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GENERAL AGREEMENT ON TARIFFS AND TRADE

Committee on Government Procurement

MINUTES OF MEETING HELD ON 1-2 FEBRUARY 1984

Chairman: Mr. B. Henrikson

1. The Committee adopted the following agenda:

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A. Election of officers

2. The Committee elected Mr. B. Henrikson (Sweden) as Chairman and Mr. A. Stoler (United States) as Vice-Chairman.

B. Accession of further countries to the Agreement

3. The observer for India stated that a commonly held criticism of the Committees set up under the MTN Agreements was their limited membership. This was particularly true for the Committee on Government Procurement which had only three developing country members. In the view of his delegation the principle of special and differential treatment for developing countries envisaged in the Agreement had not been adhered to. This had prevented developing countries from becoming Parties, despite their best intentions. He felt that the Parties, notably the major ones, had not shown the necessary flexibility in accepting the entity offers of

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developing countries. In addition, the activities of the Committee ought to be made more transparent; information concerning purchases by Code-covered entities would, in particular, be extremely useful in evaluating the benefits accruing from membership.

4. The Committee took note of this statement.

C. Implementation and administration of the Agreement

(i) Austria

5. The representative of Austria stated that the situation in his country and his delegation's position on all points which had been discussed in previous meetings remained unchanged.

(ii) Canada

6. The representative of the United States stated that almost 60 per cent of the tender notices in December 1983 and almost 70 per cent in January 1984 had had deadlines of less than thirty days.

7. The representative of Canada stated that the matter was being looked into and if problems existed they would be corrected. The explanation might be accelerated purchases by entities which had not used their funds towards the end of the fiscal year. The average bid period over the past two years was thirty-three to thirty-five days, the annual proportion of notices requiring less than thirty days bid periods ranged between 17 per cent and 23 per cent in 1981/82, and less than fifteen days deadlines accounted for less than 3 per cent.

(iii) European Economic Community

8. The representative of the United States stated that the reason for the high degree of single tendering in the EEC seemed to be the practice in two member States of using single tendering procedures whenever negotiations were involved, regardless of whether conditions required in the Agreement were in fact applicable. Secondly, despite new legislation which had come into effect in Italy, the number of published notices not only continued to be low but had in fact declined in the second half of 1983 at an ever increasing rate. He also noted that changes in administrative structures appeared to have taken place in Belgium, France and Italy and wondered whether the EEC intended to submit rectifications to Annex I concerning these changes, which he assumed had not affected the balance of obligations under the Agreement.

9. The representative of the European Economic Community stated that the remarks on single tendering and negotiated procurement had been duly noted and that the matter would be discussed with the relevant member States. The Italian law referred to had come into force only in the second half of 1983 and it was premature to expect results already in that year. The impact was expected to be seen in 1984. He did not believe that changes in titles of some entities had affected procurement volumes but a revised list of entities would be put forward.

10. The representative of Finland, speaking also on behalf of Norway and Sweden, stated that the negotiated contract practice was of concern. In this regard, he noted that implementing legislation was supposed to be in conformity with the Agreement and he wondered whether the legislation pertaining to this question had been notified to the Committee and was available for inspection.

11. The representative of the European Economic Community referred to the national legislation of each member State which the EEC had notified to the secretariat (reference GPR/14/Add.1).

(iv) Finland

12. The representative of the United States noted that short deadlines were frequently used and that bids had to be submitted in a special envelope.

13. The representative of Finland stated that he had no information on these two points and requested the United States to indicate further details on the entities which were involved.

14. The representative of the United States stated that details would be provided.

(v) Israel

15. The representative of Israel reverted to a question at the last meeting concerning procedures for the hearing and review of complaints, explaining that an interministerial committee had been established for this purpose, composed of the Director General of the Ministry of Commerce and Industry (Chairman), the Paymaster General of the Ministry of Finance and the Counsellor for International Affairs, Department of External Trade, Ministry of Commerce and Industry. Complaints could be lodged directly with the latter and other Parties should contact the permanent Mission of Israel in Geneva. A list of entity contact points would be notified to the secretariat.

(vi) Japan

16. The representative of the United States took up the practice, particularly frequent in some entities, of setting maximum prices whereby, when all tenders exceeded this price, the tenders would be rejected and negotiations started. He wondered whether all tenderers were notified when the maximum price had not been met, whether they were given notice that they could change their bids and whether an indication was given as to the level of the maximum price. He asked whether in subsequent negotiations the maximum price was indicated, whether all tenderers had the opportunity to change their prices or other elements once the negotiations began and what the procedures for selection were if several suppliers lowered their price.

17. The representative of Canada wondered whether the fact that a secret maximum price existed was made known in the notice of proposed purchase or in the tender documentation as a criterion for award.

18. The representative of Japan explained that the fact that a set maximum price existed was not known to potential bidders. If no tenderers could supply below this price, the entity could either publish a new notice under the open or selective procedure, give up the purchase or enter into a contract with one tenderer among the initial participants, provided this tenderer accepted the price. In the process of selecting this supplier, the entity would give equal opportunity to all and would not discriminate against foreign firms. The entity did not alter the initial maximum price but enquiries were made as to the possibilities of each tenderer to reduce his initial bid price. The entity would contact tenderers who subsequently quoted prices below the maximum price. The only other factors which the suppliers could change were marginal elements such as delivery dates. He would revert to the other questions bilaterally and at the next meeting.

19. The representative of Canada stated that his delegation was also interested in discussing these questions bilaterally with the Japanese delegation.

20. The representative of the United States also noticed a high incidence of short deadlines; less than twenty days had been required in in more than 40 per cent of the cases in November 1983 and in almost 60 per cent of the cases in December 1983. A number of entities were involved in this but a particularly high incidence occurred in Japanese National Railways, the Ministry of Finance and the Ministry of Posts and Telecommunications. Although some improvements had taken place concerning short delivery times, this practice still occurred. Finally, no delivery dates were given in tender documentation from the Nippon Telegraph and Telephone Public Corporation.

21. The representative of the European Economic Community stated that a number of entities had an excessive use of single tendering, that the qualification procedures were not transparent and that short bid times were increasingly used by some entities. According to EEC figures, out of 232 tenders published in 1983 by the Japanese National Railway and 95 by the Ministry of Finance, 166 and 69 notices, respectively, had had short bid-times. Other entities mentioned in this connection were the Ministry of Posts and Telecommunication and the Ministry of Agriculture, Forestry and Fisheries. Some of these entities were, in addition, among those which used single tendering very often.

22. The representative of Japan stated that short deadlines were due to contracts of a recurring nature and that the Agreement provided that the period of thirty days could be reduced in the case of the second and subsequent publications in such instances. The delivery times duly took into account the normal time of transport and the date when the goods were needed. The question raised concerning the non-publication of delivery dates by the NTT would be reverted to at the next meeting.

(vii) United States

23. The representative of the European Economic Community stated that the General Services Administration appeared to be publishing more and more contracts, whilst the Veterans Administration and other significant procurement entities had reduced their activity considerably. If it was a trend for more and more purchases to be directed towards the GSA, he hoped this agency's practice would become more liberal than it had been in the

past. Concerning the assurance given at the last meeting that the labour supplies area preference was non-discriminatory, he noted that nothing in Commerce Business Daily indicated that this was the case. The publication of a synopsis purely for information purposes had increased considerably over the last months and implied that foreign competition was impossible. Improvements had taken place in the publication by sub-organizations under the Department of Defense but complaints had been received about the difficulties in selling to this entity, as borne out by the 1982 statistics which showed fairly large reductions in penetration in a number of product categories. Finally, he asked about the content of the new Federal regulations, due to come into force on 1 April 1984.

24. The representative of Finland, on behalf also of Norway and Sweden, stated that United States entities advertised planned purchasing with a hardly detectable footnote in CBD. This practice continued to be a serious problem for commercial representatives in charge of following United States procurement, and lacked in clarity in such a way as to not comply with the spirit of the Agreement. The Nordic countries were disappointed that the United States Government had not been able to get the situation remedied and urged the that further efforts be made. The representative of the European Economic Communities supported the statement by the Nordic countries and added that in some notices in the CBD it was almost impossible even to identify what products were demanded.

25. The representative of the United States stated that the Veterans Administration's practices were being looked into and that discussions had also been initiated with the Department of the Interior, which had been mentioned at the last meeting, concerning the use of footnote 12 in Commerce Business Daily. He understood the concern expressed concerning the identification of GATT contracts but reiterated that the Agreement did not require identification and that the United States had gone beyond its obligations in introducing footnote 12 as the only economically feasible device. His authorities had made great efforts to ensure that agencies used it. Footnote 12 purchases could be identified through subscribing to three different computer services. To his knowledge, there had been no shift in purchasing patterns from other agencies to the General Services Administration. The labour surplus area set-aside programme would be examined in order to eliminate any confusion that might exist with respect to foreign participation in tenders. He was not aware that synopsis for information was increasingly used. The reduced penetration in the Department of Defense was accounted for by reduced petroleum purchases. The purpose of the new Federal Acquisitions Regulations had been to combine and modernize the two separate sets of procedures and regulations (the Defense Acquisition Regulations and the Federal Procurement Regulations).

26. The representative of the European Economic Community noted, in a comment, that if other entities had not transferred activities to the GSA, figures for the last three months would imply that procurement of other big entities had gone down considerably.

27. The representative of Canada noted that recent news reports had mentioned an understanding which the Governments of Japan and the United States had reached regarding certain procurement practices by the Nippon Telephone and Telegraph Public Corporation. He enquired whether one of these delegations might comment on what implications this agreement might have for the work of the Committee.

28. The representative of the United States confirmed that the two Governments had renewed the NTT agreement for a period of another three years and that it contained, inter alia, and understanding regarding improvements in procurement procedures of the NTT. He hoped the agreement would serve as an encouragement to other countries to open their telecommunications markets. Japan and the United States would work jointly with this end in mind.

29. The Committee took note of the statements made under this item on the agenda.

D. Article IX:6(b) negotiations

30. The Chairman recalled that in accordance with the decision taken at the Committee's last meeting (GPR/M/9, paragraphs 37-40), an invitation had been extended to non-Parties to participate in the negotiations. This invitation (GATT/AIR/1977) had, at the same time, in accordance with what had been agreed upon at the last meeting (GPR/M/9, paragraphs 81-85), invited observers to explain problems they might have encountered in acceding to the Agreement so that the Committee might be in a position to examine such problems with a view to ascertaining whether it could do something to make accession easier. He further drew the attention of interested observers to the agreed procedures for the negotiations and the time-table set out in GPR/M/9, paragraphs 23-36, and the question of transparency dealt with in paragraphs 37-40.

(i) General statements

31. The representative of Finland, on behalf also of Norway and Sweden, stated that the Agreement had been negotiated on the understanding that it was breaking new ground and that, therefore, it had been thought advisable to include a clause dealing with possible improvements and extensions through negotiations in which all Parties were obliged to participate. Furthermore, since it was a common objective to make the membership as wide as possible new participants to the negotiations should be welcomed. These negotiations took place at a time when various efforts were being made to remove trade barriers and to strengthen the confidence in the international trading system. At the same time, the negotiations could not be conducted without regard to various economic realities. Some elements of the negotiations were likely to be more affected than others by present economic difficulties and various pressures governments were faced with. The Committee ought to focus on positive aspects and try to avoid the difficulties which negative aspects could cause. In this connection he hoped that the economic recovery would make the task easier. For the Nordic countries it was important that the negotiations would lead to better discipline in complying with the provisions of the Agreement on the one hand and modifications in some provisions on the other. The Nordic countries were preparing their positions with a view to active participation in the negotiations, also concerning enlargement aspects.

32. The observer for India stated that though it was true that Article IX:6(b) provided that possibilities should be explored of expanding the Agreement to cover service contracts, it was a fact that the wider question of the competence of the GATT in the services sector had not been settled. He recalled that after considerable debate, the GATT Ministerial declaration of 1982 had called for some exchange of information and

consideration at the 1984 session of the CONTRACTING PARTIES as to whether further action was called for in the GATT. He expressed the hope that any work undertaken by this Committee in this regard would neither prejudice the outcome nor be undertaken in such a way as to run counter to the decision of the 1982 Ministerial meeting. He believed that a MTN Code Committee could not override or pre-empt consideration by the CONTRACTING PARTIES.

33. The Committee took note of these general statements.

34. The representative of the United States sought clarification on the question of the participation of observers in the Article IX:6(b) negotiations. Recalling the agreed procedures for participation of observers in the negotiations he enquired whether other Parties shared the understanding of his delegations in this regard; i.e. if an observer wished to become participant on the basis of an entity offer presented prior to the negotiations, it should notify the Committee to this effect. In doing so, the observer would undertake the same requirements as the Parties had undertaken in respect to the submission of information on entities and other aspects of the negotiations.

35. No contrary views were expressed and the Committee took note of the statement made.

(ii) Improvements of the Agreement

(a) Identification of issues

36. The Chairman recalled that the Committee had agreed to identify issues to be taken up in relation to improvements of the Agreement. He recalled that "the negotiations will be based on specific suggestions from Parties", who "would be free to suggest any improvement that they wish to see made" (GPR/M/9, paragraph 23(i) and (ii)). As this meeting represented the target date for specific proposals relating to improvements aspects, delegations had been invited to circulate any such proposals prior to the meeting," on the understanding that this would not exclude the possibility of proposals being made at a later stage" (GPR/M/9, paragraph 35(i)).

37. The representative of Finland, on behalf also of Norway and Sweden, introduced these delegations' proposals in GPR/W/51, and the representatives of the United States and the European Economic Community introduced their delegations' proposals subsequently issued as GPR/W/53 and GPR/W/54. The representatives of these delegations stated that the proposals made by others were constructive contributions, that some of these were similar to proposals they had put forward themselves, and that they would continue the work in this area with an open mind, reserving their right to introduce additional proposals at a later stage.

38. The representative of Singapore reiterated his delegation's previously stated views and added that the Committee should maintain a balance between the burden imposed on specified entities and the benefits expected for unspecified foreign suppliers as a result of the liberalization. Conditions should not be imposed on government entities to the extent that these became unduly curtailed in the pursuit of their daily functions.

39. The representative of Canada stated that Canada might be making some proposals related to improvements of the Agreement at a later stage once its internal consultations were sufficiently advanced. Turning to the Nordic proposal, he wondered what the Nordic countries had in mind in proposing that entities should "favourably consider" the acceptance of tenders submitted in languages other than official GATT languages. He added that the proposal seemed impractical. The representative of Finland explained that the idea was not to introduce an obligation but some type of best endeavours clause.

40. In another comment, the representative of the United States expressed some doubts about the practicability of requiring Parties to notify the secretariat each time a specific derogation was used, as suggested by the EEC. On the other hand, he shared the view that statistics on specific derogations would be useful.

41. The Chairman concluded that, as already agreed (GPR/M/9, paragraph 35(ii)), the Committee would continue the discussion on matters relating to improvements of the Agreement at its meeting in April 1984. It was so agreed.

(b) Information gathering relating to specific derogations

42. The Chairman reminded delegations that they had been invited to submit information on the volume, value and types of products purchased by Code-covered entities during 1981 but excluded from Code-coverage by virtue of a specific derogation. In response hereto Sweden had submitted data. The representatives of Finland and Norway stated that the derogation clause had not been used in their countries.

43. The Committee took note of these statements.

(c) Information gathering relating to lowering of the threshold

44. The Chairman recalled that a proposal had been made to collect data or estimates on the values and numbers of contracts falling in the SDR 100,000-150,000 bracket (GPR/M/9, paragraph 65).

45. The representative of the United States stated that as the Agreement required the Committee to look into the question of lowering the threshold, it was important to know what the impact, if any, of a reduced threshold would be. The gathering of data or estimates, as his delegation had proposed, would be without prejudice to the negotiating position of any Party.

46. The representative of Austria stated that his delegation's position was unchanged and that a lowering of the threshold to SDR 100,000 would lead to a considerably increased workload, in particular for smaller administrations.

47. The representative of the European Economic Community stated that his delegation's position was also unchanged. He wondered whether a reduction of the threshold would have any other effect than that mentioned by the representative of Austria, as most contracts passing frontiers were very large contracts, often exceeding 1 million SDRs.

48. The representative of Japan shared the views of the two previous delegations.

49. The representative of Canada had some sympathy for the concerns expressed but would have no difficulty in supplying the data suggested.

50. The representative of Finland, on behalf also of Norway and Sweden, noted that the United States had already tabled a proposal for lowering of the threshold as an element of improving the Agreement. The Nordic countries were ready to discuss all proposals put forward in this context, but would have considerable difficulties in meeting any request for information gathering in this particular area.

51. The representative of Switzerland recognized that it could be of interest to collect data on the possible effect of lowering the threshold but shared the reticence of those who felt that it was probably premature to try to lower the threshold.

52. The representative of the United Kingdom on behalf of Hong Kong thought that his delegation would be in a position to supply the data but shared the reservations of other delegations on the proposal.

53. The Committee took note of the statements made.

54. The Chairman summed up by stating that he saw no possibility of agreeing on the proposal at the moment.

(c) Information gathering relating to leasing

55. The Chairman stated that after explanations given by two delegations at the last meeting (GPR/M/9, paragraphs 62 and 63), all Parties had explained their practices with regard to leasing and similar arrangements. Statistical data, or estimates, on the overall value of products leased by Code-covered entities, had been provided by the United Kingdom for Hong Kong, and the United States. Finland, Norway, Sweden and Switzerland had explained that leasing was used very rarely or to a very limited extent, Austria had explained that leasing was insignificant and Israel and Singapore had stated that leasing was not practised by their respective Governments.

56. The representative of Japan stated that data on the use of leasing would be submitted shortly.[1]

57. The representative of the European Economic Community stated that his delegation did not possess precise figures but that it was clear that leasing was not often practised in the EEC.

58. The representative of Canada stated that overall leasing data could be submitted shortly and that information on product breakdowns could be exchanged bilaterally with other Parties.

59. The Committee took note of the statements made.

[1] Included in "Estimates of service procurement by Japanese entities in fiscal year 1982" (GPR/W/55).

(iii) Service contracts

60. The Chairman recalled that the Committee was expected to "address the question of the launching of further studies on certain types of service contracts, in the light of preparatory work done prior to the meeting" (GPR/M/9, paragraph 35(i)). In response to the Committee's request, the secretariat had prepared a note compiling suggestions by Parties on types of service contracts that might be studied and issues to be examined for each service sector under study (GPR/W/50 and Add.1). He further recalled that Parties had been invited to identify services that are traded or tradeable internationally and acquired by governments. The following Parties had provided information: Canada, Finland, Japan, Norway, Singapore, Sweden, Switzerland, the United Kingdom on behalf of Hong Kong and the United States. Canada, Sweden and the United States had also submitted data on different types of services acquired. The United Kingdom on behalf of Hong Kong had submitted some information on leasing contracts. He reiterated the invitation to all Parties to supply information.

61. The representative of the United States stated that his delegation had held consultations with other delegations concerning document GPR/W/50. These had brought out concern over the scope of the proposed work and the need to avoid prejudicial phrasing of questions. While there seemed to be general recognition of the fact that certain environmental factors affected procurement of services, some delegations had felt that the proposed work went beyond procurement matters and the Committee's competence. In an attempt to take these discussions into account, he tabled a draft revised working document for discussion. Without prejudice to the possibility of studying further sectors, this document mentioned accounting and financial systems services, advertising, architectural and consulting engineering services and computer services. He further explained that the questions proposed for study focused on the current procurement practices because without such information it would be difficult to discuss the feasibility of expanding the Agreement to a particular type of service contract. Questions concerning environmental factors had been rephrased so as to make it clear that the intent was not to deal with matters beyond the Committee's competence. He emphasized that the aim of carrying out pilot studies was to develop information which was not currently in the possession of Parties, concerning the economic impact and the feasibility of extending the Agreement to cover services.

62. The representative of Japan stated that his delegation needed further time to reflect on the matter.

63. The representative of the European Economic Community stated that his delegation had not had sufficient opportunity to discuss the question in an overall context and that it had a general reservation about work on service contracts at the moment. He had particular difficulty with some of the suggestions made, including suggestions concerning certain service sectors, and sought clarification on some of the concepts used in this context and wondered what definition problems regarding origin the United States had in mind.

64. The representative of Austria expressed a general reservation; the proposals would be studied but he could not commit his authorities.

65. The representative of Switzerland considered the proposal to be a good basis for pilot studies. He suggested for further reflection whether the work might not also cover provisions of the Agreement.

66. The representative of Singapore stated that he had expected a general study of the economic viability and practicability of extending the Agreement to cover service contracts. He sought clarifications of certain concepts used in the paper and suggested certain amendments to make it clear that there was a distinction between work on service contracts in the Committee and elsewhere. He requested delegations who had proposed studies in specific sectors to clarify what particular issues they had in mind for each of the service sectors proposed. He finally stressed that the entire process had to be without prejudice to the ultimate decision by the Parties and the Committee as to whether or not the Agreement should be extended to cover service contracts.

67. The representative of the United Kingdom on behalf of Hong Kong reserved his position and supported the statement made by the representative of Singapore.

68. The representative of Finland, on behalf also of Norway and Sweden, stated that, taking the obligation of the Agreement as a starting point, their approach was cautiously positive.

69. In more specific comments, the representative of Finland indicated that the Nordic countries were particularly interested in the transportation sector. The representative of Canada suggested the inclusion of construction and telecommunications and computer services and some other drafting changes. The representative of Israel stated that his delegation was particularly interested in the area of software.

70. In reply to a question, the representative of Finland explained that the transportation concept was intended to cover all sorts of transport. The representative of the European Economic Community noted that distinct and fairly vast subjects were involved. The representative of the United States, while not disregarding any sector at this stage, thought that transportation might be a difficult area.

71. In response to comments, the representative of the United States stated that the definition of different service sectors had to be clarified in the course of the work. He tentatively suggested that architectural and consulting engineering services might be defined as the design and supervision of projects for building (for instance roads, manufacturing facilities, other productive facilities and infrastructure), accounting and financial systems services might be defined as the accounting and assessment of financial positions and budgets of entities and the creation, installation and supervision of systems to carry out such tasks. The origin provisions of the Agreement might need to be examined to see whether they were applicable because in an area such as, for instance, computers and data processing services, data might cross borders many times before they reached the final destination. In addition, if it were assumed that provisions on services would be implemented on a non-m.f.n. basis, the question might arise how to determine origin. The origin question also arose in the statistical context. He considered that software was included in the concept of computer services.

72. The Committee took note of the statements made. After a procedural discussion, it agreed that the secretariat could prepare a document (GPR/W/50/Rev.1) which would amalgamate various suggestions made at the meeting. The document, which would be presented as having been suggested "by certain delegations", would be reverted to at the next meeting as a working document without prejudice to the position of any delegation concerning further work in this area.

73. On the suggestion by the representative of the United States, the Committee further agreed that informal consultations would be held among delegations and if these lead to a consensus the secretariat might be requested to initiate pilot studies before the Committee's next meeting.

(iv) Stock-taking of information concerning non-covered entities

74. The Chairman recalled that the Committee had agreed that the tabling of entity offers by observers could be done at any point in time during the negotiations (GPR/M/9, paragraph 37) but that the tabling of requests concerning the broadening of the Agreement would be commenced at the April meeting (GPR/M/9, paragraph 25(i) and 35(ii)). He recalled in this connection that nine Parties had provided lists of non-covered entities and that six Parties had supplied procurement figures on a confidential basis to other Parties. Delegations had also been invited to submit, if possible prior to the present meeting and to the extent possible, information on product categories purchased by non-covered entities. Sweden had circulated such information.

75. The representative of the United States stated that further data would be submitted in the near future.

76. The Committee took note of these statements.

E. Practical guide to the Agreement

77. The Chairman recalled the proposal which had been made by the delegation of Switzerland (GPR/W/42) and the discussion at the last meeting (GPR/M/9, paragraphs 86-96).

78. The representative of Japan stated that his delegation's reservation was withdrawn and that Japan was ready to co-operate in the establishment of a practical guide to the extent possible.

79. The representative of the European Economic Community agreed in principle with the proposals made, but had certain reservations as to the amount of work involved in collecting information from entities. He therefore suggested that the project, at least initially, be focused on general matters. The representative of Austria supported this statement.

80. The representative of Israel stated that his delegation's reaction to the project was positive. Although he appreciated that some difficulties could be involved, he felt that, from the point of view of industry, information concerning individual entities was the most interesting. The representative of the United States shared this opinion and suggested that data on entities could be limited, initially at least, to those entities that had hitherto made Code-covered purchases. The representative of

Canada, holding the same view as Israel, agreed with the United States' suggestion if this could facilitate the work. The representative of Finland, on behalf also of Norway and Sweden, found the proposals useful and thought that absence of information concerning entities would considerably diminish the value of the guide. These delegations accepted the United States' proposal and reiterated that, when the guide was established, the present loose-leaf system of Annexes I-IV might become redundant.

81. The representative of Switzerland welcomed the support his delegation had received for the idea of establishing a guide and could accept the United States proposal; alternatively, the secretariat might commence the work as a whole on the basis of information already available to it which could be supplemented later by signatories, if necessary. The representative of the European Economic Community agreed that if the secretariat could produce a draft it would be easier to see what areas were not covered by available information and it might also be easier to persuade entities to contribute in due course.

82. The Committee took note of the statements, agreed to request the secretariat to start compiling a draft for a guide on the basis of information available to it and further agreed to request the secretariat to give a report on the work in progress at the meeting of April 1984.

F. Question of nationalized enterprises

83. The Chairman recalled the proposal made by the delegation of Switzerland in GPR/W/41 to start collecting certain pieces of information from the Parties.

84. The representative of the European Economic Community stated that he had certain conceptual problems with the description of the question in relation to the rôle of the state as an entrepreneur. According to Community law, the principle of non-discrimination was already established and public enterprises were subject to exactly the same rules as private enterprises and governments could not interfere in their activities. To require EC member States to impose the conditions of the Agreement on these enterprises would be seen as interference in their operations, in contravention of Article 30 of the Treaty of Rome.

85. The representative of Austria supported the position of the EEC with respect to the proposal which in his view might imply the creation of discrimination among enterprises.

86. The representative of the United States found the proposal useful and supported its adoption.

87. The representative of Finland on behalf also of Norway and Sweden, stated that the questions which had been taken up were important ones but that some fundamental unclarities remained, one being whether the Committee could discuss matters of this kind. The relationship between Article XVII of the General Agreement and the Agreement on Government Procurement was relevant in this connection, as was the definition of a nationalized enterprise. He wondered what sort of state enterprises, of which there were many, the Swiss delegation had in mind. Before having more precisions it was not possible for these delegations to support the proposal.

88. The representative of Switzerland thought that the hesitation which had been expressed might be due to lack of knowledge of the actual situation in the various member countries. The idea was simply to start familiarizing oneself with the situation and, if necessary and possible, to use the influence of governments to ensure that nationalized enterprises acted commercially and applied the principles of non-discrimination and national treatment. If these principles were applied in the EEC it would be sufficient to take note thereof, but only where the situation in each Party was known would it be possible to address problems and possibilities of making any improvements. Also the definition of nationalized enterprises was a matter which would have to emanate from the survey. He considered that the Committee was free to discuss this question and also the link between Article XVII of the GATT and this Agreement. In this connection, he noted that the Parties, when signing the Agreement, had gone somewhat beyond the obligations undertaken by other contracting parties.

89. The representative of Israel stated that in the case of many developing countries, nationalized enterprises had not previously belonged to the private sector. Such enterprises might play a different rôle according to the system or the stage of development of the country concerned.

90. The representative of Singapore suggested that the Swiss delegation provide the Committee with a workable definition of nationalized enterprises because without a definition the survey suggested would be too massive a project.

91. The representative of Switzerland stated that he would attempt to provide such a definition.

92. The Committee took note of the statements made and agreed to keep the item on the agenda for the next meeting.

G. Other business

(i) Derestriction of document

93. The Chairman noted that according to the agreed procedure (GPR/M/9, paragraph 81) the background document emanating from the third annual review (GPR/18) had become derestricted.

(ii) Panel candidates

94. The Chairman informed the Committee that candidates available for panel service in 1984 had been nominated by Finland, Israel, Sweden, the United Kingdom for Hong Kong and the United States. He expressed the hope that, in accordance with Article VII:8, other Parties would also make nominations.

(iii) Fixing of the 1984 threshold in national currencies

95. The Chairman informed the Committee that notifications had been received from Austria, the European Economic Community, Finland, Switzerland and the United States. Notifications received from Japan,

Sweden and the United Kingdom for Hong Kong would be circulated shortly. He urged other Parties to make notifications, bearing in mind, however, that Japan and Singapore fixed this threshold on a fiscal year basis.[1]

96. The representative of Canada informed the Committee that the Canadian 1984 threshold was fixed at CAN$199,000.

(iv) Next meetings

97. The Committee agreed to hold its next meeting on 10-13 April 1984, and a further meeting on 19-21 June 1984.

[1]Notifications from all outstanding Parties have subsequently been circulated in the GPR/W/49 series.