

GENERAL AGREEMENT ON TARIFFS AND TRADE

Committee on Government Procurement

SIXTH ANNUAL REVIEW (1986) OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT

Background Working Document by the Secretariat

This working document is circulated by the secretariat in response to the Committee's request (GPR/M/22, paragraphs 16 and 17), in preparation of the sixth annual review of the implementation and operation of the Agreement on Government Procurement to be conducted at the forthcoming meeting in October 1986. As agreed, the following draft text of the 1986 annual review, will have to be updated after that meeting to give a full picture of developments in the Committee in the current year.

1. Article IX:6(a) of the Agreement on Government Procurement provides, inter alia, that "the Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof". Article III:13 states, inter alia, that "the Committee shall review annually the operation and effectiveness of this Article ..." i.e. Article III (Special and Differential Treatment for Developing Countries) and that "after each three years of its operation on the basis of reports to be submitted by the Parties shall carry out a major review in order to evaluate its effects".

[2. The Committee conducted the sixth annual review, including the second major review of Article III, at its meeting of [15] October 1986, on the basis of a background working document by the secretariat (GPR/W/76). As agreed, the working document was revised after the review session in order to give a full picture of the Committee's activities in 1986. The present document covers the period 13 December 1985 to [15] October 1986.]

3. The contents of the paper are as follows:

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A. COMPOSITION OF THE COMMITTEE ON GOVERNMENT PROCUREMENT

Chairman: Mr. Y. Ikeda (Japan)

Vice-Chairman: Mr. E. Contestabile (Switzerland)

Members:

The Parties to the Agreement are members of the Committee in accordance with Article VII:1:

Austria, Canada, European Economic Community, Finland, Hong Kong, Israel, Japan, Norway, Singapore, Sweden, Switzerland, and the United States.

Concerning Hong Kong, the Chairman of the Committee received a communication from the Permanent Representative of Hong Kong to the GATT, by letter dated 28 April 1986 in which was referred, inter alia, to the communication delivered to the GATT secretariat on 23 April 1986 by the Permanent Representative of the United Kingdom declaring that Hong Kong would, with effect from that date, be deemed to be a Contracting Party to the General Agreement on Tariffs and Trade in accordance with the provisions of Article XXVI:5(c) thereof. The Committee was informed that Hong Kong would continue to accept the Agreement on Government Procurement and would continue to participate in the work of the Committee (GPR/32).

Observers:

- (i) The following governments have become observers in the Committee under the procedures adopted for the participation of observers:

GATT contracting parties:

Argentina, Bangladesh, Brazil, Cameroon, Chile, Côte d'Ivoire, Cuba, Czechoslovakia, Dominican Republic, Egypt, Gabon, Hungary, India, Indonesia, Jamaica, Kenya, Korea, Malaysia, Malta, New Zealand, Nicaragua, Nigeria, Peru, Philippines, Romania, South Africa, Thailand, Trinidad and Tobago, Turkey, Zaire.

Non-contracting parties:

Ecuador.

- (ii) The following international organizations are invited on a meeting-by-meeting basis to be observers in the Committee, as provided for in the relevant decision taken:

IMF, UNCTAD.

B. MEETINGS OF THE COMMITTEE

The Committee held regular meetings on 27 February, 19 June and [15] October 1986. The notes by the Chairman are contained in L/5969, L/6011, and L/ . The minutes of these meetings are contained in GPR/M/21-23 respectively. In the context of the Article IX:6(b) negotiations, an informal working group met a number of times.

C. DECISIONS TAKEN BY THE COMMITTEE

The Committee has taken the following decisions during the period under review:

- (i) [Results of Article IX:6(b) negotiations - to be completed at/after the next meeting]
- (ii) At the June 1986 meeting the Committee's attention was drawn to an EEC submission (GPR/34), concerning Portugal, including an entity list in Portuguese. The Committee agreed that "the authentic list would be circulated to the Parties once it had been received in the secretariat". Recalling the decision taken in December 1985 (GPR/31, item C (vi)), the Committee further agreed that "the Agreement would enter into force as between each Party and Portugal by the date of the next meeting, except for such Party or Parties that by that deadline had notified the secretariat to the contrary".

D. NATIONAL LEGISLATION (ARTICLE IX:4); IMPLEMENTATION AND ADMINISTRATION

The Committee examined national implementing legislation and practices at all regular meetings. In the course of this examination, a number of questions concerning individual countries were raised. Among issues discussed were numbers of notices published - generally or by individual entities, short bid deadlines, decentralization of procurement, notices for small quantities, bid or performance bonds, short delivery time, content of notices for contracts of a recurring nature, computer procurement, including the treatment of hardware, software, and services, single tendering contracts for additional supplies, the status of a private sector company, partly financed by government funds and placed under the responsibility of a Code-covered entity in certain respects; a change of a Government procurement ordinance, the merger of one entity with other entities, and the presentation of a new entity list (see C (ii)).

E. REVIEW OF 1984 STATISTICS

In the course of the review of 1984 statistics the following additional matters were taken up or referred to: overall single tendering rates, single tendering used by particular entities, the shares of procurements below the threshold, overall and by particular entities, origin of goods, procurement centralized in certain entities, few publication of notices for certain product categories, effects of budget constraints and yearly fluctuations in purchasing activities, qualification procedures, negotiated tenders, foreign shares of single tendering contracts and delays or other deficiencies in the statistics.

The following summary of general information is provided concerning actions by individual Parties.

EUROPEAN ECONOMIC COMMUNITY

PORTUGAL see under C (ii) above.

SWEDEN

The Committee was informed at the June 1986 meeting that a change would be made to the Swedish Government Procurement Ordinance as of 1 July 1986. Furthermore, the Royal Civil Defence Board was to be merged with other government entities and be reorganized, but would remain covered by the Agreement.

F. ARTICLE IX:6(B) NEGOTIATIONS

(i) General

The negotiations, undertaken by the Parties in accordance with Article IX:6(b), constituted the major task in the period under review. As instructed by the Committee, the Informal Working Group met a number of times (25-26 February, 28 and 30 April, 16-18 June and [] October 1986).

At the Committee's meeting on 27 February a number of general statements were made. References were made, inter alia, to the agreed June 1986 deadline for this work, to the implications, if any, of the proposed new round of multilateral trade negotiations, and to linkages which some delegations saw between the three elements mentioned in Article IX:6(b), i.e. broadening of the Agreement, improvements of the Agreement and service contracts. One observer stated its interest in the negotiations. It expressed, inter alia, concern that some proposals on improvements, for example concerning Article I:1(a) and Article V:14(h), would result in the dilution of provisions for developing countries and take the Agreement even further out of reach of those among them who wished to accede to it.

At the meeting on 19 June, the Chairman reported that progress had been made in the Informal Working Group. However, delegations were not in a position to reach agreement at this stage. He would continue his efforts with a view to reaching agreement at the October 1986 meeting of the Committee.

[To be completed]

G. ESTABLISHMENT IN NATIONAL CURRENCIES OF THE THRESHOLD (150,000 SDRs) FOR THE PURPOSES OF PUBLIC NOTICES

According to procedures agreed upon in 1981, thresholds expressed in national currencies are fixed for the calendar year, except for Japan and Singapore where the fiscal year (1 April to 31 March) is used.

Information received from the Parties for 1986 was as follows:

AUSTRIA - S 3,207,345

CANADA - Can\$ 202,000

EUROPEAN ECONOMIC COMMUNITY - ECU 200,000

Currency amount for one ECU:	
Bfr/Lfr	45,2309
Dkr	8,02764
DM	2,23113
FF	6,81412
F1	2,51718
£ Ir1	0,715903
Lit	1430,0
£	0,589801

FINLAND - FIM 950,000

HONG KONG - HK\$ 1,171,000

ISRAEL - US\$149,000

JAPAN - YEN 36,000,000

NORWAY - NOK 1,300,000

SINGAPORE - S\$ 330,000

SWEDEN - SEK 1,315,000

SWITZERLAND - Sw F 378,000

UNITED STATES - US\$149,000

H. MAJOR REVIEW OF ARTICLE III - SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING COUNTRIES

A second major review of Article III was on the agenda for the October 1986 meeting [to be completed].

I. CONSULTATIONS AND DISPUTE SETTLEMENT

The follow-up of the VAT Panel Report was taken up at the February 1986 meeting when the Party in question stated that it hoped to propose a possible solution at the next meeting. The other Party to the dispute expressed disappointment that no solution had yet been found and stated its willingness, in view of the urgency of the matter, to consult bilaterally before the next meeting. Increased attention was being given to this issue and it suggested that the other side gave this issue a higher priority. At the June 1986 meeting, the Party concerned stated that the endeavours to find a solution to this problem were continuing. The other Party considered this to be a matter of extreme urgency and hoped that a proposed solution would be put forward before the next meeting. Failing this, it was considering taking alternative action and would ask the Committee to consider such action at its next meeting [to be completed].

J. PANELISTS

Names of persons available to serve on panels were supplied for 1986 by Finland, Japan, Singapore, Sweden, Hong Kong and the United States.