

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

GPR/W/110
20 September 1991

Special Distribution

Committee on Government Procurement

Original: English

NORWAY - TRONDHEIM TOLL COLLECTION SYSTEM

Request by the United States for the Establishment of a Panel under Article VII:7 of the Agreement

The following communication, dated 19 September 1991 has been received by the Chairman of the Committee from the United States Trade Representative with the request that it be circulated to the Committee on Government Procurement.

Pursuant to the provisions of paragraph 7 of Article VII of the Agreement on Government Procurement, the United States requests the establishment of a panel to examine a procurement conducted by the Government of Norway for electronic toll collection equipment for the city of Trondheim.

In conducting this procurement, the Government of Norway has single tendered the equipment from a Norwegian supplier, excluding viable and eager competition from a capable United States supplier. The United States considers this Norwegian action to be inconsistent with Norway's obligations under this Agreement, particularly the obligations of Article II concerning national treatment and non-discrimination. The United States also maintains that the Government of Norway's actions in this matter can not be justified under the terms of Article V:16(e) of the Agreement, or any other provision of the Agreement.

The United States further considers that Norway's action in this matter nullifies and impairs benefits accruing to the United States under the Agreement.

The United States notes that the two parties had a similar dispute in 1990 regarding the procurement by Norway of similar equipment for the city of Oslo. That matter was settled bilaterally, and under the terms of that settlement Norway agreed, among other things, that future procurements of this type of equipment would be carried out "in accordance with the provisions of the Agreement on Government Procurement." The United States considers that Norway's actions in the current matter are not "in accordance with the provisions of the Agreement on Government Procurement."

The two parties have held consultations on this matter under paragraphs 3 and 4 of Article VII, but these consultations failed to produce a satisfactory solution to the dispute. The United States subsequently requested conciliation under the auspices of the Committee, pursuant to Article VII:6, and the establishment of a panel, on 20 June. At that time, Norway availed itself of the three-month period provided for in Article VII:7. Because a satisfactory solution to the dispute has still not been achieved, and the three-month period expires on 20 September, the United States maintains that a panel should now be established.