

EUROPEAN UNION

States. In a further development, the Commission has proposed a package of reforms to procurement legislation that includes a formal exemption of the entire telecommunications sector from the Utilities Directive. These new Directives are expected to be approved by the end of 2002.

Member State Practices

Some EU Member States have their own national practices regarding government procurement. A brief discussion of some of the national practices of particular concern to the United States follows:

Austria: Austria is party to the WTO Government Procurement Agreement and amended its Federal Procurement Law (FPL) in 1997 to bring it in line with EU regulations. The nine Austrian provinces have also amended their provincial procurement laws. The Austrian Parliament has called on the Federal and provincial governments to unify procurement laws by August 2002. U.S. firms have reported experiencing a strong pro-EU bias, particularly in defense contracts, and offset agreements are common in the defense sector. Nonetheless, U.S. helicopter maker Sikorsky won a major procurement contract in 2000. The USG is closely monitoring for transparency a current fighter plane procurement in which a U.S. firm is participating under a Foreign Military Sales (FMS) program.

France: A U.S. software company alleges that French government agencies have refused to renew contracts with the firm because of the management's relationship to Scientology. The United States has raised this matter with French government officials.

Germany: In September 1998, the German Ministry of Economics promulgated a "protection clause" that would have prohibited firms from bidding on certain German government contracts if they have employees that attend or participate in, among other things, Scientology seminars. The

United States expressed concern in bilateral consultations about the clause's potentially discriminatory effects on government procurement. In response, the German government revised its "protection clause" and no longer prohibits firms from competing for government contracts on the basis of the affiliation of its management or employees with the Church of Scientology. The Administration will continue to monitor the implementation of the revised policy to ensure that U.S. firms and workers are not discriminated against in German government procurement.

Greece: U.S. suppliers of defense material and services express concern that firms from other EU Member States are favored over U.S. firms in competitions for procurement contracts. U.S. firms that compete jointly with EU partner firms believe they are more likely to win defense procurement agreements. Greece continues to insist on offset agreements as a condition for the purchase of defense items.

Italy: Italy's fragmented and often non-transparent government procurement practices have, at times, created obstacles to U.S. firms' participation in Italian government procurement. Italy has made progress in making its procurement laws and regulations more transparent and has updated its government procurement code to implement EU Directives. The pressure to reduce government expenditures while increasing efficiency has resulted in increased use of competitive procurement procedures and somewhat greater emphasis on obtaining the best value in its procurement. Italy was receptive in 2001 to the U.S. Government's suggestion that some government tender practices have tended to disadvantage market entrants lacking the capacity to bundle services to parallel those offered by incumbents. In one instance, Italy cancelled an outstanding tender to allow reconsideration of selection criteria. Wider use of more competitive procedures, along with extreme care taken by