

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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

MINUTES OF THE MEETING HELD ON 20 SEPTEMBER 1996

Chairman: Mr. Harald Ernst (Switzerland)

1. The Committee took up the question of the co-existence of the Tokyo Round Agreement and the 1994 Agreement on Government Procurement.
2. The representative of Hong Kong said that the issue of the co-existence of the two Agreements should be dealt together with Hong Kong's intentions regarding the 1994 Agreement. Hong Kong had always been a staunch supporter of the multilateral trading system and the fundamental GATT principles of most-favoured-nation and national treatment. As a Party to the Tokyo Round Agreement on Government Procurement, Hong Kong had participated actively in the negotiation of the new Agreement on Government Procurement which embraced considerably expanded coverage and improved disciplines. It was with considerable regret that Hong Kong had been unable to sign the new Agreement due to their principle difficulties with the discriminatory elements introduced in the Agreement by many participants at the concluding stage of the negotiations. Though not a Party to the new Agreement, Hong Kong had continued to maintain its open and transparent government procurement system. In recent bilateral contacts with several Parties to the new Agreement, Hong Kong's continuing concerns about the derogations from the non-discriminatory provisions of the Agreement had been acknowledged. Support for working out suitable solutions to clear the way for Hong Kong to consider re-engaging the new Agreement had also been received. Specifically, his delegation had received assurances from these Parties that the sectoral non-application provisions against Hong Kong could be removed, and that efforts would be made towards conducting an early review of the Agreement under Article XXIV, paragraph 7, with a view to, among other things, eliminating the discriminatory measures and practices in the Agreement. The initiation of such a review in 1997 would fit in well with Hong Kong's interest. In the light of the positive development, Hong Kong was prepared to work actively towards joining the new Agreement. In this connection, his delegation hoped that the WTO Committee on Government Procurement would come to an early decision on initiating an early review of the Agreement under Article XXIV:7. On the issue of co-existence of the two Agreements, as far as Hong Kong was concerned, his delegation hoped that the issue would soon be obviated in view of the latest development.
3. The representative of Japan said that his delegation welcomed the statement that Hong Kong would consider acceding to the 1994 Agreement. This would be the best solution to the problem of the co-existence of the Tokyo Round and 1994 Agreement. In order to begin its accession procedures Hong Kong requested Parties to the 1994 Agreement to initiate an early review of the Agreement with a view to addressing its so-called discriminatory elements. The draft Report of the WTO Committee on Government Procurement to the Singapore Ministerial Conference, that the Committee had discussed at its meeting of 20 September 1996, included a reference to a review under Article XXIV:7 of the 1994 Agreement which would cover, among others, elimination of discriminatory measures and practices. Bearing in mind Hong Kong's request concerning this issue, his delegation had no objection to the

said review covering such an issue. His Government planned to withdraw from the Tokyo Round Agreement on an early occasion.

4. The representative of the European Community welcomed the statement by the representative of Hong Kong. His delegation commended Hong Kong for having decided to take this step and looked forward to a formal application for accession to the new Agreement. As its delegation had been actively involved in the process leading to the conclusion of the Agreement, Hong Kong could table its offer very rapidly. An early accession would not only enable Hong Kong to benefit from the results of the review of the Agreement, but also allow it to participate actively in the review process. His delegation understood the statement of the representative of Hong Kong as an announcement that Hong Kong would soon be able to apply for membership. This would obviate the problems related to the co-existence of the two Agreements. In the light of Hong Kong's above statement, the European Community might consider its withdrawal from the Tokyo Round Agreement with effect from 1 January 1997.

5. The representative of Switzerland welcomed the statement by Hong Kong which they interpreted as an expression of Hong Kong's intention to accede to the new Agreement in the near future. Her delegation looked forward to an early offer by Hong Kong. In her delegation's view, there was no need to continue with the discussion of the co-existence under the two Agreements. Her Government might soon withdraw from the Tokyo Round Agreement.

6. The representative of Norway welcomed the statement by the representative of Hong Kong and looked forward to an early application for accession by Hong Kong.

7. The representative of Canada said that his delegation welcomed the statement by Hong Kong which signalled Hong Kong's intention to apply for accession in the near future. An early application for accession and a rapid completion of this process would enable Hong Kong to participate with other Parties in an early review of issues of concern to it.

8. The Committee took note of the statements made.