

ANNEX C

DECISION OF THE COMMITTEE ON GOVERNMENT PROCUREMENT ON A WORK PROGRAMME ON SMEs*

Decision of 30 March 2012

The Committee on Government Procurement,

Noting that Article XXII:8(a) of the Agreement on Government Procurement (Agreement) provides that the Parties shall adopt and periodically review a work programme, including a work programme on small and medium-sized enterprises (SMEs);

Recognizing the importance of facilitating the participation of SMEs in government procurement; and

Recognizing that Parties have agreed in Article XXII:6 to seek to avoid introducing or continuing discriminatory measures that distort open procurement;

Hereby adopts the following work programme with respect to SMEs:

1. **Initiation of Work Programme on SMEs:** At the first meeting of the Committee after the entry into force of the Protocol of Amendment to the Existing (1994) Agreement, the Committee shall initiate a Work Programme on SMEs. The Committee shall review measures and policies for SMEs that the Parties use to assist, promote, encourage, or facilitate participation by SMEs in government procurement and prepare a report of the results of the review.

2. **Avoidance of Discriminatory SME Measures:** The Parties shall avoid introducing discriminatory measures that favour only domestic SMEs and shall discourage the introduction of such measures and policies by acceding Parties.

3. **Transparency Programme and SME Survey**

3.1 **Transparency Programme**

Upon entry into force of the Protocol of Amendment to the Existing (1994) Agreement, the Parties that maintain in their Appendix I specific provisions on SMEs, including set-asides, shall notify the Committee of such measures and policies. The notification should include a full description of the measures and policies, their relevant legal framework together with their operation and the value of the procurement subject to such measures. In addition, those Parties shall notify the Committee of any substantial change in such measures and policies, in accordance with Article XXII:5 of the Agreement.

3.2 **SME Survey**

(a) The Committee shall survey the Parties, through the use of a questionnaire seeking information regarding the measures and policies used to assist, promote, encourage, or facilitate participation by SMEs in government procurement. The questionnaire should seek information from each Party regarding:

* Annex C to Appendix 2 of the Decision on the Outcomes of the Negotiations Under Article XXIV:7 of the Agreement on Government Procurement, adopted on 30 March 2012 (GPA/113, pp. 439-441).

- (i) a description of the measures and policies used by the Party, including the economic, social, and other goals of the measures and policies and how they are administered;
 - (ii) how the Party defines SMEs;
 - (iii) the extent to which the Party has specialized agencies or institutions to assist SMEs with respect to government procurement;
 - (iv) the level of participation in government procurement in terms of both value and number of contracts awarded to SMEs;
 - (v) a description of SME subcontracting measures and policies, including subcontracting goals, guarantees, and incentives;
 - (vi) facilitation of SMEs participation in joint bidding (with other large or small suppliers);
 - (vii) measures and policies focused on providing opportunities for SMEs to participate in government procurement (such as enhanced transparency and availability of government procurement information to SMEs; simplifying qualifications for participation in tendering; reducing contract sizes; and ensuring timely payments for deliveries of goods and services); and
 - (viii) the use of government procurement measures and policies to stimulate SME innovation.
- (b) **Compilation of SME Survey by WTO Secretariat:** The WTO Secretariat shall fix a deadline for the transmission of the responses to the questionnaire by all Parties to the WTO Secretariat. Upon receipt of the responses, the Secretariat shall prepare a compilation of the responses and circulate the responses and the compilation to the Parties. The Secretariat shall include a list of Parties with outstanding responses.
- (c) **Exchanges among Parties on Responses to SME Questionnaires:** On the basis of the document prepared by the WTO Secretariat, the Committee shall establish a period for the exchange of questions, requests for additional information, and comments on the responses of the other Parties.

4. Assessment of the Results of SME Survey and Implementation of Its Outcome

4.1 Assessment of the Results of SME Survey

The Committee shall identify the measures and policies that it considers to be best practices for promoting and facilitating the participation of SMEs of the Parties in government procurement and prepare a report that includes the best practices of the measures and policies and a list of the other measures.

4.2 Implementation of the Outcome of the SME Survey

- (a) The Parties shall promote the adoption of the best practices identified in the assessment of the survey to encourage and facilitate participation of SMEs of the Parties in government procurement.
- (b) With respect to other measures, the Committee shall encourage the Parties that maintain such measures to review them with a view to eliminating them or applying

them to the SMEs of the other Parties. These Parties shall inform the Committee about the outcome of the review.

- (c) The Parties that maintain other measures shall include the value of the procurement subject to such measures in the statistics that they submit to the Committee pursuant to Article XVI:4 of the Agreement.
- (d) Parties may request the inclusion of such other measures in future negotiations under Article XXII:7 of the Agreement, and such requests shall be favorably considered by the Party maintaining such measures.

5. Review

Two years after the entry into force of the Protocol of Amendment to the Existing (1994) Agreement, the Committee shall review the effect of the best practices on expanding the participation of SMEs of the Parties in government procurement, and consider whether other practices would further enhance participation by SMEs. It may also consider the effect of other measures on the participation by SMEs of the other Parties in the government procurement of the Parties maintaining such measures.