



EUROPEAN PARLIAMENT

2009 - 2014

Committee on International Trade

2011/2048(INI)

1.9.2011

OPINION

of the Committee on International Trade

for the Committee on the Internal Market and Consumer Protection

on modernisation of public procurement
(2011/2048(INI))

Draftsman of the opinion: Kader Arif

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SUGGESTIONS

The Committee on International Trade calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Calls for the States Parties to the Agreement on Government Procurement (GPA) to conclude the reform of that agreement as rapidly as possible to encourage greater fairness and transparency at international level by combating corruption more effectively while respecting the multi-functional nature of procurement policies; calls on those States to keep their reservations – be they territorial or sector-specific – within reasonable bounds when ratifying the future agreement; regrets, however, that none of the major emerging economies is yet a signatory of the GPA; calls on those countries to participate in the current revision process and afterwards to swiftly conclude and ratify the future agreement;
2. Stresses the need to turn the EU's trade policy into a genuine vehicle for sustainable development and the creation of more and better jobs; calls on the Commission to pursue a trade policy consistent with a strong, job-creating industrial policy; maintains that the EU's trading partners have to be subject to rules and ensure that these are complied with, given that failure in that regard would constitute a violation of international obligations and severely impair the operation of the single market;
3. Recalls that the GPA, which must continue to be the principal instrument for the regulation of public procurement at international level, provides for special and differential treatment for developing countries; calls for the Commission to observe that principle in its bilateral relations with those countries;
4. Stresses that, in a context of increased international competition, European undertakings stand out through their capacity for innovation, the high technology they develop and the quality of the social and environmental standards they apply; calls for the Commission to encourage the recognition within the GPA not just of the price criterion, but of additional criteria related to the subject matter in the award of public procurement contracts, in particular as regards the ability to improve safety at work; calls on the Commission to apply additional criteria of that kind when negotiating free trade agreements with non-GPA countries, taking into account the level of development of the other parties concerned when selecting and defining those criteria; considers that better rules on public procurement would make for the creation of more high quality jobs, support for European industrial policy and the promotion of sustainable environmental and social development;
5. Calls on the Commission to broaden European directives to incorporate the provisions set out in ILO Convention 94 (the Labour Clauses (Public Contracts) Convention), the object of which is to promote socially responsible public procurement by requiring tenderers and contractors to match pay rates and other working conditions in force at local level, as laid down by collective agreements or national legislation;
6. Stresses that public procurement is a suitable economic policy instrument to achieve short-, medium- and long-term goals pertaining to ecologically sustainable development

and can also promote high social standards globally; calls on the Commission to make provision in trade agreements for targeted incentives to businesses in order to make public procurement more socially and environmentally friendly and conducive to innovation;

7. Points out to the Commission that, although Directives 2004/17/EC and 2004/18/EC provide a certain leeway for the inclusion of social, environmental and sustainability standards as long as they are directly related to the contract, modernisation of the present legislation should strive to expand this leeway and reduce limitations in order to better utilise possible public procurement synergies to achieve objectives in other relevant policy areas;
8. Points out the need to increase the effectiveness of public spending as regards its positive influence on the social and ecological engagement of national and international enterprises and to seize the opportunity to make European and global trade more socially minded and environmentally sound through responsible procurement;
9. Points out that employment, decent work, adherence to labour laws and social rules, accessibility, fair trade, respect for human rights and social commitment can be influenced and promoted by companies if they offer high standards when responding to calls for bids in public procurement; calls on the Commission, therefore, to consider and introduce the appropriate legislative space through the modernisation of public procurement agreements;
10. Asks the Commission to secure the inclusion in the GPA of a clause allowing the EU to give preference to European producers, especially SMEs, in the award of certain public procurement contracts along the lines of such clauses already applied by other States Parties to that agreement;
11. Considers that the existing regulations on public contracts are too complex and may be practically infeasible for smaller clients and SMEs, thus constituting a non-tariff barrier to trade; calls on the Commission, therefore, to adapt to the needs of small clients and those of SMEs in its proposed legislation on the modernisation of public procurement in order to increase their participation in public procurement and international trade; hopes also that the administrative procedure will be simplified through the use of information technologies, especially in the form of online open tendering procedures; urges the Commission to consider the social value of SMEs in the modernisation of public procurement and to adopt specific measures to promote their participation in public procurement and to strengthen their competitive position;
12. Urges the Commission to simplify Directives 2004/17/EC and 2004/18/EC, to streamline the procurement process, to reduce the level of detail of the regulations and to reduce administrative burdens, thereby improving the business environment for European clients and enterprises and for EU trading partners, guaranteeing fair competition and increasing the efficiency and effectiveness of European public procurement; therefore emphasises the need to improve the business environment for SMEs by adapting thresholds, reducing the administrative burden and increasing the scope for action;
13. Considers it essential to have a clear picture of the foreign undertakings operating on European soil, especially when their activities enjoy strong State support from abroad; is

concerned about the possible circumvention of internal market rules by foreign undertakings establishing a subsidiary in the EU or acquiring European undertakings; therefore calls for the Commission to set up a body responsible for conducting advance reviews of foreign investments along the lines of the CFIUS in the US;

14. Considers that the European market cannot on a unilateral basis be open to third-country operators and calls for the Commission to come forward with proposals for an effective instrument on the one hand to encourage compliance with the principle of greater reciprocity vis-à-vis States – members of the GPA or otherwise – which do not at present provide equivalent access to European operators and, on the other hand, to guarantee fair competition and a level playing field worldwide;
15. Calls on the Commission to take a firmer line in bilateral negotiations with industrialised countries in order to secure better market access and greater reciprocity where public procurement is concerned; maintains that real market access should not be restricted by non-tariff barriers, and calls on the Commission to pay particular heed to that point when conducting negotiations at international level;
16. Points out that public procurement chapters in EU trade agreements constitute internationally binding agreements and calls on the Commission, therefore, to ensure that the content of these chapters does not contradict current efforts to modernise public procurement legislation in the European Union, including the revision of thresholds for calls for tender;
17. Believes that advancing the interests of EU businesses abroad requires judicious selection of policy instruments and objectives and that, in the context of difficult economic times, any moves towards protectionism are unlikely to help Europe's economic recovery;
18. Considers that where offences have been committed by the Mafia or other organised criminals, conviction by a judgment having the force of res judicata in one Member State should constitute grounds for excluding the European or non-European firms implicated from opening tendering procedures in all EU Member States;
19. Considers, given that large businesses, their subsidiaries, and their supply chains play a key role in international trade, that corporate social and environmental responsibility should become an aspect to be taken into account in the EU's trade agreements;

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	31.8.2011
Result of final vote	+: 23 -: 2 0: 2
Members present for the final vote	William (The Earl of) Dartmouth, Kader Arif, David Campbell Bannerman, Daniel Caspary, Yannick Jadot, Metin Kazak, Bernd Lange, David Martin, Vital Moreira, Paul Murphy, Franck Proust, Godelieve Quisthoudt-Rowohl, Niccolò Rinaldi, Helmut Scholz, Peter Šťastný, Robert Sturdy, Gianluca Susta, Keith Taylor, Paweł Zalewski
Substitute(s) present for the final vote	Catherine Bearder, George Sabin Cutaş, Mário David, Albert Deß, Salvatore Iacolino, Maria Eleni Koppa, Elisabeth Köstinger, Marietje Schaake
Substitute(s) under Rule 187(2) present for the final vote	Roger Helmer, Patrice Tirolien