

PUBLIC PROCUREMENT

ISSUE

The EC has opened up public procurement by public entities of goods falling within the previously excluded sectors of transportation, energy, water, and telecommunications within the Community. It is prepared to consider extending this access to others on a reciprocal, multilateral or bilateral basis.

BACKGROUND

Public procurement in the EC represents some 15% of Community GDP, of which over half of the projects fall within the sectors excluded by the GATT Procurement Code. Similarly excluded from previous EC directives, this market is characterized by strong dependent relationships between buyers and sellers, with little trade within the EC: most procurement is sourced from national suppliers. As part of the Single Market initiative, the EC's objectives are to increase transparency in the tendering and award process, improve redress and enforcement mechanisms, and introduce competitive tendering in the excluded sectors.

The proposed Excluded Sectors Directive (ESD) covers all public bodies and private sector purchasers having "special and exclusive rights" (ie. subject to government influence). It applies to the production/distribution of water, gas and electricity; airport and port facilities; transportation services (rail, buses); and, telecommunication networks and services. Outlining procedures/criteria for tenders and the awarding of contracts, the ESD calls for the use of "European" standards and/or common technical specifications.

EC POSITION

The Community wishes to ensure that EC firms be the principal beneficiaries from such liberalization. Regarding non-EC bids, the ESD includes a 50% local content requirement and a 3% price preference for EC suppliers. These provisions, however, may be waived for any country having a reciprocity agreement with the EC (bilateral or multilateral), granting EC firms "comparable and effective" access to their local procurement market.

CANADIAN POSITION

Canadian export capabilities within the excluded sectors range from little or none, through to technological leadership. The liberalization of public procurement presents thus greater opportunities for Canadian firms in some sectors than in others. Canada is opposed to measures which unduly discriminate against Canadian goods, and is thus desirous of obtaining assured access to the EC public procurement market. To this end, Canada has participated, with the EC, in negotiations to extend the provisions of the GATT Procurement Code.