

PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

EC Approach to Government Procurement

Communication from the European Communities

The following communication, dated 28 May 1999, has been received from the Permanent Delegation of the European Commission.

The role of the WTO

1. The GATT and then the WTO have been largely successful in progressively liberalizing trade and eliminating discriminatory treatment in international commerce. However, leaving government procurement outside the scope of the multilateral trading system remains a costly omission with real trade effects. Government purchasing can account for up to 15 per cent of GDP, and opaque and discriminatory procurement procedures and practices therefore significantly distort trade and reduce potential growth in real income. The EC believes that the WTO cannot afford, and should not allow this to continue into the next millennium.

2. However, the EC recognizes that correcting this omission and building a substantive framework of rules on procurement will both take time and require a pragmatic approach. It is therefore important that WTO Members seize the opportunity of the new round to consolidate and build on the existing multilateral work programme in this area: that on transparency in procurement and the GATS work on procurement of services.

Transparency in procurement

3. Transparency is the basic building block of a stable and predictable procurement regime. All participants in the procurement process benefit from the existence of transparency, whether it is the government as a purchaser, the government as a regulator, potential suppliers, those who must enforce the rules, or investors. That is why the EC attaches so much importance to the decision taken at the WTO's first Ministerial Conference in Singapore to establish a Working Group to discuss this issue. Indeed, we hope that the will exists to interpret the mandate given to the Working Group in a constructive light, and that it will prove possible to complete this work by the time of the Seattle Ministerial Conference. In this context, the EC wishes to recall that the mandate was "to establish a working group to conduct a study on transparency in government procurement practices, taking into account national policies, and, based on this study, to develop elements for inclusion in an appropriate agreement" (emphasis added).

4. The EC believes that it is worth taking the time to get these elements right – in other words, that the substance of a transparency agreement is more important than its timing. Furthermore, the EC recognizes that difficulties surrounding some of the so-called horizontal issues – in particular the questions of enforcement and of scope and coverage – means that it may not prove possible to formally conclude a transparency agreement by Seattle, but sufficient progress has been made for there to be a very real prospect of consensus emerging on what the basic principles of transparency should be.

5. The EC considers that, at Seattle, Ministers should endorse the results which have been achieved by then, and – if necessary – mandate the WTO to negotiate and complete the work initiated at Singapore within a given time-frame.

6. The results of the transparency work should take account of national policies and practices, as well as the different levels of development of WTO Members. They should apply to the procurement of both goods and services and to all levels of government. In relation to the latter, the EC takes the view that, if the elements are the right ones, subcentral governments should have no problem of principle with the rules, although we recognize that it will be necessary to address the constitutional difficulties that a number of WTO Members face in relation to binding subcentral governments on procurement matters.

GATS work on procurement of services

7. Article XIII:2 provides for multilateral negotiations on government procurement in services under the GATS. Within the new round, WTO Members should work to ensure that the substantive negotiations to which this mandate commits us all, delivers a balanced and mutually advantageous trade liberalization. To date, the work of the GATS Rules Group has focused largely on the other two issues under consideration: safeguards and subsidies. To inject momentum into the work, Ministers should be asked at Seattle to reaffirm the Article XIII:2 mandate and to set a target date for the completion of the negotiations.

8. The EC would also wish to see Ministers agreeing that the WTO should review the need for further discussions on procurement as requested by interested WTO Members and in the light of developments in relation to the existing work programme, and, as appropriate, undertake further negotiations.

The Agreement on Government Procurement

9. Finally, the EC continues to attach importance to the current work aimed at further improving the Agreement on Government Procurement, through expanding its scope and coverage, as well as efforts to attract new members.
