

WORLD TRADE ORGANIZATION

RESTRICTED

GPA/1

5 March 1996

(96-0792)

Committee on Government Procurement

DECISIONS ON PROCEDURAL MATTERS UNDER THE AGREEMENT ON GOVERNMENT PROCUREMENT (1994)

At its meeting on 27 February 1996, the Committee on Government Procurement took the following Decisions on procedural matters:

- Participation of Observers in the Committee on Government Procurement (1994) (Annex 1);
- Accession to the Agreement on Government Procurement (1994) (Annex 2);
- Modalities for Notifying Threshold Figures in National Currencies (Annex 3);
- Interim Procedure on the Circulation of Documents of the Committee on Government Procurement (1994), Pending a Definite Procedure (Annex 4); and
- Interim Procedure on the Derestriction of Documents of the Committee on Government Procurement (1994), Pending a Definitive Procedure (Annex 5).

ANNEX 1

PARTICIPATION OF OBSERVERS IN THE COMMITTEE
ON GOVERNMENT PROCUREMENT (1994)

Decision

1. Members of the World Trade Organization which are not Parties to the Agreement may follow the proceedings of the Committee on Government Procurement in an observer capacity.
2. Governments which are not Members of the World Trade Organization, but are in the process of, or have expressed the intent of, accepting or acceding to the WTO Agreement and which are also interested in initiating negotiations for accession to the Agreement on Government Procurement (1994) and have an interest in following the proceedings of the Committee on Government Procurement in an observer capacity, should communicate a request to the Director-General of the World Trade Organization indicating their desire to have observer status in the Committee on Government Procurement. The Committee shall decide on each request.
3. The Committee shall decide on the conditions of observership, including with respect to the provision of information by observers. Observers may participate in the discussions but decisions shall be taken only by Parties.
4. The Committee on Government Procurement may deliberate on confidential matters in special restricted sessions.
5. The Committee may invite, as appropriate, international organizations to participate in sessions of the Committee on Government Procurement in an observer capacity. In addition, requests from international organizations to participate in sessions of the Committee on Government Procurement, in an observer capacity, shall be considered on a case-by-case basis by the Committee. In such considerations, the criteria and conditions for observer status for intergovernmental organizations in the WTO shall be taken into account.
6. This Decision is without prejudice to the provisions of paragraph 2 of Article XVII of the Agreement.

ANNEX 2

ACCESSION TO THE AGREEMENT ON GOVERNMENT PROCUREMENT (1994)

Decision

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.

ANNEX 3

MODALITIES FOR NOTIFYING THRESHOLD FIGURES IN NATIONAL CURRENCIES

Decision

General

Each Party will calculate and convert for itself the value of the thresholds contained in its Appendix I into its own national currency, it being understood that these calculations will be based on the conversion rates published by the IMF in its monthly "International Financial Statistics" (for the EC, the Member States' currency equivalents of the ECU for determining the value of public contracts are calculated and published by the EC Commission). Parties will notify without delay to the Committee the method and result of their calculation, for possible examination and challenge in the Committee.

Basis for calculation¹

The conversion rates will be the average of the daily values of the respective national currency in terms of the SDR over the two-year period preceding 1 October or 1 November of the year prior to the thresholds in national currency becoming effective which will be from 1 January. For Israel and Japan the conversion rate will be established in the same way as above but the relevant date for the calculation will be 1 January (rather than 1 October or 1 November) and the newly-established conversion rate will take effect on 1 April.

Period of validity of national thresholds

Thresholds expressed in national currencies will be fixed for two years, i.e. calendar years for all Parties except Israel and Japan, where the fiscal year (1 April-31 March) will be used.

Safeguard mechanism

If a major change in a national currency vis-à-vis the SDR during a year were to create a significant problem with regard to the application of the Agreement, the matter will be considered in the Committee.

¹It is understood that the EC calculates its thresholds based on a unilateral reduction of 13 per cent in the thresholds applicable to the EC (pursuant to the relevant decision by the Committee under the Tokyo Code of 20 May 1987, in furtherance of the panel decision on Value-Added Tax and Threshold (GPR/21, GPA/IC/W/2, pages 3 and 4).

ANNEX 4

INTERIM PROCEDURE ON THE CIRCULATION OF DOCUMENTS OF THE COMMITTEE
ON GOVERNMENT PROCUREMENT (1994), PENDING A DEFINITIVE PROCEDURE

Decision

Formal documents shall be circulated to members of the Committee and to observers and shall be available, on request, to Members of the WTO. In certain cases, the circulation of sensitive documents shall be determined on an *ad hoc* basis.

ANNEX 5

INTERIM PROCEDURE ON THE DERESTRICTION OF DOCUMENTS OF THE
COMMITTEE ON GOVERNMENT PROCUREMENT (1994), PENDING A
DEFINITIVE PROCEDURE

Decision

The Committee decides that documents pertaining to its work and that of its subsidiary bodies shall be derestricted in accordance with the following procedure:

- (a) the Secretariat will prepare a list of such documents proposed for derestriction, which will include decisions, Secretariat background notes, and working papers that do not include details of individual country positions or proposals;
- (b) this list will be circulated to all participants;
- (c) documents on the list will be derestricted 60 days after their circulation unless a participant has requested that a document remain restricted;
- (d) the Secretariat will issue a list after the date fixed for derestriction, specifying the documents derestricted.