

Committee on Government Procurement

MODALITIES FOR THE NEGOTIATIONS ON EXTENSION OF COVERAGE AND ELIMINATION OF DISCRIMINATORY MEASURES AND PRACTICES

Decision of 16 July 2004

The Committee agrees on the following modalities for the negotiations on the extension of coverage and elimination of discriminatory measures and practices:

Objectives

In accordance with Article XXIV:7(b) and (c), the negotiations on these matters shall aim at:

- (i) the greatest possible extension of coverage among all Parties on the basis of mutual reciprocity, having regard to the provisions relating to developing countries; and
- (ii) the elimination of discriminatory measures and practices which distort open procurement.

The Parties recognize the interdependence between these two objectives, as well as the need to maximize clarity with regard to coverage and any remaining discriminatory measures and practices.

Matters to be negotiated in the Committee as a whole

The Committee as a whole will address the provisions in the draft revised text of the Agreement referred to as "market access issues", as well as issues relating to the presentation and structure of the appendices to the Agreement, including:

- whether there should be further harmonization of thresholds;
- whether there should be a uniform level of coverage of the entities covered by the Agreement;
- whether Annex 1 should follow a positive or negative list approach;
- whether there should be greater harmonization of the way entities are described, in particular whether Annexes 2 and 3 should be structured on the basis of categories of entities, for example as defined in the legislation of individual Parties or in terms of lists of individual entities;
- whether, in regard to services coverage in Annexes 4 and 5, further commonality of presentation is desirable and feasible, taking into account coverage and presentation under the GATS;

- whether the General Notes in the Annexes can be simplified and made more easily understandable;
- other issues that may be raised by delegations.

The Committee shall initiate work on the above issues in autumn 2004. Participants are invited to submit initial proposals relating to these matters by 31 August 2004.

Matters to be largely negotiated bilaterally

Negotiations on the extension of coverage of each Party's Appendix I as well as on the elimination of discriminatory measures and practices in such Appendices will be largely pursued bilaterally but subject to monitoring by the Committee as a whole.

These negotiations shall be pursued as follows:

- (i) by 30 November 2004, each Party shall table in writing its initial requests to any other Party and each Party shall aim to table its initial offer by 1 March 2005 but not later than 1 May 2005;
- (ii) provision would then be made for rounds of bilateral negotiations, leading to the presentation of revised and improved offers by the end of October 2005. These rounds of bilateral negotiations will normally be arranged to take place back-to-back with meetings of the Committee.

The basis for these negotiations shall be the existing coverage of Parties as reflected in their respective Appendix I, subject to any rectifications and modifications notified pursuant to Article XXIV:6 of the GPA. Parties concerned will make every effort to resolve pending notifications.

Parties agree on the need to ensure collective monitoring of the above bilateral negotiating process. To this end:

- (i) the Secretariat shall circulate as restricted documents to all other Parties initial official requests and offers as well as subsequent official revisions; and
- (ii) regular stocktaking and review of the bilateral process will take place in the Committee.

Any observer government which has submitted an offer with a view to participating in the revised Agreement may participate in this aspect of the negotiations and receive copies of requests and offers circulated by the Secretariat.

Conclusion of the negotiations

Parties agree that the negotiations on extension of coverage and elimination of discriminatory measures as well as other aspects of the Article XXIV:7 negotiations aim to be concluded by the beginning of 2006.
