

GENERAL AGREEMENT ON

RESTRICTED

GPR/W/82

25 September 1987

TARIFFS AND TRADE

Special Distribution

Committee on Government Procurement

SEVENTH ANNUAL REVIEW (1987) OF THE
IMPLEMENTATION AND OPERATION OF THE AGREEMENT

Background Working Document by the Secretariat

This working document is circulated by the secretariat in response to the Committee's request (GPR/M/26, paragraph 56), in preparation for the seventh annual review of the implementation and operation of the Agreement on Government Procurement to be conducted at the forthcoming meeting in October 1987. As indicated in the text below, this document will have to be updated after that meeting in order to give a full picture of the developments in the Committee during the current year.

Article IX:6(a) of the Agreement on Government Procurement provides, inter alia, that "the Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof". Article III:13 states, inter alia, that "the Committee shall review annually the operation and effectiveness of this Article ..." i.e. Article III (Special and Differential Treatment for Developing Countries).

[The Committee conducted the seventh annual review at its meeting of 16 October 1987, on the basis of a background working document by the secretariat (GPR/W/82). As agreed, the working document was revised after the review session in order to give a full picture of the Committee's activities in the reporting period. The present document therefore covers the period 22 November 1986 to 16 October 1987.]

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A. COMPOSITION OF THE COMMITTEE ON GOVERNMENT PROCUREMENT

Chairman: Mr. A. Dell (United Kingdom)

Vice-Chairman: Mr. E. Contestabile (Switzerland)

Members:

The Parties to the Agreement are members of the Committee in accordance with Article VII:1:

Austria, Canada, European Economic Community, Finland, Hong Kong, Israel, Japan, Norway, Singapore, Sweden, Switzerland, and the United States.

Observers:

- (i) The following governments have become observers in the Committee under the procedures adopted for the participation of observers:

GATT contracting parties:

Argentina, Bangladesh, Brazil, Cameroon, Chile, Côte d'Ivoire, Cuba, Czechoslovakia, Dominican Republic, Egypt, Gabon, Hungary, India, Indonesia, Jamaica, Kenya, Korea, Malaysia, Malta, New Zealand, Nicaragua, Nigeria, Peru, Philippines, Romania, South Africa, Thailand, Trinidad and Tobago, Turkey, Zaire.

Non-contracting parties:

People's Republic of China, Ecuador

- (ii) The following international organizations are invited on a meeting-by-meeting basis to be observers in the Committee, as provided for in the relevant decision taken:

IMF, UNCTAD.

B. MEETINGS OF THE COMMITTEE

During the reporting period the Committee has held [three] [four] meetings: on 12 February, 20 May, [30 September] and [16] October 1987. The notes by the Chairman are contained in L/6128, L/6177 and [L/] respectively. The minutes are contained in GPR/M/25-[28].¹ In the context of the Article IX:6(b) negotiations, the Informal Working Group met on 13 February, 18-19 May, 8-9 July and [14-15] October 1987.

¹[GPR/M/27 and 28 to be issued.]

C. DECISIONS TAKEN BY THE COMMITTEE

The Committee has taken the following decisions on substance:

- (i) On 12 February 1987, the Committee agreed to grant observer status to the People's Republic of China, in view of the fact that it had formally informed the CONTRACTING PARTIES of its intention to negotiate the terms of its status as a contracting party.
- (ii) On 12 February 1987, the Committee agreed that a solution proposed by the EEC in the VAT dispute would be considered as being accepted by the Committee if by 27 February 1987 no Party had stated objections. No objections were raised and the Committee has thus formally agreed on the solution, whereby the EEC will unilaterally reduce its threshold by the equivalent to the average effective rate of the different VAT régimes in the Community (i.e. 13 per cent), to be implemented jointly with the new threshold provided for in the Protocol Amending the Agreement. The United States accepted the solution on the understanding that 13 per cent was an average effective VAT rate, that no major change in the overall average level of the VAT incidence would occur or was foreseen and that this was a compromise practical solution and not the preferred legal one.
- (iii) On 20 May 1987, the Committee agreed that rectifications and modifications concerning Japan's entity list in Annex I of the Agreement would be deemed to have been accepted by it provided no objection had been received by the secretariat by 19 June 1987. The change, consisting of seven companies substituting Japanese National Railways in Annex I, became effective as of that date following the communication by one Party as set out in document GPR/40.
- (iv) Under the procedures agreed upon on 21 November 1986, the Protocol Amending the Agreement is open for acceptance until [1 October 1987] and will enter into force on the ninetieth day following the date of its acceptance by all Parties, but not before 1 January 1988. Austria, Finland, Hong Kong, Norway and Sweden have so far accepted the Protocol.

[to be completed]
- (v) Concerning decisions in the context of the continued Article IX:6(b) negotiations, see item D.

D. ARTICLE IX:6(b) NEGOTIATIONS

Pursuant to the decisions taken in November 1986 the Committee gave additional precision to the work of the Informal Working Group on Negotiations at the meeting of February 1987. The Informal Working Group had only been mentioned in the decision on service contracts and the

Committee decided (i) that the two other areas, i.e. broadening and improvements, were also to be handled by the Informal Working Group; and (ii) that it be requested to look into the question of a detailed work plan and other procedures, and to submit recommendations to the Committee. A number of general statements were made including statements by two observers concerning Article IX:6(b) negotiations under this Committee in the light of the Uruguay Round of Trade Negotiations. The Committee took note of these statements.

At the May 1987 meeting the Committee took note of a progress report by the Chairman on behalf of the Group, which had met on 13 February and 18-19 May 1987. Draft work programmes prepared in the areas of broadening of the Agreement and service contracts were circulated at the meeting.¹ Participants were given the opportunity of submitting alternative texts or amendments for distribution to the participants in the negotiations, the objective being to reach agreement on the detailed plan at the next meeting of the Informal Working Group on 8-9 July 1987. In the area of improvements of the Agreement, it was noted that work would include the exchange of submissions from participants aimed at improving the Agreement, inter alia, through improved transparency and strengthened disciplines. The Informal Working Group would resume work in all three areas mentioned above.

At the meeting of October 1987 [to be completed]

E. NATIONAL LEGISLATION (ARTICLE IX:4); IMPLEMENTATION AND ADMINISTRATION

At its meetings of February, May [and October] 1987, the Committee took stock of national procedures concerning acceptances of the Protocol Amending the Agreement.

The Committee examined national implementing legislation and practices at all meetings. In the course of this examination, a number of questions concerning individual countries were raised. Among issues discussed were the privatization of an entity covered by the Agreement in the light of the provisions of Article IX:5, the solution to the VAT dispute, the possible preferential treatment of certain foreign and/or national suppliers, including pending legislation in this regard. The Committee took note of statements on these points. It also took note of a notification from one Party concerning revised national legislation.

Individual Parties have notified the following specific actions:

JAPAN

The following companies have replaced Japanese National Railways in Annex I of the Agreement:

- Hokkaido Railway Company
- East Japan Railway Company

¹GPR/W/81

- Central Japan Railway Company
- West Japan Railway Company
- Shikoku Railway Company
- Kyushu Railway Company
- Japan Freight Railway Company

SWEDEN

At the meeting of February 1987, Sweden submitted the English text of an Ordinance concerning Purchases (1986:366), the National Audit Bureau's directives (1986:612) relating to this Ordinance, and the National Audit Bureau's general recommendations of 26 June 1986 with reference to the said Ordinance and directions, together with additional comments.

F. REVIEW OF 1985 STATISTICS

In the course of the subsequent review of 1985 statistics, carried out at the February, May and [October] 1987 meetings, the following were among matters taken up or referred to: the shares of procurements above and below the threshold in terms of overall numbers, values, and of particular entities or particular products; the use of different types of single tendering, overall, by particular entities or for certain equipment; procedures which permitted competition but which were statistically reported as single tendering; procurement from abroad, overall, by entities and by product categories; how procurement from abroad was defined and reported; effects of budgetary constraints, multi-year contracts, yearly fluctuations in purchasing activities and decentralization; discrepancies between numbers of awards and corresponding tender notices; the scope and meaning of some publication methods; the weight which fuel procurement played in some cases; the treatment in terms of Code coverage of certain contracts placed by defense entities; absence or delays of reports or other deficiencies in the statistics; measures taken to make statistics more precise; and further measures taken to promote competition.

The importance of good statistical information, both for transparency purposes generally, and as a tool in examining implementation and conducting negotiations, was mentioned by a number of delegations. Some presented ideas on further statistical work with suggestions for improvements, *inter alia*, a more detailed breakdown in product categories, introduction of statistical analyses and better comparability between national presentations. Reference was also made to the November 1986 decisions in the area of improved statistics and to the Harmonized System as a basis for improving statistics. A proposal was also made that summaries of 1983-1985 statistics be circulated. The Committee set 30 September 1987 as deadline for submissions of 1986 statistics.

G. ESTABLISHMENT IN NATIONAL CURRENCIES OF THE THRESHOLD (SDRs 150,000) FOR THE PURPOSE OF PUBLIC NOTICES

According to procedures agreed upon in 1981, thresholds expressed in national currencies are fixed for the calendar year, except for Japan, Israel and Singapore where the fiscal year (1 April to 31 March) is used.

Information received from the Parties for 1987 was as follows:

<u>AUSTRIA</u>	-	<u>S 2,778,712</u>
<u>CANADA</u>	-	<u>Can\$202,000</u>
<u>EUROPEAN ECONOMIC COMMUNITY</u>	-	<u>ECU 181,500</u>

Currency amount for one ECU:

Corresponding threshold:
(Directive 80/767)

Belgium	- BFr/Lfr 45,2309	<u>8,200,000</u> [*]	(8,209,408)
Denmark	- Dkr 8,02764	<u>1,457,017</u> ^{**}	
Germany, F.R	- Dm 2,23113	<u>404,950</u>	
France	- FF 6,81412	<u>1,236,763</u>	
Netherlands	- Fl 2,51718	<u>456,868</u> ^{**}	
Ireland	- £ Irl 0,715903	<u>129,936</u>	
Italy	- Lit 1430,0	<u>259,545,000</u>	
United Kingdom	- £ 0,589801	<u>107,049</u>	

<u>FINLAND</u>	-	<u>FIM 890,000</u>
<u>HONG KONG</u>	-	<u>HK\$ 1,351,000</u>
<u>ISRAEL</u>	-	<u>US\$171,000</u>
<u>JAPAN</u>	-	<u>YEN 29,000</u>
<u>NORWAY</u>	-	<u>NOK 1,300,000</u>
<u>SINGAPORE</u>	-	<u>S\$ 383,000</u>
<u>SWEDEN</u>	-	<u>SEK 1,254,000</u>
<u>SWITZERLAND</u>	-	<u>SwF 325,000</u>
<u>UNITED STATES</u>	-	<u>US\$171,000</u>

H. CONSULTATIONS AND DISPUTE SETTLEMENT

The follow-up on the VAT-Panel report was considered at the February 1987 meeting and a solution was reached as stated in paragraph C(ii) above.

On 25 February 1987, the European Economic Community requested consultations under Article VII:3 with the United States with respect to the procurement of machine tools by the US Department of Defense (GPR/37). At its meeting on 20 May 1987, the Committee took note of a progress report concerning these consultations. Further consultations were to follow, and the Committee agreed to revert to this matter. On 1 July 1987, the EEC requested consultations on this matter under Article VII:4.

I. OTHER MATTERS

(i) Panelists

Panel candidates were nominated by seven Parties for the period under review.

* Amount set by Belgium

** Amounts confirmed by the country in question.

(ii) 1987 threshold expressed in national currencies

As required, thresholds were notified by all Parties (GPR/W/78/-series).

(iii) Request for Committee documentation

At the May 1987 meeting the Committee took note of a request from an international organization for Committee documentation and agreed to revert to it at the next meeting.