

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

L/6940

27 November 1991

Limited Distribution

REPORT (1991) OF THE COMMITTEE ON GOVERNMENT PROCUREMENT

1. This report outlines developments in the work of the Committee since its report of 28 November 1990 (L/6768) and until its meeting of 22 November 1991. It is submitted to the GATT CONTRACTING PARTIES in pursuance of Article IX:6(a) of the Agreement and, as such, represents the Eleventh Annual Review of the implementation and operation of the Agreement.

A. Composition of the Committee

Members

2. The following are members of the Committee: Austria, Canada, the European Community, Finland, Hong Kong, Israel, Japan, Norway, Singapore, Sweden, Switzerland and the United States.

Observers

3. The following thirty-three contracting parties have observer status: Argentina, Australia, Bangladesh, Brazil, Cameroon, Chile, Côte d'Ivoire, Cuba, Czech and Slovak Republic, Dominican Republic, Egypt, Gabon, Hungary, India, Indonesia, Jamaica, Kenya, Republic of Korea, Malaysia, Malta, New Zealand, Nicaragua, Nigeria, Peru, Philippines, Poland, Romania, South Africa, Thailand, Trinidad and Tobago, Turkey, Zaire and Zimbabwe. Two non-contracting parties, the People's Republic of China and Ecuador, are also observers. The IMF and UNCTAD have attended the meetings of the Committee as observers.

Officers

4. Chairman: Mr. David Hayes (United Kingdom)
Vice-Chairman: Mr. Amichai Perry (Israel)

B. Meetings of the Committee

5. The Committee has held six meetings: on 23 April, 20 June, 12 July, 23 September, 18 October 1991 and 22 November 1991. The notes by the Chairman are contained in L/6843, L/6873, L/6891 and L/6913 respectively.

The minutes are contained in GPR/M/39, 40, 41, 42, 43 and 44.* In the context of the Article IX:6(b) negotiations, the Informal Working Group on Negotiations met from 9-12 July, 16-18 October, and from 19-22 November 1991. It is scheduled to meet again in the week of 9 December 1991.

C. Decisions taken by the Committee

6. During the review period, the Committee established two Panels pursuant to Article VII:7 of the Agreement on Government Procurement, as described in paragraph 12 and 13 below.

D. Article IX:6(b) negotiations

7. At the April, July, October and November meetings, the Committee took note of the progress reports, on the Chairman's own responsibility, on the work of the Informal Working Group on Negotiations.

8. At the Informal Working Group's meeting from 9-12 July 1991, the focus of attention was the prospect of moving the negotiations out of the stalemate which has persisted since the Brussels meeting in December 1990. The Chairman met, individually, each of the twelve Signatories. On the basis of his perception of the outstanding issues identified, the Chairman, with the help of the secretariat, circulated three papers on his own responsibility in early September, to help the negotiating process move forward: a checklist of issues on the improvement of the text, a comparison of the offers made so far and a paper on the inclusion of Services in the Agreement. In October he circulated a paper on the dispute settlement provisions of the Agreement, comparing them with the then available version of the draft consolidated text on dispute settlement and setting out some Chairman's suggestions, with the aim of bringing the Code provisions more in line with the Consolidated text. In November intensive negotiations continued, based on draft legal texts on a number of issues concerning the improvement of the Agreement, as well as a Chairman's note on Services. The fundamental issue in the negotiations remains the question of the inclusion or not of "Group B entities" (that is, government entities on a regional and local level) as well as certain entities in the so-called "Group C", in particular entities in telecommunications, heavy electrical equipment and transport. Negotiations aimed at securing consensus on a new Agreement by the end of December are continuing.

E. Accession of further countries to the Agreement

9. At the September meeting of the Committee, the Republic of Korea formally requested accession to the Agreement and to participate in the negotiations. The Committee decided to invite Korea to the October meeting of the Informal Working Group on Negotiations, pending its formal accession to the Agreement.

*To be circulated shortly.

F. Review of 1988 and 1989 statistics

10. At the April meeting, the two outstanding reviews for 1988 were completed and the Committee thus agreed that the 1988 statistical review was concluded. The 1988 statistics will become derestricted on 23 April 1992.

11. Review of the 1989 statistics took place at the October meeting of the Committee. The Committee noted that a number of questions and replies concerning individual statistical reports for 1989 had been circulated to all Signatories. It decided to revert to this matter at a later date.

G. Consultations and Dispute Settlement

12. The Committee met on 20 June and again on 23 September to consider recourse to Article VII:6 and VII:7 respectively by the United States with respect to the procurement by the Government of Norway of electronic toll collection equipment for the city of Trondheim. The United States considered that Norway had improperly used a single tendering procedure, preventing one of its suppliers from bidding for the contract, in violation of Article II of the Agreement and requested the establishment of a panel. Norway, while accepting the panel on 23 September after the three-month period for conciliation as provided for under Article VII:6 had passed without result, considered the procurement in question to be fully consistent with the Agreement, in particular with Article V:16(e), the project being a pilot one, necessitating a Research and Development contract.

13. At its meeting on 12 July, the Committee considered recourse to Article VII:6 by the European Community with respect to the procurement of a sonar mapping system by the United States National Science Foundation. The EC considered that the procurement of a multi-beam sonar mapping system by the United States was inconsistent with the provisions of the Agreement, particularly with Articles I and II and requested the establishment of a panel. The United States, while accepting the immediate establishment of a panel, considered that the procurement in question was part of a sub-contract of a services contract and as such was not covered by the Agreement.

H. Article IX:5 Modifications

14. In the November meeting, the Committee considered the modification of the EC entity list, submitted to the Committee by the European Community pursuant to Article IX:5(b) of the Agreement. A number of questions were raised and the Committee decided to revert to this matter at a later date.

ANNEX I

Notifications by Parties Relating to Their Own
Implementation and Administration of the Agreement

Apart from statistical information presented orally in the Committee, and certain information provided in the context of Article IX:6(b) negotiations, the following was notified during the review period.

EUROPEAN ECONOMIC COMMUNITY

- Modification of entity list notified in GPR/63.

SWEDEN

- Modification of entity list notified in GPR/59; effective as of 11 May 1991.