INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Addendum

Note Received from the Delegation of Hong Kong

In accordance with the decision of the Committee on Government Procurement at its first meeting on 15 January 1981, that each Party would describe the main elements of its legislation in a note, and in response to the checklist subsequently issued for this purpose in GPR/4, the delegation of Hong Kong has submitted the note which is reproduced hereunder.

1. Legislative, regulatory, administrative and other action taken as a result of the negotiation of the Agreement or currently in existence to ensure that the provisions of the Agreement are applied:

   (a) Has the Agreement itself been incorporated into domestic law and, if so, how this has been done?

   Reply

   The procurement procedures of the Hong Kong Government are non-statutory, and are set out in Sections IV and V of the Government's Stores Regulations. These Regulations are amended and supplemented from time to time by administrative direction (called financial circulars and stores circulars). The Regulations are in conformity with the provisions of the Agreement. Arrangements are now being made for the Regulations to be amended, where necessary, to ensure continuous compliance with the provisions of the Agreement. In addition, a financial circular is about to be issued.

   (b) In what manner have the procedural requirements of Article V been provided for (inclusion in law or regulation)?

   Reply

   The procedural requirements of Article V of the Agreement have been provided for in Sections IV and V of Stores Regulations. The financial circular referred to in (a) above will supplement the Regulations with regard to compliance with Article V of the Agreement, in relation to those purchases falling within the ambit of the Agreement.
(c) Does a specific provision on national treatment and non-discrimination provision of Article II:1 exist in a law or regulation?

Reply

The relevant Stores Regulation requires Government Departments to use general specifications in their procurement requests, so as to enable the Director of Government Supplies to obtain competitive tenders from all sources.

(d) Indicate details on the establishment of the threshold for purposes of public notices. Are tenders covered by the Agreement clearly identified as such and, if so, what methods are used?

Reply

The threshold of HK$973,000 will apply for the period 1 January to 31 December 1981. All invitations to tender in respect of contracts falling within the ambit of the Agreement and involving the supply of goods at or above this value are currently published in the Hong Kong Government Gazette. The relevant Gazette notices contain a reference to the fact that tenders will be treated under the provisions of the Agreement.

(e) In the case of selective tendering procedures, does a permanent list of suppliers exist or are these selected on a contract-by-contract basis?

Reply

Lists of qualified suppliers exist for the purpose of selective tendering, and those suppliers are invited to participate in tender enquiries.

(f) Provide a description of the main elements of the legislation including information as to the publication of this legislation, as required by Article VI:1 of the Agreement.

Reply

Copies of Sections IV and V of the Stores Regulations of the Hong Kong Government have been submitted to the secretariat and are being issued in the GPR/3/Add.- series.

2. Information on:

(a) the name and address of the information centre(s), foreseen in Article III:10 of the Agreement;
(b) implementation, as appropriate, of the technical assistance requirements provided for in Article III:8 and 9 in relation to developing country Parties and to suppliers and tenderers in least-developed countries, foreseen in Article III:11 and 12;

Replies
Not applicable.

(c) implementation of the requirements concerning annual publications of notices relating to selective tendering procedures, laid down in Article V:6(a);

Reply
The Government Supplies Department at present maintains lists, indexed by commodity, of all qualified suppliers for the purpose of selective tendering. A notice will soon be issued inviting interested persons and companies to inspect these lists at the Department, and to be considered for qualification. These lists will be revised and will be published in due course.

(d) the establishment of contact points by entities;

(e) the procedures for the hearing and review of complaints, as required by Article VI:5;

(f) action taken to inform entities not covered by the Agreement and the regional and local governments and authorities within a Party's territory of the objectives, principles and rules of the Agreement, in particular the rules on national treatment and non-discrimination, and the drawing to their attention of the overall benefits of liberalization of government procurement, as stipulated in Article I:2;

Replies
A contact point (including information centre) has been established in the Government Supplies Department, Oil Street, North Point, Hong Kong. Procedures for examining written enquiries from other procurement entities and unsuccessful tenderers are also in force. If tenderers are dissatisfied with the response of the Government Supplies Department, they may refer the matter to the Chairman of the Central Tender Board, Government Secretariat, Hong Kong.

(g) the date of the first publication of a notice of a proposed purchase made in accordance with Article V:3.

Reply
The first notice inviting tenders under the provisions of Article V:3 of the Agreement was published in the Hong Kong Government Gazette of 9 January 1981.