

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

GPR/W/30

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Special Distribution

Committee on Government Procurement

PROCEDURES FOR FURTHER NEGOTIATIONS FORESEEN IN ARTICLE IX:6(b)
OF THE AGREEMENT

Working Paper by the Secretariat

1. At its meeting on 24 February 1983 the Committee requested the secretariat to draw up, in consultation with delegations, a note on procedures for the Article IX:6(b) negotiations. The Committee also agreed that procedures for the conduct of these negotiations, including a date for launching them, be discussed at the next meeting. (GPR/M/7, paragraphs 60-61). It is further recalled that when the Committee discussed preparations for further negotiations, "the Chairman stressed that any preparatory work proposed, discussed or undertaken was without prejudice to delegations' subsequent negotiating positions" (idem. paragraph 22). The present working paper, which has been prepared by the secretariat in response to the Committee's request, does not therefore commit any delegation with respect to any issue which might be included in the negotiations.

I. Provisions of the Agreement

2. The negotiations are to be carried out in accordance with Article IX:6(b) of the Agreement, which stipulates that:

"Not later than the end of the third year from the entry into force of this Agreement and periodically thereafter, the Parties thereto shall undertake further negotiations, with a view to broadening and improving this Agreement on the basis of mutual reciprocity, having regard to the provisions of Article III relating to developing countries. In this connexion, the Committee shall, at an early stage, explore the possibilities of expanding the coverage of this Agreement to include service contracts."

Article III, which is mentioned in the text of this paragraph, contains a number of references to negotiations.

II. Procedures for negotiations

3. As indicated above, the negotiations shall aim at "broadening and improving" the Agreement. From the Committee's preparatory work, it seems clear that this implies two types of negotiations, one concerning the lists of entities in Annex I and another concerning the text of the Agreement. Separate procedures may be needed for each of these, as was the case when the Agreement was initially drafted.

4. The procedures for negotiations on procurement entities during the MTN's were as follows (ref. GATT/AIR/1468 of June 1978):

"Interested participants are invited to table offers for the inclusion of procurement entities in the schedules to the Agreement during the period (ten days), if possible. In addition to lists of procurement entities the offers should contain, where available, information on the value of purchases during a recent period and the products purchased, both on an indicative basis.

Interested participants are also invited to submit requests to their trading partners for the inclusion of procurement entities in the schedules to the Arrangement.

In the forthcoming period every effort should be made by participants to provide on another, upon request, with information regarding procurement entities in their respective countries including an indication of product coverage and value of purchases etc. to the extent that such details are available.

In the process of the exchange of offers between the participants concerned, one copy of each offer should be lodged with the GATT secretariat for inspection by interested delegations, fully respecting the requirements of confidentiality in the multilateral trade negotiations. Copies of request lists should also be transmitted to the secretariat for the information of other interested delegations.

The tabling of offers will be followed by intensive negotiations between the trading partners concerned. In the negotiations on procurement entities, full account will be taken of the individual development, financial and trade needs of developing countries."

5. It is suggested that a similar procedure could be used for the Article IX:6(b) negotiations on entity lists, taking into account the fact that data might in the present case have been provided in the course of the preparatory work. As in the Tokyo Round, "intensive negotiations" in the form of bilateral and plurilateral consultations on an informal basis could be expected to facilitate progress.

6. The Committee might wish to consider clarifications concerning the text of the Agreement in the context of the negotiations. The preparatory work so far undertaken seems to suggest that a number of issues other than entity coverage might be raised. With respect to the procedural aspect, negotiations concerning the text of the Agreement might, as during the MTNs, be based on specific proposals put forward by delegations.

7. The Committee should review progress made and deal with any issues that arise, as and when necessary. In the final stage of the negotiation, the Committee should be considered to be in permanent session, i.e. callable at any time on short notice. It is recalled in this connection that the Committee's decision at its first meeting concerning participation of

observers, provides, inter alia, that "the Committee may deliberate on confidential matters in special restricted sessions" (GPR/M/1, Annex I). This procedure might be used, as appropriate, in the negotiations.

III. Timetable for negotiations

8. The Committee should set a date for the formal opening of the negotiations, which in accordance with Article IX:6(b) shall be before the end of the current year. It is suggested therefore that the negotiations be launched at the meeting scheduled for 2-4 November 1983. The Committee might also set a date or dates for the tabling of requests and offers and for putting forward specific proposals concerning the text of the Agreement. In accordance with normal practice, the Committee might also wish to set a target date for the conclusions of the negotiations.

IV. Other procedural questions

9. The Committee might also wish to address a number of other procedural questions. One such question relates to the confidentiality which trade negotiations normally require, while at the same time providing adequate transparency in order to facilitate participation by non-parties who might be interested in seeking accession.

10. Negotiations concerning accession of further countries to the Agreement might be combined, as appropriate, with the negotiations. In this connection, it is recalled that procedures already exist for the accession of contracting parties to the Agreement (L/5101, Annex II and GPR/M/1/Annex II; L/5466/Annex 1).