



## REPORT (2016) OF THE COMMITTEE ON GOVERNMENT PROCUREMENT

### 1 INTRODUCTION

1.1. This report covers the period since the Committee's previous annual report<sup>1</sup>, namely mid-November 2015 through mid-November 2016. It is issued pursuant to Article XXI:3 of the Agreement as amended by the Protocol Amending the Agreement on Government Procurement, done at Geneva on 30 March 2012 (the "revised Agreement" or "revised GPA") and Article XXIV:7(a) of the 1994 Agreement on Government Procurement ("the 1994 Agreement" or "the GPA 1994").<sup>2</sup> This reflects the entry into force of the revised Agreement on 6 April 2014 and the fact that one Party continues to be bound only by the 1994 Agreement.<sup>3</sup>

1.2. The Committee has had an active and productive year. Since the date of circulation of its last Annual Report (16 November 2015), it has held four formal meetings in Geneva: on 17 February 2016, on 22 June 2016, on 19 October 2016 and on 28 November 2016.<sup>4</sup> The meetings were chaired by Mr John Newham (Ireland).<sup>5</sup> The Committee has also held a series of informal meetings, also chaired by Mr Newham, focusing on the entry into force of the revised Agreement; accessions to the Agreement; the Committee's agreed Work Programmes; and other matters, in the weeks beginning 15 February 2016, 20 June 2016 and 17 October 2016, respectively.

1.3. Among other highlights, the Committee is pleased to note that the Republic of Moldova and Ukraine completed all relevant formalities and became Parties to the Agreement during the review period.<sup>6</sup> Significant progress occurred with respect to work on accession to the Agreement by several other WTO Members.<sup>7</sup> The Russian Federation applied for accession to the Agreement, and Kazakhstan became an observer to the Committee, in both cases reflecting commitments made in the course of the two Members' respective WTO accession processes. In addition, on 22 June 2016, the Committee adopted, as foreseen, an important new Decision on Arbitration Procedures pursuant to Article XIX:8(a) of the revised GPA.<sup>8</sup> The Procedures provide a tool for the resolution of disputes arising in the context of modifications or rectifications to coverage pursuant to Article XIX of the revised GPA. Significant work was done with respect to the Committee's agreed Work Programmes, notably those dealing with: (i) access to government procurement activities by small and medium sized enterprises; (ii) the collection and reporting of statistical data; (iii) the promotion of sustainability in Parties' procurement processes; and (iv) exclusions and restrictions in Parties' annexes.<sup>9</sup>

1.4. The following 47 WTO Members are now covered by the Agreement (the revised and/or the 1994 version): Armenia; Canada; the European Union, with its 28 member States (normally

<sup>1</sup> GPA/134, dated 16 November 2015.

<sup>2</sup> The 1994 Agreement and the revised Agreement are hereafter referred to together as the "Agreement on Government Procurement" or "GPA" or "Agreement".

<sup>3</sup> See, for relevant details, Part 2 below.

<sup>4</sup> GPA/M/64, dated 11 May 2016; GPA/M/65, dated 15 September 2016; GPA/M/66, dated 14 November 2016; and GPA/M/67, to be issued.

<sup>5</sup> At its meeting of 17 February 2016, the Committee re-elected Mr Newham as Chairman for 2016 (GPA/M/64, dated 11 May 2016, paragraph 1.2.).

<sup>6</sup> Ukraine deposited its instrument of accession on 18 April 2016 and therefore became a Party to the Agreement on 18 May 2016. The Republic of Moldova deposited its instrument of accession on 14 June 2016 and therefore became a Party to the Agreement on 14 July 2016.

<sup>7</sup> See, for relevant details, Part 3 below.

<sup>8</sup> GPA/139, dated 23 June 2016.

<sup>9</sup> See, for relevant details, Part 4 below.

counted as a single Party); Hong Kong, China; Iceland; Israel; Japan; the Republic of Korea ("Korea"); Liechtenstein; the Republic of Moldova; Montenegro; the Kingdom of the Netherlands with respect to Aruba; New Zealand; Norway; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu ("Chinese Taipei"); Ukraine and the United States.

1.5. Twenty-nine WTO Members have observer status in the Committee on Government Procurement: Albania, Argentina, Australia, Bahrain, Cameroon, Chile, China, Colombia, Costa Rica, Georgia, India, Indonesia, Jordan, Kazakhstan, the Kyrgyz Republic, Malaysia, Mongolia, Oman, Pakistan, Panama, the Russian Federation, Saudi Arabia, Seychelles, Sri Lanka, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Turkey, and Viet Nam. The observership of Kazakhstan was approved, on its request, during the reporting period, and was warmly welcomed by the Committee.<sup>10</sup> Four intergovernmental organizations, namely the International Monetary Fund (IMF), the International Trade Centre (ITC), the Organization for Economic Co-operation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD), also have observer status.

1.6. The Committee considers the GPA to be an increasingly important tool of trade and development in the twenty-first century, contributing not only to market access for Parties' goods, services and suppliers but also to the transparency of Parties' procurement systems and to good governance. It is pleased with the continuing progress made on accessions to the Agreement during the year under review and in previous years (in effect, the number of Members covered by the Agreement has more than doubled since 1996).<sup>11</sup> It encourages interest in the Agreement on the part of WTO Members not currently Parties or observers to it, and invites them to consider the potential advantages of association, whether as Parties or as observers.<sup>12</sup>

1.7. The remaining sections of this Report deal with the work done by the Committee during the year, with particular reference to: (i) the entry into force of the revised Agreement; (ii) accessions to the Agreement; (iii) the Committee's Agreed Work Programmes; and (iv) the implementation of the Agreement.

## **2 ENTRY INTO FORCE OF THE REVISED AGREEMENT, RELATED WORK ON ARBITRATION PROCEDURES AND THE "E-GPA PROJECT"**

### **2.1 Entry into force of the revised Agreement**

2.1. As recounted in the Committee's two previous Annual Reports, the revised Agreement entered into force on 6 April 2014, 30 days after the submission of formal acceptances of the "Protocol Amending the Agreement on Government Procurement" by two thirds of the Agreement's Parties. Two additional Parties submitted their respective instruments of acceptance later in 2014. In 2015, Armenia submitted its instrument of acceptance on 7 May 2015<sup>13</sup> and the Agreement entered into force for two newly acceded Parties, i.e. for Montenegro on 15 July 2015<sup>14</sup> and for New Zealand on 12 August 2015.<sup>15</sup>

2.2. With respect to the period under review, Korea submitted its instrument of acceptance on 15 December 2015 and the revised Agreement entered in force for Korea on 14 January 2016.<sup>16</sup> The Agreement also entered into force for two more newly acceded Parties 30 days after the submission of their respective instruments of accession to the Agreement, i.e. for Ukraine on 18 May 2016<sup>17</sup> and for the Republic of Moldova on 14 July 2016.<sup>18</sup>

2.3. As a result of these additional acceptances and accessions, the revised Agreement is now in force for all Parties except Switzerland. The latter has provided regular updates to the Committee

<sup>10</sup> GPA/M/66, dated 14 November 2016, paragraphs 5. et seq.

<sup>11</sup> In 1996, when the GPA 1994 came into force, it covered only 22 WTO members.

<sup>12</sup> Observership to the Agreement is open to all WTO Members.

<sup>13</sup> The revised Agreement entered into force for Armenia on 6 June 2015, see WT/Let/1039, dated 11 May 2015.

<sup>14</sup> WT/Let/1046, dated 2 July 2015.

<sup>15</sup> WT/Let/1049, dated 20 July 2015.

<sup>16</sup> WT/Let/1110, dated 16 December 2015.

<sup>17</sup> WT/Let/1150, dated 27 April 2016.

<sup>18</sup> WT/Let/1169, dated 29 June 2016.

on related developments and has assured the Committee that it will provide its acceptance as soon as possible.<sup>19</sup>

## **2.2 Adoption of the Committee's decision on arbitration procedures and work on other draft decisions pursuant to Article XIX:8 of the revised GPA**

2.4. In a significant development, on 22 June 2016, Parties adopted the Committee's Decision on Arbitration Procedures pursuant to Article XIX:8(a) of the revised GPA.<sup>20</sup> The Decision fulfils a specific requirement of the revised Agreement and has brought to a conclusion negotiations that had taken place over an extended period. The new Procedures provide a tool for the resolution of disputes arising in the context of modifications or rectifications to coverage pursuant to Article XIX of the revised GPA. This is an important step in the implementation of the revised Agreement and is potentially also of systemic interest to the Organization.

2.5. With regard to the Committee's related draft decision on indicative criteria, further work on this issue in a plurilateral format has been deferred for the time being. Work on the Committee's mandate to develop for adoption a separate draft decision on criteria for compensatory adjustment may be taken up at a later stage.

## **2.3 The "e-GPA project" to provide enhanced access to information concerning the Agreement, in a user-friendly format**

2.6. During the reporting period, the Secretariat, with guidance from the Committee, carried forward the further development of the "e-GPA system". As noted in last year's Annual Report, the system is intended to provide enhanced access to Parties' market access schedules and other information that Parties provide pursuant to the Agreement, in a modern and user-friendly format. It synergizes importantly with particular elements of the revised GPA text that are aimed at promoting the use of electronic tools in Parties' procurement systems.

2.7. At the Committee's informal session on 17 February, the Secretariat provided an initial demonstration of the main new features in version 2.0 of the e-GPA system. Subsequently, on 7 April 2016, it provided a test edition of e-GPA 2.0 to delegations for trial. On 22 July 2016, following the trial period and incorporating further improvements based on comments from Parties, the fully working edition of [e-GPA 2.0](#) was made publicly accessible via the WTO's website.<sup>21</sup>

2.8. Version 2.0 of the system adds the following features to the portal<sup>22</sup>: an expanded browse function, reflecting the seamless integration of the coverage of four new Parties<sup>23</sup>; a new search engine offering advanced search functions; further enhancements to the thresholds module; integration of a module to facilitate access via the portal to information published in Parties' jurisdictions, such as national legislation, and procurement and award notices; and further development of the module which maintains the e-GPA portal up to date with the legal schedules. It significantly improves the visibility of the market access opportunities available under the revised Agreement, and enhances the accessibility of related information.

2.9. The Committee hopes that the enhanced portal will facilitate the evaluation by other WTO Members not parties to the Agreement of the market access opportunities that the Agreement offers, and thus also facilitate accession to the Agreement. It looks forward to further improvements to the system in the coming year, including the development of tools to support future coverage and accession negotiations, and to facilitate the circulation of Parties' statistical reports and other notifications under the Agreement, in cooperation with delegations.

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<sup>19</sup> As the delegation of Switzerland has made clear, the delay in submission of its instrument of acceptance is not due to any substantive reservations regarding the content of the revised Agreement; rather, it reflects a need for completion of on-going internal legislative procedures to harmonize Swiss procurement legislation at the federal and cantonal levels.

<sup>20</sup> GPA/139, dated 23 June 2016.

<sup>21</sup> See "WTO improves visibility of government procurement information", [https://www.wto.org/english/news\\_e/news16\\_e/qpro\\_22jul16\\_e.htm](https://www.wto.org/english/news_e/news16_e/qpro_22jul16_e.htm). The e-GPA portal is accessible via the WTO website at the following link: <https://e-gpa.wto.org>.

<sup>22</sup> As foreshadowed in the 2015 Annual Report, GPA/134, dated 16 November 2015, paragraph 2.4.

<sup>23</sup> The four new Parties are, respectively, the Republic of Moldova, Montenegro, New Zealand and Ukraine.

### 3 ACCESSIONS TO THE AGREEMENT

3.1. The Committee attaches great importance to its work on currently pending and future accessions to the Agreement, which it expects to further enhance both the extent of the market access commitments under, and the systemic relevance of, the Agreement, over time. Significant progress was made on this aspect of the Committee's work during the review period. Relevant milestones included: (i) formal completion of the accessions of Ukraine and the Republic of Moldova; (ii) the resumption of work and good progress achieved on the accession of the Kyrgyz Republic; (iii) further constructive discussions and progress on the accessions of Australia and the Republic of Tajikistan; (iv) continuing constructive dialogue on China's accession; and (v) the formal initiation of work on the accession of the Russian Federation, on application by that delegation. The following provides additional details regarding these particular accessions.

#### 3.1 Completion of the Accessions of Ukraine and the Republic of Moldova

##### 3.1.1 Ukraine

3.2. Ukraine submitted its application for GPA accession on 8 February 2011.<sup>24</sup> Following multiple discussions in informal session and the review of relevant documentation, the Committee adopted, at its formal meeting on 11 November 2015, a decision on the terms of Ukraine's accession to the Agreement and the negotiation was thus concluded.<sup>25</sup> The decision invited Ukraine to deposit its instrument of accession within six months of the date of the adoption of the decision, i.e. by 11 May 2015.

3.3. On 18 April 2016, Ukraine deposited with the Director-General of the WTO its instrument of accession.<sup>26</sup> Subsequently, the Agreement entered into force for Ukraine on 18 May 2016.

##### 3.1.2 Republic of Moldova

3.4. The Republic of Moldova initially applied for accession to the Agreement in 2002.<sup>27</sup> Following a period in which work was in abeyance, work on this accession was revitalised with the circulation of the Republic of Moldova's second revised replies to the Checklist of Issues and revised coverage offer on 13 September 2012.<sup>28</sup> Following various discussions in informal session and the review of relevant documentation, on 16 September 2015, the Committee adopted a decision on the terms of the Republic of Moldova's accession to the Agreement and the negotiation was thus concluded.<sup>29</sup> According to the decision, the Republic of Moldova was invited to submit its instrument of accession within six months after the date of the adoption of the decision, i.e. by 16 March 2016.

3.5. In February 2016, for reasons related to a change of government in the Republic of Moldova and the resulting need for additional time for completion of its Parliamentary review process, the Republic of Moldova requested an extension of the previously-agreed period for receipt of its instrument of accession.<sup>30</sup> On 17 February 2016, the Committee adopted a decision to extend the time-frame for two months, i.e. until 16 June 2016. The formal decision was circulated on 19 February 2016.<sup>31</sup> Subsequently, on 14 June 2016, the Republic of Moldova deposited its instrument of accession with the Director-General and the Agreement entered into force for the Republic of Moldova on 14 July 2016.<sup>32</sup>

3.6. The Committee, again, warmly welcomes Ukraine and the Republic of Moldova as Parties to the Agreement.

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<sup>24</sup> GPA/ACC/UKR/1 and GPA/107, both dated 9 February 2011.

<sup>25</sup> GPA/133, dated 16 November 2015.

<sup>26</sup> WT/Let/1150, dated 27 April 2016.

<sup>27</sup> GPA/63, dated 8 January 2002.

<sup>28</sup> GPA/ACC/MDA/5 and GPA/ACC/MDA/6, dated 13 September 2012.

<sup>29</sup> GPA/131, dated 21 September 2015.

<sup>30</sup> GPA/ACC/MDA/28, dated 5 February 2016.

<sup>31</sup> GPA/131/Add.1, dated 19 February 2016.

<sup>32</sup> WT/Let/1169, dated 29 June 2016.

## **3.2 Resumption of work and progress achieved on the accession of the Kyrgyz Republic**

3.7. The accession of the Kyrgyz Republic was initiated in 1999.<sup>33</sup> Following a period of minimal activity, work on this accession was resumed in January 2016 with the circulation of the Kyrgyz Republic's Law on Public Procurement and a revised and updated coverage offer.<sup>34</sup> In the course of the Committee's meeting held on 17 February 2016, Parties warmly welcomed the Kyrgyz Republic's resumption of work on its accession process and provided preliminary comments on the revised initial coverage offer. Exchanges between Parties and the Kyrgyz Republic on this offer also took place intersessionally.

3.8. The Kyrgyz Republic's second revised offer was circulated on 26 May 2016 and was the subject of discussion at the Committee's meeting held on 22 June 2016.<sup>35</sup> In the course of that discussion, Parties, while appreciating the important improvements incorporated in the second revised offer, asked for some further improvements in order to make the offer agreeable. Written comments on the second revised offer were circulated by several Parties and replies to these comments were circulated by the Kyrgyz Republic subsequently.

3.9. On 4 October 2016, a proposed final offer (subject to Parties' agreement) was circulated by the Kyrgyz Republic.<sup>36</sup> The offer was discussed at the Committee's meeting held on 19 October 2016. In the course of that discussion, several Parties suggested that, overall, the content of the offer was close to being satisfactory taking into account clarifications that the delegation had provided in writing and in bilateral meetings. Some also indicated that a limited number of further clarifications or modifications might still be needed.

3.10. In regard to its relevant legislation, comments on the Kyrgyz Republic's Law on Public Procurement were circulated by the United States on 20 June 2016 and by the European Union on 28 July 2016.<sup>37</sup> A draft Law on Amendments to the Law on Public Procurement was circulated by the Kyrgyz Republic on 6 October 2016.<sup>38</sup> At the Committee's meetings held on 22 June 2016 and 19 October 2016, some Parties mentioned a possible need for clarification of certain aspects of the legislation before the Kyrgyz Republic's accession could be finalized.

3.11. The Committee appreciates strong engagement of the Kyrgyz Republic, supports its swift accession, if possible, to the GPA and hopes to conclude work, in principle, on this accession in the first half of 2017.

## **3.3 Continuing constructive discussions and progress on the accessions of Australia and Tajikistan**

### **3.3.1 Australia's Accession to the Agreement**

3.12. Australia applied for accession to the GPA on 2 June 2015.<sup>39</sup> Its initial market access offer and replies to the Checklist of Issues were circulated on 8 September 2015 and 24 September 2015, respectively.<sup>40</sup> At the Committee's meeting on 16 September 2015, Australia introduced its offer and provided background on its public procurement system. It expressed the hope of a swift conclusion to work on its accession, for the benefit of the multilateral trading system and in order to contribute to its G20 growth targets.

3.13. In the course of the Committee's meeting on 17 February 2016, Parties, while reiterating their support for a speedy conclusion of this accession in line with Australia's hopes, also flagged concerns regarding aspects of the offer. They asked Australia to submit a revised offer including improvements in particular areas. Some Parties also indicated that they might seek clarification regarding aspects of Australia's relevant legislation.

<sup>33</sup> GPA/SPEC/4, dated 19 May 1999.

<sup>34</sup> GPA/ACC/KGZ/2, dated 7 January 2016; and GPA/ACC/KGZ/3, dated 19 January 2016.

<sup>35</sup> GPA/ACC/KGZ/6, dated 26 May 2016.

<sup>36</sup> GPA/ACC/KGZ/12, dated 4 October 2016.

<sup>37</sup> GPA/ACC/KGZ/9, dated 20 June 2016; and GPA/ACC/KGZ/10, dated 28 July 2016.

<sup>38</sup> GPA/ACC/KGZ/13, dated 6 October 2016.

<sup>39</sup> GPA/129, dated 2 June 2015.

<sup>40</sup> GPA/ACC/AUS/1, 8 September 2015; and GPA/ACC/AUS/2, 24 September 2015.

3.14. On 30 September 2016, Australia circulated a revised market access offer to the Committee.<sup>41</sup> The offer was discussed during the Committee's meeting held on 19 October 2016. In the course of the discussion, Parties warmly welcomed the active engagement of the Australian delegation and the improvements contained in the offer, particularly in regard to services coverage. Some Parties also voiced outstanding concerns with respect to particular aspects of the offer which, they suggested, would need to be addressed. The Committee appreciates Australia's ambition with respect to the rapid completion of its accession and hopes for a conclusion of work, in principle, on this accession, as early as possible in 2017.

### **3.3.2 The Republic of Tajikistan's Accession to the Agreement**

3.15. Tajikistan applied for accession to the GPA on 10 February 2015, to honour its commitment to initiate GPA accession negotiations, made in the course of its accession to the WTO on 2 March 2013.<sup>42</sup> Its initial coverage offer was circulated on 16 February 2015.<sup>43</sup> The initial offer was the subject of discussions at the Committee's meetings held on 3 June 2015 and 16 September 2015. In the course of those discussions, Parties enthusiastically welcomed the offer as a basis for discussion and requested that Tajikistan provide clarification on some elements of the offer. Exchanges on the offer also took place between GPA Parties and Tajikistan intersessionally.

3.16. Tajikistan's first revised market access offer was circulated on 10 February 2016 and preliminarily discussed at the Committee's meeting on 17 February 2016.<sup>44</sup> Parties recognized the improvements contained in the revised offer while indicating that outstanding issues remained to be addressed. Subsequently, further written exchanges on the offer took place between Tajikistan and GPA Parties. Tajikistan's second revised offer was circulated on 20 June 2016 and was preliminarily discussed at the Committee's meeting held on 22 June 2016.<sup>45</sup> In the course of the discussion, Parties, while recognizing the second revised offer as a good one in most respects, expressed concerns about some elements. Various exchanges on the second revised offer were also conducted in writing.

3.17. Tajikistan's third revised offer was circulated on 18 October 2016, just prior to the Committee's meeting on 19 October 2016.<sup>46</sup> Parties warmly welcomed the third revised offer, as well as Tajikistan's answers to questions and comments from Parties, while making clear that more time would be needed to assess the documents. Some Parties expressed continuing concerns regarding a particular proposed transitional measure. With regard to its relevant legislation and government procurement system, Tajikistan's draft Law on Public Procurement was circulated on 15 September 2015 and its replies to the Checklist of Issues on 12 November 2015.<sup>47</sup> Written exchanges on the legislation and Tajikistan's government procurement system have also taken place during the reporting period. Overall, the Committee appreciates Tajikistan's continuous engagement in its accession process and hopes that this accession process can also be concluded, in principle, as early as possible in 2017.

### **3.4 China's Accession to the Agreement**

3.18. China applied for accession to the GPA on 28 December 2007 and its initial offer was circulated to Parties on 7 January 2008.<sup>48</sup> Since then, five further offers have been circulated by China, and discussions dedicated to China's accession have taken place on multiple occasions.<sup>49</sup>

<sup>41</sup> GPA/ACC/AUS/17, dated 30 September 2016; and GPA/ACC/AUS/17/Corr.1, dated 14 October 2016.

<sup>42</sup> GPA/127, dated 12 February 2015

<sup>43</sup> GPA/ACC/TJK/1, dated 16 February 2015.

<sup>44</sup> GPA/ACC/TJK/9, dated 10 February 2016.

<sup>45</sup> GPA/ACC/TJK/23, dated 20 June 2016.

<sup>46</sup> GPA/ACC/TJK/30, dated 18 October 2016.

<sup>47</sup> GPA/ACC/TJK/7, dated 15 September 2015, and GPA/ACC/TJK/8, dated 12 November 2015.

<sup>48</sup> GPA/93, dated 14 January 2008; and GPA/ACC/CHN/1, dated 7 January 2008.

<sup>49</sup> See Report (2008) of the Committee on Government Procurement to the General Council (GPA/95, dated 9 December 2008, paragraph 13); Report (2009) of the Committee on Government Procurement to the General Council (GPA/103, dated 12 November 2009, paragraphs 15-17); Report (2010) of the Committee on Government Procurement to the General Council (GPA/106, dated 9 December 2010, paragraphs 21-25); Report (2011) of the Committee on Government Procurement to the General Council (GPA/110, dated 16 November 2011, paragraphs 10-13); Report (2012) of the Committee on Government Procurement to the General Council (GPA/116, dated 6 December 2012, paragraphs 16-19); and Report (2013) of the Committee

The Parties to the Agreement have repeatedly stressed the great importance that they attach to China's accession to the Agreement, while also affirming that negotiations can only be concluded on the basis that the coverage offer of China is commensurate with that provided by other Parties to the Agreement and that China's relevant legislation and procurement system are brought in line with the GPA's requirements.

3.19. With regard to developments during the reporting period, discussions based on China's fifth revised coverage offer took place during the Committee's meetings held on 17 February 2016, 22 June 2016 and 19 October 2016. In the course of these discussions, China, while emphasizing the challenges it faces to further improve its offer, also reported on its continuing efforts to coordinate with domestic stakeholders and to consult bilaterally with relevant GPA Parties, with a view to possible eventual improvements. In the course of the Committee's meeting held on 22 June 2016, it foreshadowed that additional entities could be included in its next offer, without specifying the timing of submission. In the course of these discussions, Parties, while acknowledging the significant improvements contained in the fifth revised offer as compared to the previous one, have reiterated that significant gaps remain between the offer and their expectations and requested that China circulate a further revised offer as soon as possible. Specific written comments have also been circulated by delegations<sup>50</sup>, and updates provided regarding bilateral contacts.

3.20. As noted also in its 2015 Annual Report, the Committee remains of the view that China's GPA accession, on the appropriate terms, is a matter of great significance for the Agreement, for the WTO, and for the world economy; and a very important signal for other emerging economies. It hopes that a further revised offer will be circulated by China as soon as possible in 2017 and that further progress on this accession will follow.

### **3.5 The Initiation of Work on the Russian Federation's Accession to the Agreement**

3.21. The Russian Federation applied for accession to the GPA on 22 August 2016<sup>51</sup>, honouring its commitment to initiate GPA accession negotiations, made in the course of its accession to the WTO in 2012.<sup>52</sup> In the course of the Committee's meeting held on 19 October, the delegation of the Russian Federation confirmed its intention to circulate its initial market access offer by the end of 2016.

### **3.6 Other Pending Accessions**

3.22. During the reporting period, the Committee also kept under review the status of other pending GPA accessions and accession commitments. Apart from the above-mentioned seven accessions, four other WTO Members have formally initiated work on their respective accessions to the Agreement: Albania, Georgia, Jordan and Oman. A further six WTO Members have provisions regarding accession to the Agreement in their respective Protocols of Accession to the WTO: Afghanistan<sup>53</sup>, Kazakhstan<sup>54</sup>, Mongolia<sup>55</sup>, Saudi Arabia<sup>56</sup>, Seychelles<sup>57</sup> and the former Yugoslav

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on Government Procurement to the General Council (GPA/121, dated 24 October 2013, paragraphs 3.9.-3.13.); Report (2014) of the Committee on Government Procurement to the General Council (GPA/126, dated 26 November 2014, paragraphs 3.14.-3.18.); and Report (2015) of the Committee on Government Procurement to the General Council (GPA/134, dated 16 November 2015, paragraphs 3.28.-3.32.).

<sup>50</sup> Japan - GPA/ACC/CHN/47, dated 7 December 2015; and the European Union - GPA/ACC/CHN/48, dated 26 May 2016; and GPA/ACC/CHN/48/Corr.1, dated 14 June 2016.

<sup>51</sup> GPA/140, dated 22 August 2016.

<sup>52</sup> WT/ACC/RUS/70, dated 17 November 2011, paragraph 1143: "The representative of the Russian Federation confirmed the intention of the Russian Federation to join the WTO Agreement on Government Procurement and to notify the Committee on Government Procurement to this effect at the time of accession of the Russian Federation to the WTO and to ensure that from the date of accession, its government agencies would award contracts in a transparent manner according to published laws, regulations and guidelines. He also confirmed that the Russian Federation would request observership in the WTO Agreement on Government Procurement at the time of its accession to the WTO and would initiate negotiations for membership in the WTO Agreement on Government Procurement by tabling an Appendix 1 offer within four years of accession. He confirmed that, if the results of the negotiations were satisfactory to the interests of the Russian Federation and the other Members of the Agreement, the Russian Federation would accede to that Agreement. The Working Party took note of these commitments."

<sup>53</sup> WT/ACC/AFG/36, dated 13 November 2015, paragraph 199: "The representative of Afghanistan confirmed Afghanistan's willingness to accede to the WTO Agreement on Government Procurement. Afghanistan would become an observer to the Agreement upon accession, and submit an application for

Republic of Macedonia.<sup>58</sup> In the course of the Committee's meeting held on 22 June 2016, the former Yugoslav Republic of Macedonia said that it intended to initiate negotiations regarding its accession to the Agreement by submitting an initial market access offer and replies to the Checklist of Issues in the first half of 2017.

3.23. The Committee notes that some (not all) of the commitments mentioned have been outstanding for a considerable period, and hopes to see an acceleration of work toward their fulfilment in 2017. Technical assistance to support such work is available, where appropriate, from the WTO Secretariat, individual GPA Parties, regional donors and other sources. Relevant Members are invited and encouraged to seek such assistance.

### 3.7 Secretariat technical assistance and other activities relevant to GPA accessions

3.24. Pursuant to a standing request by the Committee<sup>59</sup>, the Secretariat, in the course of the Committee's meetings held in February, June and October 2016, provided brief reports on its ongoing technical assistance activities relevant to GPA accessions. These consisted of four regional workshops, seven national seminars, and a number of Geneva-based and other related activities.

3.25. The GPA regional workshops were organised, respectively, for the benefit of: (i) Caribbean countries, held in Barbados, in May-June 2016, in cooperation with CARICOM Secretariat; (ii) English-speaking African countries, held in Windhoek, Namibia, in September 2016, with the participation of the African Development Bank; (iii) Arab and Middle East (AMEC) countries, held in Abu Dhabi, United Arab Emirates, in October 2016, in cooperation with the European Bank for Reconstruction and Development (EBRD) and the Arab Monetary Fund (AMF); and (iv) Central and Eastern Europe, Central Asia and the Caucasus (CEECAC) countries, held in Vienna, Austria, in November 2016, in cooperation with EBRD and the Joint Vienna Institute (JVI).

3.26. The GPA national seminars were organised, respectively, for and at the request of: Tajikistan, held in December 2015; Ukraine, held in February 2016; Montenegro, held in May 2016; Georgia, also held in May 2016; the Russian Federation, held in June 2016; China, held in August 2016; and Kazakhstan, held in November 2016. Where appropriate, the activities were

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membership with a coverage offer after accession to the WTO. He indicated that Afghanistan would consider initiation of negotiations on joining the WTO Agreement on Government Procurement within one year from the date of accession to the WTO. The Working Party took note of these commitments."

<sup>54</sup> WT/ACC/KAZ/93, dated 23 June 2015, paragraph 949: "The representative of Kazakhstan confirmed the intention of Kazakhstan to join the WTO Agreement on Government Procurement and to notify the WTO Committee on Government Procurement to this effect at the time of accession of Kazakhstan to the WTO and to ensure that from the date of accession, its Government agencies would award contracts in a transparent manner according to published laws, regulations and guidelines. She also confirmed that Kazakhstan would request the status of an "observer" in the WTO Agreement on Government Procurement at the time of its accession to the WTO and would initiate negotiations for membership in the WTO Agreement on Government Procurement by tabling an Appendix 1 offer within four years after accession. She confirmed that, if the results of the negotiations were satisfactory to the interests of Kazakhstan and the other Members of the Agreement, Kazakhstan would accede to that Agreement. The Working Party took note of these commitments."

<sup>55</sup> WT/ACC/MNG/9, dated 27 June 1996, paragraph 59: "The representative of Mongolia confirmed that his Government would seek observer status in the Committee for the Agreement on Government Procurement at the time of its accession with a view to initiating negotiations for membership thereafter. The Working Party took note of this commitment."

<sup>56</sup> WT/ACC/SAU/61, dated 1 November 2005, paragraph 231: "The representative of Saudi Arabia confirmed that, upon accession to the WTO, Saudi Arabia would initiate negotiations for membership in the Agreement on Government Procurement by tabling an entity offer. He also confirmed that, if the results of the negotiations were satisfactory to the interests of Saudi Arabia and the other parties to the Agreement, Saudi Arabia would complete negotiations for membership in the Agreement within a year of accession. The Working Party took note of these commitments."

<sup>57</sup> WT/ACC/SYC/64, dated 5 November 2014, paragraph 322: "The representative of Seychelles confirmed that, within one year from the date of accession, Seychelles would initiate negotiations to accede to the WTO Agreement on Government Procurement. The Working Party took note of this commitment."

<sup>58</sup> WT/ACC/807/27, dated 26 September 2002, paragraph 177: "The representative of FYROM confirmed that, upon accession to the WTO, the Government of FYROM would initiate negotiations for membership in the Agreement on Government Procurement by tabling an entity offer. He also confirmed that, if the results of the negotiations were satisfactory to the interests of FYROM and the other members of the Agreement, FYROM would complete negotiations for membership in the Agreement within two years of accession. The Working Party took note of these commitments."

<sup>59</sup> GPA/106, dated 9 December 2010, paragraph 30.

organised in cooperation with – or with the participation of experts from – other agencies or, in some cases, GPA Parties. These included: the Commercial Law Development Programme (CLDP) of the US Department of Commerce (in the Ukraine and Georgia activities); EBRD (in all of the above activities except for China and the Russian Federation); and the EU and USAID (in the Georgia activity).

3.27. In addition, the Secretariat participated as a cooperating partner in three separate Capacity-Building Workshops organised in Geneva by EBRD under the latter's GPA Technical Cooperation Facility<sup>60</sup>, for the benefit of GPA acceding Members and observers from the EBRD's area of operations. These activities were organised during the Committee's meeting weeks in February, June and October 2016, in order to assist officials participating, on behalf of their governments, in GPA accession negotiations and/or to provide practical exposure to the Committee meetings. Beyond the foregoing activities, Secretariat experts also participated, by invitation, in a number of relevant activities organised by national authorities or other international organisations.<sup>61</sup> These activities similarly provide opportunities for the Secretariat to inform participants of the potential benefits of GPA participation in addition to related challenges and developments of interest, while simultaneously opening avenues for possible future cooperation.

3.28. The Committee notes the importance of the Secretariat's technical assistance activities in promoting a better understanding of the GPA among WTO Members that are not yet Parties to the Agreement, and in facilitating accessions to and post-accession implementation of the Agreement. It appreciates the role that EBRD has played in supporting work on GPA accession by countries within its area of operations. It encourages the Secretariat to intensify its work in this area pursuant to the mandate endorsed by Ministers in 2011 and 2013<sup>62</sup>, while deepening its existing partnerships and exploring avenues for further cooperation with other agencies where possible and appropriate.

#### 4 THE COMMITTEE'S AGREED WORK PROGRAMMES

4.1. Significant work was done by the Committee during the review period in relation to its agreed Work Programmes.<sup>63</sup> The Work Programmes are intended, broadly, to: (i) promote transparency with respect to Parties' implementation of the Agreement; (ii) facilitate, where relevant, improvements in the administration of the Agreement; and (iii) contribute, where appropriate, to preparations for the future negotiations that are called for in Article XXII:7 of the revised GPA. Activity focused, during the year, on the Work Programmes dealing with: (i) access to government procurement activities by small and medium-sized enterprises (SMEs); (ii) the collection and reporting of statistical data; (iii) the promotion of sustainability in Parties' procurement processes; and (iv) exclusions and restrictions in Parties' Annexes.

4.2. Further to the above:

- In regard to the **Work Programme on SMEs**, Paragraph 3.2 of the relevant Decision<sup>64</sup> provides that the Committee shall survey the Parties, through the use of a Questionnaire seeking information regarding the measures and policies used to assist, promote, encourage, or facilitate participation by small and medium sized enterprises (SMEs) in government procurement. The terms of the Questionnaire were agreed in 2015.

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<sup>60</sup> A facility set up by EBRD to provide support for capacity building for countries in its area of operation contemplating, preparing for or acceding to the Agreement – see GPA/126 and GPA/126/Corr.1, dated 26 November 2014, para. 3.31.

<sup>61</sup> These included: (i) a CEECAC e-Procurement Forum on Enhancing Public Spending, in Vienna, Austria in December 2015, organised by the World Bank and EBRD; (ii) an International Workshop on Public Procurement, together with the Korea Public Procurement Expo 2016, in Seoul, Korea in March 2016, organised by Korea Public Procurement Service (KPPS) in cooperation with the International Trade Centre (ITC); (iii) a Training Course on Government Procurement Negotiations in Bangkok, Thailand in May 2016, organised by the United Nations Economic and Social Council for Asia and the Pacific (UNESCAP); (iv) two national seminars organised by EBRD and held, respectively, for Ukraine in June 2016 and the Republic of Moldova in September 2016; and (v) a regional e-Government Procurement Conference in Seoul, Korea, organised by the Asian Development Bank within the framework of the Asia-Pacific e-Procurement Network (APEN).

<sup>62</sup> GPA/112, dated 16 December 2011, paragraph 8; GPA/122, dated 3 December 2013, paragraph 5.

<sup>63</sup> See Annexes C, D, E, F and G of Appendix 2 of the Committee's Decision of 30 March 2012 on the Outcomes of the Negotiations (GPA/113, dated 2 April 2012).

<sup>64</sup> See GPA/113, Annex C of Appendix 2, 439-441.

Altogether, replies to the SME Questionnaire have now been received from 16 Parties (Armenia; Canada; the European Union; Hong Kong, China; Israel; Japan; Korea; Liechtenstein; Montenegro; New Zealand; Norway; Singapore; Switzerland; Chinese Taipei; Ukraine and the United States). An initial compilation of 13 inputs received pursuant to this Work Programme was circulated by the Secretariat on 10 February 2016, and an updated compilation with the additional submissions was circulated on 3 October 2016.

- Carrying forward the work on this Work Programme, in the course of the Committee's meetings on 17 February 2016, Parties agreed to carry out an initial exchange of follow-up questions and answers. Subsequently, written questions were circulated by three Parties (Canada, the European Union and the United States) and written answers provided by 11 Parties (Armenia; Canada; the European Union; Hong Kong, China; Japan; Montenegro; New Zealand; Singapore; Switzerland; Chinese Taipei and the United States). At the request of the Committee, a compilation of the questions and answers received, together with a short paper identifying possible SME-related issues for discussion by Parties in an informal, small group format, were circulated by the Secretariat in October 2016.
- As regards the **Work Programme on Sustainability in international procurement**, Paragraph 2 of the relevant Decision<sup>65</sup> mandates the Committee to examine topics that include: (i) the objectives of sustainable procurement; (ii) the ways in which the concept of sustainable procurement is integrated into national and sub national procurement policies; and (iii) how sustainable procurement can be practised in a manner consistent with the principle of "best value for money", and with the Parties' international trade obligations. Inputs describing relevant policies, objectives and legislation have been provided by Canada, the European Union, Japan, New Zealand, Switzerland, Ukraine and the United States. Related proposals to advance the discussions have been circulated at various points by Canada, most recently on 15 November 2016, and a supportive note provided by New Zealand. A compilation of all submissions received was circulated by the Secretariat on 12 October 2016.
- Regarding the **Work Programme on Collection and Reporting of Statistical Data**, relevant inputs have been received from 11 Parties (Canada; the European Union; Hong Kong, China; Japan; Liechtenstein; New Zealand; Norway; Singapore; Switzerland; Chinese Taipei and the United States). Ten of these submissions were reflected in a compilation of inputs that was circulated by the Secretariat on 16 February 2016.
- Concerning the **Work Programme on Exclusions and Restrictions in Parties' Annexes**, 14 Parties have provided lists of country-specific and other exclusions or restrictions in their Annexes (Armenia; Canada; the European Union; Hong Kong, China; Israel; Japan; Korea; Liechtenstein; New Zealand; Norway; Singapore; Switzerland; Chinese Taipei and the United States). A compilation reflecting 11 of the inputs was circulated by the Secretariat on 6 January 2016. An updated version of this compilation covering three additional inputs that have been received subsequent to circulation of the initial version will be circulated shortly.

4.3. The Committee considers that the work described above has been useful in enhancing transparency and as a contribution to preparations for the further review of the Agreement which is called for in Article XXII:7 of the revised Agreement. It looks forward to further engagement, where appropriate, on these Work Programmes in 2017. Other Work Programmes foreseen at the conclusion of the GPA renegotiation in 2012, for example on Safety Standards, Public-Private Partnerships, Common Nomenclature for Goods and Services, and Standardized Notices<sup>66</sup>, will be taken up as and when the Committee considers this to be useful and timely.

4.4. Concerning the review called for in paragraph 6 of the Decision establishing the Work Programme on Exclusions and Restrictions in Parties' Annexes, the Committee considers that the exchange of information already conducted pursuant to this Work Programme has been

<sup>65</sup> See GPA/113, Annex E of Appendix 2, page 444.

<sup>66</sup> See GPA/113, Annex G, and GPA/113, Annex B, respectively.

useful. Parties that have not yet provided their relevant inputs to the Work Programme, including recently acceded Parties, are cordially requested to do so. Parties desiring additional information concerning any Parties' exclusions and restrictions may so request under the terms of paragraph 4 of the same Decision, or pursuant to their general rights as Parties to the Agreement.

## 5 IMPLEMENTATION OF THE AGREEMENT AND NOTIFICATIONS

5.1. This part of the report considers issues related to the implementation of the GPA and related notifications, including with respect to: (i) the thresholds applicable under the Agreement; (ii) the notification and review of national implementing legislation; (iii) statistical reporting; (iv) consultations and dispute settlement; and (v) modifications to the Agreement's Appendices.

### 5.1 Thresholds

5.2. In accordance with the Decision on Modalities for Notifying Threshold Figures in National Currencies<sup>67</sup>, since the last Annual Report, Armenia; Canada; the European Union; Hong Kong, China; Israel; Japan; Korea; Singapore; Switzerland; Chinese Taipei and the United States have provided information on their respective threshold figures expressed in national currencies for 2016-2017.<sup>68</sup> Chinese Taipei and Iceland have provided the relevant information for the period 2017-2018.<sup>69</sup>

### 5.2 Notification and review of national implementing legislation

5.3. Pursuant to Article XXIV:5(b) of the 1994 Agreement and Article XXII:5 of the revised Agreement, notifications were received from Canada<sup>70</sup>, Japan<sup>71</sup> and Ukraine.<sup>72</sup>

5.4. On 2 June 2016, the Republic of Armenia circulated to the Committee, informally, its draft revised Law on Procurement, inviting comments from GPA Parties. Comments were received from the European Union and the United States. Subsequently, Armenia replied to the questions and comments received.

5.5. In the course of the Committee's informal sessions held on 19 October, Armenia provided additional information relating to the review and expected adoption of the draft legislation that it had circulated. The delegation responded to a question raised by a delegation, confirming that a price preference under the legislation for suppliers from the Eurasian Economic Union would be applied only below the GPA thresholds. On behalf of the Committee, the Chairman expressed his appreciation to Armenia for the transparency and consultative spirit that it has shown in this matter.

### 5.3 Statistical reporting

5.6. Article XIX:5 of the 1994 Agreement and Article XVI:4 of the revised GPA require Parties to collect and provide, on an annual basis, statistics on their procurements covered by the Agreement. During the period under review, Armenia provided its reports for 2014 and 2015<sup>73</sup>; Canada provided its report for 2013<sup>74</sup>; the European Union provided its report for 2012<sup>75</sup>;

<sup>67</sup> GPA/1, dated 5 March 1996, Annex 3.

<sup>68</sup> Hong Kong, China - GPA/W/336, dated 9 December 2015; Armenia - GPA/W/336/Add.1, dated 10 December 2015; the United States - GPA/W/336/Add.2, dated 6 January 2016; Switzerland - GPA/W/336/Add.3, dated 6 January 2016; Singapore - GPA/W/336/Add.4, dated 19 January 2016; Canada - GPA/W/336/Add.5, dated 19 January 2016; Korea - GPA/W/336/Add.6, dated 29 January 2016; Japan - GPA/W/336/Add.7, dated 4 February 2016; Israel - GPA/W/336/Add.8, dated 15 February 2016; and the European Union - GPA/W/336/Add.9, dated 1 March 2016.

<sup>69</sup> Chinese Taipei - GPA/W/336/Add.10, dated 15 November 2016; and Iceland - GPA/W/336/Add.11, dated 21 November 2016.

<sup>70</sup> GPA/136, dated 31 March 2016.

<sup>71</sup> GPA/37/Add.13, dated 14 July 2016.

<sup>72</sup> GPA/138, dated 21 June 2016.

<sup>73</sup> GPA/130/Add.5, dated 18 May 2016 - Statistics for 2014 reported under Article XVI:4 of the revised Agreement; and GPA/137, dated 18 May 2016 - Statistics for 2015 reported under Article XVI:4 of the revised Agreement.

<sup>74</sup> GPA/123/Add.6, dated 12 February 2016 - Statistics for 2013 reported under Article XIX:5 of the 1994 Agreement.

Hong Kong, China provided its report for 2015<sup>76</sup>; Japan provided its report for 2014<sup>77</sup>; Liechtenstein provided its report for 2015<sup>78</sup>; Singapore provided its reports for 2011, 2012, 2013 and 2014<sup>79</sup>; Switzerland provided its report for 2015<sup>80</sup>; Chinese Taipei provided its report for 2015<sup>81</sup>; and the United States provided its reports for 2009 and 2010.<sup>82</sup>

#### 5.4 Consultations and dispute settlement

5.7. No matters were raised during the reporting period under Article XXII of the 1994 Agreement or Article XX of the revised Agreement (Consultations and Dispute Settlement).

#### 5.5 Notifications relating to the Appendices to the Agreement<sup>83</sup>

##### 5.5.1 Modifications to Appendix I that have been certified since the Committee's meeting of 11 November 2015

5.8. During the reporting period, the following proposed modifications have been certified:

##### 5.5.1.1 Modifications to Appendix I under the revised GPA

###### a. Modifications by the European Union:

- GPA/133<sup>84</sup>, effective as of 18 May 2016<sup>85</sup>, given that this was the date of accession of Ukraine to the revised Agreement.
- GPA/131<sup>86</sup>, effective as of 14 July 2016<sup>87</sup>, given that this was the date of accession of the Republic of Moldova to the revised Agreement.

###### b. Modifications by Hong Kong, China:

- GPA/MOD/HKG/8<sup>88</sup>, effective as of 12 March 2016<sup>89</sup>, given that no objections were made within 45 days (the period for objections specified in the revised Agreement).

<sup>75</sup> GPA/119/Add.6, dated 6 June 2016 - Statistics for 2012 reported under Article XIX:5 of the 1994 Agreement.

<sup>76</sup> GPA/137/Add.3, dated 26 August 2016 - Statistics for 2015 reported under Article XVI:4 of the revised Agreement.

<sup>77</sup> GPA/130/Add.6, dated 13 October 2016 - Statistics for 2014 reported under Article XVI:4 of the revised Agreement.

<sup>78</sup> GPA/137/Add.4, dated 8 November 2016 - Statistics for 2015 reported under Article XVI:4 of the revised Agreement.

<sup>79</sup> GPA/114/Add.7, dated 1 February 2016 - Statistics for 2011 reported under Article XIX:5 of the 1994 Agreement; GPA/119/Add.5, dated 1 February 2016 - Statistics for 2012 reported under Article XIX:5 of the 1994 Agreement; GPA/123/Add.5, dated 1 February 2016 - Statistics for 2013 reported under Article XIX:5 of the 1994 Agreement; GPA/130/Add.4, dated 1 February 2016 - Statistics for 2014 reported under Article XVI:4 of the revised Agreement.

<sup>80</sup> GPA/137/Add.2, dated 9 August 2016 - Statistics for 2015 reported under Article XIX:5 of the 1994 Agreement; and GPA/130/Add.1/Corr.1, dated 27 September 2016 - Corrigendum to the Statistics for 2014 reported under Article XIX:5 of the 1994 Agreement.

<sup>81</sup> GPA/137/Add.1, dated 27 May 2016 - Statistics for 2015 reported under Article XVI:4 of the revised Agreement.

<sup>82</sup> GPA/104/Add.8, dated 7 December 2015 - Statistics for 2009 reported under Article XIX:5 of the 1994 Agreement; GPA/108/Add.9, dated 13 September 2016 - Statistics for 2010 reported under Article XIX:5 of the 1994 Agreement.

<sup>83</sup> See also GPA/W/326, dated 19 March 2014 - Committee on Government Procurement - Approval and issuance of updated loose-leaf schedules to the revised Agreement - Note from the Secretariat; and GPA/W/327, dated 11 April 2014 - Committee on Government Procurement - Certification of updated loose-leaf schedules to the revised Agreement - Appendices II-IV - Note from the Secretariat.

<sup>84</sup> Decision of 11 November 2015 of the Committee on Government Procurement regarding Ukraine's accession to the GPA, including the European Union terms of Ukraine's accession, dated 16 November 2015.

<sup>85</sup> WT/Let/1184, dated 4 August 2016.

<sup>86</sup> Decision of 16 September 2015 of the Committee on Government Procurement regarding the Republic of Moldova's accession to the GPA, including the European Union terms of the Republic of Moldova's accession, dated 21 September 2015.

<sup>87</sup> WT/Let/1184, dated 4 August 2016.

c. Modifications by Japan:

- GPA/MOD/JPN/78<sup>90</sup>, effective as of 23 January 2016<sup>91</sup>, given that no objections were made within 45 days (the period for objections specified in the revised Agreement).
- GPA/MOD/JPN/80<sup>92</sup>, effective as of 13 August 2016<sup>93</sup>, given that no objections were made within 45 days (the period for objections specified in the revised Agreement).
- GPA/MOD/JPN/82<sup>94</sup>, effective as of 6 November 2016<sup>95</sup>, given that no Party invoked the arbitration procedures adopted by the Committee on 22 June 2016<sup>96</sup> within the time-period for invoking the procedures pursuant to Article XIX:7 of the revised GPA (120 days) and that Japan have notified the Committee of its intention to implement the proposed modifications on 2 November 2016.<sup>97</sup>

d. Modifications by the Republic of Korea:

- GPA/MOD/KOR/19<sup>98</sup>, effective as of 8 May 2016<sup>99</sup>, given that no objections were made within 45 days (the period for objections specified in the revised Agreement).

e. Modifications by Montenegro:

- GPA/MOD/MNE/1<sup>100</sup>, effective as of 13 December 2015<sup>101</sup>, given that no objections were made within 45 days (the period for objections specified in the revised Agreement).

f. Modifications by New Zealand:

- GPA/MOD/NZL/2<sup>102</sup>, effective as of 25 September 2016<sup>103</sup>, given that no objections were made within 45 days (the period for objections specified in the revised Agreement).

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<sup>88</sup> Proposed modifications to Appendix I of Hong Kong, China pursuant to Article XIX:1 of the revised GPA, dated 27 January 2016.

<sup>89</sup> WT/Let/1137, dated 17 March 2016.

<sup>90</sup> Proposed modifications to Appendix I of Japan pursuant to Article XIX:1 of the revised GPA, dated 9 December 2015. This notification replaced and withdrew Japan's proposed modifications circulated in GPA/MOD/JPN/76, dated 27 May 2015.

<sup>91</sup> WT/Let/1131, dated 29 January 2016.

<sup>92</sup> Proposed modifications to Appendix I of Japan pursuant to Article XIX:1 of the revised GPA, dated 29 June 2016.

<sup>93</sup> WT/Let/1191, dated 31 August 2016.

<sup>94</sup> Proposed modifications to Appendix I of Japan pursuant to Article XIX:1 of the revised GPA, dated 29 June 2016. Pursuant to Article XIX:2 of the revised GPA, objections to the proposed modifications were received from the European Union (GPA/MOD/JPN/88, dated 28 July 2016) and the United States (GPA/MOD/JPN/91, dated 8 August 2016).

<sup>95</sup> WT/Let/1210, dated 22 November 2016. Pursuant to Article XIX:7(a)(i) of the revised GPA, where no Party has invoked the Committee's arbitration procedures (GPA/139, dated 23 June 2016) within the time-period of 120 days of circulation of the notification of the proposed modifications (i.e. 29 June 2016), notwithstanding Article XIX:5(c) of the revised GPA, the proposed modifications shall become effective where 130 days from the date of circulation of the notification of the proposed modifications have elapsed, and the modifying Party has informed the Committee in writing of its intention to implement the modifications.

<sup>96</sup> GPA/139, dated 23 June 2016.

<sup>97</sup> GPA/MOD/JPN/95, dated 2 November 2016.

<sup>98</sup> Proposed modifications to Appendix I of Korea pursuant to Article XIX:1 of the revised GPA (modifications to create Korea's loose-leaf schedules under the revised Agreement), dated 24 March 2016.

<sup>99</sup> WT/Let/1162, dated 24 May 2016.

<sup>100</sup> Proposed modifications to Appendix I of Montenegro pursuant to Article XIX:1 of the revised GPA (modifications to create Montenegro's loose-leaf schedules under the revised Agreement), dated 29 October 2015.

<sup>101</sup> WT/Let/1120, dated 13 January 2016.

<sup>102</sup> Proposed modifications to Appendix I of New Zealand pursuant to Article XIX:1 of the revised GPA, dated 11 August 2016.

<sup>103</sup> WT/Let/1200, dated 14 October 2016.

### 5.5.1.2 Modifications to Appendix I under the 1994 GPA

- a. Modifications by Hong Kong, China:
  - GPA/MOD/HKG/7<sup>104</sup>, effective as of 26 February 2016<sup>105</sup>, given that no objections were made within 30 days.
- b. Modifications by Japan:
  - GPA/MOD/JPN/79<sup>106</sup>, effective as of 28 July 2016<sup>107</sup>, given that no objections were made within 30 days.
  - GPA/MOD/JPN/81<sup>108</sup>, effective as of 29 July 2016<sup>109</sup>, given that no objections were made within 30 days.

### 5.5.2 Proposed modifications to Appendix I that remain outstanding

5.9. As to outstanding proposed modifications, the following developments have taken place during the reporting period:

#### 5.5.2.1 Modifications to Appendix I under the revised GPA

- a. Modifications by New Zealand:
  - In November 2016, New Zealand submitted proposed modifications to its Appendix I pursuant to Article XIX:1 of the revised Agreement.<sup>110</sup> The end of the objection period will be on 11 December 2016.
- b. Modifications by Singapore:
  - In November 2016, Singapore submitted proposed modifications to its Appendix I pursuant to Article XIX:1 of the revised Agreement.<sup>111</sup> The end of the objection period will be on 17 December 2016.

#### 5.5.2.2 Modifications to Appendix I under the 1994 GPA

- a. Notifications by Singapore:
  - In November 2016, Singapore submitted proposed modifications to its Appendix I pursuant to XXIV:6(a) of the 1994 Agreement.<sup>112</sup> The end of the objection period will be on 2 December 2016.

There were no other developments during the reporting period regarding outstanding proposed modifications to Appendix I under the 1994 Agreement.<sup>113</sup>

<sup>104</sup> Proposed modifications to Appendix I of Hong Kong, China under pursuant to XXIV:6(a) of the 1994 GPA, dated 27 January 2016.

<sup>105</sup> WT/Let/1135, dated 17 March 2016.

<sup>106</sup> Proposed modifications to Appendix I of Japan under pursuant to XXIV:6(a) of the 1994 GPA, dated 28 June 2016.

<sup>107</sup> WT/Let/1189, dated 22 August 2016.

<sup>108</sup> Proposed modifications to Appendix I of Japan under pursuant to XXIV:6(a) of the 1994 GPA, dated 29 June 2016.

<sup>109</sup> WT/Let/1190, dated 22 August 2016.

<sup>110</sup> GPA/MOD/NZL/3, dated 27 October 2016 - Proposed modifications to Appendix I of New Zealand pursuant to Article XIX:1 of the revised GPA.

<sup>111</sup> GPA/MOD/SGP/5, dated 2 November 2016 - Proposed modifications to Appendix I of Singapore pursuant to Article XIX:1 of the revised GPA.

<sup>112</sup> GPA/MOD/SGP/4, dated 2 November 2016 - Proposed modifications to Appendix I of Singapore pursuant to Article XXIV:6(a) of the 1994 GPA.

### **5.5.3 Notifications of Appendices II to IV of the Agreement**

During the reporting period, Canada<sup>114</sup>, Israel<sup>115</sup>, Ukraine<sup>116</sup> and the United States<sup>117</sup> notified modifications to their Appendices II to IV.

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<sup>113</sup> A list of outstanding proposed modifications to Appendix I under the 1994 Agreement from 2015 and previous years is provided in GPA/134, dated 16 November 2015, paragraph 5.9.

<sup>114</sup> GPA/MOD/CAN/14, dated 1 September 2016. Effective as of 29 August 2016 (Let document to be issued).

<sup>115</sup> GPA/MOD/ISR/14, dated 10 March 2016. Effective as of 29 February 2016, WT/Let/1140, dated 29 March 2016.

<sup>116</sup> GPA/MOD/UKR/1, dated 16 June 2016. Effective as of 16 June 2016, WT/Let/1174, dated 5 July 2016.

<sup>117</sup> GPA/MOD/USA/16, dated 11 March 2016. Effective as of 2 March 2016, WT/Let/1141, dated 29 March 2016.