

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

GPR/W/43

19 October 1983

Special Distribution

Committee on Government Procurement

PROCEDURES FOR FURTHER NEGOTIATIONS FORESEEN IN ARTICLE IX:6(b) OF THE AGREEMENT

Working Paper by the Secretariat

1. At its meeting on 25-26 May 1983 the Committee agreed:
 - (a) to formally open the Article IX:6(b) negotiations at the meeting to be held on 2-4 November 1983;
 - (b) that decisions on procedures would be made at that meeting, including decisions concerning the timetable, such as dates for the tabling of requests, offers and specific proposals;
 - (c) to invite delegations to submit, prior to the next meeting, any proposals they might have in respect of procedures, including the timetable; and
 - (d) to request the secretariat to prepare a working paper on procedures, including an outline of a timetable, in the light of the discussion and in consultation with delegations, as appropriate (GPR/M/8, paragraph 60).
2. The present document has been prepared by the secretariat in response to the Committee's request. It does not commit any delegation with respect to any issue concerning the negotiations.

I. Provisions of the Agreement

3. The negotiations are to be carried out in accordance with Article IX:6(b) of the Agreement, which stipulates that:

"Not later than the end of the third year from the entry into force of this Agreement and periodically thereafter, the Parties thereto shall undertake further negotiations, with a view to broadening and improving this Agreement on the basis of mutual reciprocity, having regard to the provisions of Article III relating to developing countries. In this connection, the Committee shall, at an early stage, explore the possibilities of expanding the coverage of this Agreement to include service contracts."

Article III, which is mentioned in the text of this paragraph, contains a number of references to negotiations.

II. Procedures for negotiations

4. As indicated above, the negotiations shall aim at "broadening and improving" the Agreement. Separate procedures may be needed for each of these types of negotiations, as was the case when the Agreement was initially drafted.

(a) Negotiations on Improvement of the Agreement

5. It is suggested that:

- (i) these negotiations be based on specific suggestions from Parties;
- (ii) Parties would be free to suggest any improvement that they wish to see made¹;
- (iii) the negotiations be conducted in the Committee; and
- (iv) in addition bilateral and plurilateral consultations on an informal basis may be held.

(b) Negotiations on Broadening of the Agreement

6. Negotiations on procurement entities during the MTN's (reference: GATT/AIR/1468 of June 1978, reproduced in GPR/W/30, paragraph 4), were based on procedures for the tabling of offers and requests. It is suggested:

- (i) that such a procedure be followed in the forthcoming Article IX:6(b) negotiations;
- (ii) that the tabling of offers and requests would be commenced when some clarification has been obtained with respect to matters taken up in the context of improving the Agreement; and
- (iii) that the Committee would oversee the conduct of the negotiations.

III. Time-table of negotiations

7. It is suggested that the following target dates be adopted:

¹It is recalled that the preparatory work, which has been conducted without prejudice to the negotiating position of any delegation, has related to service contracts, leasing, specific derogations, lowering of the threshold of 150,000 SDR, lengthening of bid deadlines and inclusion of a self-denial clause, as well as a number of other aspects relating to the improvement of the Agreement.

- (a) November 1983 meeting: formal opening of the negotiations; decisions on procedures, including decisions concerning the timetable;
- (b) First meeting in 1984 (February): target date for specific proposals relating to the improvement of the Agreement;
- (c) Second meeting in 1984 (May): discussions and negotiations in the Committee, with a view to reaching agreement in principle or at least as much clarification as possible on matters relating to the improvement of the Agreement; invitation to delegations to table offers and requests concerning broadening of the Agreement;
- (d) July 1984: target date for the tabling of offers and requests concerning entity lists;
- (e) Third meeting in 1984 (October): finalization of the negotiations with decision to put the results into force on 1 January 1985.

8. In addition, the Committee could review progress made and deal with any issues that arise, as and when necessary. In the final stage of the negotiations, the Committee should be considered to be in permanent session, i.e. callable at any time on short notice.

IV. Transparency in the negotiations

9. It is recalled that procedures already exist for the accession of contracting parties to the Agreement (L/5101, Annex II and L/5466/Annex 1).

10. According to Article IX:6(b) the Parties would be participants in the negotiations. It is suggested that, in order to facilitate participation by non-Parties interested in seeking accession, these governments should be invited to participate in the negotiations and their attention be drawn to the relevant provisions of the Agreement, including Article III concerning Special and Differential Treatment for Developing Countries. Governments interested in acceding would be considered participants in the negotiations when they have tabled an entity offer, which could be done at any point in time.

11. It is suggested that suggestions concerning improvements would be circulated as documents in the GPR/W/- series, i.e. to members and observers in the Committee, but that each Party putting forward an offer or a request concerning entities would provide copies of these to the secretariat for distribution to participants in the negotiations.