

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

RESTRICTED

L/7369

24 January 1994

Limited Distribution

(94-0136)

REPORT (1993) OF THE COMMITTEE ON GOVERNMENT PROCUREMENT

1. This report outlines developments in the work of the Committee between its report of 25 November 1992 (L/7121) and its meeting of 17 January 1994. It is submitted to the GATT CONTRACTING PARTIES in pursuance of Article IX:6(a) of the Agreement and represents the Thirteenth Annual Review of the implementation and operation of the Agreement.

A. Composition of the Committee

Members

2. The following are members of the Committee: Austria, Canada, the European Community, Finland, Hong Kong, Israel, Japan, Norway, Singapore, Sweden, Switzerland and the United States.

Observers

3. The following thirty-four contracting parties have observer status: Argentina, Australia, Bangladesh, Brazil, Cameroon, Chile, Côte d'Ivoire, Cuba, Czech Republic, Dominican Republic, Egypt, Gabon, Hungary, India, Indonesia, Jamaica, Kenya, Republic of Korea (which will become a Party to the new Agreement on Government Procurement), Malaysia, Malta, New Zealand, Nicaragua, Nigeria, Peru, Philippines, Poland, Romania, Slovak Republic, South Africa, Thailand, Trinidad and Tobago, Turkey, Zaire and Zimbabwe. Two non-contracting parties, the People's Republic of China and Ecuador, are also observers. Chinese Taipei was accorded observer status by the Committee at its meeting of 15 December 1993. The IMF and UNCTAD have attended the meetings of the Committee as observers.

Officers

4. Chairman: Mr. David Hayes (United Kingdom)
Vice-Chairman: Mr. Harald Ernst (Switzerland)

B. Meetings of the Committee

5. During the review period, the Committee has held three meetings: on 29 March and 15 December 1993 and on 17 January 1994. The minutes are contained in GPR/M/49, GPR/M/50 and GPR/M/51 (to be issued). In the context of the Article IX:6(b) negotiations, the Informal Working Group on Negotiations met on 9 December 1992 and on 15-17 June, 20-22 July, 20-23 September, 25-29 October, 15-18 November and 6-15 December 1993.

C. Decisions taken by the Committee

6. At its meeting on 15 December, the Committee decided to invite the delegation of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) to participate as an observer in its future meetings.

D. Article IX:6(b) negotiations

7. At the March and December meetings, the Committee took note of the progress reports made by the Chairman on the work of the Informal Working Group on Negotiations.

8. The Informal Working Group on Negotiations was able to successfully conclude negotiations on a new Agreement on Government Procurement in parallel with the conclusion of the Uruguay Round on 15 December 1993. Participants agreed that the text entitled "Agreement on Government Procurement" (document GPR/Spec/77 of 15 December 1993), together with Annexes 1-5 of Appendix I of each participant as referred to in Appendix I of that text embody the results of their negotiations.

9. At its March meeting of the Committee, the Chairman informed the Informal Working Group on Negotiations of the efforts he had undertaken at the beginning of this year on his own responsibility with a view to helping the process forward. After consultations with the delegations and the Secretariat, he had circulated a paper on coverage-related issues on 9 March, outlining his own ideas on how negotiators might consider taking the negotiations forward. This note was in addition to the one, circulated at the end of 1992, setting out the main outstanding issues in the text in the negotiations. The Chairman had also made an offer to certain participants to assist them in their bilateral or plurilateral negotiations.

10. In April the European Communities and the United States concluded a bilateral agreement on government procurement which explicitly intended to contribute towards an expanded multilateral Agreement, thereby paving the way for a resumption of the multilateral negotiations in June (GPR/W/126). A process of work aimed at reaching agreement by 15 December of this year was agreed upon in the June meeting of the Informal Working Group.

11. At its July meeting, the Informal Working Group resumed substantive work on the outstanding issues in the text and tangible progress was made. All outstanding issues were reviewed and helpful new texts were presented by the Chairman and by delegations on a number of issues. In addition, a number of bilaterals on coverage issues were held.

12. At its September meeting, the IWG achieved its objective of resolving the majority of outstanding issues in the text. It also adopted a timetable for the remainder of the negotiations, the so-called Checkpoints for a Critical Path, providing for the presentation of new or revised offers by 15 October and for completion of the negotiations on the text by the end of October so as to leave the rest of the time available for coverage negotiations. A number of bilaterals on coverage took place.

13. Work in the October and November meetings paved the way for the successful final meeting in December. Revised drafts of the new Agreement were issued on 5 and 29 November and on 13 December and the final text of the Agreement was issued on 15 December 1993. At that date the Informal Working Group on Negotiations adopted the Decision concluding the negotiations agreeing that the text entitled Agreement on Government Procurement of 15 December 1993, together with Annexes 1-5 of Appendix I of each participant as referred to in Appendix I of that text embodied the results of their negotiations (GPR/73). This Decision further specified procedures relating to outstanding work to be completed prior to the entry into force of the Agreement. The Committee met on

15 December, welcomed the results and took note of the Decision of the Informal Working Group as well as of statements of Parties.

14. The new Agreement is a very considerable step forward. For the first time, government procurement of services, including construction services, will be covered as will procurement at the sub-central government level and of other entities which procure in conformity with this Agreement, such as parastatals and utilities. Although hard figures are not available it is estimated that the coverage of the new Agreement will as a result be several times that of the existing Code. Moreover, the new Agreement will strengthen the disciplines designed to ensure open and non-discriminatory procurement, for example through the establishment of a challenge mechanism designed to allow private bidders to launch a complaint directly against a procuring entity which has allegedly violated the rules of this Agreement, under the legislation of the territory of the procuring entity.

E. Review of statistics

15. The Committee concluded its review of the 1989 statistics and pursued its review of the 1990 statistics. Most Parties have submitted their statistics for 1991 and certain Parties for 1992, for review by the Committee.

F. Article IX

16. During the review period, the Committee agreed that the Agreement on Government Procurement would apply between each Party and Portugal as from sixty days from 12 April 1993, or, in cases where the relevant national legislation implementing this Decision had not been enacted by that date, as soon as such enactment had taken place (document GPR/71). Similar decisions had already been taken vis-à-vis Spain and Greece in 1992. Consequently, since 11 June 1993, the Agreement has applied to all member States of the European Community.

17. Rectifications of a purely formal nature pursuant to Article IX:5(a) were notified to the Committee by Sweden (GPR/W/121 and 123).

18. The Committee at its meeting of 29 March considered a notification from Japan informing it that two private companies had been spun off from a Japanese listed entity. It noted the Chairman's proposal that delegations pursue the matter bilaterally and agreed to revert to this issue at a following meeting if one or more delegations so request (GPR/W/124).

G. Accession of new members to the Agreement

19. The Committee at its March and December meeting examined the request for accession by Aruba and agreed to seek to expedite the accession procedure with a view to a decision by April 1994.

H. Consultations and Dispute Settlement

20. At its March 1993 meeting and again at its meeting of January 1994, the Committee considered the Report of the Panel on the Procurement of a Sonar Mapping System but was not in a position to adopt it.

ANNEX

Notifications by Parties Relating to their own Implementation
and Administration of the Agreement

Apart from certain information provided in the context of Article IX:6(b) negotiations, the following notifications were received during the review period.

EUROPEAN ECONOMIC COMMUNITY

- Addition of Portugal to the scope of the Agreement (GPR/71).
- Notification of Legislation (GPR/W/129).

SWEDEN

- Rectification of its entity list (GPR/W/121 and GPR/W/123).

JAPAN

- Notification of a change in its entity list (GPR/W/124).