

GENERAL AGREEMENT ON

RESTRICTED

GPR/Spec/61
25 April 1989

TARIFFS AND TRADE

Committee on Government Procurement

DRAFT MINUTES OF THE MEETING
HELD ON 16 MARCH 1989

Chairman: Mr. John Donaghy (Canada)

1. The following agenda was adopted:

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A. Election of Officers

1. The Committee elected Mr. John Donaghy (Canada) as Chairman and Mr. Nils-Erik Schyberg (Sweden) as Vice-Chairman for 1989.

2. The outgoing Chairman, Mr. Anthony Dell, stated that he had been greatly encouraged over the amount of progress achieved and by the constructive nature of the discussions which had taken place in the Informal Working Group. Considering the complexities of the subject matter, real and valuable progress had been made during the last two years. He hoped that this would continue.

B. Article IX:6(b) negotiations

3. The outgoing Chairman, Mr. Anthony Dell, gave the following report, on his own responsibility, concerning the two meetings of the Informal Working Group on Negotiations held since the Committee last met:

"Since the last meeting of the Committee, the Informal Working Group on Negotiations has met twice, on 19-20 January and 13-15 March 1989. As Chairman of the Group at these two meetings, I give the following report, on my own responsibility, on the work undertaken.

The main purpose of the meeting in January 1989 was to continue discussion of the question concerning broadening of the Agreement, and in particular to elaborate the appropriate approaches to expand the Agreement. As requested, prior to the meeting, the secretariat had prepared a background document attempting to identify convergences of views expressed in the Group on this issue.

A number of additional suggestions were made by delegations on the basis of which the secretariat was able to prepare a revised draft on techniques and modalities of negotiations on broadening. Apart from an introductory section, it dealt with each of the four categories of entities and the various elements for consideration in this regard, which were enumerated in my report to the Committee at the last meeting (ref. L/6420, Annex I; GPR/M/31, paragraph 2). This draft was discussed in detail at the meeting held on 13-15 March, following which a new text on techniques and modalities of negotiations on broadening was agreed, subject to reserves by three delegations. This is intended to provide guidance for the next stage of the work on broadening. It is quite clear from the text that it does not prejudice the position of any delegation on any aspect of the future work. The whole text will be made available at such time as the reserves are lifted. In that way, it might be made available to observers as well as to the Negotiating Group on MTN Agreements and Arrangements.

The Informal Working Group also discussed future work and had the benefit of proposals made by the EEC and Japan. It was agreed to continue the discussions with a view to formulating a work programme at the next meeting.

The subject of service contracts was discussed at the March meeting. The secretariat had, as requested, summarized additional information received from delegations and had examined the question of the applicability of existing Code language if service contracts were to be covered. A short paper containing initial comments was presented for further consideration by the Group. A short but generally inconclusive debate ensued. Delegations were then invited to prepare some comments or proposals in writing, taking as a basis, if they so chose, the secretariat's initial comments mentioned above. The question of whether or not indicative lists of types of service procurements would or would not be useful was left open. At its next

meeting, the Group is expected to take stock of work done so far, in order to structure the future development of the discussion in this area.

The Informal Working Group will meet again on 13-15 June 1989, and is likely to continue the discussion on broadening, with time made available, however, for discussion of service contracts."

4. The representative of Singapore stated that she had suggested in the Informal Working Group that the two secretariat background papers on service contracts referred to above be made available to individual observers upon request; such background papers would be very useful to observers interested in acceding to the Agreement. She was aware, however, that a consensus had not been reached on this issue.

5. The observer from India stated that his delegation's concerns with respect to the Article IX:6(b) negotiations mainly stemmed from the fact that its Government was a GATT contracting party and a participant in the Uruguay Round. As the Committee was aware, the Agreement had come into being to develop rules and add transparency to procurements made by governments for their own use and not for commercial resale or for use in the production of goods for commercial sale, to which the basic principles of national treatment in the GATT did not apply. While discussing the broadening of areas to which this Agreement would apply, his delegation suggested that the Committee took care not to impinge on areas which were already covered by the General Agreement. Otherwise, there was a risk of applying the restrictive principles in the Agreement, like conditional m.f.n., to areas where broader and more general rules of GATT already applied. He also cautioned against the discussion of services moving into areas which could possibly prejudice the more comprehensive work and discussions being pursued in the Negotiating Group on Services in the Uruguay Round; to this extent, he supported the suggestion that papers circulated on an informal basis be made available to observers, so that they could keep themselves informed of discussions and progress in this Committee and in the Informal Working Group.

6. The Committee took note of the statements made.

C. Questions concerning statistics, including 1986 statistical review

(a) Conclusion of 1986 statistical review

(i) United States (GPR/38/Add.2)

7. The representative of the United States stated that replies to questions from Japan and Sweden had been made in writing (subsequently circulated to the Parties).

(ii) Finland (GPR/38/Add.4), Japan (GPR/38/Add.7), and Sweden (GPR/38/Add.3)

8. An additional reply from Sweden to a question by the United States was circulated. The representative of the United States stated that she would

comment on this reply, as well as those from the delegations of Finland and Japan, at a later date in order not to prolong the statistical exercise. The Chairman agreed to this approach.

(iii) European Economic Community (GPR/38/Add.10)

9. Questions from the United States had been circulated at the meeting in October 1988. Detailed replies given by the representative of the European Economic Community have subsequently been circulated to the members.¹

10. The representative of the United States noted that her Government was unable to determine whether United States companies abroad were selling United States products, because of the lack of a standard rule of origin. Therefore, it was difficult to determine whether the United States products were benefiting from United States participation in the Agreement (ref. also item (d) below).

(iv) Israel (GPR/38/Add.11)

11. The representative of Israel informed the Committee of corrections to his statistical report (GPR/38/Add.11/Corr.1).

(v) Conclusion

12. The Committee took note of the statements made. On the Chairman's suggestion and following some procedural comments, the Committee agreed that the 1986 statistical review was concluded, but that any particular questions could be reverted to under "Other business" at the next meeting.

(b) Further statistical review

13. It was agreed that the 1987 review be inscribed on the agenda for the next regular meeting of the Committee and that the submission of 1988 statistical reports should be made by 30 September 1989.

14. Concerning practical problems in providing certain 1988 statistics, the Chairman referred to the statement by the Chairman at the last meeting (ref. GPR/M/31, paragraphs 28 and 41), regarding the problems of a uniform classification system, a uniform rule of origin, entity breakdowns of global statistics and single tendering statistics, and statistics on the use of derogations.

(c) Uniform classification system

15. The Chairman recalled that delegations had been invited to consider whether or not it was possible to use the Harmonized System at the two-digit or four-digit level for the purposes of reporting statistics, and to submit any specific proposals to the secretariat. Contributions had been received since the last meeting from Austria and Canada (ref. GPR/W/94 and GPR/W/95). The Committee had two questions to address: the possible use of classification common to all Parties, and the level of detail.

¹ Available for inspection in the secretariat.

16. The representative of the European Economic Community stated that his authorities were continuing to address a two-fold problem, one being a common classification, the second being the reporting system used in the EEC. The latter was based on the nationality of the winning tenderer and therefore major changes would have to be introduced before a common Community approach could be arrived at. An internal EEC enquiry was underway with the aim of presenting suggestions to the Committee. In reply to a question from the representative of the United States, he added that the solution sought would be an internal Community system to be translated into the Harmonized System by way of a concordance.

17. The representative of Canada noted that his delegation had circulated a statement explaining investigations which had taken place in Canada. His delegation had found that conversion to the Harmonized System would create substantial difficulties, and that other alternatives should be sought.

18. Concerning the level of detail, the Chairman referred to the Austrian and Canadian papers. As to the question whether the two-digit or four-digit level was feasible, he noted that the Harmonized System had 21 sections in 97 chapters; these contained over 1,200 headings at the four-digit level. The representative of Canada reiterated his view that the existing 26 categories should be extended, citing examples in his delegation's paper showing why this would be beneficial. The representative of the United States recalled that in the negotiations leading up to the revised list of Article VI, the agreed concept had been to introduce more product categories. Her delegation did not suggest that the statistical classification be used for implementation of the Agreement. She suggested that a concordance be developed to standardize the statistical reporting. She wondered if the Canadian difficulties had stemmed from attempts to formulate a concordance. The representative of Canada responded that his authorities had no problems with the concordance between their Federal Supply Classification and the 26 product categories, however technical difficulties arose in formulating a concordance between the FSC and the HS.

19. The representative of Sweden stressed the importance of comparability of the statistics and warned against becoming overwhelmed by details. The representative of Canada agreed with this point and stated that his delegation would appreciate advice from other delegations as to how they had managed this concordance task. The representative of Israel also agreed that it was important not to overburden the reporting system, but to use the 26 product categories as a basis for subdividing or adding a few categories in certain fields.

20. The Chairman proposed that this item be kept on the agenda for the next meeting, in order to give delegations an opportunity to evaluate statements and documents presented. It was so agreed.

(d) Uniform definition of origin

21. The Chairman referred to GPR/M/31, paragraphs 41-47. Canada and the United States had recently responded to the invitation to explain in writing the rules of origin used for implementation purposes and for

statistical reporting (GPR/W/96 and GPR/W/97). The representative of Austria stated that one major problem was how to handle the verification of the origin of a product. Code-covered entities in Austria were required to request in their tender invitations that tenderers indicate the origin of products; this information was needed only for statistical purposes. He explained the practice in his country was based on national rules (paragraph 4 of the Customs Act and the rules of origin under the Austrian GSP system) and on international rules (the EFTA Convention, Annex B, and FTA Protocol No. 3). He thought that existing international rules ought to be followed, which also included the International Convention on the Simplification and Harmonization of Customs Procedures (the Kyoto Convention), Annexes D1 and D2.

22. The representative of Hong Kong stated that the practice in Hong Kong was to ask tenderers to specify in the bids the country of origin of the goods. The statistical reports were compiled on the basis of these details from suppliers. Verification of origin was sometimes investigated, incidental to field checks on compliance with technical specifications and product standards. In general, since Hong Kong maintained a totally non-discriminatory trading régime and zero duty on imports, it could rely on the good faith of suppliers in reporting origin.

23. The representative of Sweden stated that the Swedish system was similar to that of Hong Kong. The Code-covered entities were obliged to submit information to the National Audit Bureau on the country of origin of the products. In cases where contracts contained products from more than one country, entities were asked to divide the contract value accordingly.

24. The representative of the United States referred to her country's system, which was based on the substantial transformation concept. She believed that there was a deficiency in the Code's provisions on rule of origin, and a fundamental problem when the rule of origin for reporting statistics was not the same as that for implementation of the Agreement. It was difficult to understand how any value could be obtained from statistics if these rules of origin differed. Nevertheless, this often seemed to be the case. She felt that it would be useful to establish a standard rule of origin for both purposes. Under many present systems, two individual Parties taken together might account for more than 50 per cent of a product's price but would nevertheless not obtain reciprocal treatment under the Agreement if they individually contributed less than that of one non-Party. In this situation, the origin of the product would be assigned to the latter. Her delegation was considering putting forward a proposal which could alleviate this type of problem.

25. The representative of Sweden pointed out that this problem did not arise in his country because the same treatment was given to products from non-Parties as to products from Parties. The representative of the United States agreed that, while there might be no problem in terms of implementation of the origin rules in such a case, suppliers might still face a problem. She thought the formulation of a standard rule for Code benefits might allow an individual country to use an entirely liberal origin rule. The issue in such a case would be limited to a country's right to complain under the Agreement.

26. The representative of Japan pointed out that the requirements of Article II:4 as well as the progress of work being undertaken in the Negotiating Group on Non-Tariff Measures in the Uruguay Round should be kept in mind in the discussion of rules of origin.

27. The Committee took note of statements made and agreed with the Chairman's suggestion that depending on proposals made before the next meeting, the Committee might wish to discuss origin rules then, both in terms of statistics and in terms of benefits of the Agreement.

D. Implementation and Administration of the Agreement

28. The Chairman reminded delegations that they had been invited to submit any new texts of laws, regulations or procedures adopted in order to implement the Protocol. Documentation received from Austria, the EEC, Finland, Japan, and the United States was available for inspection in the secretariat.

29. The Chairman also reminded delegations that changes of a purely formal nature and minor amendments to the Annexes of the Agreement should be notified under Article IX:5(a).

(a) Canada

30. The Chairman noted that Canada had notified in document GPR/49 that notices for tender would now appear in the publication "Government Business Opportunities" instead of the "Canada Gazette". In accordance with Article IX:5(a), this change would become effective within thirty days of notification if no objections were received. Rectifications to the Canadian entity list, would be circulated in the near future (subsequently circulated as GPR/50).

(b) Finland

31. The representative of the United States expressed her understanding that in 1986 the Finnish National Board of Navigation, a Code-covered component of the Ministry of Trade and Industry, had purchased an icebreaker on a sole source, non-competitive basis from a Finnish shipyard. Her delegation had been advised by the National Board of Navigation that this decision was based on a desire to maintain employment in the Finnish industry. It further understood that in 1987 the Board had purchased another icebreaker, through single tendering, with similar justification. She wondered what the justification had been for the use of single tendering in these two procurments. It was also her delegation's understanding that the National Board of Navigation was in the process of being transferred to the Ministry of Transportation, a non-Code-covered entity. She enquired whether it was Finland's intention to continue the Code-covered status when its transfer was completed.

32. The representative of Finland replied that when the Government of Finland had accepted the Agreement in 1980, a standard reservation had been attached to the acceptance. This reservation had been invoked in these two

purchases. He was prepared to provide further details at a later date. He also confirmed the transfer of the National Board of Navigation from the Ministry of Trade and Industry to the Ministry of Transportation as from 1 January 1990. He assured Parties that this transfer would not in any way affect the Code-covered status of this entity.

33. The representative of the United States stated that she was aware of the importance of the icebreaker industry to Finland and recognized the existence of the footnote in Annex I. She reserved her delegation's rights on this question pending further information and enquiry. She appreciated the confirmation that the status of the entity would remain unchanged.

(c) Israel

34. The representative of Israel informed the Committee that as of 15 August 1988, two Code-covered entities, the Israel Port Authority and the Israel Railways, had merged into one entity entitled the Israel Port and Railway Authority. This change had been published in the Official Gazette on 27 July 1988 and was being circulated in pursuance of Article IX:5(a) (ref. GPR/52). The new entity was covered by the Code. The Chairman noted that the Jerusalem Post had been formally certified by the Director-General as the relevant publication for Annex II of the Agreement.

(d) Switzerland

35. The Chairman noted that Switzerland had notified in document GPR/48 that under Article IX:5(a), two research institutes had merged to form the Paul Sherrer Institute. No objection had been made by the deadline of 16 February 1989; this entity had thus replaced the two previous entities in Annex I of the Code.

(e) United States

36. The representative of the United States explained the primary motivation of Title VII of the United States' Trade and Competitiveness Act of 1988 (the "Buy American Act"). The initial version of Title VII had been drafted at a hearing to discuss the effectiveness of the Government Procurement Code. It had been further developed during discussions of the United States Trade Bill. A distinction had been made between (i) Code-covered procurement of Parties; (ii) non-Code-covered procurement by Parties; and (iii) procurements by non-Parties. For Parties which were not in violation of the Code or not subject to dispute settlement procedures, the law focused primarily on encouraging Code coverage of the non-covered areas in order to increase reciprocal but non-discriminatory, open and competitive procurement opportunities. The Code negotiations were viewed as an important element in this regard, both for Parties as well as for other countries which might choose to become Parties. She noted that work was in progress to devise regulations and procedures, which would eventually be published in the Federal Register, and that Parties would have an opportunity to comment on these.

37. The representative of Canada voiced concerns about the unilateral thrust of the Act. His delegation felt that the application of the letter of this law could cause conflict with the United States' obligations under the Code. He noted, however, that there appeared to be some scope for the United States administration to exercise discretion as to how the legal provisions might be applied. His delegation assumed that any proceedings pursuant to this legislation vis-à-vis Code signatories would stand up to Code scrutiny. In this regard, he noted that the recently enacted United States Mint-Appropriations Act of 1988 contained language similarly questionable regarding unilateral sanctions. The President of the United States had made it clear that the public interest of the United States included adhering to international obligations. Both individually as Parties to the Agreement and collectively as a Committee, he expected members to make sure that this would be the case.

38. The representative of the EEC associated his delegation with the concerns expressed by Canada, and reserved its right under the Agreement to revert to this matter.

39. The representative of Hong Kong also expressed concerns. He noted that notification of amendments to legislation was an important requirement under Article IX:4 and that Title VII had only been received at the present meeting. While reserving his right to revert to the matter at the next meeting, his preliminary comments were primarily related to protecting the integrity of the Agreement because its fundamental principles appeared to be at risk. One issue was whether the definition of "good standing" was decided, unilaterally or multilaterally, and what the relationship was between the "good standing" provision and the dispute settlement mechanism of the Agreement. He considered that the provision referring to "an eligible product of a country which is a signatory unless that country is considered to be a country not in good standing pursuant to Section 305" (of the Trade Agreements Act of 1979) implied a decision to withhold or withdraw certain concession under the Code which did not appear to conform with Article VII:14. Further clarifications were necessary to understand how countries were identified to be "in good standing". The Act appeared to suggest that if a Party received significant trade benefits in the United States it could be faced with discriminatory treatment. He questioned the principle behind this provision.

40. The representatives of Sweden, (speaking on behalf of the Nordic countries), Switzerland, and Japan shared the concerns expressed, and reserved their rights to revert to the matter.

41. The representative of Singapore stressed the importance of early notification of any new legislation, as required under the Agreement. Her delegation also shared the concerns expressed and particularly the features inherent in the Act allowing for unilateral actions. She reserved the right of her delegation to revert to this issue.

42. In reply to the concerns expressed, the representative of the United States noted that a number of delegations appeared to see an underlying motive by the drafters of the United States legislation which

implied a future re-assessment of United States participation in the Agreement. In affirming this, she stated that the United States had been expressing disappointment with the functioning of the Agreement for some time. She regarded it to be of extreme importance in the renegotiation exercise that coverage become substantial enough to inspire the United States to continue to keep its markets open. The provision regarding "good standing" was directly related to the fact that the United States had been involved in a dispute settlement case that had taken four years. Under this law, it was now required that if no solution was found after an appropriate period of consultation under the Committee procedures, initiation of dispute settlement procedures would be invoked. This course of action was normal under the Agreement, but the focus of the Act was to limit the time for settlement to one year. She noted that there was already a commitment under the Agreement for open and non-discriminatory treatment between Parties, and that the provision was therefore not a new one. Referring to the question from Hong Kong regarding the criterion "if products or services are procured in a significant amount", she stated that the focus of this Act was not protection for the sake of protectionism, but rather to stimulate other Parties to open their markets. If the United States did not procure from those Parties, there would be no effect to stimulate the objective of the Act and, in those circumstances, there was no allowance in the Act for closing those markets. Regarding Section 305g of the Act, she noted that this amended existing legislation, a substantial part of which was documents and laws that had already been submitted to the secretariat over the years. Although the Administration had been given some discretion in implementing this Act, certain provisions did not allow any discretion, the most significant of which was that the Act would come into effect following the submission of the USTR report on foreign discrimination in April 1990. She assured signatories that the United States had never had any other intentions except to uphold their obligations under the Agreement. The focus of this Act and the Administration in implementing it would be to extend Code principles to areas which were not presently covered. Her delegation would shortly submit written notifications of rectifications of a purely formal nature¹, in addition to a notification under Article IX:5(b).

43. The Committee took note of the statements made. The Chairman stated that additional points relating to the new United States legislation could be pursued further in the Committee.

(f) Non-Warlike Materials List, Annex I

44. The Committee took note of the issue raised by the delegation of Austria concerning non-warlike materials made at the previous meeting (GPR/M/31, paragraph 17). The representative of Austria added that a formal notification from his delegation could be expected in due course.

¹Subsequently issued as GPR/51.

E. Submission by Finland: Acquisition or Lease of Antarctic Research Vessel with Ice-breaking Capability by the United States National Science Foundation

45. The representative of Finland recalled that the Finnish delegation had requested consultation with the United States under Article VII:4 on 7 October 1988 (ref. GPR/W/89). He drew attention to paragraphs 66-68 and 70 of GPR/M/31, where the issue had been outlined by his delegation. Since the last meeting, the only relevant development had been that another tender competition had been launched with financing from the National Science Foundation, and that this had also taken place under the framework of the "Buy American" provision. Bilateral discussions had been held on 27 October 1988 and 18 January 1989, without a mutually satisfactory solution having been found. He requested that the matter now be examined in accordance with Article VII:6 of the Agreement. In order to avoid repetition and to save time, he did not wish to repeat statements already made. However, he considered that the substance of the matter should be the subject of an in depth investigation by the Committee. His delegation had already explained to the United States which provisions of the Agreement it deemed relevant to the case. It believed that the incorporation, per se, of the "Buy American" provision into the United States legislation, affecting the acquisition or lease of the Antarctic research vessel by the United States National Science Foundation constituted an action which should be examined by the Committee for compatibility with Article IX:4(a) and the Preamble of the Agreement. In the legislation concerned, the application of the "Buy American" provision was restricted to the acquisition or lease of the vessel only, without reference to any contracts of the United States National Science Foundation. He quoted the following excerpt of a report by the United States Senate Committee on Appropriations, dated 24 June 1988, which he believed illustrated the background for the incorporation of the "Buy American" provision:

"The Committee is troubled by reports that the Foundation may lease and/or purchase a foreign built vessel. According to a report recently released by the President's Commission on Merchant Marine and Defense, since 1982, 76 US shipyards or ship-repair facilities have closed and 52,000 Americans have, as a result, lost their jobs. These statistics make it clear that our shipyard industrial base is in perilous condition. For this reason, the Committee intends to follow the NSF icebreaker solicitation closely and will reconsider the advisability of adopting the House-approved "Buy-American" provision at a later point in the year."

46. Quoting the text of Article I:1(a), the representative of Finland went on to note that the acquisition or lease concerned was, per se, covered by this provision of the Agreement, notwithstanding the fact that it did not apply to service contracts, per se, because it thereby separated specific procurement actions from service contracts as such. The "Buy American" provision had effectively resulted in the de facto exclusion of foreign suppliers from a tender competition which had been launched in 1987 and

discontinued in 1988 at an advanced stage, after the incorporation of the "Buy American" provision into the relevant legislation. His delegation therefore maintained that the compatibility with Article I:1(a) of the "Buy American" provision in question should also be examined in depth by the Committee.

47. The representative of the United States drew attention to comments made by her delegation at the last meeting (GPR/M/31, paragraphs 65-69 and 71). She gave a chronological explanation of the significant events in the issue, as set out in the Committee document GPR/W/93, subsequently circulated.

48. Following the statement by the United States' representative, the representative of Finland noted that the two delegations had different approaches to this matter. His delegation had never raised any issue about any contract. It had raised an issue about a piece of legislation affecting a certain specific acquisition or lease of a vessel. He reiterated his statement and his request for further examination of the matter.

49. In reply to the Chairman, the representative of Finland added that he was not prepared to delay the examination until the next regular meeting. Two consultations had already been held between the interested Parties, and the matter was now being discussed for the second time in the Committee. He believed that the establishment of a Panel to examine the case would be the appropriate action of the Committee, and suggested the following draft terms of reference:

"to examine the compatibility with the relevant provisions of the Agreement on Government Procurement, of the incorporation by the United States of the "Buy American" provision into the United States legislation affecting the acquisition or lease of an Antarctic research vessel with ice-breaking capability by the United States National Science Foundation, as well as to make a statement concerning the facts of the matter as they relate to the application of the Agreement and make such findings as will assist the Committee in making recommendations, or give rulings on the matter."

50. He noted that the expression "relevant provisions" was a traditional GATT formulation, leaving enough flexibility for the Panel to deal with whichever provisions it deemed appropriate, including suggestions by the Parties involved. He confirmed that his delegation was prepared to continue consultations with the United States, also in the course of a Panel examination, with the aim of reaching a mutually acceptable solution.

51. The representative of the United States noted the concerns expressed by the delegation of Finland regarding the delay in the bilateral process, but explained that this had been caused by scheduling problems due to the Montreal meetings and Christmas holidays. Her delegation felt that there had been some confusion in the matter. Although the Government of Finland had noted that the two delegations concerned appeared to be talking about different issues, she held that her most recent written statement addressed the specific relevant issues. The purpose of Article VII:6 was to have a

detailed examination, with the aim of achieving a mutually satisfactory solution. It was her delegation's view that enough time had not been utilized in the process of conciliation. Her delegation fully supported the Code's dispute settlement process, but felt that more effort was still required to clear confusion and misunderstandings.

52. The representative of Hong Kong stated that the dispute settlement procedures should be respected. He felt that there was sufficient guidance in the provisions of the Agreement. If any party at a particular stage of a dispute was not satisfied that a reasonable prospect of solution was possible, the Committee should be flexible enough to move to the next stage if so requested. He sought clarification, however, as to whether the relevant provision was paragraph 6 or 7 of Article VII.

53. The representative of Sweden, also on behalf of Norway, agreed that the dispute settlement provisions of the Agreement were important. His delegation understood that discussions between Finland and the United States had been quite extensive. In view of the fact that the matter had now been discussed at two meetings of the Committee, he felt that conditions for detailed examination had been fulfilled. His delegation therefore supported the request by Finland for the establishment of a Panel.

54. The representative of the United States stated that her delegation did not disagree with Finland's right to request a Panel, nor did it wish to intentionally delay the process. However, it wished to avail itself of the right to full consultations and conciliation under this process. Another attempt to clarify misunderstandings was worth the Committee's effort, and her delegation had every intention of dealing expeditiously with this matter. She noted that a detailed discussion had not been scheduled for the last meeting, and was also concerned that new issues appeared to have arisen each time the matter was discussed. While progress in narrowing down the issues had been made bilaterally, the present Committee meeting made it apparent that there were two different views of what the complaint was about and that there was clearly room for discussion. The process outlined in the Agreement was designed to highlight the real issues in question, in order that they might be addressed.

55. The representative of Japan stated that in his delegation's view, more time was needed to examine the details recently presented, and that it was the Committee's responsibility to enable further examination by following the procedures in Article VII:6. The issue should be examined by the Committee which would meet, according to Article VII:6, within thirty days to find a mutually satisfactory solution to the matter.

56. The representative of the EEC agreed, under the circumstances, with the proposal by Japan to further examine the additional material, since this further background information had only been provided at this meeting. If Finland considered the matter urgent, it could request an extraordinary meeting for further examination by the Committee. In any case, her

delegation believed in the dispute settlement procedures for resolving issues among Parties; a request for the establishment of a Panel would therefore have her delegation's support.

57. The representative of Switzerland agreed that the dispute settlement procedures should be followed; in particular Article VII:6 regarding the right of a Party to request the Committee to meet within thirty days if a mutually satisfactory solution had not been reached under paragraph 4. In this connection, he considered that the results of the bilateral consultations had to be discussed; these were contained in the comprehensive statements at the present meeting. Since the request for a Panel had been made at this meeting, he supported the proposal by Japan for an extraordinary session to be held within thirty days. The representative of Austria added his support to this proposal.

58. The representative of Finland, while stressing his delegation's view that the formal requirements for requesting a Panel were fulfilled, could accept that in the absence of a consensus at this meeting, an extraordinary meeting be held, within thirty days.

59. The Chairman suggested that as no consensus had been reached at this meeting on the establishment of a Panel, an extraordinary meeting be held to provide the opportunity for a detailed examination of the issue at a date which would be convenient to the delegation of Finland.

60. The Committee agreed to meet on 14 April 1989 for this purpose.

F. Questions concerning Article I:1(c)

61. The Chairman recalled that in document GPR/W/87, Japan had notified the transfer of some of the activities of NTT to a company established under commercial law. In the absence of comments at this meeting, the issue would be added to the agenda for the next meeting of the Committee.

G. Other business

(i) Seminar held in Israel

62. The representative of Israel informed the Committee that the Japanese authorities had organized a seminar in Israel, on government procurement in Japan and expressed his Government's appreciation to the Japanese Government. The objective of the seminar had been to familiarize the Israeli export community with the characteristics and opportunities of Japanese procurement. It had been an important activity of technical assistance under the provisions of Article III of the Agreement. He hoped that other Parties might organize similar seminars.

(ii) Negotiating Group on MTN Agreements and Arrangements (NG8)

63. The Chairman informed the Committee that since its last meeting, the NG8 had met once, on 27-28 October 1988. The discussion of the Agreement on Government Procurement was contained in MTN.GNG/NG8/9, paragraphs 3-8.

Amendments proposed by Korea at that meeting were contained in document MTN.GNG/NG8/W/39. The text adopted by the TNC in Montreal in December 1988 was contained in document MTN.TNC/7(MIN). This text was on hold until the next meeting of the TNC, scheduled for the beginning of April 1989.

(iii) Updating of the Practical Guide

64. The Chairman informed the Committee that the revised Practical Guide had now been circulated in English and French, and that the Spanish translation would be available shortly. Further amendments to country chapters could be made at any time, since the Guide, which had no legal status, was in loose-leaf form.

(iv) Panel candidates for 1989

65. Referring to Article VII:8 of the Agreement, the Chairman reiterated invitations to Parties to make nominations for Panel members for 1989. To date, Hong Kong was the only Party to have done so.

(v) Derestriction of documents

66. The Chairman informed the Committee that, as no objections had been received by 15 January 1989, documents which had been proposed for derestriction in document GPR/W/90 were no longer restricted.

(vi) Further meetings

67. The Chairman noted that the Informal Working Group had agreed to meet on 13-15 June 1989. Apart from the extraordinary meeting of the Committee on 14 April 1989, a further regular Committee meeting would be held on 5 October 1989.