

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG8/W/83/Add.2
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Group of Negotiations on Goods (GATT)

Negotiating Group on MTN
Agreements and Arrangements

AGREEMENT ON GOVERNMENT PROCUREMENT

The Informal Group has met three times, on 8 March, 21 May and 26 June 1990. The following gives the current status of work on which further negotiations will be based. Further comments and alternative language presented after the last informal meeting in accordance with the procedure agreed upon are reflected by way of asterisk and square bracket.

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1. "Transparency and predictability mechanism"*

A voluntary mechanism will be established containing the following main elements:

Governments not Parties to the Agreement on Government Procurement

Their central government entities, including those operating at regional and local levels, will:

*One delegation has stated, inter alia, that the mechanism proposed appears to be inappropriate in terms of achieving the goals of increased membership and greater transparency. There appears to be no incentive for non-signatories to entertain such a "voluntary mechanism", nor would the existence of such a mechanism provide any incentive to accede to the Code. Although nominally voluntary, it might become, de facto, a stage in the accession process. The proposed mechanism, which requires non-signatories to publish their calls for tenders and their contract awards according to the rules of the Code, and to apply the Code's rules on technical specifications, could necessitate changes to their procedures, even where these are already highly transparent, for which they would not derive any corresponding benefit. To the extent that such changes are intended to assist non-signatories in their consideration of Code membership, governments could presumably make them without the creation of a "mechanism". An imbalance is also seen in that non-signatories would apply the mechanism to all procurement by all of their central government entities, but Code signatories would only undertake obligations in respect of procurement by their designated entities above a certain threshold. Proposals involving non-signatories aimed at increased transparency should be on the basis of an exchange of information and apply equally to Code signatories and non-signatories.

- publish their calls for tenders and their contract awards according to the rules of the Agreement, i.e. Article V:4 and 5, and Article VI:1;
- apply the rules on technical specifications in the Agreement; i.e. Article IV; and
- indicate in an unambiguous manner whether or not bids or goods originating in other countries would be accepted and - if so - under what conditions.

The entities indicated above will not:

- be obliged to follow the principles of non-discrimination and national treatment in accepting and treating bids from suppliers of Parties to the Agreement, or goods originating in those Parties.

Governments Parties to the Agreement on Government Procurement

Their entities covered by the Agreement will [indicate in an unambiguous manner whether or not in the case of procurement covered by the Agreement, bids from non-Parties or goods originating in those countries would be accepted and - if so - under what conditions.] [provide notification of intent to procure via a call for tenders in the case of procurement covered by the Agreement. Bids from non-Parties or goods originating in those countries may be accepted by Parties to the Agreement. Transparency of procurement procedures will be accessible to all Parties and interested non-Parties.]

2. "Facilitation of Further Membership"

With respect to Article III of the Agreement and terms of accession, referred to in Article IX:1, the following points which have been raised will be discussed further:

- progressive enlargement over an agreed period of time, of initial offers of new Parties, who have acceded on the bases of a limited number of undertakings, having regard to their individual economic, financial and trade situations as well as individual procurement systems; and
- procedural questions concerning accession raised in MTN.GNG/NG8/W/9.