

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
GPR/Spec/30
8 December 1983

Committee on Government Procurement

DRAFT MINUTES OF MEETING HELD ON 3 NOVEMBER 1983

Chairman: Mr. M. Pullinen

1. The Committee met on 3 November 1983.

2. The following agenda was adopted:

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A. Accession of further countries to the Agreement

1. The Chairman recalled that on 29 June 1983 the Agreement on Government Procurement had entered into force for Israel.

2. The Committee agreed to inscribe this item on the agenda of its next meeting.

B. Implementation and administration of the Agreement

3. The Chairman recalled that since the last meeting, texts of legislation in national languages and open for inspection in the secretariat had been submitted by the European Economic Community in respect of member States, and by the United States (GPR/14/Add.1 and 2 respectively).

(a) United States

4. The representatives of the European Economic Community raised a number of points resulting from an examination of Commerce Business Daily:

(i) About 7,000 contracts had been awarded in 1982 but only 1,200 invitations to tender containing footnote 12 had been advertised in Commerce Business Daily. An invitation could give rise to more than one contract but, more importantly, some entities had rarely put out tender notices with the footnote. For example, the Department of the Interior had awarded 150 contracts in 1982 but had advertised under the Agreement maximum once per month;

(ii) Some smaller entities practiced with increased frequency very short bid times. Among them were the Defense Construction Service Centre almost always having bid times of 20-25 days, and the General Services Administration which invariably practiced bid times of 15-20 days and in recent months had - in violation of the Agreement - stopped publishing dates altogether. The quoting of short bid deadlines was presumably resulting from an underestimate of the time needed for publication. However, in the case of the Veterans Administration, referred to at the last meeting, a marked improvement in bid times had been accompanied by a strong reduction in the number of advertisements;

(iii) A growing number of markets was published only for information on the ground that the process of qualifying supplies would take too much time. The United States Army Communication and Electronics Command almost always published for information only, incompatible with the terms of the Agreement;

(iv) The labour surplus area preference appeared with monotonous frequency in tender publications. The United States had argued that this system was non-discriminatory vis-à-vis foreign suppliers but the footnotes in question stated that bidders located in LSA's would be given preferential treatment in the evaluation of bid prices. As nothing was said about the treatment of bidders from abroad, he concluded that the preference existed only for companies located in an LSA. He added that this system worked because awards very often went to such companies;

(v) Entities amending previous notices to bring in footnote 12 did this often without changing the bid deadlines. This practice was not compatible with the Agreement.

5. The representative of the United States stated that his authorities tried to correct problems as they identified them. He took up each of the points made in turn:

(i) In regard to the awards/publications ratio, Code-covered entities made about 140 advertisements per month, and on average 1 advertisement resulted in 3 contracts. If the Department of the Interior did not live up to its obligations, the situation would be corrected;

(ii) The reduced contracts of the Veterans Administration would also be looked into; it was difficult to generalize on the procurement patterns of individual entities. The short deadlines were due to entities underestimating the time it took for CBD to bring a notice. In order to ensure at least 30 days' bid time, entities were now required to allow for 45 days between a notice being received in the CBD and the closing date for bidding.

(iii) Publications for information only were of two sorts, one intended to inform bidders about future contracts; the other was the type referred to by the EEC and which had been taken up with the Department of Defence to ensure that a solution be found;

(iv) Concerning labour surplus areas, further information would be made available to appease concerns others might have that discrimination was involved.

(v) The possibility would be explored with entities of their extending deadlines when issuing amendments.

(b) Japan

6. The representative of the European Economic Community noted that the NTT had made improvements in its procedures concerning bid-times and delivery-times and had reduced the use of single tendering. He wished other entities would follow the same course and not like a number of them take steps in the opposite direction. For example, the volume of single tendering by entities other than NTT had almost doubled during 1983. Accelerated procedures were used extensively by some entities, such as Japan National Railways and the Ministry of Finance, the former having concluded about 70 per cent of its contracts with bid times below 11 days, the latter having about all its contracts with bid times around 20 days. Many entities required deliveries to take place less than three months after award which was impossible for a European company to meet. Qualification procedures were still not very transparent, more and more contracts had in recent months been restricted to A and B qualifications and he wondered why this was so.

7. The representative of the United States stated that his delegation had noticed - with the same degree of concern - all the points the EEC had brought up. An analysis of Article V:15(a) cases of single tendering had brought out that the Japanese Government fixed a maximum price - kept secret

by the agency - for each contract. If any one bid received exceeded this price all bids would be rejected and negotiations with tenderers begin. For some entities, such as the Ministry of Posts and Telecommunications and the Ministry of Health and Welfare this happened with a surprisingly high frequency. He wondered why some entities so often set prices which many suppliers could not meet and why so often, after negotiations, it was possible to get products at the price indicated.

8. The representative of Japan recalled that as his delegation had often stated, the Japanese Government procurement system itself was consistent with the spirit and the letter of the Agreement and the Government continued to make efforts to improve the system, if necessary. He appreciated EEC's recognition of efforts made, adding that his authorities were ready to work with other delegations to find appropriate practical solutions to any concrete, specific problem members might have. As the questions raised at this meeting were closely related to statistical information, they should be discussed at the next meeting.

(c) Israel

9. The representative of Israel recalled that at the last meeting his delegation had - in observer capacity - stated that it might be well placed to express opinions on how the provisions of the Agreement affected those seeking accession. He offered the following preliminary remarks. For a country, not least a developing country, which had not participated in the original negotiation based on offers and requests, the negotiation on accession was an unbalanced one. The country seeking accession had to negotiate its contributions and open up its system of government procurement, whereas the existing Parties did not increase the scope of their contribution under the Agreement. In addition, the quantitative and qualitative criteria used by Parties were not very clear. Several methods had been used, for instance the method of comparing the offer to the GNP which amounted to the calculation of one total figure. Such an evaluation was very difficult to carry out and he presumed that countries which were presently candidates for accession continued to ask themselves which criteria could be used in the negotiating process. The evaluation of the benefits of the Agreement for national administrations and industries was rendered difficult by the lack of knowledge about the real contributions others had made, a problem which appeared to exist even amongst the Parties; some of the latter had manpower resources far exceeding those Israel could afford for analyzing commercial opportunities.

10. He went on to explain the implementation of the Agreement in Israel taking the check-list in GPR/4 (items 1(a)-(f) and 2(a)-(g)) as a reference, as follows:

- 1(a) Public procurement was not governed by law in Israel, but by a regulation directive issued by the General Paymaster (le Payeur général) of the Ministry of Finance, through whom all purchases had to be made. In the case of Israel Port Authority, Airports Authority and Sports' Gambling Arrangement Board, the Agreement had been put into effect by their respective administrative councils, which had adopted the provisions of the General Paymaster's regulations.

- 1(b) The provisions of Article V concerning tendering procedures had been put into force through it being explicitly quoted in the regulation directive.
- 1(c) A particular provision in the preceding directive concerning a 15 percent preference for local products had been abandoned in the new directive in so far as tenders and contracts covered by the Agreement were concerned.
- 1(d) The threshold according to the directive had been established in July 1983 at 165,000 US\$, it having been specified that the threshold of the Agreement was 150,000 SDR and that the officers preparing tenders should seek information from the Bank of Israel or the General Paymaster in order to have the actual threshold. The establishment of a threshold in the national currency was under study, but to fix such a threshold for a one-year period would not be realistic given the rate of inflation and devaluations. Invitations to tender were published in the Official Gazette of the State of Israel, which was also the publication utilized for publication of amendments to the present directive in terms of Annex IV of the Agreement.
- 1(e) and 2(c) As for Annex III, no Israeli entry would appear since permanent lists of suppliers were not practiced.
- 1(f) National legislation, as explained, consisted of the regulation directive.
- 2(a) and (b) Being a developing country, Israel did not consider it an obligation to formally establish information centres. However, his delegation would be at the disposal of other delegations to reply fully to any requests for information that were made. Likewise, his authorities were ready to give assistance which could enhance the functioning of the Agreement.
- 2(d) Contact points in each of the 14 entities were being established and would be communicated in due course.
- 2(e) Complaints or questions relating to specific procedures should be addressed to the Ministry of Industry and Trade, Division of international organizations, which was in charge of implementing the Agreement. Administrative or legal remedies did not presently exist in case of a dispute or complaint, since the implementation did not fall within the domain of law. The question was under study.
- 2(f) The General Paymaster had informed all payments officers and director generals of Israeli ministries, including entities not covered by the Agreement, of the said regulation directive. Entities had to comply with it, and it had been accompanied by a translation of the Agreement into Hebrew, a list of Parties to the Agreement, the list of Israel's entity offer, and the previous directive. In addition, 5,000 copies of a booklet explaining the provisions of the Agreement and its possibilities had been disseminated, and seminars organized with the payments officers of the various ministries, partly before and partly after accession. Consultations and seminars had also been held for interested business people; other Parties who might be ready to assist in these efforts would be welcomed.

11. The Chairman stated that he looked forward to receiving any further information, such as the directive of the Ministry of Finance. He recalled in this connection the Committee decision that complete texts of national laws, regulations and procedures should be submitted to the secretariat, in their respective languages, where they would be open for inspection, and that basic documents relating to implementation should be submitted in a GATT language for circulation to the Committee. (GPR/M/1, paragraph 16).

(d) European Economic Community

12. The representative of the United States continued to wonder why the application of the term "negotiation" should have led to such a high level of single tendering in the EEC. With respect to Italy, he noted that the publication of tender notices had increased and reached the number of 56 so far in 1983, compared with 205 notices in France, 154 in the Federal Republic of Germany and 259 in the United Kingdom. He believed that Italy was still not fully implementing the Agreement and asked when Italy intended to do so.

13. The representative of the European Economic Community replied that if EEC's 1982 statistics had not yet been submitted, it was partly due to an investigation being carried out concerning the use of single tendering. He hoped to be able to give further information at the next meeting. As for Italian implementation, the number of tender invitations had increased considerably and hopefully would increase further. A comparison between Italy and certain other EC member States was perhaps not the fairest comparison one could make.

14. The representative of Italy added that all Italian entities covered by the Agreement did apply it. While he would refer the United States statement to his authorities, he noted that bilateral contacts with the United States had taken place and had been found satisfactory by both sides. Tender notices were not only published in EC's Official Journal but also in the Italian Official Journal and in Italian daily newspapers. Not only was this quantity of information costly but it probably also exceeded that of any other Party. Contracts falling below the threshold were not published in EC's Official Journal, however, and this might explain the point made by the United States. His authorities remained ready to furnish all necessary explanations which the United States might wish to seek either in the Committee or bilaterally.

15. The representative of the United States reiterated that in his view surprisingly few contracts were advertised; the threshold notwithstanding, the number of contracts advertised in Italy was only slightly higher than in Hong Kong.

16. The Committee took note of the statements made and agreed to keep this item on the agenda.

C. Opening of Article IX:6(b) negotiations

(a) General statements

17. The representative of the United States stated that his delegation considered the present meeting as a very important occasion. Nowhere had the increasing pressures in all Parties for the protection of domestic

industries been so keenly felt as in the area of government procurement. A liberalization in this field was therefore against the tides of the present difficult economic times. At the same time, however, it was very important to move forward in this area in the GATT, to roll back protectionist measures and prevent them from spreading. While it would be difficult also for the United States delegation to move forward in this area, it was ready to participate in the negotiations in good faith and hoped others were as well. He expressed the hope that the negotiations would be successful and contribute to making the GATT system more effective.

18. The representative of Singapore recalled that Article IX:6(b) required that the negotiations be undertaken, having due regard to Article III of the Agreement. His delegation was conscious of the fact that after three years of operation of the Agreement, it had only succeeded in attracting three developing countries to accede. This was an immediate cause of concern to all the Parties, and raised questions as to the totality of the GATT system. His delegation strongly felt that the Committee should utilize the opportunity provided by the negotiations to give serious consideration to the problems faced by developing countries in joining the Agreement, with a view to finding ways and means of expanding their participation. As developing countries represented a large number of the GATT contracting parties their accession would enforce the spirit of Article III:14, i.e. that the Agreement should genuinely aim at achieving maximum implementation of its provisions. His country had been a faithful Party to the Agreement and had actively participated in the Committee's work since the beginning. While not expecting large immediate results, Singapore - as a developing country - had consciously worked hard at reaping any benefits that were available or promised under the Agreement. In spite of this, the benefits had been minimal. While recognizing that the drafters of the Agreement had felt it necessary to make further negotiations mandatory, his delegation felt that such a process might be premature. However, it was fully aware of its contractual obligations and would not forestall or impede the process. To the contrary, it called in a constructive spirit on other Parties to take advantage of Article IX:6(b) to improve and clarify the Agreement, to settle crucial differences of interpretation, to spell out the exact obligations, to utilize the experience gained to fill gaps and loopholes, to examine ways to ensure greater compliance and to genuinely consider means of making the Agreement more accessible to other contracting parties, including developing countries.

19. The representative of the United Kingdom, on behalf of Hong Kong, fully supported the comments by Singapore regarding the inadequate participation of developing countries. He also urged the Committee to take advantage of this opportunity to explore ways to making it easier for developing countries to accede to the Agreement.

20. The representative of Canada looked forward to participating in the negotiations, to improve the Agreement and to hopefully enlarge the scope of participation under it.

21. The representative of the European Economic Community considered that improving and enlarging the Agreement would be difficult tasks. However, it was the Community's intention to do its utmost to make achievements during the period of the negotiations.

22. The Committee took note of the statements made.

(b) Procedures for negotiations on Improvements of the Agreement

23. The Committee considered suggestions in the secretariat note GPR/W/43, paragraph 5 and agreed as follows:

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

(c) Procedures for negotiations on Broadening of the Agreement

24. The representative of the United States proposed that since the negotiations would bear on incremental changes to existing entity lists, it might not be necessary to require the tabling of offers, as suggested in GPR/W/43, paragraph 6.

25. The Committee agreed with this suggestion and that:

- (i) The tabling of requests will be commenced when some clarification has been obtained with respect to matters taken up in the context of improving the Agreement. Plurilateral and bilateral consultations will be held on the basis of requests put forward; and
- (ii) The Committee will oversee the conduct of the negotiations.

(d) Procedures relating to the question of Service contracts

26. The Chairman proposed that this matter be dealt with separately since it could be said to fall both under improvements and broadening of the Agreement.

27. The representative of the United States noted the requirement of Article IX:6(b) concerning service contracts, and suggested that some preparatory work be carried out in addition to the agreed exchange of lists of services and statistical data. As a minimum Parties should suggest to the secretariat service areas that might be suitable for further discussion in the negotiations and types of questions that might usefully be analyzed if such services were placed under the Agreement. On this basis the secretariat could put forward a working paper for the next meeting.

28. The representative of Canada supported the proposal and stated that preliminary, partial figures on services - as already agreed - would be submitted by his delegation in the near future¹.

¹Subsequently issued as GPR/W/46.

29. The representative of the United Kingdom on behalf of Hong Kong, while agreeing with the United States that Article IX:6(b) required exploratory work to be done, noted that the Agreement was neutral as to whether or not service contracts should eventually be included under the coverage of the Agreement. He reiterated that his delegation would participate in further discussions without prejudice to its position on the possible outcome of the negotiations. His delegation was unsure as to the role of the secretariat on the issue of services generally, but in the light of paragraphs 6(b) and 11 of Article IX it would not object to the Committee asking the secretariat to undertake a study. Again this was without prejudice to discussions taking place elsewhere in the GATT as to the role of the secretariat on the issue of services. Finally, as the Agreement referred to "service contracts", this heading should be used in order to avoid confusing discussions in this Committee with wider considerations.

30. The representative of Austria, while not opposing the United States suggestions, stated that his delegation's participation in any further work would be without prejudice to its final position. It was well known that his authorities were very reluctant concerning the inclusion of services in the Agreement; they also considered that one should await the outcome of the general discussions in GATT on services.

31. The representative of Japan stated that he had no particular difficulties with the United States proposal but emphasized that his position was the same as that of the United Kingdom on behalf of Hong Kong.

32. The representative of Singapore agreed with the United States that it was premature to decide whether or not the Agreement should be expanded to include service contracts, especially since little information was available. While his position concerning the broadening of the Agreement remained unchanged, he would not oppose a consensus on the secretariat undertaking exploratory work. He reiterated that this process should be without prejudice to the ultimate right of the Parties and the Committee as to whether the Agreement should indeed be extended to cover service contracts or not.

33. The representative of the European Economic Community stated that his position was similar to that of Austria, Japan and the United Kingdom for Hong Kong. He did not oppose the termination which in fact was needed if the obligations of the Agreement were to be fulfilled. But in respect of inclusion of services in the Agreement, the EEC reserved its position.

34. The Committee took note of the statements made and agreed to request the secretariat to draw up a paper for the next meeting which would compile information made available and suggestions by Parties, on (i) types of service contracts that might become subject to discussion; and (ii) types of technical questions that might have to be tackled if such service contracts were to be included in the Agreement. It was the understanding of the Committee that this preparatory work would not prejudice the negotiating position of any delegation with respect to the issue of service contracts, nor the rôle of the secretariat in the area of services.

(e) Timetable

35. After an exchange of views, the Committee agreed as follows:

(i) At the next meeting, scheduled for 31 January-3 February 1984, it would, in so far as the Article IX:6(b) negotiations were concerned, identify issues to be taken up in relation to improvements of the Agreement. As the meeting would represent the target date for specific proposals relating to improvement aspects, delegations, who so wished, were invited to circulate any such proposals prior to the meeting, on the understanding that this would not exclude the possibility of proposals being made at a later stage. At this meeting the Committee would also address the question of the launching of further studies on certain types of service contracts, in the light of preparatory work done prior to the meeting.

(ii) A further meeting would be held on 3-5 April 1984, the purpose of which would be to continue discussion on matters relating to improvements of the Agreement and to table requests with respect to entities, on the understanding that requests could be put forward later as well.

(iii) On the understanding that additional meetings might be held in the meanwhile, the Committee would meet in the week of 12 November 1984, starting on 13 November 1984 in order to assess the overall results achieved to date, with a view to the completion of the negotiations by mid-1985.

36. After a number of statements on the matter, the Chairman concluded that it was a widely shared feeling in the Committee that it would not at this stage be feasible or appropriate to set a date for the entry into force of the results of the negotiations.

(f) Transparency in the negotiations

37. While noting that according to Article IX:6(b) the negotiations would be undertaken by the Parties, the Committee agreed that, in order to facilitate participation by non-Parties interested in seeking accession, these governments should be invited to participate in the negotiations. The basis for the participation of non-contracting parties would be Article IX:1(d). 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 during the negotiations.

38. The Committee further agreed that as far as transparency by way of document distribution was concerned, suggestions concerning improvements would be circulated in the GPR/W/- series, i.e. to members and observers in the Committee, the normal procedural rules applying. Each Party putting forward a request concerning entities would provide copies to the secretariat for distribution to participants in the negotiations. The same would apply to offers or requests by other participants.

39. The representative of the United Kingdom for Hong Kong stated that the decision taken under this sub-item were acceptable on the understanding that observers that were non-participants would be allowed to attend Committee meetings in which negotiations were undertaken.

40. The Chairman confirmed that this would normally be the case, as the Committee's procedural rules would apply. This would not, however, affect the Committee's right to hold restricted meetings.

(g) Opening of the Negotiations

41. The Chairman stated that as the Committee had now agreed on procedures and timetable for the negotiations, the Committee had a basis on which to declare the negotiations formally opened. He therefore declared the negotiations formally opened.

(h) Submission of Information

(i) Non-covered entities

42. The Chairman recalled that nine Parties had provided lists of entities not presently covered by the Agreement as requested in GATT/AIR/UNNUMBERED of 9 March 1983. In addition, six Parties had responded to the invitation to supply data of procurement made by such entities, on a confidential basis.

43. The representative of Canada suggested that Parties be also invited to supply information on major categories of products bought by non-covered entities.

44. The representative of the European Economic Community stated that his delegation hoped to be in a position to present lists and other information in the fairly near future. He could not take a position for the moment on Canada's suggestion which would at any rate require some time to implement.

45. The representative of the United States recalled that data on categories of goods purchased had been exchanged in the offer exercise in the Tokyo Round, a procedure that would not be available in the forthcoming negotiations. He supported Canada's proposal and would be ready to supply data.

46. The representative of Japan stated that his authorities were considering the possibility of preparing a list of entities not presently covered by the Agreement. He reserved his position, however, with respect to the submission of statistical data.

47. The representative of Austria reserved his position on Canada's proposal, reiterating that a certain reservation towards expanding the scope of the Agreement existed in economic circles in his country. For the time being one should not require too much from non-covered entities.

48. The representative of Sweden supported Canada's proposal and recalled that his delegation had already given information goods bought by the thirty-eight biggest of Sweden's non-covered entities. Since there were about 100 non-covered entities in Sweden's list, complete information would require much work. His delegation was willing to undertake it, however, if there was consensus in the Committee on the proposal.

49. The representative of Israel stated, with respect to Canada's proposal, that there might be difficulties in giving figures on a yearly basis, because in a country of Israel's size entities sometimes undertook purchases of certain goods every second or third year only.

50. The Chairman appreciated this problem which also other countries might face, such situations could be explained whenever necessary.

51. The Committee took note of the statements made. It agreed to invite Parties to submit, if possible prior to the next meeting and to the extent possible, information on product categories purchased by non-covered entities, noting that some delegations would require some time in this respect and that some had reserved their position. Parties who had not yet done so remained invited to submit information previously requested concerning non-covered entities.

(ii) Service contracts

52. The Chairman, referring to GATT/AIR/UNNUMBERED, recalled that nine Parties had provided information on service contracts, and that three Parties had also submitted statistical data (ref. GPR/W/15, 44 and 46).

53. The representative of Israel stated that in the present phase of implementation his authorities would have problems establishing the data requested.

54. The Chairman noted that he did not expect Israel, as a new member, to be in a position to meet all requirements that other Parties had had much more time to fulfil.

55. The representative of Sweden stated that his delegation could not submit statistics on the procurement of individual services categories by individual entities. In reply to the United States, he added that it would be investigated whether a ranking of principal services might be feasible.

56. The representative of Japan stated that his delegation might be in a position to submit statistical data on service contracts by the next meeting.

57. The Committee took note of the statements made.

(iii) Leasing

58. The Chairman, referring to GATT/AIR/UNNUMBERED, recalled that ten Parties had supplied information on their practices with regard to leasing and similar arrangements. As for statistical data no information had been received except for one Party who had supplied information (GPR/W/15) and another who had explained that leasing was not practised (GPR/M/7, paragraph 47).

59. The representative of the United States stated that statistics would be forwarded in the near future¹. Greater detail would be provided if others were willing to do the same.

60. The representative of Canada expected that Canadian data would be ready in the near future.

61. The representative of Japan stated that his delegation might be in a position to submit statistical data by the next meeting.

¹ Issued since the meeting as GPR/W/47.

62. The representative of Austria stated that data had not been provided because leasing in the Government procurement context was insignificant. There was also the question of how to define leasing.

63. The representative of Israel stated that his Government did not practice leasing in its procurement. His delegation considered leasing as falling within the concept of services.

64. The Committee took note of the statements.

(iv) Lowering of the threshold

65. The representative of the United States stated that the threshold issue had to be included in the further negotiations as mentioned in Article I. However, the impact of a lower threshold was unknown. If a large number of purchases were made below the threshold but at a low value, or if one would have to lower the threshold to an administratively unfeasible level in order to increase the coverage appreciably, it might not be worthwhile to reduce it. In order to make a judgement, he proposed that data be collected on the values and numbers of contracts falling in the SDR 100,000-SDR 150,000 bracket. He added that if exact information were not to be available, the Committee should at least obtain estimates. His original proposal had been more ambitious but recognizing difficulties that some delegations might have, the present suggestion was put forward as a compromise formula.

66. The representatives of Singapore, Israel and Canada supported the United States proposal.

67. The representative of the European Economic Community stated that this question was not among those to which his delegation accorded high priority at this stage. While he did not support the proposal at present, he did not exclude that the threshold be discussed at a later stage.

68. The representatives of Austria and Japan supported the EEC view.

69. The representative of the United States stated that at the next meeting his delegation would share information on a reciprocal basis with other delegations.

70. The Committee took note of the statements made. The Chairman added that delegations were free to exchange information; he hoped that the Committee might return to the matter at a later stage.

(v) Specific derogations

71. The Chairman reminded the Committee of GATT/AIR/UNNUMBERED, requesting information at the latest for the next meeting; no information had so far been received.

72. The representative of the United States stated that his delegation intended to honour its commitments, assuming that others would do the same. The data in question might be sensitive for certain delegations; it was important that all Parties that had derogations provided information.

73. The representative of Canada and the representative of Sweden, speaking also on behalf of Finland and Norway, stated that information would be submitted by the next meeting. The representative of Japan stated that his delegation might be in a position to supply the data by the next meeting.

74. The representative of the European Economic Community stated that his delegation would also provide the information as soon as feasible.

75. The Committee took note of the statements.

(vi) Bid deadlines

76. The Chairman recalled that the Committee had agreed to keep this item on the list of matters which might be taken up.

77. No further statements were made.

(vii) Self-denial clause

78. The Chairman recalled that the Committee had agreed to keep this item on the list of matters which might be taken up.

79. The representative of Canada stated that his delegation had not proposed a work programme in the preparatory work, nor did it do so at the present meeting. He reserved his right, however, to put forward proposals at the next meeting.

80. The Committee took note of the statement.

D. Third annual review, including major review of Article III

81. The Committee conducted its third annual review of the implementation and operation of the Agreement on the basis of a secretariat background document (GPR/W/40). The Committee agreed to request the secretariat to circulate a revised and completed version, to take into account comments made and additional points arising out of the present meeting. It was agreed in principle to de-restrict the document, as revised, unless objections were raised before the next meeting.

82. In the context of the third annual review the Committee conducted a major review of Article III (Special and Differential Treatment for Developing Countries), in pursuance of Article III:13 of the Agreement.

83. The representative of Singapore stated that the Agreement on Government Procurement had been referred to several times at the last GATT Council meeting as an Agreement which was difficult for interested non-Parties to join. He therefore suggested that the Committee should invite observers in an appropriate way to explain problems they might have encountered in acceding to the Agreement so that the Committee might be in a position to examine such problems with a view to ascertaining whether it could do something to make accession of interested observers easier.

84. The representatives of Israel and the United Kingdom on behalf of Hong Kong stated that they agreed with this suggestion.

85. The Chairman concluded that the suggestion had been accepted and suggested that the precise drafting be left to the secretariat in co-operation with the delegation of Singapore. It was so agreed.

E. Practical guide to the Agreement

86. The representative of Switzerland introduced document GPR/W/42 which contained an outline for contents of a practical guide. His delegation welcomed suggestions and was flexible as to the precise coverage.

87. The representative of Canada supported the proposal and stated that his delegation was prepared to participate in the drawing up of a guide.

88. The representative of Japan supported in principle the drawing up of a practical guide and was ready to cooperate. However, his authorities had doubts on the usefulness of a guide containing all the information which had been suggested; thus, details referred to in 2.1.2-2.1.6 of the paper could be easily obtained from information centres.

89. The representative of the United States stated his delegation supported the Swiss proposal, provided the work could be done within existing resources. The value of a guide was the detailed information it would give the business community, presently having problems assembling data from a multitude of sources. He therefore warned against deleting the points Japan had indicated.

90. The representative of Sweden supported the project which he presumed was intended to deal only with covered entities.

91. The representative of Austria stated that his delegation would study the proposal carefully; he had some doubts on a too voluminous guide.

92. The representative of Finland agreed with the proposal and suggested that the loose-leaf sets of the Annexes, having no legal status, might become redundant once a guide was established.

93. The representative of Israel also agreed with the proposal; the guide ought to be prepared on a country-by-country and detachable basis.

94. The representative of Switzerland expressed the hope that Japan would reconsider its idea to delete practical data of interest to business circles and thought that the loose-leaf folder might perhaps also usefully be continued. He saw no particular problems with Israel's suggestion, and confirmed that the intention was only to deal with Code-covered entities.

95. The Chairman concluded that although the work on a practical guide, including its contents, would be reverted to at the next meeting, there was general consensus on the usefulness of it being established. The secretariat might study the matter further before the next meeting, if it had time to do so, but officially no task would be assigned to it for the moment.

96. It was so agreed.

F. Question of nationalized enterprises

97. The representative of Switzerland introduced his delegation's note GPR/W/41. Public enterprises did not, contrary to private enterprises, have to follow the laws of the market as losses could be covered by public finances. GATT itself foresaw exemptions for public enterprises. The Agreement on Government Procurement had for the first time introduced the principle of free competition in the sector of public purchases. However, the entities in Annex I were mainly administrative entities which purchased for their own consumption. Although purchases of nationalized enterprises might differ from government procurement in the strict sense, in his view they had that in common that the government - as operator or owner - could influence procurement policies. Article I:1(c) of the Agreement offered possibilities for including under it all "entities under the direct or substantial control of Parties", and the Parties might have a reciprocal interest in utilizing this influence for introducing purely commercial considerations in such policies. Depending on the results of the analysis which he suggested should be undertaken, other possibilities in this sector might perhaps be envisaged. As a first step his delegation had suggested that information be collected from each Party.

98. The representative of Canada stated that his delegation had not had time to study the proposal in detail. It seemed as if some of the elements in the proposal might be of relevance in the context of certain GATT Articles, such as Article XVII, but the matter would be given further consideration.

99. The representative of the European Economic Community stated that his delegation was consulting with its legal service and was not yet in a position to take a position on the subject. He noted, though, that certain practices of nationalized companies implied in the Swiss statement would be in conflict with the Treaty of Rome and could not occur in the Community.

100. The representative of Austria stated that his delegation would examine the proposal. However, in view of the work foreseen in the Article IX:6(b) negotiations, he did not feel it would be feasible to embark on the project suggested.

101. The representative of the United States stated that the proposal was useful and that the timing of it might be good, because of possible links with the negotiations.

102. The Committee took note of the statements and agreed to place the issue on the agenda for the next meeting.

G. Other business

(i) Submission of names of Panel candidates

103. The Chairman invited Parties to submit names of potential Panel candidates for 1984, according to Article VII:8.

(ii) Third set of replacement pages for loose-leaf sets

104. The Chairman informed the Committee that following Israel's accession, a third set of replacement pages had been made available to contracting parties. A stock was being held by the secretariat for the sale of additional copies to delegations and the general public.

105. The representative of the United States stated that a number of changes had occurred in different countries with respect to the entries in Annexes to the Agreement, without having been notified to the Committee.

106. The Chairman urged Parties to notify any changes in Annexes I-IV in order that they be kept up-to-date.

(iii) Texts of national implementing legislation open for inspection in the secretariat

107. In response to the representative of the European Economic Community the Chairman recalled that texts of national legislation open for inspection in the secretariat in respective national languages had been listed in GPR/14 and Addenda 1-2.

(iv) Dates of further meetings

108. The Chairman recalled that the Committee had already decided to meet on 31 January-3 February, 3-5 April and in the week of 12 November 1984, starting on 13 November, on the understanding that additional meetings might be held before that date.

(v) Chairman's note on the meeting

109. The Chairman suggested that his note on the meeting¹ be considered an updating of the Committee's report to the CONTRACTING PARTIES (L/5503), which had been circulated as far back as 14 June 1983.

110. It was so agreed.

¹Later issued as L/5578.