

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

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**Committee on Government Procurement  
(Tokyo Round Agreement)**

**MINUTES OF THE MEETING HELD ON 27 FEBRUARY 1996**

**Chairman: Mr. Harald Ernst (Switzerland)**

1. The following agenda was adopted:

A. Election of officers

B. The co-existence of the Tokyo Round Agreement and the 1994 Agreement on Government Procurement

A. **ELECTION OF OFFICERS**

2. The Committee re-elected Harald Ernst as its Chairperson and agreed that, in case the Chairman was absent from any meeting or part thereof, it would elect an interim Chairperson for that meeting or part of that meeting rather than electing a Vice-Chairperson.

B. **THE CO-EXISTENCE OF THE TOKYO ROUND AGREEMENT AND THE 1994 AGREEMENT ON GOVERNMENT PROCUREMENT**

3. The Chairman recalled that, from the beginning of this year, a situation existed in which two Agreements on Government Procurement formally existed side by side. At the Committee's last two meetings, proposals had been discussed, aimed at clarifying the legal relationship between those Parties to the Tokyo Round Agreement which were also members of the new Agreement and the Parties to the Tokyo Round Agreement which were not members of the new Agreement. At the Committee's meeting on 7 December, the delegation of the European Communities had tabled a draft decision on the co-existence of the two Agreements, with a view to avoiding legal uncertainties which might result from discrepancies between certain provisions in the old and the new Agreements. The EC proposal incorporated a Japanese proposal made earlier on the same matter, in its entirety. At that meeting, the Committee had agreed that that proposal would be considered adopted unless objections were received. The delegation from Hong Kong had subsequently raised an objection, which was circulated in document GPR/W/144.

4. The representative of Japan said that his delegation had wished to seek a solution acceptable to all Parties. It had been motivated to address this important issue with a view to ensuring the implementation of both Agreements at the national law level. He regretted that, after a series of bilateral consultations with the delegations of Hong Kong and the European Communities, it had proven to be impossible to find a solution. His delegation had also tried to identify the provisions where discrepancies might arise, for possible discussion at this meeting, but had failed to do so. He invited the delegation of Hong Kong and any other Party to continue efforts to find a solution and in this regard for Hong Kong to consider the new Agreement.

5. The representative of the European Communities emphasized that his delegation was interested in Hong Kong joining the new Agreement, hopefully in the near future. However, as long as Hong

Kong would not be in a position to do so, his delegation was willing to try and find solutions with a view to ensuring mutual market access through the Tokyo Round Agreement. He stressed that the only way of addressing potential issues resulting from the co-existence of the two Agreements which was acceptable to his delegation and would allow it to remain in both Agreements was the proposal which his delegation had tabled at the December meeting. His delegation therefore called on the delegation of Hong Kong to accept this proposal. The European Communities were also continuing bilateral consultations with Hong Kong, with a view to urging the Hong Kong authorities to reconsider their position.

6. The representative of Hong Kong said that, since his delegation had raised an objection to the European Communities' proposal last December, no change in position had occurred in his authorities' position regarding the draft text. His delegation appreciated that bilateral discussions with several delegations on this matter had taken place to enhance mutual understanding of the various positions and it was prepared to consider other proposals on co-existence arrangements between the two Agreements and to continue to hold bilateral consultations.

7. The representative of Switzerland said that her delegation wished to keep a link in government procurement matters with Hong Kong but saw some difficulties if forced to deal with both Agreements. It was open to bilateral discussions with Hong Kong with a view to finding a mutually acceptable solution.

8. The representative of Norway said that, while her delegation was open to finding a solution to the co-existence issue, it hoped that this issue would only be of a temporary nature and that Hong Kong would join the new Agreement.

9. The representative of the European Communities reiterated that his delegation's proposal on co-existence was the final solution it could accept. Parties to the Tokyo Round Agreement, who had all, except Hong Kong, either joined the new Agreement or applied for accession, had been willing to do their utmost to enable Hong Kong to retain market access to part of their procurement markets. While expressing his disappointment at Hong Kong's intransigent position, he said that the European Communities was making a last-ditch effort to finding a solution. If, however, this effort did not result in an acceptance by Hong Kong of his delegation's proposal, which in the end was only a vehicle for co-existence, the European Communities would be forced to reconsider its position in the Tokyo Round Agreement which might result in withdrawal from it.

10. The representative of Japan said that, since this issue was directly related to the way in which his authorities implemented the two Agreements at the same time, they would be compelled to consider withdrawing from the Tokyo Round Agreement in the event that Hong Kong's position did not change, subject to a survey of the possible impact this might have on the bilateral relationship between his country and Hong Kong.

11. The Chairman concluded that the Committee was not in a position today to find a solution and encouraged Hong Kong to hold further consultations with delegations of the Tokyo Round Agreement in order to resolve this issue well in advance of the next meeting. He would be available to assist any delegation in the matter.

12. The Committee took note of the statements made.

#### DATE OF THE NEXT MEETING

13. It was agreed that the Chairman would set the date of the next meeting in consultations with delegations at a later stage.