

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/NTM/W/159

2 June 1978

Special Distribution

Multilateral Trade Negotiations

Original: English

Group "Non-Tariff Measures"

Sub-Group "Government Procurement"

DRAFT INTEGRATED TEXT FOR NEGOTIATION ON GOVERNMENT PROCUREMENT

In accordance with paragraph 7 of the Chairman's summing-up of the last meeting of the Sub-Group (MTN/NTM/42), the following suggestions concerning the draft integrated text (MTN/NTM/W/133/Rev.1) have been put together by a number of delegations.

PART V

INFORMATION AND REVIEW¹

1. Any law, regulation /judicial decision/, administrative ruling of general application, and any procedure /including standard contract clauses/ regarding government procurement covered by this Agreement, shall be published promptly by the signatories in the appropriate publications listed in Annex ... and in such a manner as to enable other signatories and suppliers to become acquainted with them. Signatories shall be prepared, upon request, to explain to any signatory their government procurement procedures. Entities shall be prepared, upon request, to explain to any supplier from other signatories their procurement practices and procedures.
2. Entities shall, upon request by any supplier, promptly provide him with pertinent information /as they deem possible to disclose/ concerning the reasons why his application to qualify for the suppliers list was rejected, or why he was not invited or admitted to tender.
3. Entities shall promptly, /and in no case later than /X/ days/, /inform/ /make known to/ the unsuccessful tenderers by /written communication or/ /publication/ that a contract has been awarded.

¹The contents of this Part are contingent upon how information and review is dealt with in other parts of the draft integrated text.

4. Upon request by an unsuccessful tenderer the entity concerned shall promptly provide him with such pertinent information as it deems possible to disclose/ the name of the winning tenderer and the contract price and other pertinent information/ concerning the reasons why his tender was not selected, including information on the characteristics and the relative advantages of the tender selected.

5. Entities shall may establish a contact point to provide additional information to any unsuccessful tenderer dissatisfied with the explanation for rejection of his tender or who may have further questions about the award of the contract. There shall also be procedures for the hearing and reviewing of complaints arising in connexion with any phase of the procurement process, so as to ensure that, to the greatest extent possible, disputes under this Agreement will be expeditiously resolved between the suppliers and the entities concerned.

6. If an unsuccessful tenderer is dissatisfied with the explanation for rejection of a tender or the information provided by the entity, the signatory government of the tenderer may seek, without prejudice to the provisions under Part VII, such additional information on the contract award as may be necessary to ensure that the purchase was made fairly and impartially. The government of the entity concerned shall promptly provide information pertinent to the matter , including name and address of winner and winning contract amount/.

7. Confidential information provided to any signatory which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private, shall not be revealed without formal authorization from the signatory providing the information.

8. Signatories shall collect and provide to the Committee on an annual /semi-annual/ basis statistics on their purchases. Such reports shall contain the following information with respect to the total number and value of contracts awarded by all procurement entities covered under the Agreement:

- (a) statistics on all contracts both above and below the threshold value, broken out by value class intervals, product (according to a recognized trade or other appropriate classification) and entity;
- (b) statistics on all contracts awarded above the threshold value broken out by value class intervals, products and their country of origin and entity;
- (c) information on each contract awarded above the threshold value under single tendering procedures, including purchasing entity, value and kind of goods purchased, country of origin, and statement of the conditions in paragraph 14 of Part IV which prevailed.