



Committee on Government Procurement

MINUTES OF THE FORMAL MEETING OF 16 JULY 2021

CHAIR: MR CARLOS VANDERLOO (CANADA)

The Chair opened the meeting by noting that prior to the meeting delegations had received an Airgram¹ setting out the proposed agenda as follows:

1. Statement by the Chair ahead of his departure from Geneva;
2. Discussion on the selection process of the Committee's next chair; and
3. Other business, if any.

No items of other business were proposed by delegations.

The Committee adopted the agenda, as proposed by the Chair.

1 STATEMENT BY THE CHAIR AHEAD OF HIS DEPARTURE FROM GENEVA

1.1. The Chair made a short statement on his own behalf. He recalled that in the course of the Committee's June 2021 meetings, it had been agreed that, in the absence of a new chair and to facilitate further consultations, he would continue as chair, at least while he remained in post in Geneva. He informed the Committee that, upon further reflection and after consultations with his capital, his departure from Geneva, which was planned for the following week, would, at the same time, mark the end of his chairmanship of this Committee. In other words, the Committee would be without a chair as of 21 July 2021, creating uncertainty regarding the planning and holding of the Committee's October meetings. He had wished to explain his personal situation in the interest of clarity and transparency, and as a background for the next agenda item.

2 DISCUSSION ON THE SELECTION PROCESS OF THE COMMITTEE'S NEXT CHAIR

2.1. The Chair recalled that on 28 May 2021, he had organized an informal consultative meeting with Parties to discuss whether the Committee would be in a position to confirm the only remaining candidate from Chinese Taipei as the Committee's next chair. It had become clear during the consultative meeting that one Party had not been able to join the consensus on the remaining candidate and that more time was needed. On 2 June 2021, in the course of the Committee's formal meeting, the objecting Party had reiterated that it remained resolute in its position of not joining a consensus to designate the candidate from Chinese Taipei as the next Committee chair. The other ten Parties that had spoken had expressed their confidence in the process conducted by the Chair to identify candidates and select the next chair, and in the results of that process. They had expressed their regret that the Committee had been unable to reach consensus on selecting the only remaining candidate from Chinese Taipei as the Committee's next chair. Moreover, most of the Parties that had spoken had urged the only objecting Party to reconsider its position and to join a consensus in favour of the appointment of the candidate from Chinese Taipei.

2.2. Continuing, he said that in recent weeks, he had informally consulted with various interested Parties in an effort to explore possible interim or permanent solutions. Unfortunately, this had not resulted in the desired outcome. The current meeting would give delegations an opportunity to see whether the Committee continued to be unable to agree on the only remaining candidate for chair,

¹ [WTO/AIR/GPA/25](#).

and if that remained the case, it would also provide an opportunity for further discussion among Parties regarding the way forward for the selection of his successor. Therefore, and in the interest of transparency, he asked again whether the Committee was able to agree to the selection of Ms Liang-Rong Lin to be its next chair.

2.3. The representative of Hong Kong, China said that her delegation had informed the Committee at its previous formal meeting held on 2 June 2021 that Hong Kong, China would not join any consensus to designate the candidate from Chinese Taipei as the next chair of the Committee, although the European Union had withdrawn the candidate it had nominated earlier. She confirmed that Hong Kong, China still did not join the consensus at this stage.

2.4. The Chair noted that the Committee continued to be unable to agree on the next chair. He also noted that the Committee had business to move forward and progress to achieve still in 2021. Notably, the Committee was actively engaged in discussing important accessions to the Agreement; it was hoping to adopt long-pending draft decisions on the circulation and derestriction of GPA documents; it was planning to hold its first information-sharing workshop; and it was planning to advance its various agreed Work Programmes. It was therefore essential that Parties use the coming weeks and the summer break to identify a way forward so that the October 2021 meetings could go ahead as planned. As he had noted earlier, the lack of a chair created significant uncertainty about the status of the October 2021 meetings.

2.5. The representative of the United States expressed her delegation's regret and disappointment that the Committee had not been able to acclaim Ms Liang-Rong Lin as its next chair at this meeting. The United States was particularly disappointed that the Committee on Government Procurement and its longstanding tradition of collegiality had been tainted by the domestic political agenda of those outside the Committee. The United States wanted to make it clear that it did not take this interference by non-GPA Parties lightly. It was highly inappropriate and was not something that had a place in the Committee. WTO chairs were selected and acted in their personal capacity and issues unrelated to their personal capacity should not be injected into the process. The United States also wanted to make it clear that the accession candidates were not entitled to participate in the decision-making process of the Committee. Such intrusion was extremely damaging to the work of the Committee. The United States urged Hong Kong, China to carefully consider joining consensus to acclaim Ms Liang-Rong Lin as the Committee's next chair.

2.6. The representative of Hong Kong, China said that in the spirit of constructive engagement, Hong Kong, China wanted to put forward its suggestions on how to take forward the matter. Its suggestions had already been conveyed to the Chair during a bilateral meeting and in writing via an email in early July 2021. Making reference to the established practice of decision-making by consensus, the first suggestion was that the Committee tried to identify and nominate another candidate, on whom a consensus could be forged, to be designated as the next Committee chair. Noting that the current Chair would leave Geneva later in July 2021 and would not be able to continue to serve as the Committee chair upon his departure, Hong Kong, China's second suggestion was to invite the Deputy Director-General or the Division Director responsible for government procurement matters in the WTO Secretariat to stand in as an interim arrangement until the next Committee chair was formally designated. Hong Kong, China noted that a similar interim arrangement had been adopted in other WTO bodies previously. It stood ready to work with other GPA Parties in the coming months to select the next Committee chair in accordance with the long-established WTO tradition of making decisions by Members' consensus.

2.7. The representative of the European Union said that, as her delegation had indicated at the Committee's June 2021 meetings, the European Union was ready to support the candidate who commanded the greatest support from the GPA Parties. It regretted that the Committee had not been able to reach consensus on its next chair at its meeting in June 2021. She recalled that there was only one candidate remaining and that this candidate had the full support of all the GPA Parties except one. Parties had come to the current meeting to ask this outstanding delegation whether it had been able to consider this matter further and whether it had been able to make some progress in identifying the way forward that would allow the current blockage to be overcome. It had heard the statement by Hong Kong, China with regret. In the view of the European Union, the Committee had run through a complete process of consultations that had resulted in one qualified candidate remaining and it did not see the need to restart the process. The European Union invited the outgoing Chair to consider continuing exercising his role for a limited period of time in order to allow

the Committee to continue to function and make progress on important files the Chair had mentioned and to find a way forward in the selection of the new chair.

2.8. The representative of Japan said that his delegation believed that it was of utmost importance for all GPA Parties at the moment to reach a consensus on the Committee's next chair. The Parties should recall the fact that Ms Liang-Rong Lin was the only candidate that had remained, and the candidate to whom the large majority of the Parties but one had expressed their support to take over the chairmanship of the Committee with her sufficient capacity and experience. Japan believed that there was still time until the next Committee meeting, but disruption of good administration of the Committee should be avoided. To that end, Japan called on Hong Kong, China to reflect on its position and to join the consensus among the Parties.

2.9. The representative of the United Kingdom reiterated his delegation's full confidence in the consultative process led by the Chair of the Committee to identify his successor. He recalled that a significant majority of Parties had expressed their support for the one remaining candidate from Chinese Taipei. It was the United Kingdom's strong belief that Ms Liang-Rong Lin had the skills and expertise needed to be an effective Committee chair. The United Kingdom had not heard anything about her merits as a candidate to suggest the contrary. It was, therefore, regrettable that the Committee continued to find itself at this impasse. The Committee had important business to be getting on with, as the Chair had identified. The United Kingdom would strongly encourage Hong Kong, China to reconsider its position and to join the consensus to appoint Ms Liang-Rong Lin as the next chair of the Committee. The United Kingdom was not ready to consider an interim chair or restarting the process. In order to facilitate the appointment of the new chair, the United Kingdom exceptionally proposed that the outgoing chair - should he be willing to do so and noting his statement that had been made at the beginning of the meeting - remain in place until the scheduled October 2021 meeting, with a view to ensuring the appointment of the new chair at that meeting. On that basis, the United Kingdom again urged Hong Kong, China to unblock this impasse by joining consensus with all other Parties, to ensure that this Committee can continue business as planned in October 2021 and beyond.

2.10. The representative of Australia said that her delegation was disappointed that the Committee had not been able to appoint the next Committee chair especially given that the current Chair had advised that he would step down on 21 July 2021 when he would depart from Geneva. She expressed her delegation's full confidence in the consultation process for the selection of the new chair and the ability of Chinese Taipei's candidate to perform this role professionally. Australia was disappointed that Hong Kong, China was continuing to block consensus on the only remaining chair candidate and would welcome further explanation of its reasons so that the Parties could discuss and address its concerns constructively to reach consensus. Australia hoped that all Parties could still come together to ensure a smooth handover of the chair's role and the continued functioning of the Committee in its important work.

2.11. The representative of Canada thanked the Chair for his active engagement in the process leading up to the selection of the new chair. Her delegation was disappointed that the Committee had not yet been able to find a solution. Canada continued to believe that a solution was reachable. It was difficult to understand why Parties should not proceed with the selection of the candidate from Chinese Taipei, Ms Liang-Rong Lin, as the next chair of the Committee. Past discussions had demonstrated that she was a solid candidate. Canada regretted that one Party was unable to join consensus to select the only remaining candidate. It was looking forward to continuing engaging constructively and encouraged the outstanding Party to demonstrate pragmatism and join the consensus expeditiously. In her delegation's view, it was in the Committee's and the Parties' best interest to select a new chair as soon as possible to allow the continuation of the Committee's important work. Canada did not believe that the proposal by Hong Kong, China would be an appropriate way to move forward. Canada reiterated its confidence in the integrity of the process and in the remaining candidate. Canada's priority remained to ensure that the important work of this Committee was not interrupted. In that regard, Canada supported the proposal for the Chair to maintain his current role in a virtual capacity, if he accepted, including at the scheduled October 2021 meetings for the purpose of appointing a new chair.

2.12. The representative of Switzerland echoed other Parties and expressed his delegation's full confidence in the selection process that had taken place and in the result that it had led to. Switzerland regretted that it had not been possible to reach consensus on the candidacy of Ms Liang-Rong Lin. This situation created uncertainty with regard to further work of the Committee.

It also created a regrettable precedent in the way this Committee had been working so far. Switzerland would remain constructively engaged to find a solution. It was important for all Parties and for other Members in the process of GPA accession that a new chair can take over the leadership without delay to progress the work of the Committee. Should the Chair agree to continue chairing the Committee for an intermediate period, Switzerland would support this temporary solution.

2.13. The representative of New Zealand said that as her delegation had outlined in the Committee's June 2021 formal meeting, New Zealand considered that the candidate from Chinese Taipei was a suitable person to chair the Committee. New Zealand further considered that, in the same manner as Hong Kong, China as a full participant in the GPA, and a Member of the WTO, Chinese Taipei was subject to all the responsibilities of membership and was able to exercise all the rights of membership. The continued failure to reach consensus on this appointment was sending a negative signal in the context of the broader challenges confronting the wider WTO system. New Zealand therefore urged Hong Kong, China to reconsider its position and to join a consensus in favour of the appointment of the candidate from Chinese Taipei. New Zealand would be grateful if the Chair could consider continuing in the position to serve as the chair of the Committee while discussions continued.

2.14. The representative of Norway thanked the Chair for his dedication and commitment to the GPA during his tenure, and for his constructive role in the process leading up to the selection of a new chair. Norway deeply regretted that the parties could not reach consensus in spite of the Chair's efforts. Most of the GPA Parties, including Norway, were ready to support the only remaining candidate as the new chair. Norway regretted that the selection could not go ahead at this meeting. As pointed out by the Chair at the beginning of the meeting, the Committee had much important work in the months ahead. Norway called upon the Party that was unable to join the consensus to reconsider its position in order to ensure that the work of the Committee continued unencumbered. In the meantime, Norway supported keeping the current Chair on an interim basis for a few weeks to give the Committee time to reach a consensus on a new chair, as proposed by the European Union and supported by several delegates who had spoken prior to him.

2.15. The representative of Chinese Taipei said that her delegation regretted that the Committee was once again unable to reach a consensus on the selection of its next chair at the meeting. Having a chair of the Committee was crucial to ensuring that the Committee carried out its business in a smooth and seamless manner. It was clear from the Chair's stocktaking that there was a lot of important pending work for the Committee. Yet, while a coalescence of support had formed behind the only remaining candidate, Hong Kong, China still refused to join the consensus. Hong Kong, China blocked the chair selection process not because it had a systemic concern on the operation of the Committee or the Agreement on Government Procurement. Indeed, Hong Kong, China had blocked the chair selection process without offering any clear explanation in the previous meeting of the Committee on 2 June 2021 and at the current meeting. This was a clear misuse of the WTO consensus rule. Moreover, if the Committee took a step back, it could see that Hong Kong, China's blockage of the chair selection process would have negative implications for the multilateral trading system as a whole. The GPA had only 21 Parties, yet it still failed to reach consensus on the appointment of the only remaining candidate as the next chair. This result would not only impede the Committee's operation, but also undermine the very spirit of the WTO. Her delegation was surprised to hear that Hong Kong, China suggested that the Committee restart the selection process. What Hong Kong, China proposed did not resolve the fundamental issue, which was that Hong Kong, China blocked the chair selection process without providing any legitimate reason. For all these reasons and for the interest of the GPA Parties and the WTO, her delegation requested that Hong Kong, China explain its reasons for blocking the chair selection process, so that Parties could have a candid and constructive discussion to address Hong Kong, China's concerns. As her delegation had stated at the Committee's 28 May 2021 informal meeting and the 2 June 2021 formal meeting, her delegation was willing to answer any questions and clarify any concerns that Hong Kong, China might have.

2.16. The representative of Singapore said that his delegation believed that it was important not to prolong the impasse on the chair appointment. Prolonged impasse did not reflect well on the WTO, particularly over a procedural matter, and especially in a ministerial conference year where Members were attempting to demonstrate the continuous relevance of the WTO. Singapore expressed its readiness to support efforts, including those of the Chair, to continue the work in the Committee and to reach consensus on a suitable candidate.

2.17. Responding to the suggestions made by Hong Kong, China, the representative of the United States said that her delegation agreed with other Parties that it would not be an appropriate way to move forward. As other delegations had noted, the Committee had already run a complete process of consultations that had resulted in one qualified candidate. Therefore, it did not see the need to restart the process. It also noted that the Committee was in a unique situation, and it could not assume that the arrangements that other WTO bodies had used were appropriate in this Committee. Regarding the question of the current Chair continuing on as the chair, the United States appreciated the Chair's willingness to work with Parties. As the Chair had noted at the beginning of the meeting, Parties had previously agreed only to extend the Chair for the duration of his stay in Geneva. The United States supported allowing the current Chair to chair meetings from capital only for the purpose of electing a new chair when Parties were in a position to do so. Asking the current Chair to continue as chair with all the duties that it entailed and beyond the current term would not be fair to him. The United States did not see how it would help resolve the current situation in which Parties found themselves. When the Parties were ready to appoint a new chair, they could call upon the current Chair to convene a meeting for this express purpose so that the Committee could continue to undertake its important business.

2.18. The Chair noted the statements made by delegations. He said that it was clear from the discussion that the Committee could not agree on the Committee's next chair. He encouraged all Parties to engage and continue holding consultations without delay so that a solution could be found as promptly as possible before the Committee's October 2021 meetings. The road ahead was in Parties' hands and it was the collective responsibility of all Parties to resolve the issue. Even in the absence of a chair, the Secretariat remained available to assist the Parties in finding solutions in whichever way they deemed appropriate. He also encouraged Parties to continue to hold bilateral discussions and submit written contributions on ways forward, as appropriate, to maintain momentum on the work to identify the next chair. He also encouraged Parties to continue engaging in the work of the Committee including on accessions and other items he had mentioned earlier in his intervention. In particular, he noted that with regard to accessions, Brazil and other Members had expressed an interest in receiving input from other Parties as soon as possible to facilitate advancing their accession processes. This could be done without a chair.

2.19. Regarding the suggestion that the current Chair should stay on in a limited capacity to continue working with Parties and keep the Committee's business moving, and other suggestions on how the current Chair could be helpful in the work of the Committee, the Chair's personal view was that once he left his post, it was inappropriate for him to continue as a chair at least on a full-time basis. The situation was now in the Parties' hands.

3 OTHER BUSINESS

3.1. There were no items of other business.
