


Procedure file

Basic information		
AVC - Assent procedure (historic)	1999/0107(AVC)	Procedure completed
EC/Switzerland agreement: public procurement		
Subject 2.10.02 Public procurement		
Geographical area Switzerland		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ITRE Industry, External Trade, Research, Energy		14/10/1999
		PSE CARRARO Massimo	
	Committee for opinion	Rapporteur for opinion	Appointed
Council of the European Union	BUDG Budgets		
	JURI Legal Affairs and Internal Market		30/11/1999
		PPE-DE PALACIO VALLELERSUNDI Ana	
Council of the European Union	Council configuration	Meeting	Date
	Justice and Home Affairs (JHA)	2411	04/04/2002
	General Affairs	2192	21/06/1999
European Commission	Commission DG	Commissioner	
	External Relations		

Key events			
04/05/1999	Initial legislative proposal published	COM(1999)0229	Summary
13/04/2000	Legislative proposal published	09752/1999	Summary
14/04/2000	Committee referral announced in Parliament		
19/04/2000	Vote in committee		Summary
19/04/2000	Committee report tabled for plenary, 1st reading/single reading	A5-0118/2000	
03/05/2000	Debate in Parliament		
04/05/2000	Decision by Parliament	T5-0193/2000	Summary

04/04/2002	Act adopted by Council after consultation of Parliament		
04/04/2002	End of procedure in Parliament		
30/04/2002	Final act published in Official Journal		

Technical information

Procedure reference	1999/0107(AVC)
Procedure type	AVC - Assent procedure (historic)
Procedure subtype	International agreement
Legal basis	EC Treaty (after Amsterdam) EC 133; EC Treaty (after Amsterdam) EC 300-p3-a2; EC Treaty (after Amsterdam) EC 055; EC Treaty (after Amsterdam) EC 300-p4; EC Treaty (after Amsterdam) EC 047-p2
Stage reached in procedure	Procedure completed

Documentation gateway

Initial legislative proposal		COM(1999)0229	04/05/1999	EC	Summary
Supplementary legislative basic document		07260/2000	03/04/2000	CSL	Summary
Legislative proposal		09752/1999	13/04/2000	CSL	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0118/2000 OJ C 041 07.02.2001, p. 0005	19/04/2000	EP	
Text adopted by Parliament, 1st reading/single reading		T5-0193/2000 OJ C 041 07.02.2001, p. 0025-0042	04/05/2000	EP	Summary
Implementing legislative act		22002A0430 OJ L 114 30.04.2002, p. 0006-0072	05/04/2002	EU	

Additional information

European Commission	EUR-Lex
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Final act

Decision 2002/309 OJ L 114 30.04.2002, p. 0001 Summary

EC/Switzerland agreement: public procurement

PURPOSE: conclusion of an agreement with Switzerland on public procurement. **CONTENT:** In the context of the overall package of liberalisation agreements negotiated with Switzerland and initialled by the parties on 26.02.1999, the Commission is proposing an agreement in the area of public procurement. The approach advocated by the Commission is a 'global' one integrating in each of the 7 agreements a common clause regarding simultaneous entry into force (this is to avoid that the referendum process in Switzerland applicable to the approval of these agreements does not give rise to a partial application of the agreements). The Agreement falls into two parts: 1) It follows up on the invitation in the WTO Agreement on Government Procurement of 1994 (GPA), to which both the EC and Switzerland are parties, to extend coverage between parties through bilateral negotiations; 2) However, because of the proximity of the two territories and their economic interdependence, the second part of the Agreement goes well beyond the level of openness envisaged by the GPA and intends to achieve a high degree of trade liberalisation, comparable to that achieved in the EC. The Agreement does focus only on certain aspects of public procurement as account has been taken of the already existing WTO GPA. The combination of both agreements (the GPA and the bilateral one) means an almost complete reciprocal opening of the respective public procurement markets. In practical terms, EC firms will have access to the Swiss market in the same manner and for the same sectors as in the Community. The scope and coverage of the Agreement are as follows: - as regards the entities covered by the Agreement, the Swiss municipalities will be submitted to the GPA (in exchange the EC will eliminate the restrictions applying to the Swiss suppliers bidding for contracts in the EC municipalities). In addition, all types of entities not

covered by the GPA, but nevertheless covered by the Community Directives will be submitted to the bilateral agreement. This includes public operators in the fields of telecommunications, energy other than electricity and transport by railways, and the private operators (having exclusive or special rights) in all sectors covered by the Utilities Directive. - as regards the thresholds above which the national treatment is exchanged, they will be those of the EC Directives. Below the thresholds, there is a best effort provision to avoid discrimination between nationals of both parties. The Agreement provides for a review of this aspect that shall take place five years after entry into force of the Agreement. - as regards remedies, in addition to the traditional possibilities of challenging the award of contracts through a judicial procedure, both parties agree to establish an independent authority, if it does not exist, able to bring forward cases independently before the relevant judicial jurisdiction. In the EC, this role will be fulfilled by the European Commission. - procedures to be followed by the contracting entities: for the Community, the application of Directive 93/38 will be sufficient so as to satisfy the requirements of the Agreement. As for the Swiss, all sectors will have to comply with the procedure of the GPA so as to satisfy the requirements of the Agreement.?

EC/Switzerland agreement: public procurement

The Council presented a consolidated version of the agreement on public procurement free movement of persons between the Community and Switzerland, that also includes the final act and the signatures of all of the contracting parties. It should be recalled that this agreement seeks to harmonise public procurement systems between the EU and Switzerland and to further open each party's public procurement market to the other. The agreement falls into two parts: the first part follows up the invitation in the 1994 WTO agreement on public procurement, to which the EU and Switzerland are parties, in order to extend coverage between the parties by means of bilateral negotiations. However, the agreement goes far beyond the degree of opening envisaged by the WTO agreement and provides for the achievement of a high level of commercial liberalisation, comparable to that which exists within the EU. The agreement only covers certain aspects of public procurement given that account was taken of the already existing WTO agreement. The combination of the two agreements (the WTO one and the bilateral one) translates into a virtually integral reciprocal opening of respective public procurement. As far as entities covered by the agreement are concerned, Swiss local authorities will be subject to the WTO agreement (in exchange, the EC will eliminate restrictions applicable to Swiss suppliers submitting for contracts launched by EC local authorities). Furthermore, all the entities not covered by the WTO agreement but nevertheless covered by Community directives will be subject to the bilateral agreement. This includes public operators in the fields of telecommunications, energy other than electricity, and rail transport, as well as private operators (benefiting from exclusive or special rights) in all the sectors covered by the 'excluded sectors' Directive. As regards the thresholds above which national treatment is exchanged, these are identical to those that apply in Community Directives. Below these thresholds, a provision invites parties to do everything possible to avoid discrimination between nationals of the two parties: the agreement provides for a reexamination of this aspect five years after the entry into force of the agreement. Besides traditional means for contesting contract awards using legal means, the two parties agree to create an independent body, given that one does not already exist, which will be able in an independent way to refer to the competent legal authority. In the EU, this role will be assumed by the European Commission.?

EC/Switzerland agreement: public procurement

The European Parliament adopted its resolution drafted by Mr. Massimo CARRARO (PES, Italy) and gave its assent to the conclusion of the Agreement between the European Community and the Swiss Confederation on certain aspects relating to government procurement.?