

WORLD TRADE ORGANIZATION

RESTRICTED

S/WPGR/W/7

2 February 1996

(96-0387)

Working Party on GATS Rules

INFORMATION ON GOVERNMENT PROCUREMENT OF SERVICES

Note by the Secretariat

At the meeting of the Working Party on GATS Rules held on 8 December 1995, the Secretariat was requested to prepare a paper on possible approaches to collecting information relevant to the negotiations on government procurement of services. Two questions need to be addressed. First, *what* information should be collected? Secondly, *how* should the information be collected? The views expressed by Members during the meeting suggest the following possibilities.

I. What information should be collected?

Members may wish to obtain information in at least four different areas.

1. *Existing procurement regimes*

The aspects of procurement regimes which may be of interest, include:

- Laws and regulations in force;
- Procurement procedures applied;
- Publicity for inviting tenders;
- Requirements laid down for possible suppliers;
- Criteria for assessing bids and awarding contracts;
- Disclosure of bids received and contracts awarded;
- Treatment granted to domestic and foreign products and services and/or suppliers;
- Procedures for hearing and reviewing complaints.

2. *Procurement in regional and other plurilateral agreements*

The treatment of government procurement in the EU, NAFTA and other regional agreements may be reviewed.

3. *Economic importance of services procurement*

In seeking to estimate the economic importance of services procurement, several indicators may be relevant. For instance, it may be possible to obtain statistics for some countries on the share of services procurement, on both an aggregate and sectoral basis, in:

- total procurement;
- total domestic demand;
- total domestic output.

4. *Perceived obstacles to creating multilateral disciplines on services procurement*

Additional information in this area may be important in helping to identify the level of multilateral disciplines acceptable to Members. It may also be useful to obtain information on how Members view the possibility of introducing a certain degree of flexibility in the application of national treatment and other disciplines (as discussed in Section IV.1 of document S/WPGR/W/3).

II. How should the information be collected?

The appropriate method of collecting information would clearly depend on the nature of information desired. The possibilities include:

1. *A standard questionnaire*

A questionnaire would probably be best suited to collecting information on existing procurement regimes, but could also help in obtaining estimates of the economic importance of services procurement and in identifying obstacles to creating multilateral disciplines on procurement. While it is possible to obtain comprehensive and uniform information on all Members through a standard questionnaire, the process of designing such a questionnaire, obtaining responses and compiling them, would necessarily take a significant amount of time.

2. *Voluntary provision of information*

Rather than go through the process of designing and responding to a questionnaire, certain information could be provided on a voluntary basis. Members may wish to limit individual discretion on content and time of provision by reaching an agreement on both issues.

3. *Bilateral or plurilateral discussions*

Such discussions may be best suited to identifying factors affecting the creation of multilateral disciplines on procurement and to addressing some of the other questions identified in document S/WPGR/W/3.

4. *Other research*

The Secretariat could examine selected provisions affecting services procurement in regional and other plurilateral agreements.

III. Some existing sources:

1. The OECD issued volumes on Government Purchasing in 1966 and 1976 describing regulations and procedures of OECD member countries (OECD, Paris, 1966, 1976). Even though the information contained in these volumes is now out of date, they may provide some idea of what information needs to be collected and how it should be presented.

2. The Committee on Government Procurement under the Tokyo Round decided to draw up a checklist of issues which would serve as a basis for the description by each Party of the main elements of its implementing legislation (30 January 1981, GPR/4). A new checklist, based on the one contained in document GPR/4, is currently under consideration in the Committee under

the new Agreement on Government Procurement in the context of a larger debate on the modalities of notifying implementing legislation.

3. APEC has recently designed a format for a survey on government procurement systems and publication arrangements for procurement opportunities in member economies.
4. Article VI:9 of the GPA that entered into force on 1 January 1981 (Article VI:10 of the 1988 revised text) required Parties to collect and provide statistical information to the Committee on Government Procurement on contracts awarded by all procurement entities under the Agreement. Article XIX:5 of the new GPA that entered into force on 1 January 1996 widens the reporting requirements to include the services contracts which are now covered by the Agreement.
5. The Trade Policy Reviews of individual countries contain a brief section on procurement laws, regulations and procedures.