

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/5209

29 October 1981

Limited Distribution

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## REPORT (1981) OF THE COMMITTEE ON GOVERNMENT PROCUREMENT

1. The Agreement on Government Procurement entered into force on 1 January 1981. On 15 October 1981 the following were Parties to the Agreement and members of the Committee established under it: Austria, Canada, European Economic Community, Finland, Japan, Norway, Singapore, Sweden, Switzerland, United Kingdom on behalf of Hong Kong, and the United States.
2. Twenty-five contracting parties and two non-contracting parties have observer status. Two international organizations (IMF and UNCTAD) have attended meetings of the Committee in an observer capacity.
3. During the reporting period the Committee has held four meetings:
  - 15 January 1981 - (GPR/M/1 and L/5101)
  - 9 April 1981 - (GPR/M/2 and L/5132)
  - 8-9 July 1981 - (GPR/M/3 and L/5174)
  - 13-15 October 1981 - (GPR/M/4 AND L/5206)
4. Procedural questions have been settled in the same way as in other Committees. These include:
  - (a) Procedures for the participation of observers (L/5101, Annex 1 and GPR/M/1, paragraphs 6, 8 and Annex 1);
  - (b) Procedures for the accession of contracting parties to the Agreement (L/5101, Annex II and GPR/M/1, paragraph 10 and Annex II);<sup>1</sup>
  - (c) Procedures for circulation and derestriction of documents (L/5101, paragraph 5 and GPR/M/1, paragraphs 12-14).

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<sup>1</sup>The Committee noted that the question of accession to the Agreement of countries which are not contracting parties to the GATT could be taken up at a later stage when a particular case presented itself (L/5101, para.4; GPR/M/1, para.11).

5. The Committee has furthermore taken decisions in the following matters:

- (d) Implementation of the requirements concerning annual statistics provided for in Article VI:9 (L/5101, paragraph 8 and GPR/M/1, paragraphs 36-39 and Annex III). The first statistical review is expected to take place in the fourth quarter of 1982, covering procurement during the calendar year 1981 (GPR/M/1, Annex III, paragraph 1).
- (e) Matters pertaining to exchange rate questions in relation to the threshold requirement in Article I:1(b) of the Agreement (L/5101, paragraph 8 and GPR/M/1, paragraph 40 and Annex IV). Parties have fixed the threshold of SDR 150.000 in terms of their national currencies in accordance with these procedures and informed the Committee accordingly.
- (f) The situation of Greece which did not belong to the EC when the lists contained in Annex I of the Agreement were negotiated. Under a decision adopted by the Committee "the Agreement shall be considered to apply as between each Party and Greece only when such Party has agreed to the list of entites for Greece to be included in Annex I of the Agreement" (L/5101, para.9 and GPR/M/1, Annex V).
- (g) Modalities for the submission of information concerning the implementation and administration of the Agreement (L/5101, para.7; GPR/M/1, para.16). The Committee has examined information subsequently submitted by Parties on national laws, regulations and procedures relating to the implementation of the Agreement (GPR/3 and Addenda and Supplement and GPR/4 and Addenda and Supplement). This examination has been carried out in considerable detail at all four meetings covered by this report (L/5101, para. 7, L/5132, para.3, L/5174, para.3, L/5206, para.3; GPR/M/1, paras.16-39, GPR/M/2, paras.13-48, GPR/M/3, paras.9-64, GPR/M/4, paras.9-49). The basic documents of national implementing legislation (GPR/3 - series) were de-restricted in July 1981. The question of the examination of national implementing legislation remains on the agenda of the Committee for subsequent meetings.
- (h) Introduction of a loose-leaf system by the secretariat which, while having no legal status, will on a continuous basis contain the correct information relating to Annexes I-IV of the Agreement (GPR/M/1, paragraph 51). Under the provisions of Article IX:5(a) a number of proposed rectifications of a purely formal nature and minor amendments have been made by Parties with respect to such Annexes (GPR/2, 5, 8-12). They have all, except GPR/12, come into force and have subsequently been certified by the Director-General in the GLI/272 series. The relevant pages of the loose-leaf sets are being replaced and made available to governments and the general public subscribing to them.

6. Problems related to the scope of the Agreement have been discussed at all meetings, notably the question of the applicability of the Agreement to leasing arrangements and similar practices. Some Parties have submitted a description of what type of contracts they consider to fall within the scope and coverage of the Agreement (GPR/W/4, 5 and 6), and a draft declaration on leasing has been circulated by one member (GPR/W/3). The

Committee agreed at its fourth meeting that Parties should submit information on their current practices relating to leasing and similar arrangements, and reiterated its invitation to submit a description of the types of contracts Parties considered to fall within the scope and coverage of the Agreement. The discussions are recorded in GPR/M/1, paras.52-57, GPR/M/2, paras.49-61, GPR/M/3, paras.65-79 and GPR/M/4, paras.50-55.

7. The question of the identification of contracts falling under the Agreement and treatment of borderline cases has also been discussed at all meetings (GPR/M/1, paras.63-66, GPR/M/2, paras.62-66, GPR/M/3, paras.80-84, GPR/M/4, paras.56-58). At the July meeting the Chairman noted, inter alia, "that all delegations acknowledged the need for the identification of contract notices published under the terms of the Agreement. He further noted that all delegations either presently identified or intended to do so"; (L/5174, para.5). At the fourth meeting the Committee noted that in two cases contracts were not yet identified, but that the governments concerned were actively endeavouring to do so in the near future.

8. Another matter discussed is the treatment of taxes and customs duties in relation to the threshold. Members have exchanged information on their respective practices in this regard but different views were held, in particular as to whether taxes should be included or excluded for the purpose of calculating the threshold, i.e. when determining whether a contract falls over or below the threshold of the Agreement. The discussions are recorded in GPR/M/1, paras.58-62, GPR/M/2, paras.67-76, GPR/M/3, paras.85-91 and GPR/M/4, paras.59-62.

9. The Committee had an exchange of views on procedures for consultations under the Agreement, on certain statistical questions and has heard statements concerning purchasing practices by entities not covered by the Agreement (GPR/M/3, paras.94-96; 97-98 and 99-102, GPR/M/4, paras.63-71; 74-77).

10. At the fourth meeting one Party informed the Committee that it had held consultations with another Party under Article VII:3 of the Agreement.

11. The dispute settlement procedures laid down in Article VII:6-10 have not been utilized.

12. The Committee held its first annual review of the implementation and operation of the Agreement at its October 1981 meeting (GPR/M/4, paras.72-73.) on the basis of a background document prepared by the secretariat (GPR/W/9). Additional information supplied by members will be reflected in a revision of the background document.