

# GENERAL AGREEMENT ON

## TARIFFS AND TRADE

RESTRICTED

GPR/M/36

19 April 1990

Special Distribution

### Committee on Government Procurement

#### MINUTES OF THE MEETING HELD ON 9 MARCH 1990

Chairman: Mr. Nils-Erik Schyberg (Sweden)

1. The following agenda was adopted:

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A. Election of officers

2. The Committee elected Mr. Nils-Erik Schyberg (Sweden) as Chairman and elected Mr. Akitaka Saiki (Japan) as Vice-Chairman.

B. Article IX6(b) negotiations

3. The outgoing Chairman, Mr. John Donaghy, (Canada) gave the following report, on his own responsibility, concerning the work of the Informal Working Group on Negotiations.

Since the January meeting of this Committee, the Informal Working Group on Negotiations has held a meeting on 7-8 March and its participants also engaged in informal consultations on certain issues on 5 March 1990.

The discussions have mainly focused on the possible coverage for, and the possible régime to be applied to, the so-called "Group C" entities, i.e. entities which are not central, regional or local government entities, but whose procurement policies are controlled by, dependent on, or influenced by, such governments. In this connection, the Group was informed of the content of and background for the EEC's so-called "Utilities Directive", concerning the sectors of transport, energy, telecommunications and water management. The Group recognized the significance of these developments and exchanged views on their importance and relevance for its further work. There were also discussions of a "non-paper" which another delegation presented in respect of "Group C". While it is generally felt that any solution for this Group has ultimately to be found in a "package" of results, views differ on what the notion of an overall, balanced, context should comprise. Views also diverge on how a possible coverage and possible rules for "Group C" entities could be developed, given the scope of the present Code. In this regard, discussions have referred to both obligations on the governments themselves and procedural rules for the entities. Progress in this area depends on the ability and willingness to continue the discussions and to engage negotiations in an innovative spirit.

In respect of regional and local government entities (referred to as "Group B"), useful procurement data have been provided orally by a number of delegations. Useful additional information of procurements made by non-Code covered central government entities ("Group A") has also been provided.

A checklist of issues for discussion in the area of service contracts had been identified by the secretariat prior to this week's meeting of the Working Group. However, the discussion was deferred.

The Group has continued its discussion of surveillance, monitoring and control and what has been referred to as a possible "bid protest system" which many delegations view as an important part of an improved Code, pointing to its value in enhancing the Code's credibility within the business community. However, views differ on the need for making amendments to the Code on this point. A concrete proposal tabled by one delegation at the October 1989 meeting remains on the table.

In the course of its activities, the Group has also heard a number of observations with regard to Code rules on eligibility criteria and origin determinations. One delegation suggested further work in this field, taking duly into account work done elsewhere in the GATT.

The question of a transitional membership for non-Parties has been given increased attention. The Group appreciated the opportunity to discuss with interested non-Parties suggestions made in this regard, as well as other suggestions for facilitating accession to the Code, tabled in the Uruguay Round Negotiating Group on MTN Agreements and Arrangements.

In preparation for the next Informal Working Group meeting, delegations will be preparing additional information relative to "Group A" entities not currently covered by the Code, including indications as to procurement volumes, main products purchased and indications as to their legal nature. In respect of "Group B" entities, they will endeavour to complete, in writing, a questionnaire circulated two meetings ago. As for "Group C", they will bring forward indications as to entities for which they would wish to obtain information comparable to that envisaged for "Group A" entities. In addition, delegations are invited to come forward with additional original thinking as to coverage and régime for "Group C", taking into account what would be necessary to achieve success in the negotiations. Finally, they are invited to submit for consideration proposals for textual amendments using legal drafting language, for instance in areas such as transitional membership, eligibility requirements, etc.

4. The Chairman stressed the importance at this stage of the negotiations that the work programme that had been decided upon was followed and that the necessary information be provided at the next meeting.

5. The Committee took note of the report made.

C. Conclusion of 1987 statistical review

(a) Statistical review

6. The Chairman noted that the 1987 statistical review had begun at the meeting of October 1989, when the Committee had finalized the review of the reports received from Austria, Hong Kong, Israel, Singapore and Sweden. The Committee proceeded with the reports from other Parties. The representative of the United States reserved the possibility to revert to the statistical review of these Parties.

(i) Norway (GPR/45/Add.3)

7. The representative of Norway noted that the correct figure for below threshold procurement by the State Hospital was 1,120,000 SDR.

(ii) United States (GPR/45/Add.4 and Corr.1)

8. The Chairman recalled that written questions had been addressed to the United States from the delegations of Canada and Japan. The representative of the United States noted that her delegation was circulating corrections to the report on single tendering and would circulate written answers to the questions the following week.

(iii) Japan (GPR/45/Add.6)

9. The Chairman recalled that Japan had circulated replies to questions from the United States in July 1989.

(iv) Switzerland (GPR/45/Add.7)

10. The Chairman recalled that questions from the United States had been circulated at the October 1989 meeting and thanked the delegation of Switzerland for the written replies which it had circulated.

(v) Finland (GPR/45/Add.8)

11. The Chairman recalled that Finland had circulated detailed replies to the questions by the United States.

(vi) European Economic Community (GPR/45/Add.10/Rev.1)

12. The representative of the United States stated that her delegation would submit questions to the EEC at a later date.

(vii) Canada (GPR/45/Add.11)

13. No comments were made.

(b) Conclusion

14. The Committee took note of the statements made. It agreed to conclude the 1987 statistical review on the understanding that any questions could be reverted to under "other business" at the next meeting. It was noted that the 1987 reports would become derestricted one year from the date of the meeting, and that the 1986 statistical reports would become derestricted on 16 March 1990, one year having passed since the Committee finalized those reports. The Chairman reminded delegations that one year ago the Committee had agreed to set 30 September 1989 as a deadline for submission of 1988 statistics. The following Parties had so far circulated these: Hong Kong, Singapore, Austria, Canada, Sweden, Finland and Japan, (documents GPR/53 and Addenda 1-6, respectively). Switzerland's statistics had been received and would be circulated shortly; the delegation of Israel had informed the Committee that its figures were about to be submitted. The Chairman urged the remaining three Parties to submit their 1988 reports as soon as possible.

15. The representative of the United States noted that her delegation's statistics would be submitted shortly and explained that the delay had been caused by a change in format of the computerized reporting system used by agencies.

(c) Further statistical review

16. It was agreed that the examination of the 1988 statistics be inscribed on the agenda of the next meeting of the Committee.

D. Uniform classification system for statistical purposes

17. The representative of Austria explained his delegation's rationale for the proposal it had tabled in 1989. He stated that this agenda item was not a priority issue for his delegation because the old CCCN-based system, with the twenty-six categories had worked well in the past. Since in the meantime the world-wide customs nomenclature had been transposed to the Harmonized System, his delegation believed it was reasonable to remain with the old system with the qualification that it be based on the Harmonized System, amended or adapted to it, as appropriate. He added that if the coverage of the Code were to be extended to services or service categories in the future, the Committee had to seek a new solution then, taking into account the work of the Group on Negotiations on Services under the Uruguay Round of Negotiations.

18. The Chairman stated that this matter had been discussed or referred to in the Committee for about three years. He recalled that as of 14 February 1988 the revised text of the Agreement had been in force. It required, among other things, that reports under Article VI:10(b) be submitted "according to a uniform classification system to be determined by the Committee". Article VI:10(c) also referred to "category of product", which presumably would be the same. He hoped that the Committee could come to an agreement on this agenda item by autumn so that a new system could be used in 1991. He added that written proposals had been received from the Nordic countries in October 1987, from Austria and Canada in March/April 1989 and from the United States at the October 1989 meeting. The EEC had suggested that "the United Nations Central Products Classification appeared to be promising as it was a product based system which included service classifications as well, and was based on a United Nations re-classification of the Harmonized System. He added that most importantly the twenty-six headings of the CCCN and the NIPRO categories in use could be easily transposed to the thirty-nine categories of which the UNCPC consisted. The EEC delegation had prepared a draft concordance for this purpose." The Chairman, at that meeting, had concluded that the Committee should revert to this agenda item at the present meeting, taking into account the various proposals presented. He had added that delegations might wish to revert to the question of extending the current number of categories; although it had not been specifically discussed, some delegations had suggested the possibility of expanding the current list to include certain sub-categories for main product groups purchased by governments.

19. The representative of Sweden, on behalf of the Nordic countries, found the proposal to work out a new classification system on the basis of the UN Central Products Classification very promising and expressed willingness to examine this option. His delegation was agreeable to attempting to conclude discussion on this item by the end of the year.

20. The representative of the United States did not agree with the option of using the Harmonized System, but was willing to examine the two proposals which had been mentioned. It would be useful to have a clearer idea of what the EEC had found in its own analysis of the UNCPC system. Her delegation believed that it was important to set an objective and that of concluding discussion by the autumn was agreeable to it.

21. The representative of Switzerland voiced his delegation's concern regarding the difficulty in finding a uniform classification system as required by Article VI:10(b); statistical reports were an important element of the Code and served to ensure transparency among its Parties. Therefore, his delegation supported the idea of finding a solution to this issue as soon as possible in order to base 1989 statistical reports on a uniform classification system. His delegation supported basing any such system on the Harmonized System nomenclature since one of its main purposes was to bring about harmonization and comparability of statistics. In this regard, the paper circulated by the Austrian delegation was a good starting point for further discussion and decision on this subject.

22. The representative of Canada stated that although his delegation had put forth ideas in the interest of achieving a uniform system as soon as possible, it would be open to examining alternatives. He asked if the EEC could circulate the draft concordance that it had developed between the twenty-six CCCN and NIPRO categories so that it could be reviewed and used in time for the next Committee meeting.

23. The representative of the European Economic Community stated that his delegation was still working on the draft concordance but he hoped that it would be ready for submission by the next meeting. He added that another advantage of the CPC was that it included services; this would be useful if and when the Code was extended to cover services.

24. The Committee took note of the statements made and acknowledged support for completing the work on this subject by the end of the year. It agreed to invite delegations to circulate proposals well in advance of the next meeting<sup>1</sup>; these should be similar to the presentation in the Austrian paper (GPR/W/94), giving product descriptions and references to corresponding Harmonized System numbers. At the next meeting, delegations would have the opportunity to give comments and clarifications which could be compiled into a uniform proposal by the secretariat at the following meeting.

#### E. The Oslo Toll Ring Project

25. The Chairman recalled that this matter had been subject to a special meeting on 19 January 1990 (GPR/M/35). Subsequent to that meeting, the United States had circulated document GPR/W/103/Add.2.

26. The representative of Norway recalled that at the Committee's meeting on 19 January 1990 the United States representative had concluded,

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<sup>1</sup>According to the Chairman's invitation, by 8 June 1990

inter alia, that Norway had acted inconsistently with Article II in that it had "treated a US supplier and a US product less favorably than a Norwegian supplier/product". The Toll Ring issue had been the subject of several bilateral discussions between the two Governments under paragraphs 3 and 4 of Article VII; these had so far not resulted in a mutually satisfactory solution. In view of these consultations, Norway had initially hoped to avoid burdening the Committee with a detailed discussion of the matter. As already explained, an inter-departmental Task Force in Norway had been working intensively to provide responses to a United States request for detailed information put forward during previous consultations. These responses, including a memorandum and supporting documentation, had been submitted to the United States authorities on 28 February 1990. This should have made it apparent that Norway had not acted inconsistently with Article II in the procurement of electronic toll collection equipment (ETCE) in Oslo, and that the United States supplier in question had not been treated less favorably than any other supplier.

27. He stated that in this matter Norway had never attempted to limit competition to domestic suppliers/producers, or to give a Norwegian producer preferential treatment which contradicted Article II. Hence the main bidders for the procurement in question had competed on the basis of supplying the Oslo Toll Ring payment system, with a total package of which the ETCE was part, and which otherwise consisted of coinmachines, ticket systems, signs, data equipment, software, etc. The main bidders in this case had been Siemens of Germany and EB/Lehmkuhl of Sweden/Norway. The producers of the electronic equipment had been Amtech of the United States, Kofri of Norway and Philips of the Netherlands, of which the latter had dropped out at an early stage. Thus, the main competitors with which the Norwegian authorities had been dealing were EB/Lehmkuhl and Siemens. He stressed Norway's liberal trade policy in the area of government procurement noting that the import share of purchases above the threshold value from other Code members had been around 35-40 per cent of total procurement under the Agreement. This was significantly higher than in many other Parties to the Agreement.

28. His delegation held that the United States statement in the meeting of 19 January 1990 contained some factual inaccuracies and misinterpretations as to what had actually happened during the procurement process which he summarized as follows. In 1987, the company A/S Fjellinjen had been established as a separate toll collection company owned by the Municipality of Oslo to act as a borrower, to collect the toll fees, to manage the Toll Ring system and to undertake the downpayment of loans. The Directorate of Public Roads, a Code-covered governmental body, had been responsible for the procurement of the Toll Ring payment equipment package. The division of tasks and responsibilities between this Directorate and A/S Fjellinjen had been laid down in Agreements of April 1987 and October 1988 between A/S Fjellinjen and the Norwegian Ministry of Transportation. According to

these Agreements, A/S Fjellinjen was to provide all the necessary data and to evaluate the basis for the selection of equipment. The final procurement decision was to be made in agreement with the Directorate of Public Roads. Neither the Government nor the suppliers of electronic identification systems had had any previous experience in the utilization of such systems for a toll ring of similar proportions (eighteen stations, about 240,000 vehicles passing through every day). It had been largely left to the suppliers to propose the technical solutions, including the equipment. The purchaser had wished to be free to "pick and choose" from among the offers, leave out certain parts or propose alternative solutions. The bidders had been informed that the procurement would be made in accordance with the Norwegian procedure for "procurement based on offers and negotiations". The procurement process had lasted from May 1988 to September 1989 and had included a phase of political uncertainty in the spring of 1989 as to whether there would be any toll system at all. This had been resolved by a decision of the Storting on 30 May 1989.

29. A technical evaluation report of 31 August 1989 had concluded that both of the remaining bidders, EB/Lehmkuhl and Siemens, could satisfy the requirement specifications technically and operationally, that both were well-qualified as to their organization and personnel, and that both could install a minimum system by 1 February 1990. Based on price offers from June 1989 (Siemens NOK 85.5 million and EB/Lehmkuhl NOK 93.6 million) and the clarification of certain deviations/reservations from both bidders on 6 September 1989, the Directorate of Public Roads had calculated that the comparable prices for the two offers were NOK 89.3 million for Siemens and NOK 96.7 million for EB/Lehmkuhl. The Directorate of Public Roads had awarded the contract to Siemens on 8 September 1989 on the basis of technical functionality, price and delivery schedule.<sup>1</sup>

30. He noted that the United States statement of 19 January 1990 had raised several aspects regarding events during the above mentioned process. His delegation admitted that many of these events might have given rise to questions but these had been due to unforeseen or uncontrollable circumstances and had not affected the eventual choice of procurement. These had been, firstly, the above-mentioned political uncertainty during the spring of 1989, and secondly, the increasing problems in the co-operation between A/S Fjellinjen and the Directorate of Public Roads/the Ministry of Transportation. From June 1989 the flow of information from A/S Fjellinjen to the Directorate and the Ministry had become increasingly unsatisfactory. Although A/S Fjellinjen had evaluated both EB/Lehmkuhl's and Siemen's offers, the company had made several procedural errors which resulted in discrimination against Siemens during the final negotiations in June 1989. Whereas extensive negotiations had been conducted with EB/Lehmkuhl, only exploratory negotiations had been conducted with Siemens. Furthermore, in its attempt to estimate the comparative price of the two offers, A/S Fjellinjen had employed an inadequate basis for estimating the costs of the two bidders' reservations to the draft contract. According to the Directorate of Public Roads, this basis had been unacceptable in both

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<sup>1</sup>For further details, see paragraphs 32-33 below.



technical and legal terms. A/S Fjellinjen had not had the authority to issue the contract award letter of intent which it had issued on 18 July 1989 to EB/Lehmkuhl. These circumstances had contributed considerably to the loss of confidence in A/S Fjellinjen, which had resulted in the termination of the agreement between the Ministry of Transportation and the company on 19 July 1989. From this date the Directorate of Public Roads had taken over the task of providing the data and evaluating the basis for the selection of equipment.

31. He referred to the United States statement on 19 January 1990 that a 28 June 1989 press release had announced award of the contract to Amtech by Fjellinjen, and that two days later the Minister of Transportation had intervened, deciding that the award should go to the Norwegian Kofri product. He confirmed that A/S Fjellinjen had, on the said date, through a press release, announced that the contract was to be awarded to EB/Lehmkuhl; however, this had happened after an unsatisfactory and partly erroneous procedure upon which the Ministry of Transportation had felt compelled to intervene. The statement in the 30 June 1989 letter from the Minister of Transportation that Kofri should be chosen had not been followed up. A/S Fjellinjen had acted contrary to its authority when it had, on 18 July 1989, single-handedly issued a contract award letter of intent to EB/Lehmkuhl. The following day the Ministry had sent the letter to the Directorate of Public Roads requesting that it be responsible for a new evaluation of the potential payment system. On the same day (as already mentioned) the Ministry had terminated its agreement with A/S Fjellinjen.

32. On 26 July 1989, the Directorate of Public Roads had appointed an Evaluation Committee, headed by the Director General of the Royal Norwegian Council for Scientific and Industrial Research, Norway's largest and most prestigious research council, to clarify the technical/functional aspects of the offers in terms of the requirements specification. The Committee had been charged with the task of evaluating and assessing the technical functions and the economic and operational aspects of each of the two systems and had submitted its recommendation by the stipulated deadline of 31 August 1989. It had concluded, *inter alia*, that: (i) both systems were based on well-tested, generally recognized technology, and both offers could satisfy the requirement specifications technically and operationally; (ii) both bidders were well-qualified as regards the organization and personnel needed to deliver, service and maintain the equipment; (iii) both bidders had given a satisfactory guarantee for delivery according to contract; and (iv) both bidders were able to install a minimum system by 1 February 1990.

33. On this basis the Directorate had finalized its evaluation of the bids in early September. On 31 August and 5 September 1989 letters had been sent to both bidders, the first requesting them to confirm the offers submitted in June and the second asking them to waive all of their reservations to, or stipulated changes in, the request for offers. They had been further asked to inform the purchaser of any changes in price

which might result from this. In the light of the lapse of time which had taken place since the offers had been submitted, the bidders had also been asked to provide updated delivery schedules and to confirm that the offers submitted in June were still valid. Both bidders had so confirmed and had provided updated delivery schedules as requested. In letters dated 5 and 6 September 1989, Siemens had confirmed the offer of NOK 85.5 million, and had waived all reservations. However, it had maintained one condition concerning the guarantee after the expiration of the guarantee period; the present value of this condition had been calculated by the Directorate of Public Roads at NOK 3.8 million. In letters dated 5 and 6 September 1989, EB/Lehmkuhl had confirmed the offer of NOK 93.6 million maintaining one reservation concerning the payment scheme, calculated by the Directorate as amounting to NOK 3.1 million, not including costs for increased risk of delayed delivery. Comparable prices were, for EB/Lehmkuhl NOK 96.7 million and for Siemens NOK 89.3 million. Based on a comprehensive assessment of technical functionality, price and delivery schedule, the Directorate had awarded the contract to Siemens on 8 September 1989.

34. The US general assertion that what had happened between 19 July and the date of the contract award on 8 September 1989 "was put in place so as to avoid giving an appearance of Code-inconsistency" was rejected by the Norwegian authorities. The new technical evaluation in July/August 1989, and the final assessment of prices in September by the Directorate of Public Roads, had been undertaken precisely in order to ensure consistency with Article II of the Agreement. With respect to the US references to price estimations prepared by A/S Fjellinjen, as explained, these had not been correctly calculated and had to be disregarded. This was confirmed by the fact that the final price evaluation in September 1989 demonstrated clear price differentials. Furthermore, it was not correct that the Extended Evaluation Committee should "reevaluate offers". The Committee's main task had been to evaluate the overall functionality of the two systems offered and its evaluation had been limited to an assessment of price ranges (NOK 90-95 million), rather than an assessment of the specific price of each offer. The exact prices had been clarified by the Directorate of Public Roads after the report of the Extended Evaluation Committee had been submitted. The US reference to the said press release by A/S Fjellinjen on 28 June 1989 where it had been stated that "Amtech was chosen because the competing Norwegian product from Kofri was evaluated as a development project with a large degree of uncertainty" gave a distorted impression. This description had stemmed from a technical evaluation of the Kofri system dated 23 February 1989 which had been just prior to the time for the decision about procuring the equipment as it was originally planned. As explained, at that time there had occurred a major political debate in Oslo about whether there should be a Toll Ring at all, and the uncertainty thus created did not end until the Parliament had made its decision on 30 May 1989. The fact that both Amtech and Kofri, in these unforeseen circumstances, were "given" three to four months extra time during which they could improve their systems could not be blamed on either company.

Thus, at the time when A/S Fjellinjen had announced its decision on 28 June, the Kofri system could no longer be described as "a development project". This had been confirmed by the Extended Evaluation Report of 31 August.

35. It was also an incorrect assertion that "in the beginning of October 1989 the Minister of Transportation had returned authority of these kinds of procurement to Fjellinjen". It was the agreement with A/S Fjellinjen concerning the company's responsibility for the management of the Toll Ring system which had been reinstated. Neither was it correct that a decision had been made to employ the Kofri system in potential future toll ring projects in Norway. In fact, as late as 17 January 1990, the present Minister of Transportation had stated in the Parliament that, in case there would be future decisions on toll ring projects in Norway, free and open competition in the procurement area would be very important.

36. It seemed to the Norwegian delegation that references to several articles in the press concerning the political debate on the Toll Ring Project in Norway during spring 1989 were an attempt by the United States delegation to bring elements from a Norwegian political debate into the evaluation of whether or not Norway had acted in violation of the Agreement. His delegation found this to be inappropriate in principle. The Agreement on Government Procurement was neither meant to be, nor should become, a means to impeding political debates in the member countries. Thus, Norway had found no reason to comment on newspaper articles covering a political debate.

37. In conclusion, his delegation hoped that when the members of the Committee had had more time to study the issue closer, they would conclude that Norway had not acted inconsistently with Article II in this matter. As the two systems had been judged technically and functionally equivalent, and the Siemens/Kofri system had been about 7 per cent cheaper, it would have constituted a breach of the Agreement if this system had not been chosen. Even though a satisfactory solution had not yet been reached, his delegation wished to pursue the bilateral process in order to try and find such a solution.

38. The representative of the United States thanked the delegation of Norway for its detailed explanation. She recalled that the purpose of the Agreement was to provide a framework of fundamental impartiality and to ensure that the rules did not change during the procurement process. The representative of Norway had acknowledged that a considerable political debate had proceeded around this procurement. Some political issues which the representative of Norway had mentioned, for example, the issue of jurisdiction, had not been raised by her delegation. She noted that her delegation's reference to what was called a political debate was actually a reference to the fact that political statements had been made by the actual agency doing the procurement; this was different from a political debate between other parties. In her delegation's view, politics was the central issue in this case. While her delegation was not in the position to provide expert technical analysis of the many technical factors in the

procurement decision, the order by the head of the procuring agency to award to a national firm, based on political factors had compromised the procurement in such a way as to make an impartial process impossible. Her delegation had examined the information provided to it and stood by its earlier statement; there still remained an unresolved issue and bilateral negotiations had not produced a mutually satisfactory solution. She therefore requested the establishment of a panel in order to provide an independent judgement of the issue.

39. The representative of Norway reiterated his delegation's wish to continue bilateral discussions in order to exhaust all possibilities of finding a mutually satisfactory solution. Thus, his delegation, following the letter and the spirit of the Agreement, was not in a position to agree to the establishment of a panel.

40. The representative of the United States stated her appreciation for Norway's wish to continue efforts to pursue the issue. While her delegation was willing to continue such efforts with the objectives of resolving it, she reserved her delegation's rights to call a special meeting of the Committee when the three month period foreseen in Article VII:7 had elapsed, for the purpose of requesting a panel.

41. The Committee took note of the statements made including the fact that the United States delegation had reserved its right to seek a special meeting. Noting that the three month period referred to had not elapsed, it encouraged further bilateral talks between the Parties in order to exhaust the possibilities of finding a mutually satisfactory solution.

F. Other questions concerning implementation and administration of the Agreement

42. The representative of Austria informed the Committee that in the autumn of 1989 the Austrian Council of Ministers had adopted new internal guidelines for the application of the Agreement. These were designed to help the Code-covered entities fulfil their obligations with regard to the new Protocol amending the Agreement. They did not contain any new compulsory provisions but were merely of an explanatory nature.

43. The Committee took note of the statement made.

G. Accession of further countries to the Agreement

44. The observer of for the Republic of Korea stated that since his country's accession to the GATT in 1967, his Government had devoted efforts to bring its domestic trade system into conformity with GATT provisions as it believed that the multilateral approach based on the GATT principles would contribute most effectively to the liberalization of world trade and trade expansion. He added that this had significantly opened Korean markets and internationalized its domestic trade system. In this regard,

he recalled the results of the consultations that had taken place in the Committee on Balance of Payment Restrictions in October 1989, during which Korea had agreed to revoke Article XVIII(b), as a reflection of Korea's commitment to the free trade system under the GATT. As a further step towards fuller liberalization his Government had decided to accede to the Agreement on Government Procurement. For this purpose it had established a Working Group with the objective of preparing an initial offer list and of studying the ways in which to carry out the necessary reforms in its domestic procedures for government procurement. His delegation was pleased to inform the Committee that, as soon as possible, it would submit a list of entities having regard to the relevant provisions of the Agreement and in accordance with the established procedures. Thereafter, Korea would hope to hold consultations with the Parties on the terms of its accession to the Agreement which he hoped would receive a favourable reception from Parties and would serve as a momentum to facilitate the accession of other developing countries in the future.

45. The representative of Canada welcomed the decision by the Government of Korea to accede to the Agreement.

46. The representative of the United States also welcomed the statement by the Government of Korea and added that her Government would do all that it could to enable the process to go as quickly as possible.

47. The representative of Singapore warmly welcomed and supported the decision by the Government of Korea to accede to the Agreement. She noted that this was a significant contribution to her Government's objective of assisting more developing countries to accede to the Agreement and her delegation was looking forward to assisting the Korean Government in the accession process.

48. The representative of Sweden, on behalf of the Nordic countries, welcomed the statement made by Korea and looked forward to the process of accession.

49. The representative of Hong Kong warmly welcomed the statement by Korea and its intent to join the Agreement and hoped that it would encourage other countries to join also. His delegation would do all that it could to assist the Korean Government in this process.

50. The representative of Japan also welcomed the statement by Korea and its intention to join the Agreement.

51. The representative of the European Economic Community welcomed the Korean decision to accede to the Agreement, adding that it was in favour of broadening its membership.

52. The representative of Switzerland also welcomed the Korean announcement to accede to the Agreement and believed that this would help

in making the Agreement a truly multilateral instrument, not only with regard to its rules, but also with regard to the number and geographical coverage of its members. His delegation would contribute, to the maximum extent possible, to concretize the decision taken by the Korean Government as rapidly as possible.

53. The observer for India complimented the delegation of Korea on its statement and its decision to accede to the Agreement adding that this decision was the first practical fruition of a number of years of discussions under this agenda item. He noted that there had been important discussions both in this Committee and in the Negotiating Group on MTN Agreements and Arrangements on formulating procedures and on other substantive matters to assist countries in acceding to this Agreement. His delegation believed much more progress needed to be made in this matter because the Agreement, as it stood, did not contain many detailed provisions on accession procedures. His delegation had submitted a proposal in the Negotiating Group in which it had raised questions and asked for discussion on the requirement of a full consensus by the Committee before a new country could accede. It found this requirement incongruous because there already existed a non-application clause in the Agreement, and also in view of the fact that even in the General Agreement a full consensus was not required. It also asked for discussion on whether it might be necessary to establish step-by-step guidelines of transitional arrangements that would lead to final accession because the administrative burden of providing information to comply with the transparency requirements of the Agreement was considerable, especially for developing countries.

54. The Chairman concluded this item by also welcoming the decision by the Korean Government to accede to the Code as soon as possible. The Committee took note of the statements that had been made.

#### H. Third major review of Article III

55. The Chairman noted that a number of statements had been made at the October meeting of 1989 under this item and that document GPR/W/98 contained the statement by Singapore at that meeting. He noted several new developments that had taken place in the Negotiating Group on MTN Agreements and Arrangements since the last meeting: on 31 January 1990 Korea had introduced a working document (MTN.GNG/NG8/W/70) dealing with guidelines for facilitating membership, after which a short discussion had taken place in which reference had also been made to the previous submissions by the European Economic Community relating to transitional membership (GPR/W/99) and by the Indian delegation (MTN.GNG/NG8/W/9); informal consultations had been held to clarify issues and exchange views on the proposals submitted on this subject.

56. The representative of Singapore stated that her delegation found these recent developments to be positive and would like to continue discussion of this item in the future. She believed that both the EEC proposal and the

Indian submission contained very important elements that merited further discussion and reflection, particularly that relating to the full consensus requirement noted in the Indian paper. She added that these issues could be addressed either in the Committee on Government Procurement or in the Negotiating Group on MTN Agreements and Arrangements. Her delegation was mainly concerned with how to get new countries into the Agreement and in this regard was not against using a specific formula, as suggested in the EEC paper, but the Committee would need to discuss what the elements of such a formula would be.

57. The representative of Hong Kong believed that the point made by the Indian delegation, that the accession terms to this Agreement were, in some ways, more difficult than those which applied to the General Agreement, deserved serious reflection by this Committee; he believed that the paper submitted by the Indian delegation in this regard had not received the attention that it deserved. In the spirit of conducting a meaningful review of Article III he urged delegations to seriously reflect upon the issues raised by India with a view to coming to the next meeting of the Committee with reactions.

58. The observer for India thanked the delegations of Singapore and Hong Kong for the comments they had made with respect to the Indian submission presented in the Negotiating Group 8. He added that in order to have a thorough discussion of the issue all submissions should be considered. His delegation's submission might not have been given due attention in the informal consultations organized earlier by the secretariat, either because it had not been submitted in the Committee on Government Procurement, or because it had been submitted two years ago, in 1987. He suggested holding further discussions in the Negotiating Group 8, since all three papers had been circulated there, and that the Committee be kept informed of these discussions and any progress made. He added that this issue was important, not only to developing countries members, but to other developing countries who would like to accede to this Agreement.

59. The Committee took note of the statements. It was decided to revert to this issue at the next meeting and inform the Chairman of the Negotiating Group 8 that the issue of informal consultations had been raised in the Committee on Government Procurement.

I. Other business

(i) Thresholds expressed in national currencies for 1990-1991

60. The Chairman recalled that thresholds expressed in national currencies for 1990 and 1991 had been notified by Austria, Canada, Finland, Hong Kong, Japan, Norway, and the United States. The statement by the United States in this regard was contained in GPR/M/35, paragraph 16. He urged all delegations which had not yet notified their threshold figures to do so as soon as possible.

61. The representative of Sweden informed the Committee that the threshold value for 1990 and 1991 was 1,071,200 Swedish kroner.

62. The representative of Switzerland stated that his country's threshold value for 1990 was 263,000 Swiss francs.

63. The representative of the European Economic Community noted that his delegation had also published their latest values in the Official Journal of the EEC on 25 January 1990.

64. The representative of Singapore recalled that her country's fiscal year was from April to March; her delegation would be submitting its notifications during March 1990.

(ii) Panel candidates for 1990

65. The Chairman stated that only Hong Kong and the United States had nominated panel candidates for 1990 and invited other Parties to do so as well.

(iii) Further meetings

66. The Chairman would consult with delegations on dates for an Informal Working Group meeting in the middle of May 1990. He recalled that both the Committee and the Informal Working Group would meet in the last week of June.