

International public procurement instrument

2012/0060(COD) - 10/12/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on International Trade adopted the report by Daniel CASPARY (EPP, DE) on the proposal for a regulation of the European Parliament and of the Council on the access of third-country goods and services to the Union's internal market in public procurement and procedures supporting negotiations on access of Union goods and services to the public procurement markets of third countries.

The Committee on the Internal Market and Consumer Protection, exercising its prerogatives as an association committee in accordance with [Rule 50 of the Parliament's Rules of Procedure](#), was also consulted for an opinion on the report.

The committee recommended that Parliament's position adopted in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

A sustainable industry policy strategy in the Union: the committee stressed the need to exclude unfair tenders comprising goods and/or services originating outside the Union. At the same time, reciprocity and fair conditions for the market access of Union industries should be ensured.

Keep the principle of uniformity of the Common Commercial Policy (CCP): to prevent distortion of the internal market, and ensure efficient leverage through the CCP, Members stated that that Member States or their contracting authorities may restrict the access of third country goods and services to their tendering procedures **only by measures provided for in the Regulation or by relevant Union law**, and only after an investigation by the Commission has revealed the **absence of substantial reciprocity** by the third country concerned.

Scope: the Regulation shall apply to the award of contracts and to the award of concessions for services provided for governmental purposes.

It is proposed to exclude from the scope of the Regulation **developing countries considered to be vulnerable** due to a lack of diversification and insufficient integration within the international trading system as well as countries and potential GSP+ beneficiary countries.

Rules of origin: the determination of the origin of a service should be made in line with the principles of the WTO General Agreement on Trade in Services (GATS). The provisions determining the rules of origin of services should prevent the circumvention of restrictions on access to the Union public procurement market through the establishment of **"letterbox" companies**.

Procedure: Members wanted to ensure that the term 'calendar days' is consistently used throughout the proposal instead of 'days', 'calendar days' and 'working days'. They also shortened the length of the procedures throughout the proposal to provide faster protection, and made amendments intended to avoid an endless consultation procedure with third countries.

Public contracts: in the performance of public contracts economic operators must comply with applicable obligations in the fields of **environmental, social and labour law** established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions.

A 'lack of substantial reciprocity' shall be presumed, where the non-observance of international labour law provisions listed in the [Directive on public procurement](#).

Assess impact and review the instrument: the report proposes incorporating a **review clause**, which obliges the Commission to look into the impact of the regulation, after it has come into force and being applied for a few years. Accordingly, when the Commission submits its second report, it shall also submit a legislative proposal for an amended Regulation or set out the reasons why, in its view, no changes are necessary.

For the same reason, the report suggests **limiting the application of any restrictive measures taken through an implementing act to up to 5 years** so as to avoid these measures turning into a permanent closure of the market.