

WORLD TRADE ORGANIZATION

RESTRICTED

GPA/IC/M/2

26 January 1995

(95-0143)

Interim Committee on Government Procurement

MINUTES OF THE MEETING HELD ON 15 NOVEMBER 1994

Chairman: Mr. Harald Ernst (Switzerland)

1. The following agenda was adopted:
 - A. Request for observer status by Panama (GPA/IC/W/5);
 - B. Modification of Appendix I to the Agreement prior to its entry into force;
 - C. Application for accession by Chinese Taipei;
 - D. Application for accession by the Kingdom of the Netherlands with respect to Aruba;
 - E. Adoption of a decision to administer modifications to the Appendices to the Agreement on Government Procurement (1994) prior to its entry into force, other than rectifications of a purely formal nature or those resulting from negotiations aimed at expanding coverage;
 - F. Completion of Appendices II, III and IV to the Agreement;
 - G. Progress in national ratification procedures;
 - H. Information technology;
 - I. Establishment of a practical guide;
 - J. Other business.
2. On the request of the European Communities, the following point was added to the agenda under "Other business":
 - Note 4(a) to Annex 3 of Appendix I of Japan (procurement related to operational safety of transportation).
3. As suggested by the Chairman, the following point was also added under "Other business":
 - Notification by Norway under the procedures adopted by the Interim Committee on the "Administration of rectifications of a purely formal nature to Appendices I to IV of the Agreement on Government Procurement prior to its entry into force" (GPA/IC/W/8).

A. REQUEST FOR OBSERVER STATUS BY PANAMA

4. The Chairman recalled the request from the delegation of Panama contained in document GPA/IC/W/5 to become an observer in the Interim Committee, in which that delegation had referred to its importance for Panama's process of accession to the Uruguay Round multilateral and plurilateral agreements. The Interim Committee agreed to grant observer status to the Government of Panama.

B. MODIFICATIONS OF APPENDIX I TO THE AGREEMENT PRIOR TO ITS ENTRY INTO FORCE

5. The Chairman recalled that, at its June meeting, the Interim Committee had taken up the matter of the bilateral agreement on government procurement reached between the negotiators of the European Communities and of the United States in April of this year and its possible incorporation into the Agreement on Government Procurement. The Group had agreed to return to this issue once the European Communities and the United States would be in a position to make a formal notification under the procedures adopted by the Informal Working Group at its meeting in January 1994 on "Modifications of the Annexes to Appendix I to the Agreement on Government Procurement Before its Entry into Force" (GPA/IC/3). In the meantime, he had invited delegations to consult with each other bilaterally and plurilaterally with a view to preparing the use of these procedures.

6. The representative of the European Communities said that the EC was presently following internal procedures to make ratification of the agreement possible. He explained that the agreement needed to be approved by the Council of the European Communities and the European Parliament, instances through which it was now moving. As soon as the ratification procedure would have been successfully completed on both sides, the agreement would enter into force and the consequential proposed modification could then be formally notified.

7. The representative of the United States explained that the bilateral agreement was part of the Uruguay Round package which had been submitted to Congress and on which Congress was scheduled to vote on 29 November and 1 December 1994. Congress' vote would complete the necessary domestic procedures on his Government's side. Formal notification under the procedures adopted by the Informal Working Group would take place once both sides would have formally ratified the agreement.

8. The Interim Committee took note of the statements made.

9. The Chairman also recalled that the Canadian Schedule offered to cover entities in all ten Provinces on the basis of commitments to be received from Provincial Governments, with a final listing to be provided within 18 months after the conclusion of the new Agreement. At the June meeting, the Canadian delegate had informed the Group that intensive discussions between the Provincial and Federal Governments were taking place and had expressed the hope that, at the Interim Committee's next meeting, he would be in a position to provide further details on these discussions.

10. The representative of Canada said that, since the last meeting of this Committee, the Canadian Provinces and the Federal Government had concluded a comprehensive internal trade-liberalizing agreement which in part covered enhanced procurement obligations among Provinces. This should facilitate discussions in this forum. In addition, his Government had held intensive consultations with trade and procurement officials of each Provincial Government in which it had outlined the current coverage of the Government Procurement Agreement as well as the results of the EC-US agreement. At the political level, the Canadian Minister of International Trade had written to each of his Provincial counterparts to facilitate continuing discussions with the Provinces on this issue. In the coming months, his Government would continue consultations with industry sector groups on elements of the Agreement.

His authorities intended to continue these discussions over the next few months and to respond on this issue to the Interim Committee, well within the timetable as prescribed in the Canadian offer.

11. The Interim Committee took note of the statement made.

C. APPLICATION FOR ACCESSION BY CHINESE TAIPEI

12. The Chairman recalled that, at its June meeting, the Interim Committee had invited the delegation of Chinese Taipei to submit relevant information on its procurement system including an offer by way of appropriate Appendices containing lists of entities and services which would be covered by the Agreement, as well as lists of relevant publications. The Government of Chinese Taipei had subsequently submitted information on its current procurement régime and on planned future reforms in document GPA/IC/W/9.

13. The representative of Chinese Taipei stated that his delegation had undertaken a great deal of preparatory work, since it had expressed its intention to accede to the Agreement on Government Procurement on 30 June 1994. He described the developments which had taken place so far in terms of regulatory reforms and in preparing the offer, and concluded that the reform of the government procurement régime associated with his Government's request for accession to the Agreement on Government Procurement represented an unprecedented challenge and had also triggered unexpected resistance. Nevertheless, he hoped to be in a position to table an offer in early 1995. A copy of the complete statement is reproduced in Annex 1.

14. The Chairman encouraged the delegation of Chinese Taipei and other delegations to continue the process of intensive bilateral and plurilateral consultations with all members of the Interim Committee. He also invited delegations, who had questions concerning the information submitted by the delegation of Chinese Taipei on its procurement régime, to submit them in writing to the Secretariat before 15 December 1994 for circulation to the representation of Chinese Taipei and to the Members of the Interim Committee.

15. The representative of the European Communities noted that his delegation had recently held discussions with the authorities in Taipei and that he was heartened by the degree of seriousness with which the issue was being addressed. He urged the Government of Chinese Taipei to continue this process and would be looking forward to the offer early next year. He was encouraged by today's statement of the representative of Chinese Taipei and by his personal experiences in Taipei and hoped that the reforms described would be a good basis for a transparent and effective government procurement system in Chinese Taipei.

16. The representative of the United States also welcomed the reforms Chinese Taipei was undertaking, which essentially represented a radical reform of its procurement régime. He sympathized with the difficulties Chinese Taipei had encountered in doing so but nevertheless felt confident that it would come forward with a good first offer and encouraged the Chinese Taipei authorities to attempt to cover all areas of procurement which were included in the Agreement on Government Procurement.

17. The Interim Committee took note of the statements made and agreed to revert to this issue at its next meeting.

95-0143 MF	E F S	GPA/IC/M/0002	
95-0144 MF	E F S	INF/269 (Derestriction of Documents)	
95-0145 MF	E F S	L/7616	
95-0146 MF	E F S	WT/Let/0001	(Marrakesh Agreement)
95-0147 MF	E F S	WT/Let/0002	(Marrakesh Agreement)
95-0148 MF	E F S	WT/Let/0003	(Marrakesh Agreement)
95-0149 MF	E F S	WT/Let/0004	(Marrakesh Agreement)
95-0150 MF	E F S	WT/GC/W/0003	
95-0151 MF	E F S	L/7612	
95-0152 MF	E F S	ADP/134	
95-0153 MF	E F S	SCM/190	
95-0154 MF	E F S	WT/L/0011	
95-0155 MF	E F S	TBT/W/191	
95-0156 MF	E F S	PRESS/0001	
95-0157 MF	E F S	PC/R/Corr.01	
95-0158 MF	E F S	GPR/W/142	
95-0159 MF	E F S	WT/L/0021	
95-0160 MF	E F S	L/7623	
95-0161 MF	E F S	WT/GC/W/0002	
95-0162 MF	E F S	GPR/M/053	
95-0163 MF	E F S	S/P/0001	
95-0164 MF	E F S	SCM/M/070	
95-0165 MF	E F S	G/SCM/N/0001	
95-0166 MF	E F S	G/SCM/N/0002	
95-0167 MF	E F S	G/SCM/N/0003	
95-0168 MF	E F S	G/SCM/N/0004	
95-0169 MF	E F S	G/TBT/Notif.95.017	
95-0170 MF	E F S	VAL/055.	
95-0171 MF	E F S	TBT/Notif.94.390/Add.01	

D. APPLICATION FOR ACCESSION BY THE KINGDOM OF THE NETHERLANDS WITH RESPECT TO ARUBA

18. The Chairman recalled that, at its June meeting, the Interim Committee had invited the delegation of the Kingdom of the Netherlands with respect to Aruba to submit relevant information on its procurement system including an offer by way of appropriate Appendices containing lists of entities and services which would be covered by the Agreement, as well as lists of relevant publications.

19. The representative of the Kingdom of the Netherlands with respect to Aruba stated that she hoped to be in a position to table the offer in the near future.

20. The Interim Committee took note of the statement made.

E. ADOPTION OF A DECISION TO ADMINISTER MODIFICATIONS TO THE APPENDICES TO THE AGREEMENT ON GOVERNMENT PROCUREMENT (1994) PRIOR TO ITS ENTRY INTO FORCE, OTHER THAN RECTIFICATIONS OF A PURELY FORMAL NATURE OR THOSE RESULTING FROM NEGOTIATIONS AIMED AT EXPANDING COVERAGE

21. The Chairman recalled that, at its June meeting, the Interim Committee had invited the Secretariat to prepare a draft decision on the administration of modifications to the Appendices of the types envisaged in Article XXIV:6 of the Agreement, prior to its entry into force, other than those changes to Appendices already covered by the decisions on rectifications of a purely formal nature and on modifications to Appendix I resulting from negotiations aimed at expanding coverage.

22. The Interim Committee adopted the Decision to Administer Modifications to the Appendices to the Agreement on Government Procurement (1994) Prior to Its Entry into Force, Other than Rectifications of a Purely Formal Nature or Those Resulting from Negotiations Aimed at Expanding Coverage, as contained in Annex 2.

F. COMPLETION OF APPENDICES II, III AND IV TO THE AGREEMENT

23. The Chairman recalled that, at the meeting of the Informal Working Group in March of this year, the Group had taken note of Canada's intention to communicate to the Secretariat as soon as possible a list of publications which it would use for entities at the sub-federal level. At the June meeting of the Interim Committee, the representative of Canada had expressed the hope that he might be in a position to provide further information at the next meeting of the Interim Committee.

24. The representative of Canada, referring to the discussions between his Government and the Provinces on coverage of sub-central level entities which he had mentioned earlier under item B of today's agenda noted that these would obviously have an impact on this item. He hoped that the final outcome of those discussions would include an element concerning publications. Hence, he would be in a better position later to provide more details as required.

25. The Interim Committee took note of the statement made.

26. The Chairman further recalled that, at the same meeting of the Informal Working Group in March, the Group had taken note of the intention of the delegation of the United States to provide a comprehensive list of journals used for publication of notices of intended procurements at sub-federal level for inclusion in Appendix II.

27. The representative of the United States explained that his authorities had undertaken a process of compiling a comprehensive list of State publications and had been engaged in extensive consultations with the State procurement officials as part of this process. As a result, his delegation had come to the conclusion that, as a practical matter, a rectification to the US Heading under Appendix II was necessary with a view to providing for State publications to be essentially an alternative to the Commerce Business Daily for purposes of publication in light of the fact that the most comprehensive information on an individual procurement opportunity at the State level would be contained in these State publications. In this context, he recalled that certain other Signatories had used a similar practice for listing sub-central publications in Appendix II. As a result, his delegation had submitted a draft of a proposed rectification. In response to a query from the representative of Canada, he confirmed that it was the intention of his Government to submit a list of up to 37 different State publications as an alternative to the Commerce Business Daily, but added that his authorities had nevertheless strongly encouraged the States to take advantage of the Commerce Business Daily, access to which would be at no charge to them. In response to a query from the representative of the European Communities, he clarified that there was a firm commitment on his delegation's side to provide the listing before the entry into force of the Agreement but that his delegation would endeavour to do so even sooner. He would circulate a revised text of the draft proposal of a rectification to make this point clearer (subsequently circulated as GPA/IC/W/10.)

28. The Chairman recalled that the rectification would be made under the procedures adopted by the Interim Committee on Administration of Rectifications of a Purely Formal Nature to Appendices I to IV of the Agreement on Government Procurement (1994) Prior to its Entry into Force.

29. The Interim Committee took note of the statements made.

G. PROGRESS IN NATIONAL RATIFICATION PROCEDURES

30. No comments were made under this agenda item.

H. INFORMATION TECHNOLOGY

31. The Chairman recalled that, at its meeting of 29 June 1994, the Interim Committee had invited the Secretariat to prepare, in consultation with interested delegations, a common format for the presentation of information on information technology. This format, containing a number of questions, was made available to delegations on 16 September 1994, in document GPA/IC/W/4/Rev.1, with the request that information be provided to the Secretariat in writing by 17 October, for distribution to delegations. As of the date of the present meeting, replies had been received from Sweden, Japan, Switzerland, Finland, the European Communities, the United States and Norway and had been circulated in documents GPA/IC/W/7 and Addenda 1, 2, 3, 4, 5 and 6 respectively. Further replies would be circulated as additional addenda. He urged those delegations who had not yet done so to submit their information as soon as possible.

32. The representative of the European Communities said that it was not always easy to spot the few procurement opportunities of interest to a particular supplier when one had to go through comprehensive official publications. It was therefore important to have systems in place which had increased search facilities, normally offered by modern technologies in the electronic area. Using information technology in the area of government procurement was therefore extremely important because it held the promise of a much better procurement system. In this regard, he stressed a few points. First, the issue of compatibility - an element which the Agreement itself mentioned - not only in the sense of technical compatibility but also in the sense of compatibility of information covered by the databases. Another important question was to what extent the systems were run by the government

or by private companies. The United States, in its replies to the Secretariat's questionnaire, had referred to VANs, Value Added Networks. VANs were normally organized on a national basis but there was perhaps a possibility to include information from other countries. In this respect, the use of international standards, which were developed to ensure such compatibility, was highly recommendable. One standard in this regard was the UN EDIFACT standard, Electronic Data Interchange, developed in the United Nations framework. As part of the on-going process of developing the EC's system, SIMAP (Système d'Informations Marchés Publics) has, from the beginning, employed the UN EDIFACT standard to ensure that data interchange will be carried out in a structured, standardized manner. So far, his authorities had received information on few systems which used the same EDIFACT standard. He noted that the United States and Japan had made a commitment to use UN EDIFACT at some point in the future. Chinese Taipei was in the process of developing its own database. There was thus an international standard available whose objective was to ensure compatibility of national systems but which nevertheless did not seem widely used. The question he therefore wanted to put to delegations was: to the extent that information technology had been, or was being brought into use in procurement systems, would appropriate use be made of the international standards; or, in the event that this was not the case, could delegations make a commitment to use these standards in future, with a precise time-table? The ideal situation would be one where a national database reflecting commercial opportunities in the national procurement markets opened up to suppliers of other Parties would equally incorporate information on opportunities in other Parties' procurement markets, without this having to be the result of complicated and sometimes even impossible translations from one system into the other. Secondly, he cautioned against using the VANs in a way to keep information nationally. VANs often obtained information from the government at a nominal fee. There was a risk, however, that the use of such information from that database by databases in other countries might be subject to heavy fees, thus creating obstacles to using it. Thirdly, he suggested that databases to which foreign suppliers had access should clarify whether the commercial opportunities contained on the database were open only to local suppliers or to foreign suppliers as well. Fourthly, he noted that in some cases systems were being developed for below-threshold contracts, for example in the United States under the new Electronic Commerce Initiative. He understood, however, that it was the intention of the United States Government to use the system above the threshold as well and he would therefore appreciate information on exact time-tables if such information were available.

33. The representative of the United States stressed that the questionnaire was not an end in itself but was rather an instrument for examining these issues in the context of the new Agreement. High technology would and should influence procurement activities around the world. In order to avoid the new Agreement becoming obsolete, a constant review of the elements of the Agreement was necessary to ensure that it would take into account and accommodate innovations in the procurement sphere. He too found the issue of compatibility important and it should be examined as part of this exercise. He confirmed that his authorities were reviewing the UN EDIFACT standard. He remarked that, as part of his Government's development towards a more electronic procurement system, it would be contracting with a large number of VANs to provide information on United States procurement opportunities, some of which would be entirely domestic, others possessing international capabilities. He expected that, with this system developing, every supplier around the world would eventually have access to it. He agreed that the introduction of the Electronic Commerce system in government purchasing in his country ought not to create obstacles to access for suppliers from other countries.

34. The representative of Canada said that the issue of the use of information technology in government procurement was perhaps one of the most important issues of market access. He too was of the opinion that the questionnaire was not an end in itself but only the starting point. The Agreement should reflect modern ways in which suppliers could obtain access to procurement contracts, remain competitive and which should be capable of providing the appropriate response to contract bids. He was looking forward to examining the issues raised in more detail as part of a continuing effort to improve market access.

35. The representative of the European Communities agreed that this exercise should result in some concrete conclusions. He suggested that the issue of information technology become a standard point on the agenda of the meetings of the Interim Committee.

36. The representative of the United States said that his delegation would come forward shortly with concrete ideas on possible results from this exercise and he suggested that other delegations do the same. One idea, for example, was to examine the Agreement in order to preliminarily identify specific provisions where some changes might be desirable to take account of the Group's work in this area.

37. The representative of the European Communities commented that the idea of introducing changes to the Agreement to take account of the Committee's work in this area was interesting and a matter to be taken up in the medium term. Developments in the area of information technology might warrant such changes in the future. However, useful work could already be undertaken at this stage, without necessarily changing the provisions of the Agreement. For example, in developing domestic databases, the element of compatibility between databases could already be kept in mind at this stage. Secondly, it was important to continue the exchange of information about domestic databases on the basis of the questionnaire.

38. In the light of the discussion, the Chairman invited delegations to consult with him on possible issues for examination at the next meeting. The Working Group took note of the statements made and agreed to revert to this matter at its next meeting.

I. ESTABLISHMENT OF A PRACTICAL GUIDE TO THE NEW AGREEMENT

39. The Chairman recalled that, at the June meeting of the Interim Committee, the Group had concluded that there was agreement in principle on the production of a practical guide and had agreed to revert to this matter at a later stage, in particular as regards the question of the structure and presentation of such a guide. The Secretariat had circulated an informal note on 7 November on the structure of the Practical Guide to the existing Agreement, raising a number of issues in regard to the structure and content of a guide to the new Agreement.

40. The Group agreed to first review the four general questions contained in the informal note: usefulness of the loose-leaf format and of the three-part structure; desirability of seeking advice from potential users about the structure and presentation of a future guide; and existence of equivalent types of guides, prepared by national administrations or in a regional context.

41. The representative of Japan, while stressing the importance of a practical guide to the new Agreement, questioned the need to seek advice from potential users about its structure and presentation, since the new guide would be based on the current Practical Guide, reflecting the provisions of the Agreement and as such the rights and obligations of Signatories.

42. The representative of the European Communities reiterated the usefulness of a practical guide and stressed that any such guide should be as practical as possible. He was in favour of seeking the advice of potential users. While agreeing with the representative of Japan that this should be done within the framework of the Agreement, he nevertheless cautioned against the guide becoming a legal handbook. The European Communities themselves had established a guide on procurement called "Guide to Public Supply and Works Contracts in the Community" which he would be happy to submit to the Secretariat for inspection by the Members of the Interim Committee.

43. The representative of the United States suggested that delegations focus their work on the type of information to be included in Part II of a new guide, which, if the structure of the present guide were to be maintained, would contain a description of the application of the Agreement by Signatories. In that context, reproduction of Appendices II, III and IV of the Agreement in a new guide would not be necessary. He was in favour of seeking advice from potential users, which should be done by delegations individually in capitals, rather than by the Committee from an international body representing business. He mentioned the existence in his country of a state publication, containing information on publications used and the types of products and services procured by each State, which he would be happy to submit to the Secretariat for inspection by the Members of the Interim Committee. He further observed that the inclusion of statistics in a new guide would neither be relevant nor practical, given the probable considerable size of a new guide.

44. The representative of Canada, while agreeing in principle to a three-part structure, supported the view that work should focus on practical information on the application of the Agreement, contained in a Part II of a guide. Reproduction of Appendix I of the Agreement in a new practical guide would not necessarily be useful. He would be happy to consult with potential users in his country about their preferences on the structure and the presentation of a new guide. In the NAFTA context, an outline was currently being drawn up of a work intended to assist suppliers in making use of the commercial opportunities in procurement markets opened up by NAFTA. He would be happy to provide a copy once it was published.

45. The representative of Korea stated that he was in favour of seeking the advice of potential users of a practical guide.

46. In summing up the discussion, the Chairman concluded that all delegations who spoke supported the idea of retaining a loose-leaf format and a three-part structure for the new guide, although the view had also been expressed that reproduction of Appendices I, II, III and IV of the Agreement in Part III of a guide would not necessarily be useful, given the probable considerable size of a new guide and the general availability of this information in the Agreement itself. Those delegations who were in favour of seeking advice from potential users in the preparation of a new guide had expressed a preference for doing so individually in capitals, rather than consulting a suitable international body representing business.

47. Delegations then held a first preliminary discussion of the specific questions raised in the informal Secretariat note on a practical guide. The representative of Japan did not see the need to include information on the price of a publication nor to include statistics, since this information was ephemeral. He also had strong doubts about the feasibility of presenting information on procuring entities and their procurements in a given period in a synoptic format, similar to the matrix contained in the current Practical Guide, given the greatly expanded coverage under the new Agreement. As regards the contents of a Part III of a new guide, he was of the opinion that, if lists of entities should be included in a new guide, Appendix I should be reproduced *tel quel*, since it described the rights and obligations of Signatories. On the other hand, he did not see the need to include Appendices II, III and IV in Part III of the guide if relevant information contained in these Appendices would already be included in Part II of the guide.

48. The representative of the European Communities was in favour of providing any information which was practical, such as the address of the publication. In addition, information concerning appeal procedures available to suppliers should be included. Moreover, he felt that a synoptic presentation of procuring entities and their procurements in a given period would be useful. In terms of information technology, he noted that, in addition to describing the various databases available, it was equally important to provide information on the ways in which to access them. As regards the contents of Part III of a new guide, he wondered why - if one wanted to include anything at all - it would not be

more sensible to include only the text of the new Agreement, rather than Appendix I, since suppliers should normally already have the information described in Appendix I through the publications used by entities publishing procurement opportunities. In relation to the question of how to present the derogations in the Agreement, he suggested that this perhaps be done in a matrix, indicating the derogations for each Party. Finally he cautioned against the guide becoming too thick. If ever delegations wanted to publish a "version banalisée" of the Agreement in addition to a practical guide, he suggested that this could perhaps be done using software, with increased search facilities and available on a wide scale.

49. The representative of the United States reserved his position on the question whether Appendix I should be included in a new practical guide. He reiterated that reproduction of Appendices II, III and IV was not necessary. These Appendices were not very user-friendly to suppliers, since they were not structured on a country-by-country basis in the Agreement and, moreover, relevant information contained in these Appendices would be produced and elaborated in Part II of the guide. He was also concerned that the guide not become too thick. As regards the derogations in the Agreement, he was not sure whether the guide should contain an indication of such derogations. He cautioned against describing any impact of the derogations at this stage since the guide should not have any legal status in terms of defining derogations.

50. The representative of Canada stated that he would consult with suppliers in his country on the desirability of including Appendices I, II, III and IV in a practical guide, given that these Appendices were included in the publication containing the new Agreement. Furthermore, he was open to any suggestions on the appropriateness of including the derogations to the Agreement in the guide.

51. The Interim Committee took note of the statements made and agreed to revert to this matter at its next meeting.

J. OTHER BUSINESS

(i) Note 4(a) to Annex 3 of Appendix I of Japan (procurement related to operational safety of transportation)

52. The representative of the European Communities stated that the Japanese entity list in Annex 3 contained seven railways which were all subject to the provisions of a footnote stipulating that procurement related to operational safety of transportation was not included. It was his understanding that the Japanese authorities interpreted this very broadly, which meant that the number of potential procurement contracts issued by the Japanese railways would be very limited. He requested that this point be put on the agenda for the Interim Committee's next meeting.

53. The representative of Japan commented that the seven Japanese railway companies had made purchases in EC countries for a total of US\$16 million in the past years. The conditions under which trains in Japan had to operate were very difficult, which warranted special safety provisions. This was the reason why his authorities had excluded procurement related to operational safety from coverage under the Agreement. He was looking forward to receiving some examples from the delegation of the European Communities in the context of bilateral discussions. He noted that he was not aware of any complaint from foreign suppliers.

54. The representative of the United States, recognizing that this was an issue in the context of bilateral discussions between the EC and Japan on coverage in Annexes 2 and 3, said that his delegation had also understood that the footnote was interpreted very broadly, and that if, in subsequent discussions

between his authorities and Japan, concessions were sought by Japan for the inclusion of this procurement, he doubted that much credit could be given by his delegation.

55. The representative of Japan expressed his surprise that this issue had been raised today. He observed that the footnote was not new; it was already included in the Japanese entity list under the current Agreement and had again been introduced in the new Agreement, which had been adopted.

56. The representative of Canada indicated that, although this was raised in the context of a bilateral issue between the European Communities and Japan, the question of the interpretation of the Japanese exception was an issue clearly affecting all Signatories. He requested that any information provided in the course of these discussions also be shared with all other Signatories so that greater clarification could be provided as to the exact coverage by the Japanese railways.

57. The Chairman proposed that the Interim Committee take note of the statements made and revert to this issue at the next meeting, if so requested by any delegation. The Interim Committee so agreed.

- (ii) Notification by Norway under the procedures adopted by the Interim Committee on the "Administration of rectifications of a purely formal nature to Appendices I to IV of the Agreement on Government Procurement prior to its entry into force"

58. The Chairman noted that Norway had notified (GPA/IC/W/8, dated 15 November 1994) a change in its entity list under the procedures adopted by the Interim Committee on the "Administration of Rectifications of a Purely Formal Nature to Appendices I to IV of the Agreement on Government Procurement Prior to Its Entry into Force". These procedures stipulated that if no objections were received within thirty days after notification, the rectification would enter into force.

59. The representative of Norway explained that the names of two entities had been changed and that the inclusion of one entity in Norway's Appendix I had been made explicit, as set out in her delegation's notification contained in document GPA/IC/W/8.

60. The Interim Committee took note of the statement made.

DATE OF THE NEXT MEETING OF THE COMMITTEE

61. It was agreed that the Chairman would set a date in consultation with delegations at a later stage.

ANNEX 1STATEMENT OF THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU AT THE SECOND MEETING OF THE INTERIM COMMITTEE ON GOVERNMENT PROCUREMENT, 15 NOVEMBER 1994

On 30 June 1994, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu expressed the intent to this Committee of acceding to the new Agreement on Government Procurement (AGP). Since then, we have been undertaking tremendous works to prepare ourselves to enter into negotiations with AGP signatories. The following is a brief summary of our endeavours for accession to the AGP.

I. REGULATORY REFORMS

My Government is now undertaking a wide range of regulatory reforms in the régime of government procurement in order to fulfil our obligations as a signatory of the AGP. The reforms include:

1. Draft a new basic law of government procurement

Our existing regulations governing government procurement are embodied in the audit laws and regulations, which are not fully consistent with the rules of the AGP, especially in such areas as notice of tenders, tendering procedures, technical specification, qualification of suppliers, time-limit for tendering and bid challenge procedures. My Government is drafting a new basic law, the "Statute for Government Procurement", in accordance with the principles set forth in the AGP. The draft of the Statute is expected to be completed by the end of next January.

2. Remove discriminatory measures of government procurement

There are some discriminatory measures in the practising of government procurement. Examples are distinguishing between local bids and foreign bids in some procurement cases, first priority to Ret-ser Engineering Agency of negotiation with government entities on construction works, and area restrictions on government procurement. Such discriminatory measures will be largely reduced and eventually removed in our regulatory reforms.

3. Strengthen the structure of government procurement organization

We will establish a "Government Procurement Committee" responsible for reviewing procurement policy, drafting laws and decreeing regulations related to government procurement. We will also establish a centralized procurement system by which the responsible agencies will be authorized to implement procurement of products and services, construction works and military supplies, respectively.

II. PREPARATION OF OUR OFFER

1. My Government has already opened the government procurement market to foreign suppliers. Although we have not yet completed formal statistics for government procurement awarded to foreign suppliers, the following figures can be important information for the concerned signatories of AGP.

- (a) According to the survey conducted by "Chung-Hua Institution For Economic Research"¹, the lump sum of procurement by government entities at all levels in 1993 is estimated to:
 - (i) US\$10.2 billion for procurement of products (the value of contracts above SDR 400,000 accounts for 86 per cent of the total value of contracts awarded);
 - (ii) US\$270 million for procurement of services, excluding construction (the value of contracts above SDR 400,000 accounts for 80 per cent of the total value of contracts awarded); and
 - (iii) US\$7.9 billion for construction works (the value of contracts above SDR 400,000 accounts for 60 per cent of the total value of contracts awarded).

As for the government procurement contracts awarded to foreign suppliers, there are about US\$6.6 billion for procurement of goods, US\$30 million for services excluding construction, and US\$1.4 billion for construction works.

- (b) According to the records of our Six-Year National Development Plan (1991-1996), up to June 1993, the amounts of contracts awarded to foreign suppliers had exceeded US\$7.3 billion.

2. In order to make the government procurement market more accessible to all interested suppliers, we are earnestly prepared to provide the initial offer as requested at the first meeting of the Interim Committee. The initial offer should be used as a basis in our negotiations with AGP signatories. Due to the complexity of government agencies involved in current government procurement structure, the Council for Economic Planning and Development under the Executive Yuan is making the best efforts to coordinate among different agencies, and expects to provide our initial offer in early 1995.

III. OUR DETERMINATION

The reform of the government procurement régime associated with our accession to the AGP is an unprecedented challenge to my Government. There are tremendous works and unexpected resistance. However, my Government has determined to overcome those hurdles and to accede to the new AGP as soon as possible. Hope with the full support of your delegations, we could officially become a party of the AGP in the near future.

¹The statistics mentioned below are unofficially compiled and produced by the private institute. In no circumstances will the statistics be used and treated as the official production of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei).

ANNEX 2ADMINISTRATION OF MODIFICATIONS TO THE APPENDICES TO THE AGREEMENT ON GOVERNMENT PROCUREMENT (1994) PRIOR TO ITS ENTRY INTO FORCE, OTHER THAN RECTIFICATIONS OF A PURELY FORMAL NATURE OR THOSE RESULTING FROM NEGOTIATIONS AIMED AT EXPANDING COVERAGEDecision of the Interim Committee on Government Procurement of 15 November 1994

1. Modifications relating to Appendices I through IV of the Agreement on Government Procurement (1994), other than rectifications of a purely formal nature and other than those agreed and resulting from negotiations aimed at expanding coverage prior to its entry into force, shall be notified to the Interim Committee on Government Procurement, along with information as to the likely consequences of the change for the mutually agreed coverage provided in the Agreement.
2. The Chairman of the Interim Committee shall promptly convene a meeting of the Interim Committee. The Interim Committee shall consider the proposal and any claim for compensatory adjustments, with a view to maintaining a balance of rights and obligations and a comparable level of mutually agreed coverage provided in the Agreement prior to such notification. In the event of agreement not being reached, the matter may be pursued under the provisions of Article XXII of the Agreement, after its entry into force.
3. Where a Member to the Interim Committee wishes, in exercise of its rights, to withdraw an entity from Appendix I on the grounds that government control or influence over it has been effectively eliminated, that Member shall notify the Interim Committee. Such modification shall become effective the day after the end of the following meeting of the Interim Committee, provided that the meeting is no sooner than thirty days from the date of notification and no objection has been made. In the event of an objection, the matter may be pursued under the provisions of Article XXII of the Agreement, after its entry into force. In considering the proposed modification to Appendix I and any consequential compensatory adjustment, allowance shall be made for the market-opening effects of the removal of government control or influence.
4. Until the entry into force of the Agreement Establishing the World Trade Organization, each modification, once effective, shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT 1947, who shall promptly furnish to each Member a certified copy of it. Upon entry into force of the Agreement Establishing the World Trade Organization, each modification, once effective, shall be deposited with the Director-General of that Agreement who shall promptly furnish to each Member a certified true copy of it.
5. The procedure in paragraphs 2 and 4 shall also apply to any modifications to Appendices I through IV notified as rectifications of a purely formal nature under the Interim Committee's decision of 29 June 1994 but to which objections have been made.