

1.4 Public Procurement

Public procurement is a major source of economic activity within the EC. It accounts for about 15 percent of the Community's total GDP, including a large share of total EC demand for products such as office, data-processing and electrical machinery, telecommunications equipment, measuring and electro-medical equipment, railway and tramway rolling stock, and aero-space equipment.⁸⁶ At the outset of the Europe 1992 initiative, however, competition for public contracts was severely restricted by widespread use of procurement practices favouring suppliers from the purchasing Member State. To remedy the situation, the 1985 White Paper on Completing the Internal Market included a number of proposals for enhancing the access of Community-based companies to public procurement in all Member States.⁸⁷

A number of the measures called for in the White Paper have been adopted. Two directives have been implemented for the purpose of strengthening the Community's procurement rules on major public contracts for supplies and public works other than in the water, energy, telecommunications and transportation sectors.⁸⁸ The directives were designed to close a number of the loopholes under the pre-existing procurement rules that were being used to avoid following competitive contracting procedures.⁸⁹ They also incorporated a number of procedural changes, such as the use of longer periods for the tendering process, that are intended to promote more effective Community-wide competition for public contracts.

A critical milestone in the White Paper public procurement programme was reached in September 1990 with the adoption of a directive on public purchasing in the four sectors not covered by the above-mentioned procurement directives.⁹⁰ The Utilities Directive outlines competitive procurement procedures for the granting of major supplies and construction contracts by public entities in the water, energy, telecommunications and transportation sectors. These procedures must be followed by both government controlled organizations and private companies having special or exclusive rights in the relevant sectors. Procurement subject to the Utilities Directive includes, with certain exceptions: (1) public works contracts in the relevant