

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

GPR/W/56/Rev.3/Add.1

19 April 1985

Special Distribution

Committee on Government Procurement

ARTICLE IX:6(b) NEGOTIATIONS

CONSOLIDATED LIST OF SUGGESTIONS MADE FOR IMPROVEMENTS OF THE AGREEMENT

Addendum

The present addendum incorporates suggestions concerning Article VI received from the delegation of Finland on behalf of Finland, Norway and Sweden; and suggestions from the delegation of the United States concerning other Articles of the Agreement.

For sake of convenience, and without prejudice to their categorization, the secretariat has referred the texts below to current items in the Consolidated List (GPR/W/56/Rev.3), where these appear to be relevant. It has also, by way of footnotes to two of the proposals, inserted the relevant present text of the Agreement.

Item 2 Estimated Value/Actual Value

(concerning proposals by other countries with respect to footnote 2 to Article I:1(b)):

- "The Agreement shall apply to any procurement contract for which the contract value is estimated to equal or exceed [150,000] [75,000] SDRs at the time of publication of the notice referred to in Article V:3."

Item 10 Recurring Contracts

(concerning proposals by other countries with respect to Article I.1(b)):

- "If an individual requirement for the procurement of a product or products of the same type results in the award of more than one contract or in contracts being awarded in separate parts, the basis for application of this Agreement shall be the value of similar contracts concluded over the previous twelve months adjusted, as appropriate, for anticipated changes in quantity and value over the subsequent twelve months. Where no similar contracts have been awarded over the previous twelve months, the basis for application of this Agreement shall be the value of recurring contracts in the twelve months subsequent to the initial contract."

Item 18 Rules of Origin

(elaboration on current own proposal):

- Replace Article II:3 with the following:

"For the purposes of application of this Agreement, a product will be considered to have originated in a Party to the Agreement if such product is wholly the growth, product, or manufacture of a Party or if it is manufactured in a Party and the cost of its component materials mined, produced, or manufactured in such Party exceeds 50 per cent of the cost of all its component materials."

Item 20 Definition of Single Tendering
(new proposal):

- The last sentence of Article V:1¹ should be replaced with the following:

"Single tendering procedures, for the purpose of this Agreement, are any procedures other than the procedures defined for purposes of the Agreement as open or selective tendering procedures. Single tendering may only be used under the conditions provided for in paragraph 15 below."

Item 22 Offset Procurement and Technology Transfer
(elaboration on current own proposal):

- Article V:14(h) should be replaced with the following:

"Entities shall not award contracts on the condition that the supplier provide offset procurement opportunities or license technology, or similar conditions."

The note regarding Article V:14(h)² should be eliminated.

Item 24 Use of Derogations
(text to replace current own more general suggestion, quoted as last indent of GPR/W/56/Rev.3):

- Article VI - add new section 10:

"Each case in which derogations to the Agreement are made use of shall be reported to the Committee through the GATT secretariat within thirty days of the award of the contract."

New item Technical Specifications
(new proposal):

¹The last sentence presently reads as follows: "Single tendering procedures, for the purposes of this Agreement, are those procedures where the entity contacts suppliers individually, only under the conditions specified in paragraph 15 below".

²The note presently reads as follows: "Having regard to the general policy considerations of developing countries in relation to government procurement, it is noted that under the provisions of paragraph 14(h) of Article V, developing countries may require incorporation of domestic content, offset procurement, or transfer of technology as criteria for award of contracts. It is noted that suppliers from one Party shall not be favoured over suppliers from any other Party."

- The following should be added to Article IV as paragraph 4:

"4. Should a procurement entity seek or accept advice which may be used in the preparation of specifications for a product which may be purchased under the terms of the Agreement from an individual or firm that may have a commercial interest in such potential procurement, the entity shall provide an equal opportunity to submit advice to all potential suppliers. The procuring agency shall take all such advice into account when establishing specifications for a contract."

New item Information Prior to Notice of Proposed Purchase
(new proposal):

- The following new paragraph should be added following Article V:2:

"Entities shall not provide to any potential supplier information on possible upcoming purchases that will, or might, afford such a potential supplier with an advantage over other potential suppliers."

New item Treatment of Options Clauses
(new proposal):

- Delete the semi-colon at the end of Article I:1(b) and add the following new sentence:

"In cases where a procurement contract includes an option, or options, for the procuring entity to purchase additional goods, the basis for application of this Agreement shall be the total value of the maximum permissible purchase, inclusive of optional purchases;"

Add the following new paragraph after Article V:11:

"Contract provisions permitting entities the option to purchase additional goods shall not be used in a manner which discriminates against or among foreign suppliers. A contract subject to this Agreement may include an option for the purchase of additional goods only (1) in cases where there is a foreseeable future need for the exercise of such an option and (2) where such option provision does not permit substantive changes in the original terms of the contract."