

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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Committee on Government Procurement

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GUIDELINES FOR A TRANSITIONAL MECHANISM

Communication from the European Economic Community

As indicated by the representative of the European Economic Community at the Committee's meeting on 6 October 1989, the following communication has been circulated to the Negotiating Group on MTN Agreements and Arrangements (ref. MTN.GNG/NG8/W/47).

1. The European Community suggests the following guidelines for a transitional stage for new members.
2. This is without prejudice to the Community's final position on the transitional stage, any link with special treatment for least-developed countries or any amendments to the Agreement that these provisions might require.
3. The European Community considers that a transitional stage should be open to parties interested in becoming new members of the Agreement. It should not constitute an obstacle to improvement of the present provisions concerning special treatment for least-developed countries.
4. Basic guidelines
 - The mechanism would be seen as a preliminary step leading to full participation in the Agreement alongside present Parties. It would include only a limited set of rights and obligations along the lines set out below.
 - The whole mechanism would maintain the principle of reciprocal rights and obligations. In other words those in the transitional stage would provide to others, and in return would benefit from, limited rights and obligations only.
 - The transitional stage would provide very liberal entry provisions for countries which envisage becoming Parties to the Agreement. It is suggested that any country could enter the transitional stage if it transmits to the Committee, via the GATT secretariat, a list of all

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its entities belonging to groups A and B.¹ Concerning Group C¹, the list would be based on the criteria still to be decided by the Informal Working Group. Information on the global annual procurement volume of the entities listed would also have to be given to the Committee.

- The transitional rights and obligations would involve respect of the transparency requirements of the Agreement involving publishing tender notices for all intended procurement above the threshold.

The notices would have to respect the presentation and the information requirements of the Agreement. A summary of the notices would have to be published in one of the official languages of the GATT. The post-award information notice would also be required.

Parties should be prepared to give explanations on their procurement procedures and any law, regulation, judicial decision, administrative ruling of general application and any procedure regarding the covered procurements should be published promptly.

During the transitional stage, notices would state clearly whether contracts were open to outside bids and on what terms.

Technical specifications should be non-discriminatory in accordance with the Agreement.

Remarks

This transitional mechanism would enable firms and Parties to evaluate purchasing opportunities while retaining control of the exposure to competition. It would enable progressive adaptation to international commercial competition.

Termination of the transitional phase would give access to full rights and obligations:

Such a transition could take place subsequently on the basis of a review of the lists of entities. These lists could be subject to negotiation and might not be as complete as the lists of entities that had to respect the transparency obligations. A facility could be considered for the least developed countries whereby they would for instance be permitted to cover only half of their total lists of entities under the full Code obligations, the rest of their lists having only to follow the minimum requirements mentioned above. After two years, the situation of these countries would be re-examined by the Committee. The decisions to accept new members would be taken, as presently, by the Committee.

¹Group A: Central government entities, including those operating at regional and local levels; Group B: Regional and local government entities; Group C: Other entities whose procurement policies are substantially controlled by, dependent on, or influenced by central, regional or local government (Ref: L/6411, Annex I, made available to the Group).