

Committee on Government Procurement

INDICATIVE TIME-FRAME FOR ACCESSION NEGOTIATIONS AND REPORTING ON THE PROGRESS OF WORK

Note by the Secretariat

Revision

1. In the context of its discussion regarding the improvement of the procedures for accession under Article XXIV:2, the Committee has addressed the establishment of an indicative time-frame for accession negotiations together with a procedure for regular reporting to each Committee meeting on progress in bilateral consultations on the basis of an earlier version of this note. The present revision takes into account the comments made by Parties at the March and September 2000 meetings.

2. Certain basic procedures for accession negotiations have already been adopted by the Committee in its Decision of February 1996 on the Procedures for Accession under Article XXIV:2 of the Agreement (GPA/1, Annex 2). This Decision reads as follows:

"1. In accordance with paragraph 2 of Article XXIV of the Agreement on Government Procurement (1994), any government which is a Member of the WTO may accede to this Agreement on terms to be agreed between that government and the Parties.

"2. To this effect, a government interested in accession shall communicate its interest to the Director-General of the WTO and, through him, to the Committee on Government Procurement and shall submit relevant information including an offer by way of appropriate Appendices containing lists of entities and services which would be covered by the Agreement, as well as lists of relevant publications, having regard to the provisions of the Agreement, in particular Article I and, where appropriate, Article V.

"3. The government interested in accession shall hold consultations with the Parties to the Agreement on the terms for its accession to the Agreement.

"4. With a view to facilitating accession, the Committee on Government Procurement shall establish a working party if the applicant government, or any Party to the Agreement, so requests. The working party should examine: (i) the coverage offer made by the applicant government; and (ii) relevant information pertaining to export opportunities in the markets of the Parties, taking into account the existing and potential export capabilities of the applicant government and export opportunities for the Parties in the market of the applicant government.

"5. Upon a decision by the Committee on Government Procurement agreeing to the terms of accession including the lists of entities and services as well as of relevant publications of the applicant government, the applicant government shall deposit with the Director-General of the WTO an instrument of accession which

states the terms so agreed. The applicant government's lists of entities, services and publications in their authentic WTO language(s) shall be appended to the Agreement."

3. Attached is a suggested indicative timetable for accession negotiations. It will be noted that the table does not specifically include the option of establishing a working party, as provided for under paragraph 4 of the above Decision. The reason is that, in practice, this option has not been availed of so far. However, should an applicant government or any Party to the Agreement request the establishment of such a working party, consequential modifications would need to be made to the suggested indicative timetable.

4. The suggested indicative timetable seeks to take into account the fact that accession negotiations have two main aspects and involve basically two mechanisms. The first aspect is the negotiation of an agreed coverage to be reflected in Appendices containing lists of entities and services as well as lists of relevant publications. The second is ensuring the consistency of the applicable national legislation with the provisions of the Agreement. The two main mechanisms used for these purposes are bilateral consultations between an acceding country and interested Parties and plurilateral consultations. The negotiations on commitments to be included in the Appendices are more focused on bilateral consultations whereas the other aspect of the negotiations is largely conducted through the plurilateral mechanism. These two aspects and mechanisms overlap to some extent and should proceed in parallel. As the Committee has already indicated, it is important that there should be a regular plurilateral review of the bilateral parts of the accession process and, of course, the results of both aspects of the negotiations must come together at the plurilateral level in the preparation and adoption of a decision setting out the terms of accession.

5. It will be noted that although paragraph 2 of the Committee Decision of February 1996 would not seem to necessarily require acceding countries to submit their initial offer together with their application for accession, applicant countries have, on the whole, done so. While the suggested procedures are sufficiently flexible to allow for the possibility of an initial round of plurilateral and bilateral discussions before the submission of the initial offer, they should also allow an applicant country to submit its initial offer at the same time as its application if it is in a position to do so. The submission of initial offers might be envisaged at any time during the first six months after the application but should not be any later.

6. With regard to the largely plurilateral process of provision by the applicant country of information on its procurement regime, the Committee has already adopted a Checklist of Issues to act as a guide to applicant countries in submitting such information (GPA/35). It is suggested in the attached indicative timetable that, following the circulation of the responses to the Checklist and other relevant data, provision might be made for Parties to seek further clarification of the applicable legislation and procedures through informal plurilateral consultations including a written question and answer procedure. The questions put and answers provided would be circulated to all Parties. If necessary, provision could also be made for follow-up questions and answers and further informal consultations at a later stage in the process. It is suggested that the timetable for the review of a procurement regime runs from the date of application for accession and, for the negotiation of Appendices, from the date of the submission of the applicant's initial offer. Every effort would be made to align bilateral/plurilateral consultations that are envisaged in each of the timetables and the timetables would be applied with the necessary flexibility to facilitate this.

7. The suggested indicative timetable for general accession process envisages that the process, from the date of the application to the adoption of the decision containing the terms of accession, should normally be completed within 18 months. It would, of course, have to be understood that a certain degree of flexibility would be necessary to take account of such factors as the state of preparation of the acceding country, the complexity of its procurement regime and government structure and the timing of Committee meetings. On the other hand, not all the stages envisaged may

be necessary in some accession negotiations and some of the steps in the timetable, for instance exchange of follow-up written questions and replies, submission of a revised offer or further plurilateral consultations, could be omitted which would have the effect of reducing the overall time-frame by approximately six months.

8. In its request for the preparation of this note, the Secretariat was asked to consider the question of a procedure for regular reporting to each Committee meeting on progress in the bilateral consultations. Hitherto, the Committee's overview of accession negotiations has mainly consisted of the acceding country or interested Parties reporting orally to the Committee at its meetings on an ad hoc basis. To provide a more systematic basis for the Committee's overview of the accession process and to improve transparency, consideration might be given to providing to the Committee a brief note outlining the state of play in the accession process of each applicant. This might be done, for example, through the annotated provisional agenda, which is circulated by the Secretariat prior to each Committee meeting. The information contained therein could be updated at the meeting, where necessary, by the Chair, the applicant country and parties. Based on this, the Committee might take stock of the progress of each accession process and, where appropriate, the Chair might seek to draw conclusions about moving to the next stage of the indicative timetable.

9. The work involved in the provision of relevant information on national procurement regimes, any amendments to such regimes required and the preparation of offers by an acceding developing country may require technical cooperation, for example in the form of advice and assistance from Parties and the Secretariat, country visits and training. At the outset of the accession process, the Secretariat might enter into contact with the applicant country with a view to drawing up a technical cooperation programme for that country, taking into account its specific needs and circumstances. Parties should be ready to make resources available bilaterally and/or through the Secretariat for this purpose.

ATTACHMENT

SUGGESTED INDICATIVE TIMETABLE FOR THE ACCESSION PROCESS

The timetable that follows is intended to be purely indicative in nature and sets out what is considered to be the normal time-frame for the accession process. Not all the stages envisaged may be necessary in some accession negotiations and that it may be possible to complete the process more rapidly, while in some other cases additional time may be required due to special factors.

The suggested timetable for the accession process is in two parts, that relating to the negotiation of Appendices and that relating to other aspects, in particular the applicant country's procurement regime and its consistency with the Agreement. The timetable for the latter process runs from the date of application for accession and for the former process from the date of the submission of the applicant's initial offer, which should be within six months from the date of application. Every effort would be made to align bilateral/plurilateral consultations that are envisaged in each of the timetables and the timetables would be applied with the necessary flexibility to facilitate this. Both aspects of the timetable should normally be completed to permit the decision on accession to be taken within 18 months of the date of application.

Indicative Timetable for General Accession Process and Review of Procurement Regime (Timetable to run from application for accession)

0 months	Application for Accession
2 months	Receipt of replies to the Checklist in GPA/35
4 months	Receipt of written questions from Parties
6 months	First round of informal bilateral/plurilateral consultations, including responses to written questions
8 months	Receipt of any follow-up questions
10 months	Further informal bilateral/plurilateral consultations
12 months	Follow-up written questions and replies, if necessary
14 months	Report by the acceding country on status of any steps needed to align its procurement regime with the requirements of the GPA
16 months	Further informal bilateral/plurilateral consultations, if necessary
18 months	Circulation and review of the draft decision on terms of accession including the final offer and adoption of the Committee Decision

Indicative Timetable for Negotiation of Appendices (Timetable to run from submission of initial offer – sometime within six months of application for accession)

	(Bilateral/plurilateral consultations on possible content of initial offer)
0 months	Submission of initial offer
2 months	Receipt of written questions from Parties
4 months	Informal bilateral/plurilateral consultations, including responses to written questions
7 months	Submission of revised offer, if necessary
9 months	Further informal bilateral/plurilateral consultations, if necessary
11 months	Submission of second revised offer, if necessary