

WORLD TRADE ORGANIZATION

RESTRICTED

GPA/M/3

25 October 1996

(96-4475)

Committee on Government Procurement

MINUTES OF THE MEETING HELD ON 20 SEPTEMBER 1996

Chairman: Mr. Harald Ernst (Switzerland)

1. The following agenda was adopted:
 - A. Modifications to Appendix I of the Agreement
 - B. Accession negotiations
 - C. Establishment of a loose-leaf system for the Appendices of the Agreement
 - D. Information technology
 - E. Transparency of notices
 - F. Notification of thresholds in national currencies
 - G. Procedures for the circulation and derestriction of documents
 - H. Annual Report (1996) of the Committee to the General Council
 - I. Other business

A. MODIFICATIONS TO APPENDIX I OF THE AGREEMENT

2. The Chairman informed the Committee that, in documents GPA/W/22 and GPA/W/23, dated 17 July 1996, Norway and the United States had notified the proposed modifications to Appendix I of the Agreement which followed on from the agreement reached between these two Parties. Since no objections had been received within the prescribed time-period, these modifications had become effective on 17 August 1996. Certification of these modifications had been subsequently circulated in document WT/Let/105.

3. The representative of the European Community said that modifications to the Appendices in relation to the consequences of the accession of the three new Member States to the European Community would be notified within the next few weeks. Certain changes warranted by developments that had taken place in the administrative organization of the governments of some Member States, including the proposed changes to Appendix I of Sweden as circulated in documents GPR/W/133 and GPR/W/139, would be notified subsequently.

4. The representative of the United States said that the deletion of the three European Community Member States from the General Note 5 to Appendix I of the United States would be notified shortly in coordination with the notification of the European Community.

5. The Chairman also recalled that the Canadian Schedule offered to cover entities in all ten provinces on the basis of commitments to be received from Provincial Governments, with a final listing to be provided within 18 months after the conclusion of the new Agreement. The representative of Canada said that his delegation's position as outlined in his statement at the last two meetings of the Interim Committee of last year remained unchanged.

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

B. ACCESSION NEGOTIATIONS

- *Chinese Taipei*

7. The Chairman recalled that, at the last meeting, the delegation of Chinese Taipei had informed the Committee that it was conducting bilateral consultations on the basis of its revised offer circulated in document GPA/SPEC/1. At that meeting, the Committee had agreed to revert to this issue at its next meeting and, in view of the wish of the delegation of Chinese Taipei to conclude the process of bilateral consultations in the latter part of 1996, had urged delegations to pursue their bilateral negotiations with the delegation of Chinese Taipei.

8. The representative of Chinese Taipei said that, following the bilateral consultations that had been held with Parties to the Agreement since last June, the offer of Chinese Taipei contained in GPA/SPEC/1 dated 1 March 1996 would be improved as follows: Annex 1 would include the Ministry of National Defense where an exhaustive list of goods would apply; the threshold for construction services for the entities in Annex 1 would be lowered from SDR 15,000,000 to SDR 5,000,000; the Taiwan Railway Administration would be included in Annex 3; the services items of CPC 841- (consultancy services related to the installation of computer hardware), CPC 842- (software implementation services), and CPC 844- (database services) would be added to Annex 4; and the respective Notes to Annexes 1 to 5 as well as to the General Notes would be improved further to reflect the concerns of interested Parties. His delegation's intention was to complete the bilateral negotiations as soon as possible and it therefore hoped that interested parties would provide their comments on the revised offer at the earliest date so as to facilitate the process of accession to the Agreement. He also said that experts responsible for Chinese Taipei's accession were currently participating in the final review of the draft Law on Government Procurement at the Premier's office.

9. The representative of Korea said that, while bilateral agreement had not yet been reached with Chinese Taipei, his delegation welcomed the indication by Chinese Taipei that it could improve the coverage of its offer.

10. The Committee took note of the statements made and agreed to revert to this issue at its next meeting.

- *Singapore*

11. The Chairman recalled that, as agreed at the last meeting, the Secretariat had drawn up and circulated on 20 June 1996 a draft Decision on Accession, to which were attached the terms of its accession submitted by Singapore on 14 June 1996, for consideration and adoption by the Committee (GPA/W/21). This Decision would have been considered adopted if no objections or requests for extension of the time-limit would have been received from Parties within 30 days of the date of the issue of the document, i.e. by 20 July 1996. On 19 July 1996 the Secretariat had been informed by some Parties that they would wish to have additional time for consideration of the Decision before

its adoption (GPA/W/21/Add.1). In a communication dated 13 August 1996, the delegation of Singapore had submitted a revised offer which included an undertaking to review its current compulsory registration system (GPA/SPEC/2/Rev.1).

12. The representative of Singapore said that, following the submission of its initial offer on 7 December 1995, Singapore had held four rounds of bilateral negotiations with the Parties to the Agreement in February, June, August and September 1996. In its final offer of 15 August 1996 Singapore had taken into account the concerns of Parties to the Agreement (GPA/SPEC/2/Rev.1). The offer represented a substantial access to government procurement opportunities available in Singapore. It would subject 46 per cent of Singapore's total government procurement, in value terms, to the disciplines of the Agreement. For the calendar year 1995, the total amount of procurement by the Government of Singapore was S\$18.4 billion, of which S\$8.4 billion, equivalent to 8.1 per cent of Singapore's gross domestic product in 1995, would be covered under the Agreement. The offer under Annex 1 to Appendix I was extended comprehensively to all 23 central-government entities including all ministries and organs of State. Annex 3 covered all the 25 major statutory boards, thus subjecting 56 per cent of their total procurement, in value terms, to the disciplines of the Agreement. Singapore's services offer under Annex 4 was equivalent to its GATS commitments. The comprehensive offer under Annex 5 included all categories of construction services. The threshold levels applicable under the relevant Annexes were in line with those applied by the majority of the Parties to the Agreement. In addition, in a General Note to Appendix I Singapore had undertaken to review the current compulsory requirement for registration of firms in order to address the concerns expressed by Parties. The Singapore Government adopted the fundamental principles of fairness, openness and competitiveness for its government procurement system. The current registration system was non-discriminatory and fulfilled the national treatment requirement under the Agreement. Its objective was to facilitate the qualification process and, being a fair system, it ensured the application of the same objective criteria in the qualification of suppliers. Through this system procuring entities kept a pool of information on each registered firm which reduced the time required to examine the qualification of a firm during tender evaluation. The registered suppliers also benefited from this system as they did not need to provide repeatedly the same information each time they participated in a public tender. The undertaking in the General Note would give Singapore time to fine-tune certain aspects of this system in order to address any misperception or uncertainty that certain Parties may have with the existing system. This General Note in no way detracted or reduced the very substantial scope of Singapore's offer and Singapore's commitments under the Agreement.

13. The representatives of Canada, the European Community, Israel, Japan, Korea, Norway, Switzerland and the United States supported Singapore's request to accede to the Agreement. They said that Singapore's accession would not only enable access to an important economy but was also a sign of interest in the existing WTO procurement regime in a dynamic part of the world economy. This was a welcome development towards extending the membership of the Agreement and for the WTO system in general before the Singapore Ministerial Conference.

14. The representative of Norway said that the General Note in Appendix I had alleviated Norway's concerns relating to the compulsory registration system. Her delegation hoped that Singapore would proceed with an early review of this system within the three-year period.

15. The representative of the European Community said that, although Singapore had made a good offer which had responded to most of its concerns, the European Community would make a modification in the General Notes and derogations from the provisions of Article III under its Appendix I which would reflect the exclusion of the electric sector in Singapore's offer. The representative of Norway said that her delegation would make modifications similar to those of the European Community in its Appendix I. The representative of Switzerland said that her delegation may also make certain modifications in its Appendix I.

16. The Committee adopted a decision on the accession of Singapore (document GPA/6), and invited Singapore to accede to the Agreement on Government Procurement on the terms attached to that Decision.

17. The representative of Singapore thanked the Committee for the adoption of the Decision on Singapore's Accession at the present meeting. It was important for all parties concerned that Singapore's accession took place before the WTO Ministerial Conference. Its accession, completed in a record period of nine months, was the result of hard work and commitment from Singapore's side and goodwill from all Parties to the Agreement. Singapore's prompt accession would create a good precedent for future accessions to the Agreement. The challenge before the Committee was to make the Agreement more attractive for non-Parties. Her delegation would work closely with other Parties towards the objective of achieving a wider membership of the Agreement and the multilateralization of the Agreement in the longer term.

- *Kingdom of the Netherlands with respect to Aruba*

18. The Chairman recalled that the Committee's Decision of 27 February 1996 on the Accession of the Kingdom of the Netherlands with respect to Aruba stated that the Decision would expire six months after the date of its adoption, i.e. on 27 August 1996, unless it was extended by mutual consent between the Committee and the Kingdom of the Netherlands with respect to Aruba (GPA/2, paragraph 3). On 23 August 1996 the Kingdom of the Netherlands with respect to Aruba had requested an extension of the deadline for depositing its instrument of accession (GPA/W/26).

19. The representative of the Netherlands with respect to Aruba said that the domestic legislative process in Aruba had been completed and that the instrument of accession would be deposited in the near future.

20. The Committee took note of this statement and agreed to extend the deadline for the deposit of the instrument of accession of the Kingdom of the Netherlands with respect to Aruba until the end of October 1996.¹

C. ESTABLISHMENT OF A LOOSE-LEAF SYSTEM FOR THE APPENDICES TO THE AGREEMENT

21. The Chairman recalled that, at the last meeting, the Committee had agreed to establish a loose-leaf system with legal effect to periodically update the Appendices to the Agreement and had asked the Secretariat to produce and distribute an updated set of Appendices, with a view to providing a starting point for the loose-leaf system. He drew attention to the modifications that the European Community intended to make to their Schedules in relation to the consequences of the accession of Austria, Finland and Sweden (GPA/M/2, paragraph 10 and item A of the present agenda). As the consequential changes, necessary to reflect the present membership of the European Community, would require a major reorganization of the Appendices as they presently stood, the Secretariat had suggested to postpone the circulation of the draft loose-leaf system until after the notification and acceptance of the relevant modifications. Once the necessary modifications from the European Community were submitted and approved, the Secretariat, as agreed at the last meeting of the Committee, would produce and distribute an updated set of Appendices to the Agreement including accepted rectifications and modifications that had been made to the originally negotiated Appendices since the signature of the Agreement, with

¹The Kingdom of the Netherlands with respect to Aruba subsequently deposited its instrument of accession on 25 September 1996 (WT/Let/111 and GPA/7).

a view to providing a starting point for the loose-leaf system. As agreed, a period of sixty days from the date of distribution of the draft of the consolidated set of Appendices would be given for delegations to review whether the agreed changes had been correctly reflected.

22. The Chairman also said that, at its June meeting, the Committee had noted that the Secretariat was exploring ways to publish the Agreement, including the loose-leaf system, on the Internet and it had been suggested that the Secretariat produce in due course a note which would outline the modalities of access to these and other GPA documents through the Internet. A documentation dissemination facility through which WTO Members could obtain most WTO documents through the Internet had now become operational and document WT/L/174 contained a note on how this operated. This system did not, as yet, extend to documents with special distributions, including the GPA documents. However, it was the intention to include such documents as soon as possible and the Committee would be informed when this had been done.

23. As for the question of making unrestricted documentation available to the public at large, the Chairman said that the General Council had agreed on 18 July 1996 that the Secretariat would make available on on-line computer network the material which was accessible to the public, including derestricted documents (WT/GC/M/13, item 9(c) and WT/L/162). This would be done through the WTO Home Page on the Internet² which was already operational. Certain unrestricted documentation would be made accessible in this way in the coming weeks and this would be progressively extended in the months ahead. Furthermore, the Secretariat had the intention to establish a special site on government procurement on the WTO Home Page which would contain information relevant to the Agreement on Government Procurement and through which interested parties would be able to access relevant documentation more easily. The Secretariat would provide a note on these matters once more detailed information was available.

24. The representative of the European Community said that the site on government procurement in the WTO Home Page could establish a system of hyperlinks on the Internet to other home pages related to government procurement existing in various Parties, for example to the United States procurement jump station.

25. Members of the Committee expressed views on whether the hard-copy version of the loose-leaf system would still be necessary once the electronic version became available and, in particular, whether it could fulfil the legal requirements under the Agreement. In response, the representative of the Secretariat recalled the modalities for the operation of the loose-leaf system as set out in document GPA/W/3 on a Possible Loose-leaf System for Periodically Updating the Appendices. He also said that WTO documents would continue to be circulated in hard copy form as well as made available in electronic form through the Document Dissemination Facility (DDF) until such time a decision to the contrary was taken by Members.

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

D. INFORMATION TECHNOLOGY

27. The Chairman recalled that, at its June meeting, the Committee had continued its discussion on the issue of the implications of the development of information technology for the Agreement. On the basis of the options identified in a note by the Secretariat (GPA/W/15) for carrying forward

²<http://www.wto.org/>

work in this area, it had requested the Secretariat to prepare a revision of the questionnaire on information technology as proposed in document GPA/W/15 and a factual note on the aspects of the Agreement that it had been suggested might need to be re-examined in the light of information technology. The revised questionnaire was circulated in document GPA/W/24 and the factual note in document GPA/W/25. At the June meeting, the Committee had also noted that the European Community, in coordination with Norway and with the assistance of the Secretariat, would prepare a paper identifying the technical issues relating to information technology that might need to be examined by experts and that the delegation of the United States would provide information on the pilot project launched in the APEC framework on access to national databases (GPA/M/2, paragraphs 44 and 45).

28. The representative of the European Community said that his delegation was preparing a draft note identifying the technical issues relating to information technology.

29. The representative of the United States described what had been accomplished in the APEC context on access to national databases. Building from a cooperative effort associated with a demonstration project undertaken by the United States Department of Commerce for the 1995 APEC Ministerial in Osaka, the APEC Secretariat had fashioned an Internet Home Page on government procurement opportunities which served as a gateway to sources of information on procurement opportunities within the member economies or provided an actual linkage to member economies' procurement information Internet sites. In 1995, the United States Department of Commerce undertook to gather specific information from APEC member economies on contact points for information on government procurement opportunities - either names and addresses of appropriate agencies or Internet addresses where further information could be accessed. Using Internet software to create a homepage to serve as an Internet gateway to this information, Department of Commerce officials had established the site at the Department of Commerce for temporary use as a demonstration project as to its feasibility for the APEC Ministerial in Osaka. Building on the information gathered for this cooperative effort, the APEC Secretariat had since developed its own procurement homepage with identical functions which could be accessed directly or more conveniently through the APEC Home Page on the Internet (<http://www.apecsec.org.sg/gphome.html>). The quality and timeliness of the information on opportunities available from the member economies depended entirely on the efficiency with which the economies maintained their own information sites which could be accessed via the APEC homepage gateway. The main advantage of the APEC site was that it provided a useful starting point to seeking out information from numerous economies and procurement regimes.

30. The representative of Canada said the note by the Secretariat on the provisions of the Agreement which might need to be re-examined in the light of information technology (GPA/W/25) made it clear that the wording of the relevant provisions of the Agreement had been carried over from the Tokyo Round Agreement and its 1988 Revision and predated the introduction of the use of information technology in procurement. The paper pointed out the work that had to be done and gave a focused view of how quickly changes might take place in this area. At an early opportunity the Parties should make the necessary modifications to ensure that the Agreement would evolve with the field for which it set down rights and obligations.

31. The representative of the United States said that his delegation was undertaking a comprehensive review of the issues related to information technology and the Government Procurement Agreement. In so doing, it would attempt to develop approaches that reflected the balance of interest, which had sometimes been perceived as competing, of ensuring and enhancing access while permitting the accommodation of new technologies. The Agreement would require amendments to fully address the issue of information technology. Future negotiations under Article XXIV:7(b) should give priority to this issue.

32. The representative of Japan said that the note by the Secretariat on information technology made it clear that the existing Agreement had been drafted without information technology used in procurement procedures in mind. His delegation was prepared to discuss the matter in the Committee under the terms of Article XXIV:8 and, if necessary, to negotiate the necessary amendments to the Agreement in the framework of the review under Article XXIV:7(b). Such discussion should aim to establish disciplines which would allow suppliers to choose between the use of the procedures stipulated in the current Agreement and procedures based on electronic communications. From the viewpoint of ensuring consistency with the principles of national treatment and non-discrimination, the Committee should also pay attention to such issues as the treatment of foreign suppliers in the procedures based on electronic communications, the treatment of suppliers who utilize communication systems which differ from the procuring entities, and the treatment of suppliers who use electronic procedures in their procurements by entities which do not choose to utilize electronic procedures.

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

E. TRANSPARENCY OF NOTICES

34. The Chairman recalled that, in the context of endorsing the Interim Committee's recommendation that the rules of origin used for the purposes of statistical reporting in Article XIX:5 of the Agreement should be the same as those applied under Article IV, those used in the normal course of trade, the delegation of the European Community had suggested that there was merit in examining ways to establish a link between statistical information and the degree of transparency of tender notices as an effective way of monitoring the operation of the Agreement. At its last meeting, the Committee had agreed, at the request of the delegation of the European Community, to revert to this issue.

35. The representative of the European Community said that his point could be taken up as part of the future review under Article XXIV:7(b).

36. The Committee took note of this statement.

F. NOTIFICATION OF THRESHOLDS IN NATIONAL CURRENCIES

37. The Committee took note that, pursuant to its Decision on Modalities for Notifying Threshold Figures in National Currencies (GPA/1, Annex 3) of 27 February 1996, notifications had been received from all Parties on the thresholds for the period 1996-1997 in their respective national currencies and circulated in documents GPA/W/12 and Addenda 1 to 6.

38. The representative of Switzerland said that the threshold figures for Switzerland would be valid only from 1 January 1997 as they had to be implemented through the national legislation at the central and sub-central level.

G. PROCEDURES ON THE CIRCULATION AND DERESTRICTION OF DOCUMENTS

39. The Chairman recalled that the Committee took, on 27 February 1996, two Decisions on the circulation and the derestriction of documents, respectively. These decisions were taken on an interim basis, with the understanding that they would be examined in the light of definitive measures to be adopted by the General Council (GPA/M/1, paragraph 3 and GPA/1). At its meeting on 18 July 1996, the General Council had adopted a Decision on procedures for the circulation and derestriction of WTO documents (WTO/L/160/Rev.1). In accordance with its footnote 1, a copy of this Decision had been

transmitted to the Committee on Government Procurement for its consideration and appropriate action.

40. The representative of the United States, supported by the representatives of the European Community, Canada and Switzerland said that the Committee should align its procedures for circulation and derestriction of documents to those adopted for WTO documents by the General Council.

41. The Committee agreed to align its procedures with those adopted by the General Council for the WTO on 18 July 1996 and requested the Secretariat to produce a draft to this effect for examination by the Committee at its next meeting.

H. ANNUAL REPORT (1996) OF THE COMMITTEE TO THE GENERAL COUNCIL

42. The Committee considered a draft annual report to the General Council which had been circulated by the Secretariat on 23 July 1996. After discussion, the Committee adopted Sections I to III of the draft annual report as amended in the light of the discussion. The Committee also agreed that a text on Section IV of the Report on issues to be brought to the attention of the Singapore Ministerial Conference would be deemed to be adopted by the Committee if no comments were received from Parties within 20 days after its circulation, i.e. by 14 October 1996. In that case, the Report (GPA/-) would then be submitted to the General Council, incorporating any developments in the interval, of a purely factual nature, notably in regard to deposit of instruments of accession.

I. OTHER BUSINESS

- *Date of the next meeting of the Committee*

43. It is proposed that the next meeting of the Committee be held on 24 February 1997.