Note by the Chairman

1. A report on work undertaken in the Informal Working Group on Negotiations (see Annex) was presented to the Committee by the Chairman, Mr. David Hayes (United Kingdom).

2. The Chairman informed the Committee that upon request by both parties involved (Norway and the United States), the issue of the dispute concerning procurement for the Trondheim toll collection system would be reverted to at a later date. Bilateral consultations had taken place since the last Committee meeting.

3. The Committee considered EC recourse to Article VII:6 with respect to procurement of a multi-beam sonar mapping system by the United States.

4. The EC stated that, in its opinion, procurement of a multi-beam sonar mapping system on behalf of the National Science Foundation, to be used on an ice-breaking vessel in Antarctica, was being effected in a manner inconsistent with the provisions of the Agreement on Government Procurement, particularly with Articles I and IV:3. The case was pressing, since the closing date for receiving bids for the procurement tender was 29 July 1991. Bilateral consultations under the provisions of Article VII:4 of the Code had taken place between the EC and United States authorities but no mutually satisfactory solution could be reached. The Community therefore requested a detailed examination of the issue pursuant to Article VII:6 and, failing a satisfactory solution, reserved its right to request the establishment of a panel at this Committee meeting.

5. The representative of the United States replied that the procurement in question was part of a subcontract of a services contract and as such was not covered by the Agreement on Government Procurement. She asked whether the EC considered that any goods procured under a public works contract were covered by the provisions of the Code. The EC chose not to respond. The representative of the EC requested the immediate establishment of a panel since the examination under Article VII:6 had produced no solution. The United States agreed to the panel.

6. The Chairman concluded that a panel was established under the provisions of Article VII:7 to consider the claim of the EC and suggested that the terms of reference be formulated in consultation with the parties concerned. Panelists would be designated in accordance with the provisions of Article VII:8 of the Code.
7. The EC informed the Committee that a notification pursuant to Article IX:5 would be transmitted shortly to the Secretariat.

8. It was decided that review of the 1989 statistics be postponed until a later date since not all statistics were available yet.
Annex

WORK UNDERTAKEN IN THE ARTICLE IX:6(B)
NEGOTIATIONS IN JULY 1991

Report to the Committee

This report is made on my own responsibility and without prejudice to the positions of delegations.

1. I and the secretariat have consulted with all signatories individually during the last two days. These consultations have been useful in providing a better understanding of participants' positions and thoughts.

2. Substantive differences on the main issues nevertheless remain.

3. Several delegations referred to the need to make progress in parallel bilateral or plurilateral consultations, in particular on resolving procurement regarding telecommunications. The need for a balanced, reciprocal agreement was also emphasised by many.

4. Various suggestions were made for future work. Some considered it useful to either:
   - invite comments on the November 1990 Chairman's text. Others considered that that text could be improved, in particular as regards structure;
   - clarify outstanding issues with more precision, and to provide a set of options to allow governments to see more clearly what needs to be decided, and what the choices are. This applies particularly to the text of the agreement;
   - compile in a single document the various offers tabled so far, both for ease of reference and to assist clarification; or to
   - discuss certain issues, e.g. dispute settlement, as a means of building consensus without prejudice to resolving the more difficult issues, to help create an improved negotiating climate. Others considered work on services would be useful.

5. As Chairman, I therefore intend to produce on my own responsibility:
   (a) a checklist of issues, which clarifies them and sets out options for agreement;
   (b) a comparison of offers made; and
   (c) a paper on services.

6. These will be circulated to signatories by the beginning of September.

7. I am also considering doing some work on the structure of the Agreement. Alternatively, it might be better to provide a document suggesting alternative structures. We will reflect.
8. I will also consider areas where proposals might be made without prejudice to resolving more difficult issues.

9. I would propose that we meet again informally in the autumn - either in September or October - and in November on dates to be agreed in consultation with you.

10. I invite delegations to submit text proposals on all issues which they deem fit.