

GENERAL AGREEMENT ON
TARIFFS AND TRADEMultilateral Trade NegotiationsGroup "Non-Tariff Measures"Sub-Group "Government Procurement"SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING COUNTRIESNote from the ChairmanRevision

Following a series of plurilateral meetings which have taken place between a number of participants since the last session of the Sub-Group, the following suggestions have been put forward for the revision of document MTN/NTM/W/178 without prejudice to the negotiating position of any delegation with respect to any matter being taken up in the area of government procurement or in other areas of the MTN.

Objectives

1. Parties to this Agreement shall, in the implementation and administration of this Agreement, through the provisions set out in this Part, duly take into account the development, financial and trade needs of developing countries, in particular their need to:
 - (a) safeguard their balance-of-payments position and ensure a level of reserves adequate for the implementation of programmes of economic development;
 - (b) promote the establishment or development of domestic industries including the development of small scale and cottage industries in rural or backward areas; and economic development of other sectors of the economy;
 - (c) support industrial units so long as they are wholly or substantially dependent on government procurement;
 - (d) encourage their economic development through regional or global arrangements among developing countries presented to the CONTRACTING PARTIES to GATT and not disapproved by them.

2. Consistently with the provisions of this Agreement, parties to it shall, in the preparation and application of laws, regulations and procedures affecting government procurement, facilitate increased imports from developing countries, bearing in mind the special problems of those at the lowest degree of economic development.

Coverage

3. With a view to ensuring that developing countries are able to adhere to this Agreement on terms consistent with their development, financial and trade needs, the objectives listed in paragraph 1 above shall be duly taken into account in the course of the negotiations with respect to the lists of entities of developing countries to be covered by the provisions of this Agreement. Developed countries, in the preparation of their lists of entities to be covered by the provisions of the Agreement shall endeavour to include entities purchasing products of export interest to developing countries.

Temporary exclusions

4. Developing countries may negotiate with other participants in the MTN mutually acceptable exclusions from the rules on national treatment with respect to certain entities or products that are included in their lists of entities having regard to the particular circumstances of each case. In such negotiations, the considerations mentioned in paragraph 1(a)-(c) above shall be duly taken into account. Developing countries participating in regional or global arrangements among developing countries referred to in paragraph 1(d) above, may also negotiate exclusions to their lists, having regard to the particular circumstances of each case, taking into account, *inter alia*, the provisions on government procurement provided for in the regional or global arrangements concerned and taking into account, in particular, products which may be subject to common industrial development programmes.

5. After entry into force of this Agreement, developing countries parties to this Agreement may modify their lists of entities in accordance with the provisions for modification of such lists contained in Part X, paragraphs 9 and 10 of this Agreement, having regard to their development, financial and trade needs, or may request the Committee to grant exclusions from the rules on national treatment for certain entities or products that are included in their lists of entities, having regard to the particular circumstances of each case and taking duly into account the provisions of paragraph 1(a)-(c) above. Developing countries parties to this Agreement may also request, after entry into force of the Agreement, the Committee to grant exclusions for certain entities or products that are included in

their lists in the light of their participation in regional or global arrangements among developing countries, having regard to the particular circumstances of each case and taking duly into account the provisions of paragraph 1(d) above. Each request to the Committee by a developing country party relating to modification of a list shall be accompanied by documentation relevant to the request or by such information as may be necessary for consideration of the matter.

6. Paragraphs 4 and 5 above shall apply mutatis mutandis to developing countries acceding to this Agreement after its entry into force.

7. Such agreed exclusions as mentioned in paragraphs 4, 5 and 6 above shall be subject to review in accordance with the provisions of paragraph 12 of this Part.

Technical assistance for developing signatory countries

8. Developed country parties to this Agreement shall, upon request, provide all technical assistance which they may deem appropriate to developing country parties in resolving their problems in the field of government procurement.

9. This assistance which shall be provided on the basis of non-discrimination among developing country parties shall relate, inter alia, to:

- the solution of particular technical problems relating to the award of a specific contract;
- any other problem which the party making the request and another party agree to deal with in the context of this assistance.

Information centre

10. Developed country parties to this Agreement shall establish, individually or jointly, information centres to respond to reasonable requests from developing country parties for information relating to, inter alia, laws, regulations, procedures and practices regarding government procurement, notices about proposed purchases which have been published, addresses of the entities covered by this Agreement, and the nature and volume of products purchased or to be purchased, including available information about future tenders. The Committee may also set up an information centre.

Special treatment for least-developed countries

11. Special treatment shall be granted to least-developed countries parties to this Agreement and to the suppliers in those countries with respect to products originating in those countries, in the context of any general or specific measures in favour of the developing countries parties to this Agreement. Signatories may also grant the benefits of this Agreement to suppliers in least-developed non-signatory countries with respect to products originating in those countries. Developments under this provision shall be reviewed by the Committee in the course of the reviews provided for in this Agreement.

Review

12. The Committee shall review annually the operation and effectiveness of this part and after each three years of its operation on the basis of reports to be submitted by the parties to this Agreement shall carry out a major review in order to evaluate its effects. As part of the three-yearly reviews and with a view to achieving the maximum implementation of the provisions of this Agreement, including in particular Part II, and having regard to the development, financial and trade situation of the developing countries concerned, the Committee shall examine whether exclusions provided for in accordance with the provisions of paragraphs 4 to 6 of this part shall be modified or extended.

13. In the course of further rounds of negotiations in accordance with the provisions of Part X, paragraph 11, developing countries parties to this Agreement shall give consideration to the possibility of enlarging their schedules of entities having regard to their economic, financial and trade situation.