


Procedure file

Basic information		
COS - Procedure on a strategy paper (historic)	1996/2278(COS)	Procedure completed
Public procurement in the European Union: exploring the way forward. Green paper		
Subject 2.10.02 Public procurement		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs, Industrial Policy		23/01/1997
		PSE TAPPIN Michael	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs, Citizens' Rights		05/02/1997
		ELDR THORS Astrid	
Council of the European Union	Council configuration	Meeting	Date
	Competitiveness (Internal Market, Industry, Research and Space)	2007	21/05/1997
	Competitiveness (Internal Market, Industry, Research and Space)	1993	13/03/1997

Key events			
27/11/1996	Non-legislative basic document published	COM(1996)0583	Summary
15/01/1997	Committee referral announced in Parliament		
13/03/1997	Debate in Council	1993	
21/05/1997	Debate in Council	2007	
09/10/1997	Vote in committee		Summary
09/10/1997	Committee report tabled for plenary	A4-0309/1997	
21/10/1997	Debate in Parliament		
22/10/1997	Decision by Parliament	T4-0498/1997	Summary
22/10/1997	End of procedure in Parliament		
10/11/1997	Final act published in Official Journal		

Technical information	
Procedure reference	1996/2278(COS)
Procedure type	COS - Procedure on a strategy paper (historic)
Procedure subtype	Commission strategy paper
Legal basis	Rules of Procedure EP 142
Stage reached in procedure	Procedure completed
Committee dossier	ECON/4/08528

Documentation gateway					
Non-legislative basic document		COM(1996)0583	27/11/1996	EC	Summary
Economic and Social Committee: opinion, report		CES0607/1997 OJ C 287 22.09.1997, p. 0092	29/05/1997	ESC	Summary
Committee of the Regions: opinion		CDR0081/1997 OJ C 244 11.08.1997, p. 0028	11/06/1997	CofR	
Committee report tabled for plenary, single reading		A4-0309/1997 OJ C 339 10.11.1997, p. 0006	09/10/1997	EP	
Text adopted by Parliament, single reading		T4-0498/1997 OJ C 339 10.11.1997, p. 0047-0065	22/10/1997	EP	Summary

Public procurement in the European Union: exploring the way forward. Green paper

OBJECTIVE: this Green Paper is intended to provide a framework for a wide-ranging debate on public procurement in the European Union.

SUBSTANCE: every year the European Union's public authorities and service undertakings spend about ECU 720 billion buying goods and services, i.e. 11% of EU gross domestic product. In this context the Commission document stresses the need for an effective public procurement policy which is fundamental to the success of the single market as a whole. The legal framework for open and competitive public procurement is in position, but its implementation in the Member States is partial and incomplete and the economic impact is relatively slight. To improve the situation in these two areas the Commission invites all interested parties (EU institutions, trade associations, contracting entities and suppliers) to respond in writing before 31 March 1997. On the basis of the contributions the Commission intends to organize a hearing and to draw up a communication on public procurement. The topics dealt with in the Green Paper are: 1) the transposition and effective implementation of the legislation: greater efforts must be made in this field so that all operators in the Union can participate on equal terms in the public procurement market; 2) the means of improving access to the market through information and training and through electronic tendering; 3) how the correct application of public procurement rules can be linked to the implementation of other Community policies, in particular those relating to SMEs, standards, trans-European networks, the Cohesion and Structural Funds, public procurement by European institutions, social aspects, the environment and defence. On this last point the Commission confirms its willingness to consider any move to introduce more competition into defence procurement; 4) access to procurement markets in other countries: the entry into force of a new WTO government procurement agreement (GPA) opens up a considerable number of new markets in third countries for EU companies. The Green Paper calls on all the interested parties to provide information on any problems arising in these markets. It also stresses the need to help the CEEC associated countries and the Mediterranean countries to develop their public procurement procedures. ?

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The green paper initiative is all the more laudable because it enables an overall and long-term assessment to be made of what should be the true objectives of a European public procurement policy.. The Committee stresses that, as regards incorporating the directives on public procurement into national law, two factors play an important role: (i) the general conditions surrounding market access, with the survival of many obstacles and barriers, and (ii) the difficulties of gaining access to information, where small and medium-sized firms in particular are at a disadvantage. The Committee calls upon the contracting authorities to take more account of the quality of the bids submitted to them in terms of economic advantages, of which price may only be one factor among others. Other factors may be involved: quality, respect for deadlines, environmental protection, workability, safety, in short the overall cost of operations in the long term. A European policy on public works contracts should consolidate this concept of the "best bidder" by laying down concrete rules to be included by contracting authorities in their tender specifications, so as to encourage them to give precedence to the formula of "the most economically advantageous bid", as opposed to the cheapest bid. The Committee suggests that work be started on simplifying and clarifying the present texts at both Community and national level and that particular consideration be given to the eventual drafting of a single legal framework, which could best be achieved through a regulation. The ESC submits the idea of an approximation of laws and exchange of best practices in the field of legal appeals procedures, within the framework of the Third Pillar of the European Union. The ESC recognizes the importance of opening up public procurement on an international scale under the World Trade Organization. The Committee recommends that the European Union concern itself as a priority with the conditions for access by EU firms to public procurement contracts in non-EU countries. ?

Public procurement in the European Union: exploring the way forward. Green paper

The public procurement market is worth Ecu 720bn annually, which equals 11% of total EU GDP, and is following the introduction of European legislation open to union-wide competition. However, the Committee, in a report drafted by Mr Michael TAPPIN (PES, UK), highlights a number of shortcomings in the present legal framework. According to the report, only three Member States have fully implemented all procurement legislation, and the Committee therefore calls on the remaining Member States and the Commission to take urgent action to implement and respect EU law in this field. Similarly, the Committee also called for more effective control and enforcement of the directives, eg. by imposing meaningful penalties for those who breach rules, for example by barring companies not complying with procurement rules from participating in procurement tenders for a certain period of time. As regards the rules themselves, the Committee sees them as "inflexible, legalistic and unclear". The Committee calls on the Commission to start revising the various directives with a view to clarify and simplify them. While recognising that public procurement directives are primarily economic directives, the Committee underlined that they should not constitute a barrier to promote best practice and to maintain high social, environmental or health standards. The Committee notes that current rules already allow for other criteria to be taken into account, and calls on the Commission to encourage this practice. On the international level, the report calls on the Commission, as a matter of urgency, to ensure that access to the EU procurement market is given to third countries on the basis of reciprocity. In addition, as far as enlargement is concerned, the Committee considers it crucial that accession countries adopt existing procurement rules within a specific time frame. Finally, because of the high cost involved in the preparation of tenders, in particular for SMEs, the Committee took the view that the threshold values for the directives to be applicable should be raised. However, since these values are based on the EU's international commitments in the WTO, the Commission is called upon in future negotiations with third countries to press for the raising of threshold levels. ?

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In adopting the report by Mr Michael TAPPIN (PSE, UK) the European Parliament calls for greater compliance with existing regulations. It also calls for the regulations to be clarified so that they can be more easily understood by the companies concerned. It calls on the Commission to encourage Member States to establish at least one national procurement centre along with regional sub-centres which will have to fulfill some of the mandatory requirements such as to disseminate and materials on procurement and clarify procedural rules. Parliament calls on the Commission to develop a policy to actively encourage public procurement in use of sustainability and urges that invitations to tender take account of social and environmental criteria. It is of the opinion that the Commission should be given the right to instigate an investigation and to act upon findings as is the case with competition in order to achieve effective enforcement. Parliament calls for more effective control and enforcement of directives, together with the uniform imposition of meaningful penalties for those who breach or seek to evade provisions of the directive as well as a more accessible level of judgment for the resolution of minor disputes or infringements. It calls on the Commission and the Member States to ensure respect for the recommendation on late payments. At international level, Parliament calls for third countries to be given access on a reciprocal basis to contract award procedures in the European Union. It urges the Commission to play an active role in setting up a harmonized code of practice on openness, fairness and transparency within procurement dealings at WTO level and applicable to all Member States. ?