Economic Community stated that a programme towards a solution had been set up in the summer of 1984. A number of actions were underway and he hoped that the first phase of this exercise would be completed very shortly. The EEC was also discussing other possibilities with a short deadline set. He hoped to be able in the very near future to announce at least some significant progress towards a solution to this problem.

(v) Stockpiling by the General Services Administration in the United States

96. The representative of Canada noted with deep concern that US Public Law No.98/473 had now been passed, requiring the GSA to restrict the procurement of strategic materials for national defence stockpiling to those mined and refined in the United States. Canada regarded this as a contravention of the Agreement and therefore hoped that the United States would take corrective action.

97. The representative of the United States confirmed that the law had been passed. His Government was analysing the implications of this legislation; it had no illusions as to its international obligations.

(vi) Reorganization of an entity in Norway

98. The representative of Norway informed the Committee that the Central Government Purchasing Office had been reorganized in 1983/1984 as a measure to rationalize government procurement activity. The main functions of the Office, procurements and stock-keeping of office supplies, had been decentralized to the entities which formerly made their procurements through it. Among these entities were all the other GATT-covered entities except the Defence institutions. The remaining activities of the Office had become part of a non-covered entity, the "Forvaltningstjenesten". The reason for this decentralization was to reduce delivery times and save unnecessary expenses in maintaining a central government inventory. Throughout 1983 the Office had gradually terminated business and procurement commitments. Statistics for this entity had been included in the 1983 report but no procurements had been above the threshold level. Its procurement activities on behalf of the other GATT-covered entities were still retained within the coverage of the Agreement since they were now handled by these entities themselves. However, the reorganization meant that the Central Government Purchasing Office had to be deleted from Norway's entity list. His Government was prepared to discuss this matter under Article IX:5(b).

99. The representative of the United States enquired whether the decentralization could be expected to lead to the disaggregation of contracts and hence a reduction of the number of purchases above the threshold. He also wondered whether the Central Government Purchasing Office had in the past treated purchases by the Forvaltningstjenesten as non-Code-covered or whether the reorganization represented a change in Norway's coverage under the Agreement.

100. The representative of Norway stated that the consequences of the restructuring were under study. As indicated his authorities were prepared to discuss any reasonable compensation.

(vii) Agenda of next meeting; date of second meeting in 1985

101. The Committee agreed on the following agenda for the next meeting, to be held on 13-14 February 1985.

- (a) Article IX:6(b) negotiations;
- (b) Continuation of review of 1983 statistics;
- (c) Implementation and administration of the Agreement; and
- (d) Other business.

102. The Committee finally agreed to hold its second meeting in 1985 in the week of 29 April 1985.