

GENERAL AGREEMENT ON

RESTRICTED

GPR/M/33
19 May 1989

TARIFFS AND TRADE

Special Distribution

Committee on Government Procurement

MINUTES OF THE MEETING HELD ON 14 APRIL 1989

Chairman: Mr. John Donaghy (Canada)

1. The agenda contained one item:

"Submission by Finland: Acquisition or lease of Antarctic Research Vessel with Ice-Breaking Capability by United States' National Science Foundation; Recourse to the Dispute Settlement Procedures under Article VII of the Agreement."

2. The Chairman recalled the documentation before the Committee in this matter: GPR/W/89 and 91-93; GPR/M/31 (item E) and GPR/M/32 (item E)¹; and an extract of Independent Agencies Appropriations Act, 1989, dealing with United States' Antarctic Programme Activities, circulated informally to the Parties at the request of the Finnish delegation. He further recalled the purpose of the present meeting as agreed upon at the meeting of March 1989 (ref: GPR/M/32, paragraphs 59-60).

3. The representative of Finland recalled that the meeting had been requested by his delegation under Article VII:6; the purpose being to investigate the matter with a view to facilitating a mutually satisfactory solution. Its positions, which were reflected in document GPR/W/92, remained unchanged. The incorporation per se of the "Buy American" provision into the United States' legislation affecting the acquisition or lease of an Antarctic research vessel by the United States' National Science Foundation, constituted an action, the compatibility of which with Article IX:4(a) and the Preamble of the Agreement, should be examined in depth by the Committee. Secondly, the acquisition or lease concerned was, per se, covered by Article I:1(a), notwithstanding the fact that the provision did not apply to service contracts, per se, thus separating specific procurement actions from service contracts as such, per se. After having exhausted all options, his delegation had requested the establishment of a Panel at the last meeting and had tabled draft terms of reference for it. It maintained that request. However, in bilateral consultations subsequently held between the two Governments, some prospects for a possible positive development had emerged. Consequently, taking this

¹Issued in draft form for the meeting.

./.

development into account, he had been instructed not to insist on a formal decision on the establishment of a Panel at this meeting. His delegation was prepared to delay a decision on a Panel also because conciliation and consultation were essential elements of dispute settlement; the objective of any GATT dispute being to produce a mutually satisfactory solution. However, it reserved its right to revert to the matter if there were no further positive developments bilaterally in the coming weeks, or month.

4. The representative of the United States stated that his delegation's views were recorded in its submissions and in the minutes. Consultations were continuing and his delegation had welcomed the positive spirit of them and hoped that through this process a mutually satisfactory conclusion would be reached.

5. The representative of the European Economic Community stated that her delegation was pleased with the indication of positive developments in the bilateral consultations. It, too, hoped that they would result in a positive outcome satisfactory to both sides.

6. The representative of Sweden, also on behalf of Norway, recalled that they had supported the establishment of a Panel. However, they welcomed indications that a mutually satisfactory solution between the two Parties might be reached.

7. The Chairman concluded that the Committee encouraged a continuation of the efforts towards a positive resolution of this matter. He noted that Finland had kept open the possibility of pursuing the formal request for a Panel at a future meeting.