GUIDELINES FOR A TRANSITIONAL MECHANISM

Communication from the European Economic Community

As indicated by the representative of the European Economic Community at the Committee's meeting on 6 October 1989, the following communication has been circulated to the Negotiating Group on MTN Agreements and Arrangements (ref. MTN.GNG/NG8/W/47).

1. The European Community suggests the following guidelines for a transitional stage for new members.

2. This is without prejudice to the Community's final position on the transitional stage, any link with special treatment for least-developed countries or any amendments to the Agreement that these provisions might require.

3. The European Community considers that a transitional stage should be open to parties interested in becoming new members of the Agreement. It should not constitute an obstacle to improvement of the present provisions concerning special treatment for least-developed countries.

4. Basic guidelines

- The mechanism would be seen as a preliminary step leading to full participation in the Agreement alongside present Parties. It would include only a limited set of rights and obligations along the lines set out below.

- The whole mechanism would maintain the principal of reciprocal rights and obligations. In other words those in the transitional stage would provide to others, and in return would benefit from, limited rights and obligations only.

- The transitional stage would provide very liberal entry provisions for countries which envisage become Parties to the Agreement. It is suggested that any country could enter the transitional stage if it transmits to the Committee, via the GATT secretariat, a list of all
its entities belonging to groups A and B.\(^1\) Concerning Group C, the
list would be based on the criteria still to be decided by the
Informal Working Group. Information on the global annual procurement
volume of the entities listed would also have to be given to the
Committee.

The transitional rights and obligations would involve respect of the
transparency requirements of the Agreement involving publishing tender
notices for all intended procurement above the threshold.

The notices would have to respect the presentation and the information
requirements of the Agreement. A summary of the notices would have to
be published in one of the official languages of the GATT. The
post-award information notice would also be required.

Parties should be prepared to give explanations on their procurement
procedures and any law, regulation, judicial decision, administrative
ruling of general application and any procedure regarding the covered
procurements should be published promptly.

During the transitional stage, notices would state clearly whether
contracts were open to outside bids and on what terms.

Technical specifications should be non-discriminatory in accordance
with the Agreement.

Remarks

This transitional mechanism would enable firms and Parties to evaluate
purchasing opportunities while retaining control of the exposure to
competition. It would enable progressive adaptation to international
commercial competition.

Termination of the transitional phase would give access to full rights
and obligations:

Such a transition could take place subsequently on the basis of a
review of the lists of entities. These lists could be subject to
negotiation and might not be as complete as the lists of entities that
had to respect the transparency obligations. A facility could be
considered for the least developed countries whereby they would for
instance be permitted to cover only half of their total lists of
entities under the full Code obligations, the rest of their lists
having only to follow the minimum requirements mentioned above. After
two years, the situation of these countries would be re-examined by
the Committee. The decisions to accept new members would be taken, as
presently, by the Committee.

\(^1\)Group A: Central government entities, including those operating at
regional and local levels; Group B: Regional and local government
entities; Group C: Other entities whose procurement policies are
substantially controlled by, dependent on, or influenced by central,
regional or local government (Ref: L/6411, Annex I, made available to the
Group).