

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

GPR/W/9/Rev.1

10 December 1981

Special Distribution

Committee on Government Procurement

FIRST ANNUAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT

Background Document by the Secretariat

Revision

1. The Agreement on Government Procurement came into force on 1 January 1981.
2. Article IX:6(a) of the Agreement 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."
3. The Committee conducted its first annual review at its meeting of 13-15 October 1981 (GPR/M/4, paragraph 72, L/5206, paragraph 3), on the basis of a background document by the secretariat (GPR/W/9) which followed a previously circulated outline for the review, intended to serve as a basis for governments in their own preparations (GPR/W/7).
4. The present revised background document sets out - by way of references, where appropriate - all information on actions taken by Parties concerning the items covered by the outline. This information has been made available in the normal course of the Committee's work and gives the situation as per the date of this document. It incorporates amendments made at the review session and additional or updated information received from Parties.
5. The contents of the paper are as follows:

	<u>Page</u>
A. Composition of the Committee on Government Procurement	2
B. Meetings of the Committee	3
C. Matters settled by the Committee	3
D. National legislation (Article IX:4)	4
E. Publication of national legislation (Article VI:1)	14
F. Establishment of the threshold for the purposes of public notices referred to in Article V:3	17

	<u>Page</u>
G. Information centres (Article III:10)	21
H. Technical assistance for developing country Parties (Article III:8 and 9).	23
I. Special treatment for least-developed countries (Article III:11 and 12)	25
J. Contact points (Article VI:5)	26
K. Procedures for the hearing and review of complaints (Article VI:5)	29
L. Information to entities not covered by the Agreement and regional and local governments and authorities (Article I:2)	31
M. Consultations and dispute settlement	34
N. Panelists (Article VII:8)	34
O. Other matters discussed by the Committee relating to implementation	35

A. COMPOSITION OF THE COMMITTEE ON GOVERNMENT PROCUREMENT

Chairman: Mr. V. Segalla (Austria)

Vice-Chairman: Mr. T.H. Chau (Hong Kong)

Members:

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

Austria, Canada, European Economic Community, Finland, Japan, Norway, Singapore, Sweden, Switzerland, United Kingdom on behalf of Hong Kong, 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, Chile, Cuba, Czechoslovakia, Egypt, India, Israel, Ivory Coast, Jamaica, Kenya, Korea, Malaysia, New Zealand, Nicaragua, Nigeria, Peru, Philippines, Portugal, Romania, Spain, Trinidad and Tobago, Turkey, Zaire.

Non-contracting parties:

Ecuador, Thailand.

(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

The Committee on Government Procurement held its first meeting on 15 January 1981. It met again on 9 April, on 8-9 July and on 13-15 October 1981. The minutes of these meetings have been issued as GPR/M/1-4, respectively; notes by the Chairman are contained in L/5101, L/5132, L/5174 and L/5206 respectively.

C. MATTERS SETTLED BY THE COMMITTEE

The Committee has taken decisions in the following matters:

- (i) Procedures for the participation of observers (GPR/M/1, paragraphs 6 and 8 and Annex I);
- (ii) Accession of contracting parties to the Agreement (*idem*, paragraph 10 and Annex II);
- (iii) Circulation of documents (*idem*, paragraphs 12-13);
- (iv) Derestriction of documents (*idem*, paragraph 14);
- (v) Implementation of the requirements concerning annual statistics in Article VI:9 of the Agreement (*idem*, paragraph 36 and Annex III);
- (vi) Exchange rate questions relevant to the threshold requirement in Article I:1(b) of the Agreement (*idem*, paragraph 40 and Annex IV);
- (vii) Situation of Greece which did not belong to the EC when the Lists contained in Annex I to the Agreement were negotiated. Under the decision taken by the Committee (*idem*, paragraph 45 and Annex V) "the Agreement shall be considered to apply as between each Party and Greece only when such Party has agreed to the list of entities for Greece to be included in Annex I of the Agreement."
- (viii) The Committee has also agreed on the secretariat's introduction of a loose-leaf system which, while having no legal status, will on a continuous basis contain the correct information relating to Annexes I-IV of the Agreement (GPR/M/1, paragraph 51). Under the provisions of Article IX:5(a) a number of proposed rectifications of a purely formal nature and minor amendments have been made by Parties with respect to such Annexes (GPR/2, 5, 8, 9, 10, 11, 12). They have all - in the absence of objections - come into force and have subsequently been certified by the Director-General in the GLI/272 series. The relevant pages of the loose-leaf sets are being replaced and made available to governments and the general public subscribing to them.

- (ix) The Committee adopted at its first meeting the modalities for the submissions by Parties of information concerning their implementation and administration of the Agreement (information on national legislation) (GPR/M/1, paragraph 16).

D. NATIONAL LEGISLATION (ARTICLE IX:4)

In response to the decision mentioned under C(ix) above, all Parties have submitted basic documents relating to the implementation of the Agreement (GPR/3/Add.1-11).¹ All Parties have also described the main elements of the respective legislation by way of replies issued as Addenda and Supplement to a checklist contained in GPR/4. As described in GPR/W/8 and Add.1, Parties have submitted additional texts relating to government procurement in their respective national languages, open for inspection in the secretariat.

On the basis of these data the Committee has started to carry out a detailed examination of national implementing legislation.

The following summary of general information concerning action to ensure that the provisions of the Agreement are applied, is - unless otherwise specified - based on GPR/4/Addenda 1-11.² Where appropriate, it is supplemented by information from or references to minutes on the second, third and fourth meetings (GPR/M/2, paragraphs 15-46, GPR/M/3, paragraphs 12-63 and GPR/M/4, paragraphs 9-49). It should be noted that these sources cover additional matters not taken up in this document and that detailed information is also available in the GPR/3 series.

AUSTRIA

The authority responsible for ensuring application of the Agreement is the Ministry of Commerce, Trade and Industry.

The Agreement has direct legal force (GPR/M/3, paragraph 12), and has been implemented without requiring further legislation.

The "Regulations to Cover the Placing of Orders for Federal Entities" take the form of recommendations including a clause that their provisions shall not apply in contradiction to international agreements concluded by Austria. Hence these regulations shall not be applied in contradiction to the provisions of the Agreement on Government Procurement.

In order to further ensure that no conflict to the Agreement occurs, a commission has discussed the need to modify and amend these regulations. This will guarantee that each staff member involved in the implementation of the Agreement has clear guidelines for the application of the provisions of the Agreement. This work is finished and awaits formal approval by the Council of Ministers (GPR/4/Add.10; GPR/M/3, paragraph 12).

The Federal Ministry of Commerce, Trade and Industry has informed all entities subject to the Agreement that as of 1 January 1981 for purchases of 150,000 SDR's or more the provisions of this Agreement are to be applied. Moreover the most important provisions of the Agreement were brought to the special attention of the entities concerned.

A law which is also being drafted with the aim of achieving uniformity in government procurement may entail certain changes in the present regulations. However, such a law would conform in all respects to international agreements, in particular the GATT Agreement (GPR/M/3, paragraph 12).

CANADA

The Department of Supply and Services acts as the central supply agency for federal departments and agencies for the acquisition of goods and related services. The operations of the Department are governed by the Financial Administration Act under the Supply and Services Act and procurement is undertaken within the framework of the Government Contract Regulations.

In order to implement the provisions of the Agreement on Government Procurement, the above Acts and Regulations have been reviewed to confirm that they are consistent with the provisions of the Agreement and do not require revision. It was not necessary to incorporate the text of the Agreement itself into domestic legislation but a separate set of "Procedures for Implementing the Agreement on Government Procurement" has been prepared. These new procedures set out the requirements of the Agreement, including those of Article V, and contain specific requirements with respect to national treatment and non-discrimination among bidders for covered contracts.

Basic documents: Government Contract Regulations, the Department of Supply and Services Act, the Financial Administration Act, the Canada Gazette of 24 January 1981 (GPR/3/Add.4, page 1).

EUROPEAN ECONOMIC COMMUNITY

The Council of the European Communities, by Decision 80/271/EEC of 10 December 1979, approved the Agreement on Government Procurement and accepted it in accordance with the terms of the instrument of the Community's acceptance.

In virtue of the Treaty establishing the European Economic Community, this Agreement is also binding on the member States of the Community. The Treaty requires them to take, in so far as concerns them, measures appropriate for ensuring the carrying out of the obligations arising out of the Agreement concluded by the European Economic Community.

BELGIUM

The few provisions that had to be incorporated in domestic law on government procurement are contained in Royal Order Regarding Public Tendering for Government Procurement of Certain Supplies of 12 May 1981, and a Ministerial Order of 21 May 1981 determining the list of countries covered by the rule of non-discrimination for contracts subject to the Royal Order (GPR/3/Add.10, pages 6 and 13). The procedural requirements of Article V have been provided for therein.

Other main elements of legislation are the Act of 14 July 1976 concerning public works, supplies and services contracts, and Royal Order of 22 April 1977 concerning public works, supplies and services contracts.

- DENMARK

The Agreement is incorporated into Danish administrative law by ministerial Order of 18 December 1980.

The provisions of Article II:1 and the procedures of Article V are included in the Order, which also refers to the requirements of EEC Directive 77/62 of 21 December 1976. The Order implements the Agreement and underlines that the provisions of the Agreement are part of the administrative legislation to be followed by Danish purchasing entities, mentioned in Annex I to the Agreement. The Order combines and explains on an operational basis the elements of the regulations mentioned.

Basic document: Ministry of Finance circular of 18 December 1980 regarding tendering procedures for supplies (GPR/3/Add.10, page 15).

- FRANCE

The Agreement on Government Procurement was incorporated in French domestic law under Decree No. 81-551 of 12 May 1981 amending Decree No. 79-98 of 12 January 1979 regarding open tendering for government procurement of certain works and supplies within the framework of the European Economic Community (GPR/3/Add.10, page 121; GPR/4/Add.9, page 5).

The provisions already in force were very close to the rules laid down by the Agreement. Any new provisions or those amending existing provisions are included in statutory amendments to that decree or amendments to its implementing provisions.

The government procurement regulations do not make provision for any discrimination by reason of the contractor's nationality.

The basic regulations governing government procurement procedures are those of the Government Procurement Code established by Decree No. 64-729 of 17 July 1964 as amended. Special regulations resulting from the Agreement are established by Decree No. 79-98 of 12 January 1979, as amended, and by its implementing provisions and orders of the same date, likewise amended:

- Instruction of 12 May 1981 amending an earlier implementing instruction for Decree No. 79-98 of 12 January 1979 regarding open tendering within the framework of the European Economic Community for government procurement of certain works and supplies (GPR/3/Add.10, page 124).

- Order of 12 May 1981 amending an earlier order regarding the amount of government procurement for works and supplies subject to rules of competition within the framework of the European Economic Community (GPR/3/Add.10, page 126).
- Order of 12 May 1981 fixing the threshold above which notices of invitation to tender, open and selective tendering procedures in respect of government procurement and procurement by local authorities and their public establishments must be published in the "Bulletin officiel des annonces des marchés publics" (GPR/3/Add.10, page 123).

- FEDERAL REPUBLIC OF GERMANY

Administrative provisions took effect on 1 January 1981 in order to transpose the Agreement on Government Procurement into domestic law. The transposition measures have the character of administrative provisions.

Contracts are awarded in accordance with the following principles:

- non-ambiguity of tender specifications;
- Like treatment for domestic and foreign candidates; the principle of non-discrimination in respect of foreign tenderers has been applied in the Federal Republic of Germany since 1960;
- award is made to the most advantageous offer, not the lowest offer.

In the context of the transposition measures, separate account has been taken of the requirements of Article V to the extent that these are not fulfilled by provisions already in force, in particular as regards the regulations on government procurement contracts other than those for public works ("VOL/A", in which government procurement transactions are regulated).

Basic document: Communication from the Government of the Federal Republic of Germany of 15 December 1980 (GPR/3/Add.10, page 38).

- IRELAND

No legislation is required to implement the Agreement in Ireland. It has been implemented by way of a Department of Finance circular of 31 December 1980 (GPR/3/Add.10, page 54) to the entities covered by the Agreement. (The circular also implemented Council Directive 80/767/EEC.)

The procedural requirements of Article V have direct application for the entities concerned in accordance with the terms of the circular referred to above implementing the Agreement.

No specific provision has been made in respect of Article II:1 of the Agreement regarding national treatment and non-discrimination, but this Article along with the Agreement as a whole has direct application in accordance with the terms of the circular referred to above.

- ITALY

After circular No. 2 of the Ministry of the Treasury dated 26 January 1981 (see basic document GPR/3/Add.10, page 59), a decree-law was issued on 7 November 1981 amending Article 17 of Act No. 113 of 30 March 1981.

- LUXEMBOURG

The Agreement - including the procedural requirements of Article V - has been incorporated into domestic law through administrative channels by Circular of the Ministry of Public Works of 2 January 1981 (basic document in GPR/3/Add.10, page 65). Nevertheless, the procedural rules are already incorporated in domestic law.

Act of 4 April 1974 concerning public works and supplies contracts, Memorial A 1974, page 1401, Grand-Ducal regulation of 6 January 1974 concerning: (i) Establishment of general tender specifications for public works and supplies contracts for the account of the State; and (ii) Establishment of responsibilities and operational procedures for the "Commission des Soumissions" (tendering committee).

No specific provision exists on national treatment and non-discrimination in the Circular, but in other legislation (GPR/M/2, paragraph 42).

- NETHERLANDS

The Agreement is directly applicable in the Netherlands without any other legislative action being necessary.

It follows from the foregoing that no supplementary legislation is needed to implement the procedural requirements of Article V. Purchasing entities have been informed and instructed regarding implementation of the Agreement and in particular Article V. No provision exists or has existed guaranteeing preferential treatment for Netherlands undertakings.

The Netherlands has practically no legislation regarding procurement of products beyond the EEC directives and the implementing provisions for those directives. In this respect, when a differentiation is made between;

- (a) the pre-contractual phase;
- (b) the contractual phase;
- (c) and the organization of purchasing entities,

in case (a), apart from the Agreement itself, only the above-mentioned EEC directives are to be applied (77/62/EEC and 80/767/EEC and the implementing laws which constitute the basic texts),

in case (b), the general conditions applicable to government procurement, i.e. the general rules applicable to contracts;

in case (c):

- the regulations on the operation of the Netherlands Government Purchasing Office
- the regulations of the Governmental Centre for Office Mechanization and Automation
- the decree establishing the Governmental Motor Vehicle Department
- the regulations for the State Printing and Publishing Office.

These regulations include some supplementary provisions that can also be relevant for phases (a) and (b). For the rest, the Netherlands has no general regulations regarding government procurement. (Reference also: GPR/M/3, paragraph 34.)

- UNITED KINGDOM

The Agreement has been specified as a Community Treat in United Kingdom by statutory instrument.

United Kingdom entities subject to the Agreement have been instructed by administrative circular to comply with the Agreement and have been advised as to which countries have signed the Agreement.

Basic document: Notes for Guidance issued by HM Treasury on 28 October 1980 (GPR/3/Add.10, page 91).

FINLAND

The Agreement has been incorporated in the domestic legislation on government procurement by a Decree (1103/80) which was signed by the President of the Republic on 19 December 1980. The Decree, according to the constitutional system of Finland, does not contain any substantive provisions, but simply states that the Agreement as such is in force in Finland. The authority in charge of the enforcement of the Agreement is the Ministry of Trade and Industry.

The provisions of Article V are included in the Decree on Government Procurement (1070/79), in the Decision of the Ministry of Trade and Industry concerning the Application of the Decree on Government Procurement and Establishing the General Terms of Government Procurement (1071/79) and in a Ministry of Trade and Industry Circular on the Implementation of the GATT Agreement on Government Procurement (ref: GPR/3/Add.7).

Provisions on national treatment and non-discrimination are included in the instruments enumerated. Of these, the Ministry of Trade and Industry Circular relates directly to procurement under the Agreement. The basic elements of that Circular are the same as those of the operational articles of the Agreement itself.

HONG KONG

The procurement procedures of the Hong Kong Government are non-statutory, and are set out in Sections IV and V of the Government's Stores Regulations (basic document in GPR/3/Add.6). These Regulations are amended and supplemented from time to time by administrative direction (called financial circulars and stores circulars). The Regulations are in conformity with the provisions of the Agreement. Arrangements are now being made for the Regulations to be amended, where necessary, to ensure continuous compliance with the provisions of the Agreement. In addition, a financial circular, issued as an internal government directive from the Deputy Financial Secretary to all departments, supplements the Regulations with regard to compliance with Article V of the Agreement in relation to those purchases falling within the ambit of the Agreement. The procedural requirements of Article V of the Agreement have been provided for in Sections IV and V of the Stores Regulations. These require government departments to use general specifications in their procurement requests so as to enable the Director of Government Supplies to obtain competitive tenders from all sources (GPR/4/Add.7; GPR/M/2, paragraph 29).

JAPAN

The following law and regulations provide for the main and essential part of the procedures for Special Procurement (government procurement within the scope of the Agreement on Government Procurement) by the Ministries and agencies:

- Accounts Law (Law No. 35, 1947)
- Cabinet Order concerning the Budget, Auditing and Accounting (Imperial Edict No. 165, 1947) (hereinafter referred to as the "Order of 1947")
- Special Provisions for the Cabinet Order concerning the Budget, Auditing and Accounting (Imperial Edict No. 558, 1946) (hereinafter referred to as the "Special Provisions of 1946")
- Cabinet Order stipulating special procedures for government procurement of goods (Cabinet Order No. 300, 1980) (hereinafter referred to as the "Special Cabinet Order") (basic document in GPR/3/Add.5).

- Ministerial Ordinance stipulating special procedures for government procurement of goods (Ministry of Finance Ordinance No. 45, 1980) (hereinafter referred to as the "Ordinance of 1980") (basic document in GPR/3/Add.5).

- Submitted as basic document is also Extracts of Laws and Regulations relevant to the Special Cabinet Order.

Prior to 1 January 1981, the Order of 1947 and the Special Provisions of 1946 with the Accounts Law as their legal basis had governed government procurement in Japan; they contained nothing which contradicts the spirit and basic principles of the Agreement on Government Procurement. They included, however, some procedures not identical to those set out in the Agreement and required some adjustments. The Special Cabinet Order and the Ordinance of 1980 have thus been issued to provide for special procedures to the Order and Special Provisions so that the procedures applicable to the Special Procurement be in full compliance with the requirements of the Agreement. The Agreement itself has thus been incorporated into domestic law.

The principle of equal treatment of domestic and foreign suppliers forms one of the bases of the present procedures for Special Procurement in Japan; this principle has been confirmed in the Directive by the Minister of Finance "with regard to the implementation of the Cabinet Order stipulating special procedures for government procurement of goods", issued on 27 December 1980.

It shall also be noted that the Agreement which provides for the principle of non-discrimination, serves as a source of interpretation of the procedures for Special Procurement.

NORWAY

On 19 December 1980 the Norwegian Government issued a Royal Decree entitled "Implementation of the GATT Agreement on Government Procurement". On the same date the Ministry of Industry issued a set of complementary guidelines to the entities concerned ("Guidelines for the Implementation of the GATT Agreement on Government Procurement"), (both submitted as basic documents in GPR/3/Add.8).

The Guidelines spell out in broad lines the provisions which the entities covered by the Agreement must observe in addition to the existing Regulation on Government Procurement, in force since 1978.

By letter from the Ministry of Industry of 30 December 1980 the entities concerned as well as their parent ministries were informed of the entry into force of the Agreement. By the same letter the entities were informed of the threshold value for 1981 expressed in Norwegian kroner and which countries were Parties to the Agreement. A copy of the Agreement with translation into Norwegian was sent to the entities with the same letter.

The procedural requirements of Article V have been provided for by the following amendments of the Regulation on Government Procurement:

A. Paragraph 1 of the Regulation has been supplemented with a provision which (1) states that the Agreement as well as the Regulation on Government Procurement shall apply to those entities and to those purchases which are covered by the Agreement, and (2) gives the Ministry of Industry the power to issue further guidelines for the implementation of the Agreement.

B. In order to avoid incompatibility between the provisions in the Regulation and in the Agreement, some adjustments have been made in paragraphs 8, 20, 21 and 24 of the Regulation.

Pursuant to paragraph 2 of the Regulation all purchases shall as far as possible be based on competition. Pursuant to paragraph 4 of the Regulation technical specifications shall be set in such a way as to allow a maximum number of tenderers to present offers. Pursuant to paragraphs 17 and 28 of the Regulation the tenderer who offers the lowest price or gives the best offer in terms of price, quality and other relevant conditions, shall as a general rule be chosen.

SINGAPORE

The procurement procedures of the Singapore Government are non-statutory and are set up in the sections of the Government Instruction Manual No. 3 which are supplemented as necessary by circulars/directives from the Ministry of Finance.

No legislation is required for the implementation of the Agreement.

Instructions to the entities covered by the Agreement to comply with the procedural requirements of Article V are given through official minutes (circulars).

There is no policy to accord preference to locally manufactured products.

Basic document: the Singapore Government Contracts and Purchasing Procedure (GPR/3/Add.11).

SWEDEN

The Swedish Parliament has approved Sweden's accession to the Agreement on Government Procurement by passing a Government Bill (1979/80:24). On 27 November 1980 the Swedish Government issued the Ordinance 1980:849 relating to the application of the Agreement and the Ordinance 1980:850 amending the Government Procurement Proclamation 1973:600.

In so far as they did not already correspond to the existing rules for government procurement before 1 January 1981, the provisions of Article V have been included in the Government Procurement Ordinance (1980:850). Furthermore, on 22 December 1980 the National Audit Bureau issued directives relating to Ordinance 1980:849 and to Ordinance 1980:850. The Ordinance and directives have been circulated as basic documents (GPR/3/Add.2 and Suppl.1).

According to Article 3 of the Government Procurement Ordinance (1980:850), all agencies that are engaged in procurement are to make use of the competitive possibilities open to it and always pay regard to commercial considerations; they shall also deal objectively with tenders and tenderers. According to the National Audit Bureau's directives for Article 3, an authority engaged in procurement is always under an obligation to inquire into and take advantage of the competition that may exist between possible suppliers both at home and abroad. In this context the agencies are reminded of the obligations entered into by Sweden within EFTA and GATT.

On 23 December 1980 the Government issued an Ordinance (1980:1130) on the Threshold Value in Government Procurement.

SWITZERLAND

At their December 1979 sessions, the two Chambers of the Swiss Parliament adopted the Agreement on Government Procurement by way of a Federal Order the text of which is identical to that of the Agreement.

The authority responsible, in the first instance, for ensuring application of the Agreement is the Federal Office for External Economic Affairs of the Federal Department of the Economy.

The basic instrument for the purchasing entities is the Agreement itself. To facilitate their task, the Federal Department of Finance, in consultation with the Federal Office for External Economic Affairs, has drawn up instructions, dated 19 December 1979, in the form of a practical guide for the application of the provisions of the Agreement (basic document in GPR/3/Add.9).

The principle of national treatment and non-discrimination was already applied by purchasing entities in accordance with the Federal Administration's Procurement Ordinance of 8 December 1975 (RO 1975 2373), which required the system of free competition.

UNITED STATES

Implementation under United States law of the Agreement on Government Procurement was accomplished through a number of steps, beginning with the enactment of the Trade Agreements Act of 1979 in July 1979. The Act approved

the Agreement and took such actions necessary to implement it under United States Law. On 30 December 1980, the United States Trade Representative (USTR), pursuant to authority delegated by the President, accepted the Agreement, thus giving it the force of law as an Executive Agreement.

In order to ensure that all federal agencies meet their full obligations under the Agreement, and to delineate responsibilities regarding the implementation of the Agreement, the President issued Executive Order No. 12260 on 31 December 1980. The Executive Order mandated that all covered federal procurement be conducted in full compliance with the Agreement. The Order also delegated authority to the USTR to waive in the case of any covered purchase the application of any law, regulation, procedure, or practice which would discriminate against or among the products of Parties to the Agreement. On 1 January 1981, the USTR issued a Determination exercising this authority, thereby waiving for all covered purchases from Parties to the Agreement, inter alia, the "Buy America" Act and special preferences afforded by the Department of Defense. Subsequently, all relevant regulations were revised to take the obligations under the Agreement into account. These regulations were the Federal Procurement Regulations (FPR)³ which apply to all civilian agencies, the Defense Acquisition Regulations (DAR), and the National Aeronautic and Space Administration (NASA) procurement regulations. The procedural obligations of Article V of the Agreement are incorporated in the FPR, DAR, and NASA procurement regulations as revised (basic documents, together with the Determination and Executive Order No. 12260; in GPR/3/Add.1).

Previously, United States procurement procedures under these regulations were essentially consistent with the obligations of the Agreement. However, there were a number of areas, such as bidding deadlines and deadlines for the notification of unsuccessful tenderers, where the regulations were not sufficiently explicit. To ensure that the obligations would be met in full, the regulations were amended to explicitly incorporate these requirements.

As required by Executive Order No. 12260 and the Determination, the regulations have been amended to explicitly provide for the waiver of all preferences for domestic goods in the case of covered purchases of the products of Parties to the Agreement.

E. PUBLICATION OF NATIONAL LEGISLATION (ARTICLE VI:1)
(For references, unless otherwise specified: GPR/4/Add.- series)

AUSTRIA

The Agreement was published as Law No. 452/1981 on 15 October 1981 in the Federal Law Gazette (GPR/M/4, paragraph 48). Upon approval, the draft regulations will become a public document (reference also GPR/M/3, paragraph 12).

CANADA

The Acts and the Government Contract Regulations referred to under Chapter D are public documents readily available in Canada through normal retail channels. The Procedures for Implementing the Agreement on Government Procurement were published in the Canada Gazette Part I on 24 January 1981.

EUROPEAN ECONOMIC COMMUNITY

Decision 80/271/EEC concerning the conclusion of the Multilateral Agreements resulting from the 1973 to 1979 trade negotiations was published in Official Journal L 71 of 17 March 1980, pages 1 et seq.

- BELGIUM

The texts referred to under Chapter D were published in the Moniteur Belge of 26 May 1981.

- DENMARK

The publication of the Order takes place in "Ministerialtidende" (see Annex IV to the Agreement).

- FRANCE

Decree No. 79-98 of 12 January 1979, the Instruction concerning its application and the Orders of the same date were published in Journal Officiel de la République Française Nos. 322 and 322 NC of 4 February 1979. Decree No. 81-551 of 12 May 1981 amending Decree No. 79-98, and the Instruction and Orders of 12 May 1981 amending those of 12 January 1979, were published in Journal Officiel Nos. 115 and 115 NC of 16 May 1981.

- FEDERAL REPUBLIC OF GERMANY

The text of "VOL/A" was published in the Annex to the Official Gazette of the Federal Republic of Germany (Bundesanzeiger) No. 105 of 2 June 1960.

- IRELAND

The circular implementing the Agreement is not a published document but an internal instruction from the Ministry of Finance to the purchasing departments (reference also GPR/M/3, paragraph 29).⁴

- ITALY

Decree-law No. 631 of 7 November 1981 was published in Gazzetta Ufficiale della Repubblica Italiana No. 308 of 9 November 1981.

- LUXEMBOURG

Memorial A 1974, page 1660.

- NETHERLANDS

Purchasing entities have more detailed internal provisions (than the regulations mentioned under Chapter D) but these are not published.

- UNITED KINGDOM

See Chapter D.

FINLAND

The Decree and the Decision have been published in the Collection of Statutes of Finland. The text of the Agreement is annexed to the above-mentioned Decision and has thereby also been published in the Collection of Statutes. The Circular including the text of the Agreement has been sent to all entities concerned.

HONG KONG

-

JAPAN

The Special Cabinet Order and the Ordinance of 1980 were published in the Kanpo of 18 November 1980.

The regulations concerning contract procedures for each entity were published in the Kanpo of 10 December 1980, 23 January, 30 January and 7 February 1981.

NORWAY

The Royal Decree and the Guidelines of 19 December 1980 were published in the Norwegian Law Gazette on 9 February 1981.

SINGAPORE

-

SWEDEN

Ordinances 1980:849 and 1980:850 have been published in the Swedish Code of Statutes on 30 December 1980; in the case of Ordinance 1980:1130 the date of publication was 20 January 1981.

On 9 January 1981 the National Audit Bureau sent the publication "Regulations concerning Government Procurement" to 295 agencies; it contains:

1. The Government Procurement Ordinance 1980:850;
2. The National Audit Bureau's directives that relate to the Ordinance,
3. Ordinance 1980:849 relating to the Implementation of the GATT Agreement on Government Procurement,
4. The National Audit Bureau's directives relating to the GATT Agreement on Government Procurement.

SWITZERLAND

The text of the Federal Order which is identical to that of the Agreement was published in the Swiss Federal Gazette (FF 1979 III 331) and included in the Recueil des Lois fédérales (RO 1979 2387).

UNITED STATES

All laws are published annually in United States Statutes at Large. Regulations and Executive Orders are also published annually, in the United States Code of Federal Regulations. Any change in regulations issued during the course of a year is published in the Federal Register soon after issuance. Similarly, determinations by the USTR are published in the Federal Register.

F. ESTABLISHMENT OF THE THRESHOLD FOR THE PURPOSES OF PUBLIC NOTICES, REFERRED TO IN ARTICLE V:3

At its first meeting the Committee agreed that the Parties would notify without delay the method and results of their calculations of the threshold (150,000 SDR's) in terms of national currencies (GPR/M/1, paragraph 41). The calculation would be carried out in accordance with the guidelines contained in Annex IV of GPR/M/1. Thresholds expressed in national currencies are fixed for the calendar year 1981, except for Japan and Singapore where the fiscal year 1 April 1981 to 31 March 1982 is used.

Information received from ten Parties in this respect was compiled in GPR/7. Corresponding data from Singapore were given in GPR/4/Add.11.

Parties are expected to establish the threshold expressed in national currencies for 1982 before the end of 1981 and to notify the results of such calculations to the Committee as soon as possible (GPR/M/4, paragraph 81).

This section should be read in conjunction with Chapter "0 (iii)" below.

AUSTRIA - S 2,492,445 (1981)

All goods contracts for covered entities which have an estimated value of S 2,492,445 or more will be published in the "Amtsblatt zur Wiener Zeitung".

CANADA - Can\$228,000 (1981)

All goods contracts falling under the Agreement are being published in the Canada Gazette Part I.

EUROPEAN ECONOMIC COMMUNITY - ECU 140,000 (1981)

- BELGIUM - BF 5.6 million

Any contract publication in the context of the Agreement will stipulate clearly that the latter is applicable. (Further reference: GPR/M/2, paragraph 36; GPR/M/3, paragraph 23.)

- DENMARK - DKr 980,000

Tenders covered by the Agreement are identified as such in a special section of the Supplement to the Official Journal of the European Communities.

- FRANCE - F 800,000 (reference GPR/3/Add.10, page 123)

Notices regarding contracts covered by the Agreement are published individually in the Official Journal of the European Communities by the Commission of the European Communities. Notices published in the B.O.A.M.P. (Official Bulletin announcing public supply contracts) are only identified by the notice format which is that required under the Community Directive.

- FEDERAL REPUBLIC OF GERMANY - DM 352,349 (reference GPR/3/Add.10, page 43)

The threshold can only be determined on the basis of estimates since the exact amount of the contract is known only once it has been awarded. In case of doubt, purchasing entities are required to select the highest estimate. (Reference also: GPR/M/3, paragraph 28.)

- IRELAND - £93,800 (reference GPR/3/Add.10, page 55)

An estimate of the value of each contract is established beforehand by the contracting officer concerned based on his best estimate of its value; if this estimate exceeds the threshold, the contract is advertised in accordance with the procedure under the Agreement. Notices of contracts covered by the Agreement in the Official Journal of the EC are identified as such.

- ITALY - Lit 158,583,600 (reference GPR/3/Add.10, page 61)
- LUXEMBURG - Lux F 5,610,346 (reference GPR/3/Add.10, page 67)

Contract notices published in the Official Journal of the EC in accordance with the Agreement are identified as such.

- NETHERLANDS - f. 385,000

The amount of the threshold is determined under Article 5 of Directive 77/62/EEC. Tenders published under the Agreement are identified as such.

- UNITED KINGDOM - £91,000 (reference GPR/3/Add.10, page 93)

The threshold is calculated in accordance with the procedures laid down in Article 5 of Directive 77/62/EEC. Contracts advertised under the Agreement are separately identified in the Official Journal of the EC.

FINLAND - FIM 730,000 (1981)

For the moment, the only procurement notices which are being published in the Virallinen Lehti (Official Gazette) are those covered by the Agreement. No specific procedures exist for the evaluation of the threshold value for public notices.

HONG KONG - HK\$973,000 (1981)

All invitations to tender in respect of contracts falling within the ambit of the Agreement and involving the supply of goods at or above this value are currently published in the Hong Kong Government Gazette. The relevant Gazette notices contain a reference to the fact that tenders will be treated under the provisions of the Agreement: "The above tender is subject to the Agreement on Government Procurement of the GATT, 1979."

JAPAN - ¥ 45,000,000 (1 January 1981-31 March 1981)
- ¥ 44,000,000 (1 April 1981-31 March 1982)

When an entity adopts tendering procedures for a proposed purchase, the entity shall calculate and determine beforehand the provisional value for that purchase (Article 80 of the Order of 1947). Whether or not that purchase shall be subject to the Agreement will automatically be determined on the basis of the provisional value: if the provisional value is equal to, or exceeds, the threshold value, that purchase shall be subject to the requirements of the Agreement, and vice versa (even if the final value turns out to be below the threshold - cfr. GPR/M/2, paragraph 30).

Proposed purchases under the Agreement shall be published in the Kampo with their summaries in English or French or Spanish (Article IV of the Ordinance of 1980).

The provisional value is calculated taking into account such objective factors as the cost of an actual similar transaction, the supply and demand situation, etc. Therefore, there is not room for entities to determine the provisional value arbitrarily in order to preclude the purchase from the scope of the Agreement.

NORWAY - NOK 965,000 (1981)

Proposed purchases covered by the Agreement are identified by a special heading in each of the notices in the Official Gazette of Norway.

SINGAPORE - SS\$418,101.75 (1 April 1981-31 March 1982)

Detailed mechanisms will be worked out as soon as possible.

SWEDEN - SEK 824,000 (1981)

Proposed purchases covered by the Agreement are clearly marked by a special heading in the Gazette of Government Contracts.

SWITZERLAND - Sw F 325,000 (1981)

Where purchases are likely to exceed the threshold, they are publicly notified by the purchasing entities in the appropriate organ under the heading "Communications", containing reference to the GATT procedures. The entities make an estimate of the approximate value of a purchase. An estimate that the price might exceed, say, Sw F 300,000, would be an indication to the entity that it should publish the tender notice (GPR/4/Add.2; GPR/M/2, paragraph 16).

UNITED STATES - \$196,000 (1981)

No pre-identification. All contracts are published.

G. INFORMATION CENTRES (ARTICLE III:10)

(For reference: GPR/4/Add.-series)

AUSTRIA

Federal Ministry of Commerce, Trade and Industry, A-1011 Vienna, Stubenring 1.

CANADA

Office of the Executive Secretary, Department of Supply and Services, PLace du Portage, Phase III, 14A1, 11 Laurier Street, Hull, Quebec, Canada K1A 0S5.

EUROPEAN ECONOMIC COMMUNITY

- BELGIUM

Administration Logistique, Marchés publics, Rue de la Loi 16, 1000 Bruxelles.

- DENMARK

State Purchasing Department, Bredgate 20, 1260 Copenhagen K.

- FRANCE

Commission Centrale des Marchés, 41 Quai Branly, Paris.

- FEDERAL REPUBLIC OF GERMANY

The purchasing entity concerned acts in the first place as the information centre. In case of doubt, the Federal Minister for the Economy, Villemomblerstrasse 76, 5300 Bonn 1, can be consulted.

- IRELAND

Secretary, Government Contracts Committee, Department of Finance, Upper Merrion Street, Dublin 2.

- LUXEMBURG

Ministère des affaires étrangères, rue Notre Dame, Luxembourg, telex AFFETRA 1702 or Ministère des Travaux publics, 4 Bld. Roosevelt, Luxembourg, telephone 478475.

- NETHERLANDS

Centrum voor de bevordering van import uit ontwikkelingslanden (CBI) (centre for the promotion of imports from developing countries), Coolensingel 58, 3011 AE Rotterdam, telex 27151.

- UNITED KINGDOM

Still under discussion. (reference also GPR/M/3, paragraph 39 and GPR/M/4, paragraph 34).

FINLAND

Ministry of Trade and Industry, Department of Trade, Aleksanterinkatu 10, SF-00170 Helsinki 17.

HONG KONG

Not applicable.

JAPAN

GATT Information Centre, First International Organizations Division, Economic Affairs Bureau, Ministry of Foreign Affairs, 2-2-1, Kasumigaseki, Chiyoda-ku, Tokyo.

NORWAY

Norwegian Import Promotion Office for Products from Developing Countries (NORIMPOD), P.O. Box 8147 Dep., Oslo 1.

SINGAPORE

Not applicable.

SWEDEN

The Import Promotion Office for Products from Developing Countries (IMPOD), Norrmalmstorg 1, Box 7508, S-103 92 Stockholm, Telex: 13426 sweimp, telephone: 24.48.80.

SWITZERLAND

Office fédéral des affaires économiques extérieures, Palais fédéral Est, 3003 Berne.

UNITED STATES

Office of the United States Trade Representative, Executive Office of the President, Winder Building, Room 507, 600 - 17th Street, N.W., Washington, D.C. 20506.

H. TECHNICAL ASSISTANCE FOR DEVELOPING COUNTRY PARTIES (ARTICLE III:8 AND 9)

(References: GPR/4/Add.-series)

AUSTRIA

The technical assistance provided for in Article III:8, 9, 11 and 12 will be given by the Federal Ministry of Commerce, Trade and Industry.

CANADA

Requests from developing countries for technical assistance may be received at either of the contact points noted under Chapter J. Such requests will be considered on an individual basis.

EUROPEAN ECONOMIC COMMUNITY

- BELGIUM
- IRELAND
- LUXEMBOURG
- NETHERLANDS
- UNITED KINGDOM

The nature and scope of technical assistance to developing country Parties to the Agreement and to least-developed countries will be determined in the light of requests received.

- DENMARK

Technical assistance according to Article III:8 and 9, as well as assistance according to Article III:11 and 12, will be given by or through the State Purchasing Department.

- FRANCE

See Chapter G.

- FEDERAL REPUBLIC OF GERMANY

The extent and scope of technical assistance can be determined only in the light of concrete requests. Assistance will be furnished by the purchasing entity concerned.

FINLAND

Requests for technical assistance may be directed to the Information Centre. As for existing programmes it may be mentioned that the special training programme for developing countries organized by the Helsinki School of Economics (PRODEC) also includes education in procurement matters.

HONG KONG

SINGAPORE

Not applicable.

JAPAN

Specific requests for technical assistance from developing countries will be given sympathetic consideration.

NORWAY

Technical assistance in relation to developing country Parties and to suppliers and tenderers in least-developed countries, as foreseen in Article III:8, 9, 11 and 12, will be given by NORIMPOD or passed on by NORIMPOD to the appropriate entity.

SWEDEN

The technical assistance provided for in Article III:8 and 9, and in Article III:11 and 12, will be given by IMPOD or be passed on by IMPOD to the appropriate entity.

SWITZERLAND

See Chapter G.

UNITED STATES

The United States is prepared to consider any proposals for technical assistance from developing countries which are Parties to the Agreement.

I. SPECIAL TREATMENT FOR LEAST-DEVELOPED COUNTRIES (ARTICLE III:11 AND 12)

AUSTRIA

See Chapter H.

CANADA

In accordance with the provisions of Article III:11 of the Agreement on Government Procurement, the Government of Canada, effective immediately has extended on a unilateral basis the benefits of the Agreement to a number of least-developed countries. The Government of Canada will be communicating directly with the Governments concerned. These are: Bangladesh, Benin, Bhutan, Botswana, Burundi, Cape Verde, Central African Republic, Chad, Comoros, Ethiopia, Gambia, Guinea, Guinea Bissau, Haiti, Lesotho, Malawi, Maldives, Mali, Nepal, Niger, Rwanda, Western Samoa, Somalia, Sudan, Uganda, United Republic of Tanzania, Upper Volta, Yemen Arab Republic and Yemen Democratic Republic. (Letter of 17 September 1981.)

EUROPEAN ECONOMIC COMMUNITY

- BELGIUM
- DENMARK
- FEDERAL REPUBLIC OF GERMANY
- IRELAND
- LUXEMBOURG
- NETHERLANDS
- UNITED KINGDOM

JAPAN

NORWAY

SWEDEN

See Chapter H.

EUROPEAN ECONOMIC COMMUNITY

- FRANCE

FINLAND

SWITZERLAND

See Chapter G.

HONG KONG

See Chapter J.

SINGAPORE

-

UNITED STATES

As provided in Article III:11, the United States is providing the benefits of the Agreement to least-developed countries which are not Parties to the Agreement (GPR/4/Add.4).

J. CONTACT POINTS (ARTICLE VI:5)

(References, unless otherwise specified: GPR/4/Add.-series)

AUSTRIA

The relevant contact points have been set up for specific enquiries and subsequent complaints. They will be mentioned in each notice of proposed purchase and in the tender documentation, together with information on how to proceed (reference also: GPR/M/2, paragraph 46).

CANADA

Office of the Executive Secretary, Department of Supply and Services,
Place du Portage, Phase III, 14A1, 11 Laurier Street, Hull, Quebec,
Canada K1A 0S5.

Contact points relating to specific requirements will be identified in each notice of proposed purchase as well as the tender documentation. This will also be the initial point for review of complaints by suppliers. Governments wishing to consult with the Government of Canada should do so via normal diplomatic channels by contacting:

Commercial and Commodity Policy Division, Department of External Affairs,
Ottawa, Ontario, Canada K1A 0G2.

EUROPEAN ECONOMIC COMMUNITY

- BELGIUM

The contact point will be designated in each publication of tender notices (reference also GPR/M/3, paragraph 23).

- DENMARK

According to the Ministerial Order, purchasing entities will contact the State Purchasing Department in case of hearings and complaints. The cases will be examined by the Department which is the contact point referred to in Article VI:5.

- FRANCE

The contact point is designated in the notice under the heading "Service responsible for the contract". Any interested supplier can request from it information concerning rejection of his tender. In the case of complaint to higher authority, the Minister competent to hear a complaint in non-contentious matters is the Minister responsible for the service that published the notice. If the complainant does not obtain satisfaction, he can then approach the appropriate administrative court.

- FEDERAL REPUBLIC OF GERMANY

Each purchasing entity designates the competent service for its own administration. Enquiries should be addressed to the purchasing entity itself.

- IRELAND

The contact point (which generally will be the address of the entity itself) will be notified under each notice placed in accordance with the advertising procedures.

- LUXEMBOURG

Ministère des Travaux publics, 4, Bld. Roosevelt, Luxembourg, telephone 478475 or 478512.

- NETHERLANDS

The purchasing entities will act individually as contact points.

- UNITED KINGDOM

Entities will state in tender documentation the address to which enquiries should be sent.

FINLAND

The entities concerned have been instructed to establish contact points.

HONG KONG

A contact point (including information centre) has been established in the Government Supplies Department, Oil Street, North Point, Hong Kong. Procedures for examining written enquiries from other procurement entities

and unsuccessful tenderers are also in force. If tenderers are dissatisfied with the response of the Government Supplies Department, they may refer the matter to the Chairman of the Central Tender Board, Government Secretariat, Hong Kong.

JAPAN

Each entity shall designate an official charged with receiving and studying complaints and other matters made by unsuccessful tenderers relating to the Special Procurement (Article X of the Ordinance of 1980).

NORWAY

The entities covered by the Agreement have been instructed to establish a contact point as foreseen in Article VI:5.

SINGAPORE

(i) Chief Quantity Surveyor, Contracts Division, Public Works Department, 11th Floor, Ministry of National Development Building, Maxwell Road, 0706 Singapore.

(ii) Chief Supplies Officer, Central Supplies Department, Depot Road, 0410 Singapore.

SWEDEN

Each entity will appoint a suitable person to be contacted on relevant matters. IMPOD and the National Audit Bureau will be able to provide information about the respective contact point.

SWITZERLAND

The contact points are each time indicated in the publication of the tender; more general information should be sought from the information centre (GPR/M/2, paragraph 16).

UNITED STATES

Each entity has been directed through the FPR, DAR and NASA procurement regulations to maintain a contact point.

K. PROCEDURES FOR THE HEARING AND REVIEW OF COMPLAINTS (ARTICLE VI:5)
(References, unless otherwise specified: GPR/4/Add.-series)

AUSTRIA

-

CANADA

See Chapter J.

EUROPEAN ECONOMIC COMMUNITY

Nothing prevents suppliers from seeking information from an entity or contact point, but the complaint procedures within the EEC befit the fact that it is the EEC which is Party to the Agreement. Complaints against the EEC as a Party, although referring to an alleged infringement by a member State, should first be addressed to the EC delegation in Geneva (GPR/M/2, paragraph 44; GPR/M/3, paragraph 38).

- BELGIUM

The normal procedures in regard to government procurement are the Council of State and the civil courts for judicial complaints, and the superior authorities and the "Comité supérieur de contrôle" for administrative complaints.

- DENMARK

Tenderers are expected to address first the purchasing agency and subsequently contact the State Purchasing Department, if necessary (GPR/M/2, paragraph 38).

- FRANCE

See Chapter J.

- FEDERAL REPUBLIC OF GERMANY

Each purchasing entity has procedural provisions for dealing with complaints. The purchasing entity concerned is responsible for contacts with the complainants.

- IRELAND

The purchasing entities concerned already have procedures (which entail referral to a senior officer in the Department concerned or, exceptionally, to the Minister) for the hearing and review of complaints arising in respect of contracts covered by the Agreement.

- ITALY

-

- LUXEMBOURG

See Chapter J.

- NETHERLANDS

For the principal purchasing entity, the Netherlands Government Purchasing Office (Rijksinkoopbureau RIB), it is intended that complainants can appeal to the Council (Raad van advies) of the RIB. The competent Minister will decide in the last resort.

In general, in any case of dispute with the purchasing service, the matter can be brought before the competent Minister. In parallel, it is possible to bring any infringement of the Agreement before the court.

UNITED KINGDOM

The United Kingdom will conform with Community procedures for hearing and reviewing complaints, taking national action as necessary.

FINLAND

See Chapter J.

HONG KONG

See Chapter J.

JAPAN

The official designated mentioned under "Contact Points" shall deal with the hearing and reviewing of complaints.

NORWAY

The normal procedure would be to discuss the matter with the entity's contact point and thereafter, if the matter is not resolved, to address a complaint to the Ministry responsible for the entity.

SINGAPORE

Each entity has procedural provisions for dealing with complaints. The entity concerned is responsible for contacts with the complainants.

SWEDEN

The first step a supplier with a complaint should take is to raise it with the entity in question. Each entity will appoint a suitable person to be contacted.

Pursuant to Article 24 of the Government Procurement Ordinance (1980:850), decisions on procurement matters are final.

According to Article 18 a supplier whose tender has been rejected is entitled to know the reason why his tender was not selected, the relative advantage of the tender selected, and the name of the winning tenderer.

If a supplier is not content with the information supplied he may proceed in accordance with the rules set out in Article VII:3-14 in the Agreement, i.e. normal diplomatic channels (reference also GPR/M/2, paragraph 15).

SWITZERLAND

Three levels: the first contact should be with the purchasing entity; if the problem is not resolved, the superior level is to be addressed, normally the department in question. If the supplier is still not satisfied, he can request his government to proceed in accordance with the rules of the Agreement.

UNITED STATES

Each agency maintains procedures for the hearing and review of complaints. Prospective sellers may also seek review of any particular difficulties through the General Accounting Office and/or the courts. A complainant should first address the contracting officer handling the transaction in question and, if not satisfied at that level, go to the head of the department. Subsequently, he could seek a ruling from the General Accounting Office as to whether the practice followed conforms to federal regulations, or seek relief through the court system, or both (reference also GPR/M/3, paragraph 60).

L. INFORMATION TO ENTITIES NOT COVERED BY THE AGREEMENT AND REGIONAL AND LOCAL GOVERNMENTS AND AUTHORITIES (ARTICLE I:2) (For references, unless otherwise specified: GPR/4/Add.-series)

AUSTRIA

Provincial governments and entities not covered by the Agreement have been informed of the existence of it. In addition, through the publication of the Agreement in the Federal Law Gazette they were informed again. A circular is being prepared in order to draw the attention to the objectives, principles and rules of the Agreement (reference also GPR/M/4, paragraph 49).

CANADA

The Government of Canada consulted extensively with the provincial governments throughout the MTN and continues to do so. Meetings of this nature take place on a regular basis and provincial representatives were provided with full information concerning the Agreement, including its obligations and benefits, in December 1980. Information has also been published in the December 1980 issue of "Canada Commerce", a publication of the Department of Industry, Trade and Commerce (GPR/4/Add.3). An informational circular has been sent to federal government entities not covered by the Agreement (GPR/M/3, paragraph 14).

EUROPEAN ECONOMIC COMMUNITY

The Commission of the European Communities has officially drawn the attention of the member States to the requirements set out in Article I:2 of the Agreement and has requested that the entities concerned in each member State be likewise advised (Ref. also GPR/M/3, paragraph 24).

- BELGIUM

Entities not covered by the Agreement have been informed in accordance with Article I:2 through a letter addressed from an EC commissioner to each member State. This letter will be reflected in a circular to be published in "Moniteur Belge" (GPR/M/3, paragraph 23).

- DENMARK

Entities not covered by the Agreement are subject to the EEC legislation on public tendering. For the time being these entities are informed of the Agreement but are not obliged to follow the specific rules.

- FRANCE

No particular provisions are necessary in this respect since local authorities are subject to the French Government Procurement Code which does not contain any discriminatory provision based on the tenderer's nationality.

- FEDERAL REPUBLIC OF GERMANY

Purchasing entities not covered by the Agreement, in particular the Länder and communes, have already been informed orally and in writing of the objectives and provisions of the Agreement, through existing consultation bodies.

- IRELAND

Irish entities covered by the Agreement are required to inform authorities under their control in relation to Article I:2. Subsequent to action taken at Community level their attention has again been drawn to Article I:2, reiterating the need for information to non-covered authorities as well as information in due course about relevant action taken (GPR/M/3, paragraph 29).

- LUXEMBURG

Information by circular as referred to under Chapter D.

- NETHERLANDS

A circular consistent with Article I:2 has been distributed.

- UNITED KINGDOM

United Kingdom local authorities have been advised in accordance with Article I:2 of the Agreement (Ref. also GPR/M/3, paragraph 39).

FINLAND

Finnish local authorities are organized in two associations; the Government has informed these organizations of the Agreement. Information has also been given by way of articles in the relevant press and through the publication of the Agreement in "The Collection of the Statutes of Finland". For the representatives of central government entities not covered by the Agreement, seminars with wide participation have been organized.

HONG KONG

The issuance of the amendment to the Financial Circular (April 1981) took care of the information requirement of Article I:2 as it was sent to all heads of departments who might be involved in procurement (GPR/M/3, paragraph 44).

JAPAN

The Ministry of Foreign Affairs and the Ministry of Home Affairs sent to all the prefectural governments together with municipal or local governments and some city authorities on 23 January 1981 a joint letter describing the contents of the Agreement with particular reference to Article I:2 of the Agreement.

NORWAY

In meetings with the Ministry of Industry in May and June 1980 the main purchasing entities, including all the covered entities and ministries were informed about the existing regulation on government procurement. The information also covered the obligations entered into by Norway in the Agreement. Ministries responsible for local and regional authorities were asked to transmit information to these authorities (Ref. also GPR/M/3, paragraph 56).

SINGAPORE

Entities not covered by the Agreement will be informed in accordance with Article I:2.

SWEDEN

The following steps have been taken:

- the publication "Regulations Concerning Government Procurement" was sent out on 9 January 1981 to 295 agencies;

- in January 1981 a total of 133 agencies were informed orally about the Agreement and of the consequences for the Swedish regulations on government procurement;
- the Swedish Association of Local Authorities and the Federation of the Swedish County Councils have been informed by letter and by personal contacts of the Agreement.

SWITZERLAND

In principle, the Cantonal Governments are aware of the existence of the new Agreement, since its text was published and discussed by Parliament. In addition, a circular from the Federal Council to the Cantons is being prepared in order to draw their attention to the objectives, principles and rules of the Agreement.

UNITED STATES

The USTR has written to all State governors regarding the objectives, principles and rules of the Agreement. In addition, federal entities not covered by the Agreement have been notified and are aware of the benefits of the Agreement through their participation in the trade policy formulation process, their access to Federal Procurement Regulations and to the Annual Report of the President on Trade Agreements. The USTR has met with a group comprising all purchasing entities to discuss the Agreement in detail. (GPR/4/Add.4 and GPR/M/3, paragraph 60. Reference is also made to GPR/M/2, paragraphs 20-21.)

M. CONSULTATIONS AND DISPUTE SETTLEMENT

At the fourth meeting one Party informed the Committee that it had held consultations with another Party under Article VII:3 of the Agreement which had touched on several matters relating to the implementation of the Agreement.

The dispute settlement procedures laid down in Article VII:6-10 have not been utilized.

N. PANELISTS (ARTICLE VII:8)

Names of persons available to serve on panels have been given by Canada, the EEC, Finland, Hong Kong, Japan, Norway, Sweden, Switzerland and the United States.

0. OTHER MATTERS DISCUSSED BY THE COMMITTEE RELATING TO IMPLEMENTATION

(i) Accession to the Agreement

At its first meeting the Committee noted that the question of accession to the Agreement of countries which are not contracting parties to the GATT could be taken up at a later stage when a particular case presented itself (GPR/M/1, paragraph 11; L/5101, paragraph 4).

At its second meeting, the hope was expressed that further contracting parties would accede to the Agreement at the earliest possible date (GPR/M/2, paragraph 11; L/5132, paragraph 2).

At its third and fourth meetings, the Committee welcomed statements concerning the possible accession of one observer to the Agreement (GPR/M/3, paragraphs 4-8; GPR/M/4, paragraphs 3-8; L/5174, paragraph 2; L/5206, paragraph 2).

(ii) Problems related to the scope of the Agreement

After a preliminary exchange of views at the first meeting (GPR/M/1, paragraphs 52-57), the Committee agreed to inscribe leasing as an item on its agenda. For the second meeting, one member put forward, inter alia, a proposal for a work programme concerning leasing (GPR/W/2), and after a discussion of the applicability of the Agreement to leasing arrangements and similar practices, the Committee invited Parties to submit a description of what type of contracts they considered to fall within the scope and coverage of the Agreement (GPR/M/2, paragraphs 49-61). Four such notes have subsequently been circulated (GPR/W/4, 5, 6 and 11). In addition, a draft declaration on leasing has been circulated by one member (GPR/W/3). At the third meeting the Committee continued to discuss questions relating to leasing, especially whether leasing was covered by the provisions of the Agreement or not (GPR/M/3, paragraphs 65-79). Problems related to the scope of the Agreement were pursued at the fourth meeting (GPR/M/4, paragraphs 50-55); the Committee agreed that Parties should submit information on their current practices relating to leasing and similar arrangements and reiterated its invitation to Parties to submit a description of the types of contracts that were considered to fall within the scope and coverage of the Agreement. (GPR/M/4, paragraph 55; L/5206, paragraph 4.) These matters will be reverted to at the next meeting.

(iii) Identification of contracts falling under the Agreement and treatment of borderline cases

The Committee discussed this issue at all four meetings (GPR/M/1, paragraphs 63-66; GPR/M/2, paragraphs 62-66, GPR/M/3, paragraphs 80-84 and GPR/M/4, paragraphs 56-58). At the July 1981 meeting "the Chairman noted

that all delegations acknowledged the need for the identification of contract notices published under the terms of the Agreement. He further noted that all delegations either presently identified or intended to do so; it was agreed to retain the item on the agenda for the next meeting" (GPR/M/3, paragraph 84). At the October 1981 meeting the Committee noted that in two cases contract notices did not identify whether contracts were published under the terms of the Agreement. It noted, however, that the governments concerned would be actively endeavouring to do so in the near future and agreed to retain the item on the agenda (GPR/M/4, paragraph 58; L/5206, paragraph 5).

(iv) Treatment of taxes and customs duties in relation to the threshold

The Committee had a first exchange of views on this matter at its first meeting (GPR/M/1, paragraphs 58-62). At its second meeting the treatment of taxes and customs duties in the context of the threshold requirement and in relation to bid comparison was further pursued and members exchanged information on their respective practices in this regard. Different views were held, in particular as to whether or not taxes should be included or excluded for the purpose of calculating the threshold (GPR/M/2, paragraphs 67-76). At the third meeting the discussion continued, in particular as to the treatment of taxes and duties for the purpose of determining whether a contract falls over or below the threshold of the Agreement (GPR/M/3, paragraphs 85-91). The discussion continued at the fourth meeting (GPR/M/4, paragraphs 59-62). The Committee noted that the positions of delegations had not changed in this respect and agreed to keep the matter on the agenda for the next meeting (L/5206, paragraph 6).

(v) Procedures for consultations under the Agreement

The Committee has discussed procedures for consultations under the Agreement pursuant to Article VII:3 and 4, in particular the question of notifications and participation of third Parties in such consultations. The issue remains on the agenda (GPR/M/3, paragraphs 94-96; GPR/M/4, paragraphs 63-71; L/5206, paragraph 7).

(vi) Other matters

The Committee has had a brief exchange of views on certain statistical questions and has heard statements concerning purchasing practices by entities not covered by the Agreement (GPR/M/3, paragraphs 97-98; GPR/M/4, paragraphs 74-75 and GPR/M/3, paragraphs 99-102; GPR/M/4, paragraph 77, respectively).

FOOTNOTES

¹Including Suppl.1 to Add.2 and Suppl.1 to Add.10.

Austria has not circulated basic documents because the GATT Agreement will have legal force in Austria and is directly applicable without implementing legislation.

²Sweden (Add.1), Switzerland (Add.2), Canada (Add.3), United States (Add.4), Norway (Add.5), Finland (Add.6), Hong Kong (Add.7), Japan (Add.8), EC (Add.9 and Suppl.1), Austria (Add.10), Singapore (Add.11):

³Temporary regulations expected to become permanent shortly (Ref. GPR/M/3, paragraph 60).

⁴Reproduced in full in GPR/3/Add.10 (pages 54-57), derestricted in July 1981.