

WRITTEN QUESTION E-1266/09
by Ignasi Guardans Cambó (ALDE)
to the Commission

Subject: Use of EC General Notes and Derogations for better market access

When signing the World Trade Organisation Agreement on Government Procurement (AGP)¹ dated 15 April 1994, the European Community also signed General Notes and Derogations from the provisions of Article III of Appendix I (the 'EC General Notes and Derogations').

This text states that: 'the EC will not extend the benefits of' (the APG agreement) concerning contracts awarded to the suppliers and service providers of Canada (water, electricity, airports, ports and urban transport), the USA (water, airports and urban transport), Japan (electricity and urban transport), Korea (airports) and Israel (urban transport), 'until such time as the EC has accepted that the Parties concerned give comparable and effective access for EC undertakings to the relevant markets'.

Directive 2004/17/EC² of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors does not transpose the provisions of said EC General Notes and Derogations into EC law.

The EC General Notes and Derogations would have provided the EU with a valuable instrument to open the markets of the others AGP signatories.

1. Why is it not yet possible to use these notes and derogations as a credible tool for better market access?
2. What legal means are there for transposing such a tool?
3. What does the Commission intend to do as regards the absence of transposition, especially in the context of the AGP revision?

¹ OJ L 134, 20.6.1995, p. 26.

² OJ L 134, 30.4.2004, p. 1.