

Community aid: conditions for access to the instruments financing the Community external assistance

2004/0099(COD) - 26/04/2004 - Legislative proposal

PURPOSE : to establish rules for the access of interested parties to Community external assistance instruments financed by the general budget of the European Union.

PROPOSED ACT : Regulation of the European Parliament and of the Council.

CONTENT : the purpose of this Regulation is to establish the access to the instruments financing the Community external assistance, for persons and goods. It defines criteria, specific cases and derogations. The scope of this Regulation does not cover all Community external assistance instruments such as the macro financial assistance directly managed by the recipient country of aid. Programmes with a thematic scope will be open to suppliers from all developing countries and transition countries. Programmes with a geographic scope will be open to nationals of the region targeted by the programme in view of promoting regional integration.

The prime objective of the proposed Regulation is to define the principle and conditions for the access of persons and goods to instruments managed by the EC. It can only de facto be achieved by the Community.

The regulation should increase competitive bidding for the supply of goods and services financed by development aid thereby securing the best value for money of the EUR 3.5 billion in annual EU development aid from the EU budget.

Tying of aid is the mechanism by which the procurement of goods and services financed by development assistance is limited to suppliers from the donor country. International studies have indicated that the increased competition ensuing from the complete untying of aid could generate an efficiency gain of up to 30% of the aid.

At the European Council of Barcelona of March 2002 EU Member States agreed to untie aid to least developed countries as recommended by the OECD. Member states furthermore agreed to continue discussions of further untying bilateral aid and to consider steps towards further untying of Community aid. The Commission subsequently adopted a Communication "Untying: enhancing the effectiveness of aid" in November 2002 in which it proposed an approach, that goes far beyond the existing limited international consensus. The Council and the Parliament in 2003 endorsed the Commission's proposals related to Community aid.

Moreover, it is difficult to precisely measure the benefit of untying, the World Bank and the Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD/DAC) have produced estimations with a substantial ratio in terms of gain through better value for money.

It is important to have an understanding of the opportunities and constraints of increasing access to procurement to ensure an intelligent use of the concept. Therefore, progress towards further untying will have to be accompanied by impact assessments and studies.

A substantial part of EC aid assistance is implemented through aid modalities that are directly managed by the recipient country, such as budget support or sector support. Those instruments are de facto not subject to EC award of procurement or grant. They are not concerned by this regulation.

Due to the legal nature of the instruments falling under the European Development Fund and those falling under the EC budget, two parallel processes are necessary:

- 1) a mandate for introducing the relevant changes in the Cotonou agreement was presented in the package of proposed revisions to the Cotonou Agreement for 2005 and accepted by the GAERC on 23 February 2004;
- 2) this proposal presents one single regulation defining the access to all Community aid to be implemented in all basic acts governing external assistance that fall under the EC budget. In the future, all instruments will contain a simple reference to this regulation.

The approach with regards to further opening of Community aid presented in this regulation will also be taken into account in future proposals by the Commission on the rationalisation of its external relations into six instruments. Forthcoming proposals will come up in the framework set up by the recent Commission Communication "Building our common Future. Policy challenges and Budgetary means of the Enlarged Union 2007-2013".

In addition, the proposed Regulation offers unrestricted access to its programs to suppliers from other donor countries, including the USA and Japan. Access will be based on reciprocity. With the adoption of the regulation the EU will take the lead in the international efforts to end the practice of tying aid to the delivery of supplies from the donor country.

Instruments are open to nationals from Member States from candidate countries and from countries of EEA (Norway, Iceland and Liechtenstein). For nationals of all other donor countries (such as USA, Japan and Canada) instruments will be accessible based on reciprocity.

Lastly, the current regulation translates this political approach into practice.

The current proposal covers external assistance financed under the EU budget. A similar initiative has been taken with regards to the development assistance financed under the European Development Fund. Such an initiative would require an amendment of the Cotonou agreement that is the legal framework of EU development assistance to Africa, Caribbean and Pacific. Based on a mandate from the Council of ministers the Commission will now discuss this initiative with ACP countries.