

# GENERAL AGREEMENT ON

RESTRICTED

GPR/Spec/57

1 July 1987

## TARIFFS AND TRADE

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### Committee on Government Procurement

#### DRAFT MINUTES OF MEETING HELD ON 20 MAY 1987

Chairman: Mr. A. Dell (United Kingdom)

1. The following agenda was adopted:

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| A. <u>Review of 1985 statistics</u>   |             |
| (i) <u>Statistics of Austria</u> (GPR/33/Add.9 and Suppl.1)   |             |

2. The representative of the United States took up the following points: (i) most Austrian entities had increased the value of above threshold procurement but that of the Federal Chancellery had declined by 45 per cent; (ii) the Federal Ministry of Science and Research had procured for about SDR 25 million but only 1.7 per cent had been above threshold contracts. She wondered what the average contract value had been and whether an increase in Code covered procurement could be expected in the coming years; (iii) more details on "depôt" products; and (iv) the use of Article V:15(d) by the Federal Ministry of Defense.

3. The representative of Austria stated that procurement under the Federal Ministry of Science and Research had mostly been for furniture and equipment bought by small scientific institutes for which the Ministry was responsible but whose procurement was not centralized and as a rule fell below the threshold value. "Depôt" goods referred mainly to forklift trucks where twenty-eight enterprises had applied for documentation, fifteen had presented offers and four firms had been selected. However, the origin of the goods was not clear. Another "depôt" item had been trucks where three enterprises had given bids, of which one came from the United States. The use of Article V:15(d) had mainly been for urgently needed spare parts.

4. The representative of the United States wondered under which statistical product category "forklifts" were placed and noted that urgency was covered by Article V:15(c) and not (d). The representative of Austria said he would provide further clarifications bilaterally.

(ii) Statistics of Canada (GPR/Spec/33/add 4)

5. The representative of Canada, in response to questions received from the United States, stated that procurement of petroleum products accounted for 56 per cent of the value of Canadian Code-covered procurement. Only 2 per cent of this had been procured under single tendering. A large part of the remaining contracts was made up of automatic data processing equipment. Six entities which the US Delegation had mentioned had concluded thirty-six contracts for such equipment. In six cases, no foreign supplier had submitted bids; thirty contracts had been sole-sourced under Article V:15(b) or (d) mainly to complement or maintain equipment or because equipment was unique to a single supplier. Canadian suppliers were generally affiliates of international companies originating in a number of other Parties. Out of total Code-covered procurement excluding petroleum products, 45 per cent had been tendered competitively.

6. The representative of the United States wondered whether, under Canadian regulations entities had to justify specifications requiring compatibility for economic reasons.

7. The representative of Canada said he would reply bilaterally.

(iii) Statistics of the European Economic Community (GPR/33/Add.8 and Corr.1 and 2)

8. The representative of the United States raised the following questions: (i) in the case of Italy why was it that only some statistics could be supplied, what was the present status of Italy's reporting system and why, out of twenty-three contracts for office machines and ADP-equipment, had only one been granted to a US firm. She wondered how many foreign firms had tendered and what specific procedures had been used; (ii) what accounted for the decline in the share of French, Dutch and Irish above-threshold contracts; (iii) why had there been an increase in the use of Article V:15(b) and (e) by Ireland and what were the products affected; (iv) what circumstances had required the Federal Republic of Germany to increase its use of single tendering in every category of Article V:15, and why was there such a decline in procurement of electrical engineering products in 1985. Also, over several years, only few Code-covered entities had reported procurement; (v) why had single tendering reached the high level of 46 per cent in France; (vi) was the 62 per cent reduction of single tendering in the United Kingdom due to any specific measures and why had the Code-covered procurement of the Central Computer and Telecommunications Agency, the Department of Health and Social Security and the Post Office declined to such an extent over the last three years; (vii) why, in the Netherlands, the Ministry of Defense accounted for as much as one third of single tendering and about half of all Dutch contracts awarded under Article V:15(b) and (c). She also wondered which entities had recourse to Article V:15(d) and sought clarification on the large

decline in procurement by the Ministry of Justice and the Centre for Office Mechanization and Automation; (viii) whether information could be given on the number of petroleum contracts in each member State that had been single tendered; (ix) given the rule of origin specified in Article II, what was the rule followed by the EEC for reporting statistics; (x) whether military forklifts were Code-covered and in which NIPRO category they were included. She noted that in the Annex to the Agreement the EEC had listed categories of defense ministries' procurements, using the CCCN categorization whilst the statistical report was based on the NIPRO. She wondered whether the EEC could provide a concordance which would enable her authorities to reply to questions from suppliers on how procurement covered by the Code could be determined.

9. The representative of Japan also raised the following points: (i) why were there so few cases of Code-covered procurement in Denmark and the Netherlands; (ii) why had France invoked Article V:15(b), (c) and (d) what were the main products affected; in competitive procedures had foreign bids been received and if so why had no products been procured outside of the EEC; had there been procurement from abroad under single tendering; (iii) why did single tendering account for 67 per cent of the number of awards in the Netherlands, why had Article V:15(d) been invoked and for which products; (iv) why had the EEC not incorporated the number and values of single tendering in the report under Article VI:9(b). It was necessary that the EEC statistics followed the same format as that of other Parties and this also concerned the inclusion of foreign and domestic sources in the Article VI:9(c) report.

10. The representative of Sweden (on behalf of the Nordic countries) wondered why in the whole of the EEC only three contracts had been awarded to Nordic companies in 1985.

11. The representative of the European Economic Community stated that some specific questions would have to be reverted to subsequently. On statistical presentation, while his delegation would do its best to meet the requests for a maximum of transparency and comparability, these matters had to be discussed in an overall context. Turning to questions concerning France he stated that the percentage of negotiated procurement had decreased considerably since a few years ago. This was explained by joint action of different authorities cancelling irregular administrative decisions such as unjustifiable recourse to emergency procedures. In the 46 per cent of negotiated procurement slightly more than 20 per cent could be attributed to contracts awarded under single tendering procedures in the sense of the Agreement, (i.e. "marchés de gré à gré"), mainly Article V:15(d) and (e). Other procurements were made under negotiated procedures with competition, involving prior publication and other procedures closely similar to selective tendering. The question was therefore one of definition and statistical classification, problems that might perhaps be solved in the framework of future work on improvement. The Agreement did not require these statistics by product and it was therefore not possible to answer precisely the question relating to purchases made under Article V:15(b), (c) and (d). Nevertheless, for the latter two sub-paragraphs, it was possible to indicate that the products

concerned fell under headings 33 and 37 of the NIPRO, i.e. data processing and precision equipment. As to sub-paragraph (c), urgency was not always foreseeable and could affect any product category. Procurement outside the EEC did not emerge because the mode of establishing statistics was based on location of the winning tenderer. Thus, fully foreign products were considered French as soon as purchased by a subsidiary with headquarters in France or by an importer located in France. Moreover, since foreign companies were free to establish themselves in France it was often unnecessary and thus infrequent to buy directly from abroad. Below-threshold purchases were mainly explained by budgetary constraints. A reduction in operating credits had also led to the use of annual contracts rather than procurements of a much higher amount extended over a number of years. With respect to Ireland, he stated that the relatively fewer contracts above the threshold could be explained by significant cut-backs in Ireland's public capital programme in the preceding period. As fewer major projects had been initiated in 1982-1984 it was to be expected that the volume of major equipment and supply contracts would fall in 1985. Cut-backs in public capital expenditure had continued into 1986 and 1987 and were attributable to overall budgetary constraints. Turning to the question raised on Denmark, he explained that the relatively few contracts above the threshold could be explained by the size of the country and the low turnover of decentralized procuring entities. Where centralized procurement took place, the contracts tended to be rather large. As to Italy, he recalled explanations given at previous meetings. Improvements were being made and he was confident that the statistics would be satisfactory in the near future.

(iv) Hong Kong's statistics (GPR/33 and Corr.1)

12. The representative of Hong Kong, reverting to previous questions (GPR/M/25, paragraph 13) explained that the principal reasons for the increase in above-threshold purchases and the apparent decline of Code-covered purchases of certain products, were cyclical, i.e. multi-year contracts entered into in previous years. As to purchases of data processing equipment, relative fluctuations were due to the small number of contracts. Copies of the detailed replies were available for inspection in the secretariat.

(v) Israel's statistics

13. The representative of Israel recalled his statement at the last meeting (GPR/M/25, paragraph 37). His authorities had preferred to report when complete statistics were available. One entity was still missing. Statistics from the other thirteen represented about 85 per cent of Code-covered procurement, of which about 85 per cent had been of values exceeding the threshold. Of this, again, about 85 per cent had been contracts with foreign suppliers, about 50 per cent being accounted for by the Parties. He hoped a full formal notification could be made before the next meeting. The partial unofficial report could be provided bilaterally.

(vi) Japan's statistics (GPR/33/Add.6)

14. The representative of Sweden (on behalf of the Nordic countries) noted that Japan's procurement from abroad was small and decreasing, amounting to SDR 166 million compared to about SDR 265 million in the considerably smaller Nordic market.

15. The representative of the European Economic Community noted that purchases of pharmaceuticals and medical equipment by the Ministry of Health and Social Welfare had declined and that this entity seemed to follow a trend different from other entities, e.g. the Ministry of Education. The use of Article V:15(d) accounted for about 50 per cent of single tendering in Japan. Products normally bought under this exception were computers. However, since leasing was the preferred method for computers in Japan, he wondered which products had been bought under this provision. Thirdly, he sought the reasons behind the yearly fluctuations in number of total contracts awarded above the threshold and why 1985 statistics did not reflect the increased number of notices which had been published under the Agreement in that year. Finally, he wondered what explained the reduced procurement by the Ministry of Finance in recent years.

16. The representative of Japan first turned to previous questions (GPR/M/25, paragraph 25). Concerning the level of above-threshold procurement, the 45 entities listed in Annex I covered a very large number of local and subsidiary entities. Their independent, individual procurement was likely to be small scale. Regulations against contract splitting were laid down by Cabinet order and stipulated that when an individual requirement on the procurement of a product or of products of the same type resulted in the award of more than one contract or, if contracts were of a recurring nature, the value of all products should be the basis for application of the Agreement. The increased use of Article V:15(d) was due mainly to the procurement by NTT, which accounted for 88 per cent of the awards made under this provision in 1985. NTT had had recourse to the exception in procuring data-terminal equipment for the enlargement of on-line systems for financial institutions. Article V:15(d) was generally used for the procurement of products falling in categories 11-16, 19, 22, 24 and 26; category 14 represented only 18 per cent of the total number and were not only computer-related. The reduced value of contracts awarded to US suppliers by the Ministry of Transport was due to 1984 purchases of products of high unit price (e.g. helicopters). The number of awards to US suppliers had actually gone up. Concerning the Ministry of Posts and Telecommunications it had received altogether bids from 123 different companies for products falling in category 14. Only seven of these had been foreign. His authorities considered that increased bids from abroad would lead to more foreign companies winning awards in Japan's government procurement market. Turning to questions at the present meeting he noted that the three year average of total purchases was SDR 230 million in the Ministry of Education, under which fell a large number of hospitals and only SDR 100 million in the Ministry of Health and Social Welfare. Both Ministries had used open procedures. The fact that the foreign sourcing of these entities differed, could only be attributed to suppliers. Concerning fluctuations in the total number of contracts,

these reflected the activities of entities like NTT; and not all entities were in this situation. Yearly fluctuations occurred in a number of other countries and he noted that overall Code-covered procurement constantly decreased in the EEC. Finally, the figures on procurement by the Ministry of Finance reflected a tendency towards reduced manufacture of coins by the Mint Bureau.

(vii) Norway's statistics (GPR/M/33/Add.5)

17. The representative of Norway drew attention to corrections in the statistics of one entity.<sup>1</sup> She pointed out that although the total value of above-threshold purchases had declined, Norwegian entities had made more purchases in 1985 than before. Moreover, 45 per cent of Code-covered procurement and almost half of single tendering procurement had been from abroad. The use of the additional delivery clause in Article VI:5(d) had increased by about 27 per cent. However, the total value of single tendering had been reduced by almost 50 per cent since 1984. Most entities had increased both above-threshold and total purchases but a few showed considerable reductions: the National Road Services due to reduced allocations of funds, some military entities where procurement of parts of integrated systems had fallen outside the Agreement by virtue of Article VIII and the National Railways which had become a Code-covered entity only in the second half of 1985.

(viii) Statistics of Sweden (GPR/33/Add.2)

18. The representative of the European Economic Community wondered why the procurement volume of quite a large number of entities had fallen. He also noted that office machines bought by the Agency for Administrative Development accounted for a major part of single tendering. Among smaller entities the use of Article V:15 was also difficult to understand, e.g. an apparently persistent use of subparagraph (b) by the National Board of Forestry and by the Medical Board of the Armed Forces for product categories 3 and 5.

19. The representatives of Sweden replied to previous questions (GPR/M/25, paragraph 16), adding that some of the EEC questions would be reverted to later. The total number and value of contracts awarded above the threshold had fallen to a more normal level in 1985. The 1984 figures reflected remarkably high peaks of procurements by two entities (National Industries Corporation which was Code-covered at that time, and National Prison and Probation Administration) which alone provided a valid explanation for the major part of the decrease of 1985. In addition, the latter entity had referred to statistical errors in the high 1984 figures. The fall in 1985 procurement by the Agency for Administrative Development was apparently also due to an exceptionally high value the year before. The variations had been explained as partly "normal" and partly accounting coincidence, as one or two contracts might as well have been reported in 1985. This

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<sup>1</sup>Subsequently circulated as GPR/M/33/Add.5/Corr.1.

entity's procurement under Article V.15(d) had amounted to SDR 31 million in 1984 (comprising 32 contracts), and in 1985 to 42 contracts with the value reduced to SDR 17 million. Single tendering was applied in respect of additional deliveries from original suppliers, usually completions of or supplements to existing computer equipment, circumstances under which a fairly high rate of single tendering constituted a necessary and "normal" feature. The reasons for the reduced Swedish procurement of telecommunications, aircraft and medical instruments was explained by an investment peak and procurement of long-term equipment by a number of agencies in 1983, and in the area of aircraft, completion of many large airport projects combined with initial problems following decentralization. These had more recently, however, been replaced by improved routines and more notices.

(ix) Statistics of Switzerland (GPR/33/Add.7)

20. The representative of Switzerland, in reply to US questions (GPR/M/25, paragraph 30), stated that single tendering under Article V:15(d) had amounted to SDR 61 million, of which 44 million concerned data processing equipment, split among PTT (34 million) and the Federal Central Agency for Printing, Supplies and Equipment (20 million).

(x) United States' statistics (GPR/33/Add.10)

21. The representative of Japan asked about (i) the reason for the strongly increased use of Article V:15(b) and what products had been procured; (ii) concrete cases of extreme urgency under which Article V:15(c) had been frequently invoked; (iii) whether the reduced procurement by the Department of the Interior was due to more below-threshold purchases or other reasons; (iv) concrete reasons for the use of, and products bought under Article 15(d); (v) the reasons behind the absolute and relative increase in below-threshold procurement.

22. The representative of the European Economic Community stated that a comparison of the trends during 1984 and 1985 in publication of notices incorporating footnote 12 with data furnished by the US delegation on contract awards for the year 1985 showed significant divergences in the area of single tendering, and in levels of activity in respect of a number of major products and entities. He sought explanations and distributed the full text of his comments and questions to the secretariat.

23. The representative of the United States observed that the EEC's calculations appeared to be based on a variety of wrong assumptions. The EEC was apparently also concerned about footnotes 12, 22, 40 and 46. Footnote 22 was not a solicitation but an advertisement to say that the entity knew only one supplier and that any other interested suppliers should make themselves known. If a supplier showed interest, the entity would be required to cancel the notice and start open procedures. The Parties were not required to publish notices for single tendering and the EEC had wrongly assumed that single tendering statistics should match up with footnote 22 frequency. As footnote 22 was a notice to all suppliers, it was also used in combination with footnote 12 which directed itself to suppliers from Parties to the Agreement. She would again endeavour to have

this confusing notice clarified. Footnote 46 was not a request for offers but a notice for planning purposes only, used to identify available suppliers as part of the market research phase. It was used in connection with footnote 12 because suppliers from the Parties were eligible, and it was used in response to the requirements in the Agreement on prior information, including the requirement that no information be given to a supplier which is not also given to any other supplier. The notice had to be published three times and it would not correspond to the actual number of awards. She would complement this answer, as necessary, at the next meeting.

24. Turning to questions from Japan, she explained that as previously stated, some time ago a new law had brought about a revision of procurement regulations. One of the purposes of this revision was to improve the reporting system. Single tendering under Article V:15(b) was therefore now reported on, contrary to the previous situation where such cases could not be identified. Concerning Article V:15(c) she stressed that the use of this provision had dropped dramatically, one reason being that the new law required much more justification for using the emergency procedure, not only in terms of substance but also in terms of paper work. Regarding below-threshold purchases she noted that statistics over a period of time showed fluctuations around the 1985 figure. Other questions would be reverted to subsequently.

(xi) Continuation of the review

25. The Committee took note of the above statements and agreed to continue the review at the next meeting.

(xii) Other questions concerning statistics

26. The Chairman recalled that the secretariat had circulated for comments by Parties, draft summary tables along the lines of summaries previously prepared and circulated as GPR/W documents for the years 1981 and 1982. The last Committee meeting had also discussed additional historical tables of statistics for the years 1983-1985 and possibly also 1981-1982. (GPR/M/25, paragraphs 41-45). As instructed, the Informal Working Group had discussed these questions on 13 February 1987.

27. The representative of Sweden (on behalf of the Nordic countries) suggested that the tables be circulated as a GPR document. Transparency was very important and particularly so for the improvement negotiations. The introduction of the Harmonized System would provide a new basis for improved statistics as would also the new Article VI:10(b). Comparability of statistical data from all Parties was a key issue which should be dealt with on a priority basis. The Nordic countries also considered it important to set a deadline for submission of statistics and, if possible, a timetable for their analysis. Another improvement might be a secretariat analysis e.g. on developments in trade covered by the Agreement.

28. The representative of the United States considered statistical tables a useful tool in respect of negotiations and implementation. She recalled that in connection with the new Article VI:10(b), one proposal had been to

enlarge the list of product categories to 100. The secretariat background tables could assist in the consideration of further breakdowns. She also noted that after deduction of below-threshold purchases and procurement of fuels, only a relatively small amount was open to other Parties' suppliers. A further study might indicate possibilities of broadening coverage or of making improvements without modifying the Agreement itself. She suggested it be left open how to use the background material but that it be regularly updated.

29. The Chairman suggested that delegations who so wished, submit to the secretariat written suggestions for further statistical work for circulation to the other Parties, with the aim of reverting to these questions at the next meeting. The Committee so agreed. The Committee also agreed to discuss again the question of which statistical summaries were to be circulated as official documents.

30. The Chairman reverted to the question of whether the statistical review should or should not be merged with the item "Implementation and administration of the Agreement" (GPR/M/25, paragraphs 42-43). No statements were made. The Committee agreed on a suggestion by the Chairman that the status quo on the matter be maintained.

31. The Committee finally agreed on 30 September 1987 as the deadline for submission of 1986 statistics. The Chairman noted that Singapore and Hong Kong had already submitted their reports.

B. Implementation and administration of the Agreement including stock-taking of national procedures concerning acceptances of the Protocol of Amendments

(i) Stock-taking of national procedures concerning acceptances of the Protocol

32. The Chairman informed the Committee that since the February meeting, corrections of some errors discovered in the Protocol had been circulated in GPR/36/Add.1. No objections had been received by the deadline of 31 March 1987. The secretariat had consequently made the corrections in the original Protocol. This had now been printed and had been distributed to each delegation at the meeting.

33. The Committee took note of the following status reports by Parties:

- Austria: The Protocol had passed the Council of Ministers and had been introduced in Parliament with the likelihood of being adopted before the summer. Timely implementation was expected;

- Canada, Finland, Norway, Singapore and Sweden: No parliamentary acceptance nor legislative changes were needed. Implementation in good time was expected;

- European Economic Community: It was expected that the deadlines of 1 October 1987 and 1 January 1988 would be met. The EEC signature required Council authorization. Progress in incorporating the

Protocol into an internal directive was being made and an opinion by the European Parliament was expected. There was sufficient time to comply with the rest of the necessary internal procedures;

- Hong Kong: No problems were foreseen;
- Israel: The Protocol would be accepted by a Government decision and preparations were being made, including translation and explanations. The deadlines would hopefully be met;
- Japan: Necessary steps were being taken to submit the Protocol to the Diet for approval. The Government would do its best to achieve approval by 1 October 1987;
- Switzerland: The Protocol had to be adopted by both Chambers of Parliament, in June and September 1987, respectively. It was believed that the deadlines would be met;
- United States: Drafting of regulations was about finished but Congress had not yet been fully consulted. However, the deadlines were expected to be met.

(ii) Implementation and administration of the Agreement

(a) VAT solution (GPR/M/25, paragraphs 75, 76 and 79)

34. The Chairman noted that not objections had been raised by the agreed deadline concerning the solution suggested in the VAT Panel case. This solution had thus been agreed by the Committee.

(b) Notification concerning Japanese National Railways (GPR/39)

35. In reply to the request by the delegations of the United States and the EEC for further clarification and explanation of the notification concerning the JNR, the representative of Japan first explained the background to the reform of the JNR: (a) the JNR had been suffering heavy deficit amounting to Y6,700 million a day. The accumulated debt was estimated to reach Y25 trillion at the end of the fiscal year 1986. This malfunction was attributed both to the "public corporation" system and to the JNR's gigantic centralized organization. It had to be revitalized, because it was and would surely be an indispensable transportation mode for inter-city passengers and urban commuters; (b) in July 1985, the JNR reform commission had submitted its report to the Prime Minister recommending specifically that JNR be privatized and be divided into six regional bodies; (c) to implement the reform in line with the recommendations six bills had been approved by the Diet at the end of 1986: (i) Bill for JNR Restructuring which fixed the framework of the restructuring; (ii) Bill for Passenger Railway Companies and Freight Railway Companies; (iii) Bill for Shinkansen Railway Holding Organization; (iv) Bill for JNR Settlement-of-account Enterprise; (v) Bill on special measures concerning re-employment and surplus personnel; and (vi) Bill for Railway Business Enterprise.

36. Based on the Bills, the following companies and organization had been established: (i) for passenger railway operations, the six Railway Companies of Hokkaido, East Japan, Central Japan, West Japan, Shikoku and Kyushu; (ii) for freight railway operations, the Japan Freight Railway Company for the management of long-distance and high-volume nationwide freight transportations as one unit; (iii) Shinkansen Railway Holding Organization, to own the existing Shinkansen lines as a unit and to lease them to the corresponding passenger railway companies; and (iv) JNR had been reorganized as the Japanese National Railways Settlement-of-account Enterprise at the time of the reform, retaining all assets and liabilities that were not transferred to successor companies, and performing activities such as reimbursement of long-term liabilities and payment of interest, disposal of real estate and other assets in order to raise money necessary to accomplish company objectives, and the promotion of the re-employment of personnel made surplus by the Reform.

37. The foregoing was the reason why Japan had notified the rectification replacing the JNR by seven companies, i.e. six passenger companies and one nationwide freight company, covering all the present purchases by the JNR under the Agreement. The question was whether the division of the activities of the JNR, with inevitable sub-divisions of contracts, would bring the value of these below the threshold. This question had been looked into in detail, on the basis of JNR procurement in 1985. The results were that, of the procurements above the threshold by JNR, i.e. 20.570 million Yen, only 439 million Yen, i.e. 2.1 per cent, would fall under the threshold value. Therefore, his authorities concluded that the decrease of the procurements resulting from the division of the JNR would be negligible. He added that at this stage the stocks of the seven companies, privatized as of 1 April 1987 had not yet been offered for subscription. They were presently held by the Settlement-of-account enterprise.

38. He explained that Japan had not withdrawn the JNR from its list because while Article IX:5(b) stipulated "consequent compensatory adjustments", his authorities were not able at this stage to find an equivalent entity in terms of procurements; all government bodies in Japan were covered by the Agreement already. This illustrated very well the necessity of addressing the issue of privatization in the negotiations on broadening as agreed upon in the decision of November 1986.

39. In response to a further clarification sought by the United States representative, the representative of Japan explained that the seven companies had been established by Bill, that their status in terms of regulations were almost the same as that of NTT and Japan Tobacco Inc. and that necessary measures had been taken to ensure their implementation of the Agreement. However, the Account Law did not cover their activities and therefore jurisdictional problems remained. That was why his authorities, when submitting the Protocol of Amendments to the Diet, had some difficulties explaining the competence of the central Government in ensuring the entities' observance of all Code provisions.

40. The representative of the European Economic Community stated that the interest of foreign companies in the procurement of an agency as big as JNR

varied according to products bought. It was not clear which particular product groups would fall in the below-threshold category. He added that the future statistics of the seven companies would attract attention from this point of view. The representative of Japan replied that it was technically difficult to collect statistics company-by-company. What could be done was to indicate the products which had been procured by JNR in 1985 and which according to estimates were likely to fall below the threshold. The main items were machine oil and some clothing items.

41. Following a proposal by the representative of Japan to fix a date for acceptance of the rectification, the Chairman suggested that the thirty-day deadline be extended as from the date of the meeting. The Committee agreed that the rectifications and amendments notified under Article IX:5(a) in GPR/39 be deemed to have been accepted provided no objections were received in the GATT secretariat by 19 June 1987.

(c) Other questions concerning implementation and administration

42. The representative of the European Economic Community stated that press reports seemed to indicate that government procurement in Japan, conditioned by recent commercial relations with the United States, had been giving some preference to US undertakings. She sought an assurance that these reports were not correct. The representative of Japan recalled that his authorities had made the procurement procedures more transparent in the framework of the Action Programme. Taking into account the actual balance of trade surplus, efforts were continuing to increase procurement from abroad. This was being done in accordance with the non-discrimination rules of the Agreement.

43. The representative of the European Economic Community referred to current consideration of Buy America clauses, e.g. by the Federal Telecommunications System. One pending Bill concerned the Voice of America on which bilateral consultations had taken place. The representative of the United States replied that the Voice of America issue was still in the legislative process and that her authorities were conscious of their international obligations. She had heard no previous complaints concerning the telecommunications sector, which was very small in the United States. However, an important contract was under consideration and the matter would be looked into. She added that the relevant circles in the United States had been reacting to the reluctance of other Parties to bring major government buyers of telecommunication equipment under the Agreement.

44. The Committee took note of the statements made under this agenda item B(ii).

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

45. The Chairman submitted a progress report on behalf of the Informal Working Group on Negotiations which had met on 13 February and 18-19 May 1987 to look into the question of a detailed work plan and other procedures, bearing in mind the Committee's Decision of 21 November 1986 (GPR/M/24) and subsequent decisions (GPR/M/25). Draft work programmes had been prepared in the areas of broadening of the Agreement and service

contracts; these were circulated at the meeting.<sup>1</sup> Any participant who so wished, would have the opportunity of submitting alternative texts or amendments to the secretariat by 15 June 1987 for distribution to the participants in negotiations in the week of 22 June 1987, the objective being to reach agreement on the detailed plan at the next meeting of the Informal Working Group on 8-9 July 1987. In the area of improvements of the Agreement, it was noted that work would include the exchange of submissions from participants aimed at improving the Agreement, inter alia, through improved transparency and strengthened disciplines. The Informal Working Group would resume work in all three areas mentioned above.

46. The Committee took note of the report.

D. Other business

(i) Request for Committee documents

47. The Chairman drew the Committee's attention to a request addressed to the secretariat by the United Nations Commission on International Trade Law which, in view of its close interest in the work of the Committee, and the relationship between that work and its own in the field of international procurement, wondered whether some arrangement might be made for it to receive on a regular basis appropriate documentation relating to the Committee's work. The Chairman noted that the IMF and UNCTAD received GPR documentation including minutes and working documents. This was based on the Committee's decision at its first meeting that "in accordance with GATT practice, restricted documents would... under certain circumstances be circulated to international organizations on the understanding that this is for the internal use of the secretariats of these organizations and that, for instance, the substance of the documents should not be communicated to governments not otherwise entitled to receive them." (GPR/M/1, page 4).

48. The activities of the UNCITRAL related, inter alia, to practical aspects and legal questions in the area of industrial works, infrastructural projects and public facilities. Since it was not evident what could be considered "appropriate documentation" he suggested that UNCITRAL be given regular Committee documents including minutes and working documents for a trial period of one year on the understanding mentioned above. Thereafter the Committee might review the situation in the light of the value UNCITRAL had found in the documents.

49. The representative of Israel requested further information on the work of UNCITRAL in the area of government procurement and the Chairman stated that this would be provided.

50. The Committee noted the request and agreed to revert to it at the next meeting.

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<sup>1</sup>Subsequently issued as GPR/W/81.

(ii) 1987 Panel candidates

51. The Chairman noted that Finland, Hong Kong, Israel, Japan, Singapore and the United States had responded to the invitation to present panel candidates. He invited other Parties to do the same. The representative of Sweden stated that names were available.

(iii) Article VII:3 consultations

52. The representative of the European Economic Community stated that a first consultation under Article VII:3 had been held on 30 April 1987 with respect to procurement of machine tools by the US Department of Defense (ref. GPR/37). It had mainly consisted of an exchange of information. In view of the complex matter, a second meeting would take place on 20 May 1987. Follow-up would be decided thereafter.

53. The Committee took note of this statement. The Chairman stated that he expected to revert to this matter at the next meeting.

(iv) Dates of next meetings and agenda of next meeting

54. The Committee agreed to hold its next meeting in the period 14-21 October 1987.<sup>1</sup> Depending on the situation with regard to acceptances of the Protocol, the Committee would, if necessary, hold a short meeting on 30 September 1987 in order to extend the deadline.

55. The agenda for the next meeting of 16 October 1987 might include:

- (i) Implementation and administration of the Agreement including, if necessary, stock-taking of national procedures concerning acceptances of the Protocol of Amendments;
- (ii) Article IX:6(b) negotiations;
- (iii) Conclusion of 1985 statistical review;
- (iv) Seventh annual review of the implementation and operation of the Agreement; and Adoption 1987 of Report to the CONTRACTING PARTIES;
- (v) Other business

56. The secretariat was requested to prepare draft documents for item (iv) above.

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<sup>1</sup>After further consultations it was decided to hold the next meeting on 16 October 1987 preceded by a meeting of the Informal Working Group on 14 and 15 October.