



# european community

# NEWS

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## EC RESPONDS TO U.S. SANCTIONS ON PROCUREMENT

Sir Leon Brittan, EC Commissioner for External Economic Affairs, today made the following statement after Mickey Kantor, US Trade Representative, announced sanctions against the European Community due to unresolved issues in telecommunications procurement:

"I greatly regret the US decision. In view of the progress we have made, notably on public procurement, it is neither justified, wise, nor necessary. I will of course consult immediately on the appropriate reaction from the Community. We are not going to allow this issue to delay or frustrate the progress we are making in the Uruguay Round, nor let it poison the atmosphere, but the US cannot expect us to ignore wholly unjustified action of this kind".

The sanctions will be published in the US Federal Register.

### BACKGROUND NOTE

#### DETAILS OF THE EC/US PARTIAL AGREEMENT ON PUBLIC PROCUREMENT

Sir Leon Brittan and Ambassador Mickey Kantor reached a partial agreement on April 22 which would guarantee US access to the EC's electrical equipment market but not to telecommunications, while the EC wins access to US federal electrical utilities, as well as eventual access to sub-federal contracts.

The prime concerns of the United States and the European Community are as follows: the US wishes to achieve full access to the EC's telecommunications and heavy electrical equipment markets, while the EC seeks to achieve access not only to America's telecommunications entities and its publicly owned electrical utilities sector but also to contracts which are predominantly managed at the sub-federal level, mainly the US states and municipalities, including transport and water.

An agreement on telecommunications equipment could not be finalized pending the outcome of negotiations on the opening of procurement markets at sub-federal level. However, a process has been agreed by both sides that should lead to such an agreement.

Nevertheless, the United States has decided to impose sanctions related to telecommunications procurement although they are substantially reduced compared to the original list of measures announced in the Federal Register. The EC's Council of Ministers will be free to decide how it reacts when it sees the eventual extent of the US sanctions.

The main points of the agreement:

Both sides agreed to:-

- Remove all remaining limitations to each other's companies bidding for contracts to supply goods, works and certain services to central government (US: Federal) agencies, known as 'Category A' agencies (this of course does not include utilities). This will open up a huge market for all forms of service provision to government. At present there is

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balanced access to each others' government agencies for most goods contracts, but not services and works. This should ensure that, for example, problems such as the US sonar mapping contract, which recently brought the EC and US into confrontation in a Gatt Panel, should be available without question to EC bidders.

The United States agreed to:-

- Remove all restrictions against EC bids for tenders by the five publicly owned federal electrical utilities, plus the Tennessee Valley Authority. A large part of the US market for electrical utilities is in the private sector, and is already open to EC bidders.
- Set in train a process which will lead to the eventual elimination of 'Buy American' provisions carried out at sub-federal level. The US Administration will therefore approach the governors of all 50 states about the withdrawal of 'Buy American'. 33 of these have already expressed a general willingness to consider removing such restrictions, but these need firming up into genuine commitments. The other 17 will be asked by the Administration to join the same process.

The US Administration will also approach the largest US municipalities (with a population of over half a million) to make the same commitments including entities operating in or serving these municipalities.

This is crucial for the Community, as most of America's tenders for contracts in ports, airports, urban transport and water supplies are let out by the state and municipal authorities rather than the federal government (examples include the modernisation and extension of airports, the dredging and extension of ports, the building of highways, the building of metro systems and rapid transit railways, the construction of dams and the purchase of school buses. All these contracts are currently effectively closed to EC companies as a result of state or federal Buy American provisions which make federal funding conditional on Buy American curbs being attached to the tendering process.

This therefore marks the beginning of a process to remove 60 years of discrimination since Buy American laws came into force.

The EC agreed to:-

- Disapply Article 29 of the EC Utilities Directive to US companies in the electrical equipment sector. The final decision rests with the Council of Ministers, which would act on a proposal from the Commission.

Both sides will also launch a joint, independent study to ensure that greater access to both EC and US procurement markets could be achieved in the future in a balanced way. The terms of reference of this study have been agreed in advance, and will guarantee that relative access is measured in both qualitative and quantitative terms. The study will be jointly funded. The study will carry matters forward in two ways. First, in the light of its findings, the US Administration will introduce legislation binding the states and municipalities into commitments on revoking Buy American provisions. Second, the results of the study will act as a yardstick by which negotiations can continue on the opening up of sectors not covered by this agreement.

Either the US or the EC may revoke the agreement after one year if they consider that not enough progress has been made, for example on sub-federal commitments.

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