GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

GPR/Spec/58
1 December 1987

Committee on Government Procurement

DRAFT MINUTES OF THE MEETING HELD ON 16 OCTOBER 1987

Chairman: Mr. A. Dell (United Kingdom)

1. The following agenda was adopted:

A. Implementation and administration of the Agreement, including stocktaking of national procedures concerning acceptances of the Protocol of Amendments

(i) Stocktaking

2. The Chairman recalled that the period during which the Protocol could be accepted had been extended until 16 November 1987 (GPR/M/27). Two Parties had not yet accepted the Protocol. As no statements were made, he concluded that the situation was unchanged. He added that another short meeting would have to be held in order to further extend the deadline, if necessary.

(ii) Implementation and administration of the Agreement

3. The Committee took note of statements made on the following points:

(a) Sweden

4. The representative of Sweden informed the Committee of a seminar that would be held in Stockholm in order to improve knowledge of the Agreement and to make the practical handling of procurement more efficient. In reply to a question from the observer from India, he added that the seminar was a Swedish one, focussing mainly on internal application of the Agreement.

5. The Chairman welcomed these efforts to improve the application of the Agreement.

(b) European Economic Community

6. The representative of Sweden asked for a progress report on the situation of Greece, Portugal and Spain with respect to the implementation and administration of the Agreement. The representatives of Canada and the United States associated themselves with this request.

7. The Chairman suggested that the European Economic Community provide a progress report. The matter might be reverted to at the next meeting.

(c) Hong Kong

8. The representative of Hong Kong advised the Committee that Hong Kong intended to apply the Protocol Amending the Agreement, on a de facto basis, as of 1 January 1988. The representative of the United States expressed appreciation for this action.

(d) Japan

9. The Committee took note of the fact that the rectifications and modifications relating to the privatization of Japanese National Railways had become effective as of 19 June 1987, following a communication by the EEC contained in document GPR/40.

10. The representative of Japan informed the Committee that his Government had set up procedures for the procurement of supercomputers. These were circulated at the meeting.[1] The procedures were based on the emergency economic measures decided on 29 May 1987, in line with the Action Programme for Improved Access to the Japanese Market. They had been designed in order to provide further transparency in the procedures for the introduction of supercomputers, and to ensure non-discriminatory competitive opportunities for all potential suppliers whether from Japan or from abroad. These procedures had come into effect on 1 August 1987. Their implementation would ensure consistency with the requirements of the Agreement, as amended.

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[1]Subsequently issued as GPR/W/84

11. The representative of the United States appreciated this statement which, together with that of Hong Kong, showed the good spirit with which members tried to implement obligations.

(e) The United States

12. The Chairman noted that the Committee had expected to revert to the procurement of machine tools by the Department of Defence. Since the last meeting, the EEC had requested Article VIII:4 consultations (GPR/41). The representative of the European Economic Community indicated that it might wish to make a statement on the matter under "other business".[1]

B. Article IX:6(b) negotiations

13. The Chairman recalled that in May 1987, the Committee had taken note of a progress report from the Informal Working Group on Negotiations, indicating that the objective was to reach agreement on the detailed work plan at a meeting of the Group to be held in July. On his own responsibility, as Chairman, he gave the following progress report:

> The Informal Working Group on Negotiations met on 8-9 July and 14-15 October 1987 and has adopted work programmes in the areas of broadening and service contracts subject to one provisional reservation.
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> The programme on broadening consists of a first stage in which an examination will be carried out on the basis of submissions received from the Parties, with a view to clarifying the possible spheres of application which the Agreement might appropriately cover. In a second stage, the programme calls for elaboration of the appropriate approaches to expand the Agreement. The situation will be reviewed thereafter. In the area of service contracts a first stage has been identified, consisting of an examination of the nature and scope of such contracts, with a view to clarifying the applicability of the Agreement to these service contracts, and to identifying the problems to be further examined, without prejudice to the final position of Parties on the implementation of such coverage. The examination will be conducted on the basis of information from the Parties.
>
> With respect to target dates, it is understood that the inability of one or more Parties to make submissions on time, would not prevent the other Parties from proceeding with the work. Neither would it prejudice the position of any Party nor the flexibility with which the programmes should be carried out, so as to allow all Parties to proceed with the work in a unified and harmonized manner. Hong Kong and Israel noted their understanding that the proposed target dates carried no obligation on the members of the Informal Working Group and were indicative. Singapore made a reservation on the proposed target dates.

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[1] Time did not allow this matter to be pursued at the meeting.

14. The representative of Singapore stated a number of concerns with respect to the negotiations in the Informal Working Group and the Work Programme it had adopted. Initially her delegation had made a reservation on the scope and content of the work programme, particularly in the area of services. It had also made a reservation on the target dates for submission of information and for completion of discussions on approaches that could be adopted for negotiations on broadening, both in traditional areas and that of service contracts. Her delegation while maintaining its reservations on the target dates, had agreed to withdraw the reservation on the scope and content of the work programme. This had been done with great reluctance, mainly to demonstrate Singapore's willingness to co-operate fully and to make it clear that it was not its intention to block progress of work in this area. The concerns which had obliged it to make the reservations still remained, however, and it would be necessary for the Committee to consider steps that could be taken to meet these concerns.

15. She noted that the basis for the discussions and negotiations in the Informal Working Group was Article IX:6(b), which stated that the negotiations should be undertaken "with a view to broadening and improving the scope of the Agreement" in the area of trade in goods. The Article did not state or provide that negotiations should be completed by a particular target date; it left it to the Parties to decide on the pace in the light of the overall situation prevailing at the time when the negotiations were being held. With regard to the extension of the scope of the Agreement to cover the trade in services, the Article emphasized the need to adopt a cautious approach, stating only that "The Committee shall, at an early stage, explore the possibilities of expanding the coverage of the Agreement to include service contracts." This was only recommendatory, and did not imply any preconceived notion or judgement on the part of the drafters that the basic provisions of the Agreement - drafted primarily with a view to their being applied in the area of trade in goods - could apply in the area of trade in services, without any modification. Singapore had joined the consensus to adopt the November 1986 Decision on Services on the understanding that this contained only an agreement to examine the appropriateness of expanding the coverage of the Agreement to include service contracts. Her delegation had also emphasized the need to take fully into account the decisions, including those on services, which were contained in the Ministerial Declaration on the Uruguay Round. It was firmly of the view that, now that the Uruguay Round had been launched under the auspices of GATT, the pace, scope, and substance of negotiations, held under any of the MTN Agreements, would have to conform to general principles and guidelines embodied in the Uruguay Declaration and which, inter alia, emphasized that conduct of the negotiations in different areas should be treated as part of a single undertaking. This would be particularly necessary since, in adopting the MTN Agreements in 1979, the CONTRACTING PARTIES had recognized the importance of ensuring that the work done by the Committees established under the Agreements did not in any way disturb the unity and consistency of the GATT system.

16. In this context, it was necessary to note some of the features of the international rules which applied in the area of government procurement. The General Agreement excluded the application of basic GATT rules - those relating to national and MFN treatment - in this area. The Parties to the Agreement on Government Procurement had agreed, however, to accept

additional obligations and to apply these two principles to the purchases of goods made by their government-owned entities covered by the Agreement. The question whether these principles, as well as other GATT principles which applied to trade in goods, could be applied to trade in services generally, was at present being considered by the Group of Negotiations on Services. As all the members of the Committee were aware, Singapore was among the few developing countries which had, from the very beginning, supported the proposals for negotiations in the area of services. Since the launching of the Uruguay Round her delegation had taken active interest in the work of the GNS. At a technical level, however, it had serious doubts as to whether the principles of national and MFN treatment as they applied to trade in goods, could simply be transposed to the area of services without modifications. The submissions and statements made by her delegation in the GNS reflected its concerns and apprehensions, which were shared by a number of other countries, both developed and developing.

17. Against this background, Singapore felt that it was rather unfortunate that the Parties should decide to push ahead with the work on expansion of the scope of the Agreement to cover service contracts, on the assumption that the principles of national and MFN treatment could, without any modifications, apply in this area also. It was unfortunate that, on the basis of such an assumption, steps were being taken to collect information from Parties. It would be necessary to adopt a cautious approach; definite steps to collect information on practices followed by countries in awarding service contracts, and for analysis of such information, would have to wait till some clear idea was available of the "principles and rules" that could apply to trade in services as a result of the work underway in the GNS for elaboration of a framework agreement.

18. Her delegation expected that, in accordance with the proposals which had been made in the Negotiating Group on MTN Agreements and Arrangements, the Committee would prepare a report explaining the work it had undertaken on further improving, clarifying, and expanding the content of the Agreement. Such a report would not only add transparency to the work of the Negotiating Group but could also provide an opportunity for countries which were not Parties to the Agreement, to participate and to express views on the work being done by the Committee. Her delegation expected that the report would include the report of the Informal Working Group and would reproduce fully the work programme that had been adopted in the areas of services and broadening, indicating the reasons for Singapore's reservations on target dates for completion of work.

19. The observer for India stated that he had listened with interest to the Chairman's report, since it provided some information on the work that had been done in the Informal Working Group. He had also listened with interest to the statement by the representative of Singapore, and would reflect on elements contained therein.

20. The Committee took note of the statements made under this agenda item.

C. Conclusion of the 1985 statistical review

21. The Chairman noted that the following documents, concerning 1985 statistics, had been circulated since the last meeting: (i) a corrigendum

to Norway's 1985 statistics (GPR/33/Add.5/Corr.1); and (ii) Israel's statistics (GPR/33/Add.11). Questions concerning the following Parties' 1985 statistics were taken up.

(i) United States statistics (GPR/33/Add.10)

22. The representative of the United States replied to questions previously raised by other members. The following explanations were provided: (i) the apparently increased use of Article V:15(b) (patent rights) reflected an improved reporting system. Among products procured under this exception were special types of instruments and laboratory equipment, books, maps, publications, and certain kinds of electrical wire; (ii) the decrease in purchases by the Department of the Interior reflected cyclical procurement of computers, scientific instruments, and mapping equipment; (iii) increased use of Article V:15(d) concerned a range of products, e.g. additional deliveries of parts for training aids and devices, instruments and engine accessories; (iv) footnote 22 in Commerce Business Daily did not invite bids, it was only an advertisement of future procurement, inviting unknown suppliers to announce themselves. Single tender contracts were not in fact published and could not be counted up. The terminology used was defined in US regulations. As in other Parties, a procurement system had existed in the United States before the Agreement, and not all terminology had been changed although the basic concepts were those of the Agreement. Low single tendering figures for 1986 might also reflect adjustments to new regulations introduced in 1985, one of which was to justify in greater detail the need for single tendering; (v) footnote 12 in CBD referred to items of interest to Parties to the Agreement, and were not only actual solicitations. Pre-solicitation advertisements, for example, would be published under footnote 12 because it would be discriminatory to do otherwise. As pre-solicitation notices were published three times, the number of notices and actual awards would differ. On the other hand, one notice could lead to more than one contract, depending on the degree of centralization. Thus the General Services Administration procured on behalf of many other entities and could invite solicitations for the entire year of off-the-shelf equipment for a variety of users. When actual orders were placed, different contracts followed. (vi) there had been cases where footnote 12 publications had not been made, e.g. in purchases of aircraft. Measures were being taken and discussions held with specific entities in this respect. Bidding in the United States applied to all Parties for all contracts published in CBD, whether or not footnote 12 was used. If a Code-covered contract was advertized without footnote 12, legally, the Buy America preferences could not be applied. While it was true that absence of footnote 12 made it difficult to know whether a particular contract was Code covered, it was also true that suppliers from the Parties had the right to take such cases to court to get redress; (vii) concerning procurement below the threshold where Buy America preferences existed, she drew attention to the footnote to Article I:1(b) which the United States complied with in advertizing and awarding contracts on a competitive basis below this amount. She wondered what other Parties did to meet the wording of the Agreement on this point.

23. The representative of the European Economic Community stated that these replies would be examined. He added that the EEC also had a system for optional publications of below-threshold calls for tender.

24. The representative of Japan thanked the US delegation for comprehensive replies.

(ii) Statistics of Sweden (GPR/33/Add.2)

25. The representative of Sweden reverted to a question regarding a decline in awards to US firms by the Post Administration. Despite best efforts, a full picture had not yet become clear. He suggested bilateral discussions and expressed willingness to inform the Committee of the results. With respect to other outstanding questions (from the EEC), he replied that: (i) the figures reported for 1981-1983 by the National Board of Public Building were too high because they included public works. The correct figures should be SDR 24.3, 27.1 and 18.9 million. The figures for subsequent years were correct; (ii) the decrease of about SDR 40 million in total procurement by the Post Office Administration between 1981 and 1985 reflected the building of a large terminal project during 1981-1983. Current terminal projects were less comprehensive and procurements of transport and assorting systems for these had been included in the figures for 1985; (iii) the decrease in procurements by the Swedish Forest Service reflected more service contracts in recent years; (iv) the decrease in procurements by the Royal Fortification Administration was due to a relocation which had required high procurements for the years 1981-1983. The low volume could also be explained by the fact that several procurements had been classified as military equipment and had therefore been excluded from the GATT rules. The National Audit Bureau was seeking clarification of this matter; (v) following re-organization, certain responsibilities had been transferred from the National Board of Education to a newly set-up Board. A decision of principle had been taken to include this new Board in the Agreement. The National Board of Education had also experienced difficulties, during the first years, in implementing the Agreement; (vi) the reduced overall procurement by the National Prisons and Probation Administration, was explained by a reduction in the production of wooden houses by 75 per cent, and in wooden furniture by 60 per cent. The initially very high figures had also contained statistical errors, as no distinction had been made between contracts awarded and call-off deliveries; (vii) with regard to the National Administration of Shipping and Navigation, a new investigation showed that the correct figure for 1985 was SDR 14.3 million, not SDR 0.4 million. Most purchases were for current consumption. About 50 per cent of the 1985 value had been accounted for by items such as fuel, under call-off contracts with other entities; (viii) as to questions on why more had not been awarded above the threshold, the Royal Fortification Administration had classified several procurements as being military equipment and therefore excluded from the GATT rules (see (iv) above); (ix) regarding the use of Article V:15(b), two entities had been uncertain about definitions. In order to generally improve knowledge of the Agreement, and to clarify uncertainties regarding the practical handling of procurement matters such as definitions, a seminar would be held, as already mentioned.

26. The representative of the European Economic Community stated that the replies would be examined; he reserved the right to revert to these at the next meeting, if necessary.

(iii) Statistics of Israel (GPR/33/Add.11)

27. The representative of Israel drew attention to the fact that one entity was still missing from the statistics.

28. The representative of the United States stated that a preliminary analysis of the Israeli statistics showed that as much as 86 per cent of Code-covered procurement had been for foreign products, and that 84 per cent of total procurement had been above the threshold. Only 6 per cent of contracts had been single tendered.

(iv) Statistics of the European Economic Community (GPR/33/Add.8 and Corr.1)

29. The representative of the European Economic Community gave explanations concerning the following points raised: (i) as authorized under Article VI:9(b), for statistical purposes, the EEC defined origin according to the nationality of the winning tenderer; (ii) as to format and presentation, the EEC's interpretation had persistently been that information on total number and value of single tender contracts was covered by Article VI:9(c) and that Article VI:9(b) was intended to cover only open and selective procedures. If the Committee wished, this particular matter might be discussed further with member States; (iii) military forklift trucks were covered under the NIPRO Group 35 and were Code-covered; (iv) the low volume of awards to Nordic countries in 1985 reflected low interest shown by suppliers from these countries in that year. This situation had improved in 1986; (v) concerning petroleum procurement under NIPRO category 14, only the United Kingdom figures gave details and showed one case of single tendering. Reluctance amongst suppliers to agree on other than short-term contracts was explained by the market situation. Multinational oil companies were established throughout the EEC, and it was not likely that supply contracts would be placed abroad.

30. Concerning the Federal Republic of Germany, circulars from the Economic Affairs Ministry had reiterated that entities should make the fullest use of the opportunities provided by GATT-wide publicity. Nevertheless, there had been an increase in 1985 in the general use of single tendering. This did not imply exclusion of foreign suppliers. On the contrary, a number of major contracts in the electronics field had been allocated to foreign suppliers, particularly under Article V:15(b). The increase in single tendering under Article V:15(a) was due to insufficient responses to calls for open and selective tenders in the areas of sophisticated measuring, checking, and precision instruments. Single tendering for reasons of urgency and in order to obtain additional deliveries had also occurred. In the area of electrical engineering products (category 34), there had been an increase of 50 per cent compared to 1984. Only a small number of German entities were regularly making purchases exceeding the threshold, i.e. the Ministries of Defence, the

Interior, Posts and Telecommunications, and on a less frequent basis, the Ministries of Finance, Foreign Affairs, and Justice.

31. Concerning Belgium, the increased use in 1985 of Article V:15(e) was due to one single procurement. The increase under Article V:15 (b) was due mainly to additional purchases of vehicle parts by the Ministry of Defence. In addition, in 1985 small entities had extended computer systems, which for reason of compatibility had been carried out as single tendering. The categories of products purchased under Article V:15(a) were petrol products, informatics (category 33), and vehicles parts (category 35), for which normal competition had not been possible.

32. Concerning the Netherlands there had been 115 contracts above the threshold, a reduction of 20 which was not substantial and which was accounted for mainly by the increased procurement in 1984 by the Governmental Centre for Mechanization and Automation (KMC) in the context of a technological catch-up operation. Substantial recourse to single tendering was due to reasons of urgency and replacements. However, a system of rotating invitations to classified suppliers ensured that single tendering was not detrimental to the interests of foreign suppliers. In fact many foreign companies won awards. Extreme urgency purchases also arose from the National Accountability Law, under which budgetary credits were annulled at the end of fiscal years giving rise to hasty engagements of delayed contracts. Delays in 1985 had been more important than in earlier years. The decrease in procurement by KMC and the Ministry of Justice was due to the transferral of procurement of computers and office machines from the KMC to another entity. The former had officially ceased to exist and the Committee would formally be notified in due course.

33. With respect to the United Kingdom, the reduced use of single tendering reflected an increasing emphasis on the importance of value for money and competition. The need for greater effort in this area had been highlighted by a 1984 report on public purchasing. The Government's policy was that whenever possible, all goods and services should be acquired by competition, regardless of whether the procurement was or was not covered by the EEC or GATT rules. The question had also been raised why Code-covered purchases of the Central Computer and Telecommunications Agency, the Department of Health and Social Security and the Post Office had declined over the last three years. The CCTA had previously been responsible for all information-technology contracts, but since 1985 each department had been responsible for their own contracts. The 1985 statistics therefore showed a reduction of procurement for CCTA and corresponding increases for most other departments. As far as the Department of Health and Social Security was concerned, the reduction reflected a number of factors, including reduced procurement of environmental control equipment. From April 1985, purchases of hearing aids had been moved to a regional authority. The Post Office had advertised Code-covered purchases of about £27 million in 1985, but the statistics had arrived too late to be included in the report.

34. The representative of the United States welcomed the detailed replies. One or two points that might be reverted to at the next meeting, could be taken up under "Implementation and Administration of the Agreement".

(v) Conclusion

35. The Committee agreed that the review of 1985 statistics was closed. The Chairman noted that the reports would become derestricted one year from this date. He also noted that the 1984 reports had now become derestricted.

(vi) Submission of 1986 statistics

36. The representative of Finland explained that Finland's 1986 statistics would be available very soon. Th Chairman urged Parties which had not yet done so, to submit the 1986 statistics as soon as possible.

37. The Chairman noted that there had been a growing tendency for delegations to transmit questions bilaterally. Although relevant information was subsequently given in the Committee, other delegations would also like to be informed of questions and replies prior to meetings. This practice had been followed in earlier years and he suggested that the Committee consider re-introducing the procedure whereby, if possible, questions and replies be circulated through the secretariat prior to each meeting. In the absence of comments, the Chairman stated that he assumed that from now on this could be the practice.

(vii) Proposals by the Nordic countries

38. The representative of Sweden introduced document GPR/W/83 on behalf of the Nordic countries. He recalled, in this connection, a statement that his delegation had made at the May 1987 meeting. While all proposals were equally important, he drew particular attention to the need for statistics to be based on uniform application of the definition of country of origin, as foreseen in the new Article VI:10(b). Although it would take some time before figures became available under the new provisions, he believed all the proposals could be implemented as of 1986 statistics. He also stressed the importance of secretariat analyses of trends in procurement figures.

39. The representative of the United States suggested that thought also be given to the Parties providing the secretariat with concordances between product categories as procured and as reported for statistical purposes.

40. The representative of Japan noted that his delegation was not opposed to the introduction of the Harmonized System as a basis for improving statistics, but added that a more detailed breakdown in product categories would increase the workload. This point should be duly taken into account.

41 The representative of the European Economic Community noted that a requirement to deliver statistics by a particular deadline could be difficult to meet in practice. It was ready to provide the United States with a concordance as suggested.

42. The representative of Israel agreed that a better analysis of trade benefits should be made. He reserved his position on the idea of basing statistics on the Harmonized System, as it was not clear whether procurement officers classified purchases on this basis. He also thought

that it would be difficult to abide by rigid deadlines for submission of statistics.

43. The representative of Canada commented that the definition of origin was not dealt with in Article VI:10(b) in terms of a reporting format.

44. The Committee took note of statements made. The Chairman concluded that this item would be reverted to at the next meeting.

(viii) Circulation of summarized statistics

45. The Chairman recalled that prior to the previous meeting, and in response to a request at the February meeting, the secretariat had circulated: (i) draft summary tables along the lines of the one-page summaries previously circulated as GPR/W/- documents for the years 1981 and 1982; and (ii) additional historical tables for the years 1983-1985 concerning categories of single tendering, and concerning product categories. He enquired whether Parties wished to take up these points again.

46. No comments were made.

D. Seventh annual review of the implementation and operation of the Agreement; Adoption of 1987 Report to the CONTRACTING PARTIES

47. The Chairman drew attention to the draft annual review document (GPR/W/82), which would subsequently have to be updated to cover the present meeting. Parties would have the opportunity to comment on the revised draft before it was issued as a GPR/- document.

48. Following brief remarks on some points which were to be taken into account, the secretariat was requested to proceed as suggested.

49. The Chairman noted that the draft report to the CONTRACTING PARTIES was usually adopted at the meeting on the understanding that Parties would have an opportunity to comment on a revised draft before the final document was issued.

50. Following some remarks on the draft text, the Committee agreed to adopt the report on the understanding stated above.

E. Other Business

(i) Request for information by the Negotiating Group on MTN Agreements and Arrangements (NG8)

51. The Chairman drew attention to a request for information by the Negotiating Group on MTN Agreements and Arrangements. In this connection, he quoted from documents MTN.GNG/NG8/2, paragraph 11, and MTN.GNG/NG8/3, paragraph 2.

52. The representative of Singapore stated that increased two-way transparency between the Committee and the NG8 was needed. Negotiations in

the latter should "aim to improve, clarify or expand, as appropriate, Agreements ... negotiated in the Tokyo Round of Multilateral Trade Negotiations" At the same time the Committee was undertaking Article IX:6(b) negotiations. She expected that the secretariat would be asked to prepare reports to NG8 after every meeting of the Informal Working Group. The Committee itself might seek information from the NG8 on any relevant work in that forum. She suggested that the following information be provided by this Committee: formal notes and minutes on each meeting, the work programme on broadening and service contracts adopted by the Informal Working Group, the questionnaire on service contracts, and secretariat factual reports on discussions in the Informal Working Group, including the reservations and concerns expressed by her delegation.

53. The representative of the United States stated that transparency was an important principle. Participation in this Agreement was voluntary and ongoing discussions related to obligations that the Parties might eventually undertake. She wondered whether reference to two-way information was meant to imply that delegations would also be prepared to transmit information on their procurement practices and the obligations that they were willing to undertake.

54. The representative of the European Economic Community stated that the Committee should react positively and in a pragmatic way. The Informal Working Group had been established partly to avoid formalization and paper multiplication. It seemed contradictory to start formalizing transmission of documents on this informal work. He therefore suggested that L/- documents, circulated after each meeting be made available. In addition, he noted that a very high level of information could be assured through capitals.

55. The observer for India stated that, as an observer, his delegation had expressed concerns on the intention to carry forward the second phase of the Article X:6(b) negotiations, coinciding with the launching of the Uruguay Round. Referring to a statement by the United Sates at the meeting of February 1987, that at the beginning of the Article IX:6(b) negotiations rules for participation of non-Parties had been agreed upon (GPR/M/25, paragraph 68), he wondered whether it was the Committee's understanding that such an offer was still open; i.e. that it was still open to non-Parties to table original or renewed offers and thus become participants. Secondly, he was not aware that the Article IX:6(b) negotiations took full note of Article III, as the work was going on in an informal group. He hoped that the continued Article IX:6(b) negotiations would not make the Agreement even more inaccessible to those who might be interested in accession. Broadening of the Agreement could also be achieved through broader participation. This underlined the importance of taking into account as wide concerns as possible. He also referred to a statement by Israel at the February 1987 meeting, to the effect that the work in the Uruguay Round might be complementary because improved coverage might be discussed in NG8 (GPR/M/25, paragraph 7). He drew attention to his delegation's proposals in MTN.GNG/NG8/W/9, suggesting that by so doing he contributed to two-way transparency. One proposal related to an examination of the adequacy of Article III, which should be suitably expanded to secure the adherence of a larger number of developing

countries. The other proposal dealt with accession to the Agreement. Article IX:1(b) envisaged that GATT contracting parties might accede on terms to be agreed between the relevant government and the Parties. The Committee had subsequently adopted procedures for accession of contracting parties which required consent of all members to the terms of accession including the entity list before a country could become a Party. In his view this was not reasonable since in any case individual Parties could invoke the non-application provision of Article IX:9. Appropriate changes were therefore needed in Article IX:1(b) and in the procedures adopted. His delegation believed that these two suggestions would contribute to wider participation of developing countries. He added that none of these suggestions infringed on the ongoing Article IX:6(b) negotiations, where the general Indian concerns remained, and on which he shared the views of Singapore concerning transparency.

56. The observer for Brazil agreed generally with the statement by India; his delegation was particularly concerned with informal work being done on broadening of the Agreement. As Singapore, he wished to see as much transparency as possible between work of the Committee and the Negotiating Group so as to allow for greater participation by developing countries.

57. The representative of Singapore added that all contracting parties had made a political commitment in the Punta del Este Declaration which had created NG8, in which government procurement was considered in a broader perspective. The Committee could not ignore this fact. Moreover, it had been stated in both fora that one objective was to achieve greater participation by developing countries. A proposal for improvement in this respect had actually been tabled in the Uruguay Round. The proposal for a two-way flow of information was to reflect the linkage between the two fora, and the concern that this Committee not proceed in isolation.

58. The representative of Israel stated that his delegation had referred to work in NG8 as complementary, because everything should be done to enhance broader participation in the Agreement, and this might appropriately be discussed in the NG8. He supported the principle of transparency and the idea that the Negotiating Group be equipped with information on questions of importance to many contracting parties. This was his delegation's position in all Code Committees where it participated. However, any information provided to NG8 should not prejudge positions in this Committee. Information on work in the Informal Working Group could be done by way of reports which respected both its informal nature and the needs of the NG8.

59. The representative of Sweden, on behalf of the Nordic countries agreed generally with Israel's remarks. The question of information should be reduced to a practical one and not one concerning competence. It was true that the Punta del Este Declaration dealt with MTN Agreements, but the obligations under the Agreement to continue negotiations were as important. In order to be pragmatic he had no objections to giving information to the NG8 about agreed work programmes. On the other hand, working papers by delegations, position papers, etc., should be kept within the Informal Working Group.

60. The representative of Japan also stated that this question should be dealt with as a practical one. He did not oppose transparency and considered the same transparency should be ensured between this Committee and the NG8 as between the Informal Working Group and the Committee itself.

61. The representative of the United States stated that the observer for India had clarified some motivations and interests. She agreed that the Committee should be positive in responding to the request. Transparency ensured between the Informal Working Group and the Committee provided such a channel. The practical question of how much documentation ought to be generated in the short time which was available at each meeting should also be considered. She therefore supported Japan's statement.

62. The representative of Hong Kong noted that all were in favour of transparency and an interflow of information. He suggested that the Committee authorize the Chairman to provide with a minimum of bureaucracy the L/- documents circulated after each meeting, together with minutes and any factual information on the informal work.

63. The representative of Canada also supported increased transparency and stressed the need to avoid additional paperwork. He agreed with Japan on equivalent levels of information, and expressed concern that attempts to formalize the Informal Working Group would in effect make it inefficient as a body for further negotiations.

64. The Chairman concluded that all delegations were apparently in favour of transparency and pragmatism. There was agreement that the Chairman's notes after each meeting, as well as the minutes be made available; he noted that the Chairman's progress reports from the Informal Working Group were incorporated in both documents. However, there was no agreement that any further reports which did not exist even for the Committee, should be produced.

65. The representative of Singapore stated that it was difficult to understand why further factual information could not be made available since it would prejudice no positions. She did not see how information such as the work programme and services questionnaire could formalize the nature of the Informal Working Group or increase the work-load. The L/- documents referred to would not give the thrust of the subjects being discussed.

66. The representative of Hong Kong noted that L/- documents and minutes would not provide much information of interest to the NG8 and suggested that the Chairman conduct informal consultations.

67. The Chairman suggested that the matter be placed on the agenda for the next meeting and undertook to hold prior consultations.

68. The observer for India added that there had been much support for giving factual information. The NG8 would not be interested in matters other than negotiations undertaken as it was not the purpose of the NG8 to conduct a review of the operation of the various MTN Codes. When his delegation had informed the Committee of its proposals in NG8, it had been

done in the interest of transparency. He did not wish to create the impression that it was trying to change the Agreement from outside. These suggestions had received a large measure of support in NG8 and he hoped they would also be taken into account in this Committee. He noted that Article IX:6(b) explicitly and specifically referred to "having regard to the provisions of Article III relating to developing countries". This again could be taken to cover the request for factual information on work underway in the Informal Working Group.

69. The Chairman suggested that delegations take note of the statements made and added that he expected them to reflect further on certain elements. He reiterated that he had listed above the elements on which he, as Chairman, considered that there was agreement, and on those where there was no agreement at this meeting.

70. The representative of the United States, commenting further on some points made, stated that if observers had followed the statistical reviews carefully, some might not have been as interested in the Agreement as they were. Statistics and review of the operation of the Agreement were important in discerning how it worked, and whether and where improvement were needed. To put the emphasis only on parts of the Committee's work might give a misleading picture. She believed that the additional information which had been called for would not cover the two specific concerns raised by India. Her delegation would reflect further on how best to ensure appropriate transparency in order to reach conclusions at the next meeting.

(ii) Request for Committee documents

71. The Chairman recalled that it had been agreed to revert to the request by the UN Commission on International Trade Law to receive "on a regular basis appropriate documentation relating to the Committee's work". A solution mentioned was that UNCITRAL be given regular Committee documents including minutes and working documents for a trial period of one year, on the condition that in accordance with GATT practices, restricted documents would under certain circumstances be circulated to international organizations on the understanding that this is for internal secretariat use and that, for instance, substance of documents should not be communicated to governments not otherwise entitled to receive them (GPR/M/1, page 4).

72. The representative of the United States noted that there were some restrictions on statistics and that there might also be some regular documents on implementation items, dispute settlement cases, etc., that some Parties would prefer to restrict. She was open to views of other delegations.

73. In the absence of other views, the Chairman suggested that the item be placed as a formal agenda item for the next meeting. He added that the secretariat might set out a draft list of documents which could be provided to UNCITRAL.

74. The Committee so agreed.

(iii) Updating of Practical Guide

75. The Chairman noted that the Guide had been published about two and a half years ago. He suggested the question of updating be deferred to the next meeting.

76. It was so agreed.

(iv) Panel candidates for 1988

77. The Chairman invited Parties to confirm present candidates or nominate new Panel candidate for 1988.

(v) Thresholds in national currencies

78. The Chairman invited Parties to notify their thresholds. He recalled that the Committee's decision of 21 November 1986 concerning "Exchange Rate Questions Relevant to the Threshold Requirement in Article I:1(b) of the Agreement" introduced a two-year period of validity of thresholds expressed in national currencies. The Protocol of Amendments, and thereby the reduced threshold (SDR 130,000), would not enter into force legally until after 1 January 1988. The question therefore arose as to whether the current threshold (SDR 150,000) had to be used, and if so, whether it would be for a one or two-year period.

79. On a proposal by the representative of Sweden, on behalf of the Nordic countries, and following clarifications sought, the Committee agreed that the Parties would continue to apply their current thresholds (calculated on the basis of SDR 150,000) until the date of entry into force of the Protocol. New thresholds would take effect from that date, calculated on the basis of SDR 130,000 and in accordance with the procedures agreed in November 1986 (GPR/M/24/Annex V). These new thresholds would remain in force until the end of 1989. The Committee noted that some flexibility could be needed, for example, to take account of Hong Kong's de facto application.

80. The representative of Canada stated that he thought the solution would be possible but would check this point with headquarters.

(vi) Date of the next meeting

81. It was agreed that the Committee and the Informal Working Group would meet again during the first three weeks of March 1988.