

COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION OF THE COMMISSION
TO THE COUNCIL
CONCERNING
MEASURES RELATING
TO THE INDUSTRIES SUPPLYING
THE UTILITIES
SECTORS IN THE STRUCTURALLY
DISADVANTAGED REGIONS
OF THE COMMUNITY

BACKGROUND

1. On the occasion of the adoption of the Common Position on the Utilities Directive⁽¹⁾ on 22 February 1990, the Commission confirmed its intention of reporting on measures to help small and medium-sized undertakings and the structurally disadvantaged regions of the Community to participate on an equal footing in the award of contracts. This Communication corresponds to that commitment.
2. Opening-up the internal market is intended to strengthen the competitiveness of the economy as a whole. This will have significant effects on all sectors requiring restructuring and adjustment to the new competitive situation. The first effects of this change, over and above those foreseen in the CECCHINI report on the cost of non-Europe, have been analysed by the Commission in its Communication⁽²⁾ "Three years to the completion of the Internal Market : A first assessment of its impact".
3. The opening up of public procurement is one of the measures in the Single Market package and, for that reason, its impact, particularly in the utilities sectors, cannot be disassociated from the impact of the whole package. Nevertheless, the performance of the Community's mechanical and electrical engineering sectors is strongly influenced by the research and development, production and employment which arises from the industries supplying the utilities - energy, telecommunications, transport and water. In turn, these sectors play an important role in the Community's industrial structure as a whole.
4. The need to promote a dynamic performance by these sectors, in order to reinforce the strength of Community industry in the world, was one of the reasons why opening up public procurement in the utilities was considered essential.
5. The specific need for adjustment of the sectors concerned has been taken into consideration in providing, in accordance with Article 8c of the EC Treaty, for periods of derogation for the operation of the Utilities Directive for Spain (3 years) and for Greece and Portugal (5 years). Further, in the context of the policies described below, the Commission has taken a series of decisions intended to help in the achievement of these objectives.

(1) Council Directive of 17 September 1990 on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (90/531/EEC) - OJ N° L 297/1 of 29.10.90.

(2) Doc. SEC(90)494 final of 28.03.1990.

THE PROBLEMS

6. Evaluation of the problems to be addressed has been assisted by a study, covering Italy, Greece, Portugal and Spain. This was carried out in close cooperation with the authorities of the Member States concerned and in consultation with the Advisory Committee on Public Procurement.
7. The study has shown that, while there is scope for gains for enterprises which can show themselves to be dynamic there are, in the regions in question, important parts of the industries concerned which are under-invested in capital equipment and research and development and which, due to low productivity, have labour costs equal to or higher than those of suppliers elsewhere in the Community. Thus unless they can adapt to production which, by virtue of its technology or quality, can establish a secure market position, they risk being uncompetitive once the markets concerned are opened up.
8. Both the sectors and the Member States concerned appear to have recognised that the only way to deal with this vulnerability is through the restructuring of the sectors concerned. Accordingly, the process of adaptation has already started, involving a combination of reorganisation and investment in plant modernisation.
9. This restructuring has affected suppliers, through measures intended to build on the underlying strengths of certain sectors and to exploit possible economies of scale. It has also affected the demand side with, in some cases, continuing programmes of privatisation of the utilities themselves.
- 10 Three general concerns have been expressed about the restructuring process:
 - first, that attempts at orderly restructuring, aimed to strengthen otherwise viable elements in national industry, will be disrupted by outside, possibly unfair, competition, and that the end result will consist only of short-term savings achieved through the sacrifice of employment;
 - second, that the inevitable employment consequences of restructuring will undermine the political support for open procurement and make it more difficult to achieve the attendant financial and economic benefits;
 - third, that it will be difficult to make really effective use of the Structural Funds, because it is difficult to channel their resources directly to the enterprises most able to benefit from them.

Concern has also been expressed as regards the situation of small and medium sized enterprises (SMEs). These often find themselves in a very close relationship with larger multinational enterprises, or heavily dependant, through sub-contracting, on demand from the utilities. Whatever their relationship with the source of demand, they are by their nature vulnerable in times of radical change. Further, lack of finance for investment makes it difficult for them to adjust rapidly to change.

THE SITUATION IN PERSPECTIVE

12. While the Commission recognises that there are, indeed, risks inherent in the situation, it considers that these should be seen in the perspective of an opportunity to establish the dynamism of the sectors and regional economies concerned.
13. In the first place, many of the problems referred to are the perennial problems of change which apply equally in other parts of the Community. It is not only firms in the less developed regions that have to face the challenge of heightened competition. The move to a more dynamic situation is one which is being imposed, as a conscious act of policy, across the Community. It is, furthermore, a situation which cannot be avoided. To fail to adapt will inevitably bring business failure. To resist change can only be, at best, a short term palliative.
14. While it may be true that restructuring will produce employment problems, with attendant political difficulties, failure to restructure will produce still greater problems. The utilities play a key role in the economy. To subject them to supply in a protected market risks creating a double distortion : one of the suppliers and another of the rest of industry, which would have to suffer the consequences of insufficient provision of services by the utilities. Such protection could not, moreover, enable social difficulties to be sidestepped, but would displace them on to other sectors, which would perform less well. Essential changes cannot be avoided just because they are politically difficult. Rather, appropriate instruments should be used to ensure that help is given to readapt and to re-insert displaced employees.
15. As regards the Structural Funds, the challenge to the Member States is to come forward with plans that do channel the resources to those who can use them. In this context, the STRIDE programme⁽³⁾ has been quoted as a good example. This programme has enabled the assistance concerned to be directed to relevant objectives such as information, cooperation, research and development, technical assistance, development of networks and technical infrastructure and, thereby, to have a direct influence on the firms concerned.

(3) para. 43 below.

16. Further, dependence on SMEs can be a source of strength as well as weakness. Where the failure of a major firm can bring disaster, inertia of some SMEs may be offset by the dynamism of others. The relative flexibility of small organisations can be a source of strength and resilience.
17. At the same time, the derogation period made available to Spain, Greece and Portugal means that, during this period, businesses based in the countries concerned have an opportunity to exploit the advantages of an enlarged market while not being subject to the same pressure on their domestic base. Provided this opportunity is exploited, it creates a major opportunity for firms which are dynamic to position themselves advantageously for the time when their domestic market is opened and for firms which are not, as yet, dynamic to set about the necessary changes.
18. It would be wrong to assume that the full effects of market opening will be experienced overnight. Even after the derogation period has expired, factors making for continuity of supply will continue to be present. The need for new supplies to be compatible with existing equipment, experience of established suppliers with local conditions, established relationships of trust and delays in meeting new product specifications will mean that market opening is an extended process rather than a once and for all event.
19. Further, the situation of the sectors supplying the utilities cannot be separated from the prospects of the utilities themselves. Transport, energy and telecommunications infrastructures are candidates for major development in the context of Community policy on Trans-European Networks, set out in the Treaty on European Union (Art. 129b ff). The Commission has requested, in the Delors II package⁽⁴⁾ an amount rising to 900 MECU in 1997 for contributions to "the establishment and development of trans European networks in the areas of transport, telecommunications and energy infrastructures", taking particular account of "the need to link island, land-locked peripheral regions with the central regions of the Community". Furthermore, the industrial consequences of the Cohesion Fund for transport networks in Greece, Ireland, Portugal and Spain cannot be ignored.
20. All these elements mean that no situation, however gloomy, and no assessment, however carefully prepared, can be regarded as immutable. The determining factor in this, as in every other, situation will be the extent to which the human resources involved can be mobilised to meet and to rise above the challenges which have to be faced.

(4) See COM(92)2000 : "From the Single Act to Maastricht and beyond"
COM(92)2001 : "The Community finances between now and 1997"
COM(92)84 : "Community structural policies, assessment and outlook"

POLICY TO ASSIST THE TRANSITION

- 21. The challenge to industry policy makers is, following the philosophy set out in Article 130 of the Treaty on European Union, to ensure that the derogation period is fully exploited so as to establish a business environment which facilitates structural changes; to help suppliers, enterprises including SMEs and specialist sub-contractors to make the most of their potential; and to speed up economic diversification of those areas which are heavily dependent on industries supplying the utilities.
- 22. The sections which follow set out guidelines within which policy intended to meet such goals should be developed.

Establishing a business environment conducive to structural change

- 23. The challenge is to create an environment in which the need to change is recognised, the means to change are available and the will to change is present.
- 24. The most effective mechanism for promoting recognition of the need for change is competition. That is the basic concept on which the internal market is built. It is therefore imperative that the Member States take the necessary action to ensure that the rules for competitive award of contracts will be implemented and enforced. To fail to do so, or to create doubt, would be to undermine the source of dynamism.
- 25. As regards the means for change, the Member States can do much to assist adaptation to technical standards, to assist in obtaining quality assurance and to encourage innovation. Means to this end are set out in subsequent sections. Such measures could be eligible for Community funding. Further, Member States can organise their public procurement so as to make it as accessible as possible. This can be done by providing a stable flow of orders, and by avoiding the imposition of excessive costs. To this end Member States should keep procedures as simple as possible and avoid undue delays in payment. Further, purchasing authorities can encourage specialization and product development. All these are valuable contributions to creating an environment for change.

26. For the will to change to be present, businesses have to be convinced that, by changing, they have a chance of gaining. The fear that competition will be ruthless and unfair and enforced to the benefit of others, or that market opening will be a one-way affair, tends to undermine the will to change. Therefore, while enforcing competition, it is necessary to be vigilant in watching for unfair and predatory practices, particularly by dominant suppliers and to be ready to take action against them. At the same time, the Commission will take account of any contribution to restructuring and to the situation of SMEs when weighing the Community interest in dealing with mergers.
27. Further, the convergence of taxation systems in the Single Market will help to make firms competitive, fostering co-operation between business in different Member States and easing the burden on SMEs.
28. The Commission is also sensitive to the importance of ensuring real access to alternative markets, not just within the Community, but also in third country markets. It will be active in watching for and seeking to remove such obstacles.

Making the most of potential strengths

29. In exploiting their potential, the Member States should in general adopt a horizontal approach. This could be focussed on four major categories of activity, each of which offers to potentially successful firms the opportunity to maximise their achievements. These are set out below.
30. The first category concerns measures which are intended to facilitate better cooperation between SMEs and between SMEs and larger enterprises. Better cooperation could be supported by the development of a smoother and more effective flow of information about companies. Specifically, intra-European cooperation networks could be developed to assist the firms concerned in finding appropriate partners. Better market information systems could help with the identification of opportunities, while the development of common sectoral terminologies would ensure a smoother flow of information between interested parties.
31. Second, measures which improve the managing and marketing performance of firms will help them exploit their opportunities. Thus deficiencies in administrative organisation, particularly in SMEs, may be overcome by measures which make special expertise available, for example in the area of software services. Making advice available on how to modernize the layout of plant or how to optimise the different stages in the production chain could help bring about improvements in the organisation of the production process. Assistance could also be provided to firms seeking to improve their marketing, for example in opening-up non-Community markets.

Third, measures could be developed to promote better adaptation of products to the needs of the market. In particular, an active research and development policy could aim at assisting firms to achieve the appropriate stage of technology. SMEs can, in particular, draw on funds made available under Community programmes and measures to aid SMEs with research and development. The promotion of pilot projects with high innovation risks and the encouragement of technology transfer would help. So would the exploitation, where possible, of the synergies between technological capabilities developed in non-public markets and those required for public procurement. Again, the Community's VALUE/SME programme already offers concrete aid to SMEs. Further, success in public markets requires not only an appropriate level of technology. High and sustained levels of quality can be a major asset for bidders. Help could be provided to firms who are ready to establish quality policies and who are seeking to adjust their production facilities to improve quality control. Likewise, help could be provided in organisation to meet European Standards.

33. Fourth, there is room for measures aimed at providing better training, not only in managing and marketing but also in meeting the specific needs of firms which are planning to work with foreign enterprises, whether as sub-contractors or in consortia.
34. Provided they are compatible with Community competition law and policy, such measures could be included in regional development plans with a view to receiving Community support. Further, measures to assist the modernization of major domestic suppliers are not precluded, providing they are justified on the basis of independent evaluation of long-term viability.

Speeding up diversification in heavily dependent regions

35. Overdependence of a region on particular sectors makes it more vulnerable. It also creates a potential obstacle to change, where change brings social costs. It is easier for sectors to face radical change where they do not, alone, determine the employment prospects of a region.
36. Measures addressed to providing aids to reconversion therefore have an important role to play in helping adjustment to the opening up of public procurement. Such measures, which may already be in place, could be aimed at:
 - (i) the establishment of new companies on former or new industrial sites;
 - (ii) the adaptation of commercial structures and prospection for new markets;
 - (iii) the evaluation, commercialization and industrialization of individual projects, the prospection of new industrial activities or non-public procurement applications, with information and advice on technological transformations required;

- (iv) the establishment or improvement of existing services necessary to achieving these objectives;
 - (v) training and professional reconversion of employees, including teaching basic literacy and numeracy where required and vocational training to anticipate the effects of industrial changes on employment (in accordance with Article 123 of the Treaty on European Union).
37. Accompanying social measures, such as classification of potentially redundant and redundant workers, funding for early retirement and redundancy payments, short-time working and mobility and integration grants for redundant workers seeking alternative employment should be developed by the Member States concerned

PREPARATION, MANAGEMENT AND FINANCING OF A PLAN OF MEASURES

38. The above paragraphs contain many suggestions as to appropriate measures. Turning these into plans for action is the responsibility of the Member States.
39. For its part, the Commission has already provided a number of actions in the area of the Structural Funds with a view to facilitating the type of measures which have been described. These provide for productive investment for job maintenance and job creation; and measures to support local potential including assistance towards services for SMEs. They can include market research and common services, transfer of technology, improvement of access to capital markets through the provision of guarantees, direct aid to investment and the provision of small scale infrastructure. Further, funds to the value of 1.45 BECU have been committed to assist in the development of infrastructures for transport, 1.72 BECU for telecommunications, and 2.86 BECU for energy infrastructure investments in the eligible regions. This has supported demand in the sectors most directly concerned.
40. In the immediate future, Member States with regions benefiting from assistance from the Structural Funds may, therefore, put forward proposals in the context of management of previously approved actions under the Community Support Frameworks. This will apply to any Community region eligible for Structural Funds support under Objectives 1, 2 or 5. Within the allocations provided for these countries, Member States can examine whether resources can be made available in the light of management of existing actions. Funds can be liberated where existing agreed actions are unlikely to be executed, or where the Member States concerned give a high enough priority to justify the transfer of funds to new commitments.

41. The Community Initiative PRISMA makes 100 MECU available to Objective No. 1 regions. It provides, inter alia, for the provision of information services related to public procurement, and the financing of technical assistance in following-up bids and extending co-operation between firms. It also provides for the payment of outside consultants' fees to adapt products and product processes to the Community quality standards and norms.
42. The Community initiative TELEMATICS provides 200 MECU which can be used to promote the use of advanced services by SMEs in Objective No. 1 regions. This includes the purchase of software and equipment for access to Community wide data bases, and to service bodies in the fields of advanced design, product compatibility and financial and stocks administration. The possibility also exists of creating networks of fast response between suppliers, producers and clients, permitting better programming of production in relation to demand.
43. The STRIDE initiative provides 400 MECU in Objective No. 1 and No. 2 regions, to encourage co-operation between research centres and SMEs. It can finance applied research on the development of new products for public procurement adapted to European standards and norms and the dissemination of the results of such research.
44. INTERREG provides 900 MECUs for assistance to certain border regions. It can contribute to any of the actions described where the development of transfrontier networks of co-operation may contribute to the solution of local industrial problems.
45. The EUROFORM programme provides 300 MECUs, inter alia, to assist in meeting educational and training needs induced by technological developments in SMEs and by the demands of the Single Market.
46. The European Social Fund also offers important possibilities for assistance to
 - training measures required for the use of new production or management techniques in SMEs;
 - vocational training measures with the relevant technology content required by technological change;
 - the encouragement of new employment possibilities, organized for persons who are threatened with unemployment within the context of restructuring requiring technical modernization or substantial changes in the production or management system.

47. The above paragraphs have described measures in place and the scope for additional national action in the short term. A new planning period for Structural Funds interventions begins in 1993 with the establishment of new Community Support Frameworks to take effect from 1 January 1994. This will create further opportunities, which will arise in the context of the Delors II package and enable Member States to reinforce or include measures in favour of the industries supplying the utilities sectors.