AGREEMENT
ON GOVERNMENT PROCUREMENT

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GENERAL AGREEMENT ON TARIFFS AND TRADE
GENEVA, 1979

INTRODUCTION

This booklet reproduces the complete text of the *Agreement on Government Procurement*, one of the multilateral agreements, or codes, resulting from the Tokyo Round of multilateral trade negotiations within GATT.

One of the major aims of the negotiations was to " reduce or eliminate non-tariff measures or, where this is not appropriate, to reduce or eliminate their trade restricting or distorting effects, and to bring such measures under more effective international discipline ".

In most countries the government, and the agencies it controls, are the largest purchasers of goods, ranging from farm products to simple manufactures and high technology equipment. The *Agreement on Government Procurement* aims to secure greater international competition in the government procurement market. The Agreement contains detailed rules on the way in which tenders for government purchasing contracts opened by entities listed in one of the Annexes to the Agreement should be invited and awarded. It is designed to make laws, regulations, procedures and practices regarding government procurement more transparent, and to ensure that they do not protect domestic products or suppliers, or discriminate among foreign products or suppliers. The Agreement also makes provision for special and differential treatment for developing countries, including the least-developed among them, to take into account their particular development, financial and trade needs.

Note: The Annexes to the Agreement are not included in this publication, but may be ordered from the GATT Secretariat, Centre William Rappard, 154 rue de Lausanne, 1211 Geneva 21, Switzerland.

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* The Annexes are *not* included in this publication.

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AGREEMENT ON GOVERNMENT PROCUREMENT

PREAMBLE

Parties to this Agreement (hereinafter referred to as " Parties "),

Considering that Ministers agreed in the Tokyo Declaration of 14 September 1973 that comprehensive Multilateral Trade Negotiations in the framework of the General Agreement on Tariffs and Trade (hereinafter referred to as " General Agreement " or " GATT ") should aim, *inter alia*, to reduce or eliminate non-tariff measures or, where this is not appropriate, their trade restricting or distorting effects, and to bring such measures under more effective international discipline;

Considering that Ministers also agreed that negotiations should aim to secure additional benefits for the international trade of developing countries, and recognized the importance of the application of differential measures in ways which will provide special and more favourable treatment for them where this is feasible and appropriate;

Recognizing that in order to achieve their economic and social objectives to implement programmes and policies of economic development aimed at raising the standard of living of their people, taking into account their balance-of-payments position, developing countries may need to adopt agreed differential measures;

Considering that Ministers in the Tokyo Declaration recognized that the particular situation and problems of the least developed among the developing countries shall be given special attention and stressed the need to ensure that these countries receive special treatment in the context of any general or specific measures taken in favour of the developing countries during the negotiations;

Recognizing the need to establish an agreed international framework of rights and obligations with respect to laws, regulations, procedures and practices regarding government procurement with a view to achieving greater liberalization and expansion of world trade and improving the international framework for the conduct of world trade;

Recognizing that laws, regulations, procedures and practices regarding government procurement should not be prepared, adopted or applied to foreign or domestic products and to foreign or domestic suppliers so as to afford protection to domestic products or suppliers and should not discriminate among foreign products or suppliers;

Recognizing that it is desirable to provide transparency of laws, regulations, procedures and practices regarding government procurement;

Recognizing the need to establish international procedures on notification, consultation, surveillance and dispute settlement with a view to ensuring a fair, prompt and effective enforcement of the international provisions on government procurement and to maintain the balance of rights and obligations at the highest possible level;

Hereby agree as follows:

Article I

Scope and Coverage

1. This Agreement applies to:

(*a*) any law, regulation, procedure and practice regarding the procurement of products by the entities [1] subject to this Agreement. This includes services incidental to the supply of products if the value of these incidental services does not exceed that of the products themselves, but not service contracts *per se*;

(*b*) any procurement contract of a value of SDR 150,000 or more.[2] No procurement requirement shall be divided with the intent of reducing the value of the resulting contracts below SDR 150,000. If an individual requirement for the procurement of a product or products of the same type results in the award of more than one contract or in contracts being awarded in separate parts, the value of these recurring contracts in the twelve months subsequent to the initial contract shall be the basis for the application of this Agreement;

(*c*) procurement by the entities under the direct or substantial control of Parties and other designated entities, with respect to their procurement procedures and practices. Until the review and further negotiations referred to in the Final Provisions, the coverage of this Agreement is specified by the lists of entities, and to the extent that rectifications, modifications or amendments may have been made, their successor entities, in Annex I.

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[1] Throughout this Agreement, the word entities is understood to include agencies.

[2] For contracts below the threshold, the Parties shall consider, in accordance with paragraph 6 of Article IX, the application in whole or in part of this Agreement. In particular, they shall review the procurement practices and procedures utilized and the application of non-discrimination and transparency for such contracts in connexion with the possible inclusion of contracts below the threshold in this Agreement.

2. The Parties shall inform their entities not covered by this Agreement and the regional and local governments and authorities within their territories of the objectives, principles and rules of this Agreement, in particular the rules on national treatment and non-discrimination, and draw their attention to the overall benefits of liberalization of government procurement.

Article II

National Treatment and Non-Discrimination

1. With respect to all laws, regulations, procedures and practices regarding government procurement covered by this Agreement, the Parties shall provide immediately and unconditionally to the products and suppliers of other Parties offering products originating within the customs territories (including free zones) of the Parties, treatment no less favourable than:

(*a*) that accorded to domestic products and suppliers; and

(*b*) that accorded to products and suppliers of any other Party.

2. The provisions of paragraph 1 shall not apply to customs duties and charges of any kind imposed on or in connexion with importation, the method of levying such duties and charges, and other import regulations and formalities.

3. The Parties shall not apply rules of origin to products imported for purposes of government procurement covered by this Agreement from other Parties, which are different from the rules of origin applied in the normal course of trade and at the time of importation to imports of the same products from the same Parties.

Article III

Special and Differential Treatment for Developing Countries

Objectives

1. The Parties shall, in the implementation and administration of this Agreement, through the provisions set out in this Article, duly take into account the development, financial and trade needs of developing countries, in particular the least-developed countries, in their need to:

(*a*) safeguard their balance-of-payments position and ensure a level of reserves adequate for the implementation of programmes of economic development;

(*b*) promote the establishment or development of domestic industries including the development of small-scale and cottage industries in rural or backward areas; and economic development of other sectors of the economy;

(*c*) support industrial units so long as they are wholly or substantially dependent on government procurement;

(*d*) encourage their economic development through regional or global arrangements among developing countries presented to the CONTRACTING PARTIES to the GATT and not disapproved by them.

2. Consistently with the provisions of this Agreement, the Parties shall, in the preparation and application of laws, regulations and procedures affecting government procurement, facilitate increased imports from developing countries, bearing in mind the special problems of the least-developed countries and of those countries at low stages of economic development.

Coverage

3. With a view to ensuring that developing countries are able to adhere to this Agreement on terms consistent with their development, financial and trade needs, the objectives listed in paragraph 1 above shall be duly taken into account in the course of the negotiations with respect to the lists of entities of developing countries to be covered by the provisions of this Agreement. Developed countries, in the preparation of their lists of entities to be covered by the provisions of this Agreement shall endeavour to include entities purchasing products of export interest to developing countries.

Agreed exclusions

4. Developing countries may negotiate with other participants in the negotiation of this Agreement mutually acceptable exclusions from the rules on national treatment with respect to certain entities or products that are included in their lists of entities having regard to the particular circumstances of each case. In such negotiations, the considerations mentioned in paragraph 1(*a*)-(*c*) above shall be duly taken into account. Developing countries participating in regional or global arrangements among developing countries referred to in paragraph 1(*d*) above, may also negotiate exclusions to their lists, having regard to the particular circumstances of each case, taking into account, *inter alia*, the provisions on government procurement provided for in the regional or global arrangements concerned and taking

into account, in particular, products which may be subject to common industrial development programmes.

5. After entry into force of this Agreement, the developing country Parties may modify their lists of entities in accordance with the provisions for modification of such lists contained in paragraph 5 of Article IX of this Agreement, having regard to their development, financial and trade needs, or may request the Committee to grant exclusions from the rules on national treatment for certain entities or products that are included in their lists of entities, having regard to the particular circumstances of each case and taking duly into account the provisions of paragraph 1(*a*)-(*c*) above. The developing country Parties may also request, after entry into force of this Agreement, the Committee to grant exclusions for certain entities or products that are included in their lists in the light of their participation in regional or global arrangements among developing countries, having regard to the particular circumstances of each case and taking duly into account the provisions of paragraph 1(*d*) above. Each request to the Committee by a developing country Party relating to modification of a list shall be accompanied by documentation relevant to the request or by such information as may be necessary for consideration of the matter.

6. Paragraphs 4 and 5 above shall apply *mutatis mutandis* to developing countries acceding to this Agreement after its entry into force.

7. Such agreed exclusions as mentioned in paragraphs 4, 5 and 6 above shall be subject to review in accordance with the provisions of paragraph 13 of this Article.

Technical assistance for developing country Parties

8. Developed country Parties shall, upon request, provide all technical assistance which they may deem appropriate to developing country Parties in resolving their problems in the field of government procurement.

9. This assistance which shall be provided on the basis of non-discrimination among the developing country Parties shall relate, *inter alia*, to:

— the solution of particular technical problems relating to the award of a specific contract;

— any other problem which the Party making the request and another Party agree to deal with in the context of this assistance.

Information centres

10. The developed country Parties shall establish, individually or jointly, information centres to respond to reasonable requests from developing