

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

GPR/M/38

28 November 1990

Special Distribution

Committee on Government Procurement

Original: English

MINUTES OF THE MEETING HELD ON 5 OCTOBER 1990

Chairman: Mr. Nils-Erik Schyberg (Sweden)

1. The following agenda was adopted:
 - A. Article IX:6(b) negotiations;
 - B. Accession of further countries to the Agreement;
 - C. 1988 statistical review;
 - D. Implementation and administration of the Agreement;
 - E. Tenth annual review of the implementation and operation of the Agreement; adoption of the 1990 Report to the CONTRACTING PARTIES;
 - F. Other business:
 - (i) work in the Negotiating Group on MTN Agreements and Arrangements;
 - (ii) panel candidates for 1991;
 - (iii) updating of the Practical Guide;
 - (iv) further meetings.

A. Article IX:6(b) negotiations

2. The Chairman gave the following report on work undertaken in the Informal Working Group on Negotiations.

3. Since the last meeting of the Committee, the Informal Working Group on Negotiations met on 1-3 August 1990 and 1-4 October 1990. One Party presented at the August meeting its request and offer under the Article IX:6(b) negotiations. This included suggestions for improvements to the text of the Agreement, inter alia, to cater for the coverage of services. A very useful exchange of views and clarifications took place following the tabling of that proposal.

4. At the August meeting, the discussion also continued on certain specific issues which have been on the table for some time, such as the possible introduction of criteria for how goods and suppliers become eligible for Code benefits; a suggestion to strengthen the rules on the use of offsets and similar conditions; suggestions on how to treat situations of privatizations and nationalizations; the introduction of a bid challenge mechanism into the Code; and also different aspects of including services into the Code. Some Parties also provided further information including statistical data, on their procuring entities.

5. At the end of the August meeting, the Chairman proposed procedures for interested delegations as a practical means to advance the negotiations. Delegations which needed some time for reflection confirmed, by the agreed date of 20¹ August, that they could also comply with the proposed procedures.

6. At the meeting from 1-4 October 1990, offers and requests from six more Parties were introduced and commented upon in the Informal Working Group. Two further delegations have indicated that they will circulate offers and requests. The discussions this week covered all main elements which could constitute a possible overall agreement, including the treatment of different types of procuring entities, different categories of services, the threshold, and - apart from points mentioned above - amendments to the text of the Agreement which might be needed to cater for the eventual results of the negotiations. The Group also discussed a suggestion - originally tabled in the Uruguay Round - to introduce a transparency and predictability procedure.

7. From now on, the negotiations proceed on the basis of concrete offers and requests from participants and concrete textual proposals for any changes in the Agreement that might be needed. In the course of the week, a number of bilateral and plurilateral discussions have taken place outside meetings of the Informal Working Group. It is necessary that bilateral work be intensified in the weeks to come. The Group has set aside the weeks of October 22 and November 12 for further meetings.

B. Accession of further countries to the Agreement

8. The Chairman recalled that at its meeting on 29 June 1990, the Committee had taken note of statements made following the presentation of an initial offer list by the Republic of Korea.

9. The representative of the Republic of Korea stated that since his Government's presentation of its initial offer list, his delegation had participated in bilateral consultations with several parties on its terms of accession. This process was still continuing and his delegation would make its best efforts to conclude it in a timely manner. He added that it would be at the disposal of any Party which wished to enter into these bilateral consultations. The delegation attached importance to a wider coverage of entities and the other issues being discussed in the Informal Working Group under the Article IX:6(b) negotiations and believed that such issues were directly and indirectly influencing the countries that were seeking full membership to the Agreement.

¹These procedures are reproduced in Annex I.

C. 1988 statistical review(a) statistical review

10. The Chairman noted that at the last meeting it had been agreed to postpone this review until the present meeting. He recalled that the delegation of the United States had circulated questions to Hong Kong, Singapore, Austria, Canada, Sweden, and Finland and had received written responses from Finland, Austria, Hong Kong and Canada prior to this meeting. The representative of the United States thanked the delegations for their responses and informed the Group that her delegation would follow up on some of these responses bilaterally.

(i) Sweden (GPR/53/Add.4)

11. The representative of Sweden stated that his delegation had received questions on its 1988 statistics and would provide written answers as soon as possible. The Committee agreed that the statistical review of Sweden be considered concluded once the written answers were circulated.

(ii) United States (GPR/53/Add.10)

12. The representative of the European Economic Community reserved its right to submit questions to the United States. It was agreed to revert to this item at the next meeting.

(iii) European Economic Community (GPR/53/Add.11)

13. The representative of the United States referred to the terms of the settlement of an earlier dispute and wondered why the EEC statistics showed a threshold of SDR 150,000. The representative of the EEC stated that his delegation would provide an answer at a later date. It was agreed to retain this item on the agenda for the next meeting.

(b) Conclusion

14. The Committee took note of the statements made. It agreed to consider as concluded the statistical review of Hong Kong, Singapore, Austria, Canada, Finland, Japan, Switzerland, Israel, and Norway. The Chairman recalled that for many years, 30 September had been the agreed date by which the statistical reports on the previous calendar year should be in. He noted that only Singapore and Hong Kong had submitted their 1989 statistics which had been circulated as GPR/57 and GPR/57/Add.1, respectively. He urged delegations to submit their 1989 statistics as soon as possible so that their examination could begin at the first meeting of 1991. At that meeting, the Committee would also continue and finalize the examination of outstanding questions relating to the 1988 statistics of the United States and the EEC.

D. Implementation and administration of the Agreement

15. The Chairman drew attention to document GPR/58 containing a communication from Sweden under Article IX:5(a) of the Agreement, adding to Annex I one agency which had formerly been a sub-agency of another agency. If there was no objection by 11 October 1990, this modification would become effective. He also noted that the modification to the United States entity list, contained in GPR/56 and Corr.1, which had been accepted by the Committee at its June meeting, had been certified by the Director-General in document Let/1687 of 19 July 1990.

16. The representative of the European Economic Community requested the United States authorities, in conformity with Article VII of the Agreement, to provide information regarding the manner in which the procurement of a solar mapping system for the maintenance and operation of United States facilities in Antarctica was carried out by the National Science Foundation, a code-covered entity. His delegations reserved its rights in this matter.

17. The representative of the United States stated that her delegation would report to the Committee at a later date.

18. The Committee took note of the statements made and agreed to revert to this item at the next meeting.

E. Tenth annual review of the implementation and operation of the Agreement; adoption of 1990 report to the CONTRACTING PARTIES

19. The Chairman noted that the secretariat had circulated an initial draft of the 1990 report. This would be brought up-to-date to incorporate this meeting and a revised draft would be sent to delegations for comments and subsequent transmission to the CONTRACTING PARTIES' Session. The Committee agreed to incorporate an amendment to the initial draft, which was proposed by the representative of Hong Kong, and agreed on the procedures suggested by the Chairman.

F. Other business

(i) Work in the Negotiating Group on MTN Agreements and Arrangements (NG8)

20. The Chairman informed the Committee that since its last meeting, the text contained in MTN.GNG/NG8/W/83/Add.2 had been forwarded to the GNG by the NG8 on 23 July 1990. A further informal meeting under the NG8 auspices had been held on 1 August 1990. When the NG8 had met on 17 September 1990 its Chairman had stated his understanding that no progress had been made at that informal meeting and that attendance had been very small. After consultations with delegations it had been decided not to hold any other informal meeting.

(ii) Panel candidates for 1991

21. The Chairman noted that only the delegation of Finland had notified the secretariat of its panel candidates for 1991. He invited other Parties to nominate new or to confirm present panel candidates.

(iii) Updating of the Practical Guide

22. The Chairman conveyed a message from the secretariat that the updating of the Practical Guide had been considerably delayed due to the workload and priorities associated with the Article IX:6(b) negotiations and the Uruguay Round. It was agreed that the updating of the Practical Guide be set aside until the results of the Article IX:6(b) negotiations were known.

(iv) Further meetings

23. It was agreed that the secretariat would consult delegations in due time regarding the dates for further meetings which would depend on the outcome of the Article IX:6(b) negotiations.

ANNEX I

PROCEDURES FOR FURTHER ARTICLE IX:6(B) NEGOTIATIONS

(A) BROADENING OF THE AGREEMENT TO FURTHER PROCUREMENT ENTITIES

1. Interested Parties are invited to table, by 24 September 1990 if possible, offers for the inclusion of further procurement entities in Annex I to the Agreement. In addition to lists of procurement entities the offers should contain:

- where available, information on the value of procurement above SDR 130,000 during a recent period and the products procured, both on an indicative basis;
- any conditions on which the offer is based, including modifications to the text of the Agreement, or derogations required (e.g. by way of notes in Annex I) which would be required for coverage of regional and local government entities and entities other than central, regional and local governments whose procurement policies are substantially controlled by, dependent on, or influenced by, central, regional or local governments.

2. Interested Parties are also invited to submit requests to their trading partners for the inclusion of procurement entities in Annex I to the Agreement.

(B) POSSIBLE EXPANSION OF THE COVERAGE OF THE AGREEMENT TO INCLUDE SERVICE CONTRACTS

3. Interested Parties are invited to table offers for the inclusion of service contracts into the Agreement by 24 September 1990, if possible.

4. Such offers, which would be without prejudice to delegations' positions in the GNS Negotiations, should contain:

- where available, information on the value of typical service contracts awarded above SDR 130,000 by entities presently Code-covered, and entities offered for inclusion under (A) above, during a recent period, on an indicative basis;
- any conditions on which the offer is based, including modifications to the text of the Agreement, or derogations (e.g. by way of notes in Annex I) which would be required for the offer to be maintained.

5. Interested Parties are also invited to submit requests to their trading partners for the inclusion of service contracts in the Agreement.

(C) IMPROVEMENTS IN THE AGREEMENT

6. Apart from improvements proposed as conditions for offers referred to in paragraphs 1 and 4 above, interested Parties may submit additional proposals for other improvements in the text of the Agreement, not later than 24 September 1990.

* * *

7. In the forthcoming period every effort should be made by Parties to provide one another, upon request, with information regarding procurement in their respective countries including indications as to the legal nature of entities, the legislative/regulatory bases for their procurement, their procurement volumes, and main products and services procured, to the extent that such details are available.

8. In the process of the exchange of offers and requests between the Parties, a copy of each offer and request should be lodged with the GATT secretariat for confidential circulation to the other Parties.

9. The tabling of offers will be followed by intensive negotiations between the Parties. The negotiations will take place on the basis of mutual reciprocity having regard to the provisions of Article III relating to developing countries.