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THE DEAL ON PROCUREMENT

Dunell

The deal consists of 2 steps: measures to be taken now; and a process leading to a larger deal in a year's time.

The main elements are:

STEP 1 - MEASURES TO BE TAKEN NOW

1. For central government entities ("A" entities) of both the US and the EC, coverage of:

- goods (threshold 130.000 SDR)
- services, (threshold 130.000 SDR)
- works (threshold 4.5 mio SDR).

N.B. EC business would acquire new access to contracts with a value around 20 billion \$, through the coverage of major new US entities (Department of Transport, Department of Energy, US Corps of Engineers) and of important service and works contracts, which are not presently covered under the GATT Government Procurement Agreement. It would involve the elimination of significant Buy American requirements.

2. The US will waive Buy American restrictions for the 6 federally owned electric utilities (Tennessee Valley Authority, Bonneville Power Administration and 4 others).

N.B. This is an important step, eliminating a significant trade obstacle covering 8-10% of the US electric utility market, where EC firms are very competitive. Of the remainder, the greater part is privately owned and successfully penetrated by EC bidders. The small entities which constitute the remainder, are owned by sub-federal bodies. They are not, for the moment, the subject of complaint by EC bidders. It is also an important step for the direction in which it points. (See also point 4 below).

3. The US will launch a credible procedure to bring state, big municipal [and sub-state utility] entities into a final procurement deal. (The EC has requested sub-state utilities, US has still to agree). The US has also agreed to consider ways in which the imposition, by the Congress, of Buy American requirements on federally funded programmes could be stopped and rolled back.

N.B. This is the most credible US commitment on sub-federal entities so far obtained. It is the first time that they have agreed to the coverage of big municipalities or to consider the problem of Buy American measures imposed through federally funded programmes. It is also an important step for the process of the Uruguay Round.

4. The EC will suspend the application of Article 29 against US bidders in the electrical power sector for one year. This provision will lapse automatically unless agreement is reached before that date.

N.B. The main growth market in the EC electrical sector is in east Germany, for combined cycle power plants, based on gas turbine technology, fed by Russian gas. The market leader is European Gas Turbines, a joint venture majority owned by GEC Alsthom, with minority participation by GE, but using GE technology. The waiving of Article 29 is unlikely to change this situation, the more so as Germany does not at present apply Article 29 and it will take considerable time to compel them to do so.

5. The EC and the US will launch a study on the procurement opportunities which would result from their respective offers and requests. This should be finalized by 31 January 1994. It will be used to help assess the balance of the final deal.

6. The US will reduce its sanctions "commensurately", in view of the resolution of their problem with the effect of Article 29 on the electrical power sector.

The EC has fully reserved its rights to retaliate.

N.B. The US will announce today in the Federal Register its decision in principle to apply Title VII sanctions to the EC for maintaining Article 29 on telecoms. The precise content of the new sanctions will be published later. Most of the sanctions previously proposed will be eliminated by the agreement on A entities.

STEP 2 - AGREEMENT IN EARLY 1994

7. An agreement will be negotiated early in 1994. This should include the elements of the initial agreement, telecoms and whatever coverage can be obtained on the sub-federal level as a result of the process described under 3.

N.B. Until the final agreement is concluded, Article 29 will continue to be applied by the EC to telecoms, transport and water. In the event that no agreement is reached, Article 29 would be restored for the electrical sector.

The process described under 3 creates the possibility for a serious negotiation to take place. The lobbyists for a telecoms deal have every interest to help persuade the US sub-federal entities to participate in the agreement. The potential new trading opportunities from such a deal, over and above those described under 1 and 2, are very large indeed. Most of the sub-federal entities, including the transport and water entities, are at present subject to Buy American measures.

THE FORM AND THE TIMING OF THE AGREEMENT

The initial agreement will consist of an MOU and a side-letter describing the process referred to under 3. The MOU will be limited to one year and will automatically expire.

We will suggest that texts are finalised next week, with a view to the Commission being in a position to submit proposals to Council in early May.

The final agreement should be negotiated in early 1994, before the expiry of the initial agreement. In order to avoid difficulties with third parties, we want this to be a bilateral EC-US agreement. As much as possible of this agreement could then be multilateralised. The US has still to agree to this, but it should not pose too big a problem.

D.M. White

22 April 1993

ANNEX

EC-US trade : industrial background to equipment suppliers of the electrical utilities

As a general rule, 50% of contract value in the electrical sector goes on boilers, turbines and generators. The remainder goes on cables, switches, transformers etc.

Following recent restructurings, there are four major EC suppliers in the field:

- GEC Alsthom has obtained some 8% of the US market for steam turbines and generators; this is supplied by exports from plants in France;
- Siemens has also achieved penetration of the US market, using its important capacity in the US - Alice Chalmers turbines, ex-Westinghouse transmission equipment, employing 30.000 in all. The extent of its exports from Europe is less clear;
- ABB has significant penetration of the US market, where it is now second only to GE. It has achieved this position by very heavy investment in the US, notably by its purchase of Combustion Engineering, the leading US boiler supplier which employs 40.000. Further, Sweden achieved suspension of Buy America provisions covering the public electrical utilities, giving Asea privileged access;
- Ansaldo has not sought to penetrate the US market. It is technologically dependent on ABB.

The US formerly had two major suppliers:

- General Electric. Although GE has had no success in winning contracts in the EC directly, it has had considerable success in joint venture and technology licensing. Thus its joint venture with GEC Alsthom, European Gas Turbines (EGT), manufactures gas turbines in Europe using GE technology. Since gas turbine technology is essential for the growth market which is combined cycled generation, this gives GE a significant stake in the EC. EGT is said to be winning around 50% of the current contracts and to be the technological leader in the sector. The fact that GEC Alsthom does not export gas turbines to the US is due to its technological dependency on GE in this field.
GE also licenses gas turbine technology to Ansaldo, Nuovo Piloni, AEG, Thomassen (NED) and John Brown (UK). More recently, it has entered into joint ventures for the supply of steam turbines with Blohm & Voess and Elin.

- Westinghouse. The depressed US market and misplaced attachment to nuclear generation led Westinghouse to try and divest itself of its heavy electrical activities. Siemens purchased its cable, switching and transformer activities, but Westinghouse was unable to dispose of its turbine and generator capacity. It has technology licensing in the EC, notably in gas turbines with FIAT.

In summary, there is important EC penetration of the US private sector market, although Buy Americas in the federally owned public sector have undoubtedly caused problems. Although a significant part of the penetration is connected with implantation by Siemens and ABB, the most successful vendor of European manufactured products appears to be GEC Alsthom.

The east German gas turbine market is the main growth element in the EC.

The US market is expected to be buoyant, relative to a depressed world market, in the later 1990s due to extensive delayed replacement.