Procurement procedures water, energy, transport and telecommunications sectors (amend. Directive 93/38/EEC)

1995/0080(COD) - 29/03/1995 - Legislative proposal

OBJECTIVE: to amend the directive on the water, energy, transport and telecommunications sectors in order to bring them into line with the new GATT agreement extending the current framework of balanced rights and obligations with regard to public procurement. CONTENT: the proposal for a directive makes provision for the following amendments: - Scope: the distinction between telecommunications and the other sectors covered has been maintained. In addition, the thresholds which currently apply to the telecommunications sector (ECU 5,000,000 for works contracts and ECU 600,000 for supply and service contracts) have been left unchanged. As far as the other sectors are concerned, (water, energy, transport), it is proposed to replace: . for works contracts: the threshold of ECU 5,000,000 by the equivalent in ECU of SDR 5,000,000 (ECU 4,952,730 on 1 January 1994) and . for supply and service contracts: the threshold of ECU 400,000 by the equivalent in ECU of SDR 400,000 (ECU 396,218 on 1 January 1994). - Possible assistance in preparing technical specifications: a new provision prohibits the public authorities from asking for or accepting assistance in drawing up specifications from a company with a commercial interest in the contract or where this might obstruct the competition. - Information for candidates rejected: if an enterprise so requests, the contracting authority must tell it why it was rejected and what advantages the tender selected presents, unless there is legitimate cause not to divulge this information. - A provision has been introduced in order to guarantee permanent access to the system of qualifications. - Negotiated procedures without prior competition for additional works or services may only be used up to 50% of the value of the initial contract; - Deadlines for the receipt of tenders in restricted or negotiated procedures: a deadline of at least 40 days from the date of the invitation to tender has been introduced. - The obligations of the Member States as regards the provision of statistics have been changed. Statistics must be provided on contracts which exceed the stated thresholds. It is proposed to limit the obligation for statistics to sectors covered by the GATT agreement and to exclude the RDT or "residual service" contracts listed in Anne XVI B to the directive. However, it is proposed that information should be provided on all categories of contracting entities operating in the sectors in question. - Finally, a new article guarantees that access for the Member States' enterprises, products and services to public procurement within the EU will be at least as favourable as the access for which provision is made in the GATT agreement for the enterprises, products and services of the third countries which have signed the agreement.