

# COMMISSION OF THE EUROPEAN COMMUNITIES

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## REPORT FROM THE COMMISSION TO THE COUNCIL

on measures taken or proposed in order to improve the terms of  
competition for participation in EDF-financed contracts

(Report presented in accordance with Article 144 of the  
Financial Regulation applicable to the fourth EDF)

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In its interim report on the distribution among Member States of EDF-financed contracts, forwarded to the Permanent Representatives Committee (COREPER) on 19 March 1980, the Council ACP-FIN Working Party described the progress it had made in seeking practical improvements to the terms of competition between firms of the Nine in view of the low rate of participation recorded for certain nationalities. This report was approved by the COREPER on 17 April.

Among the measures suggested, which had already been unanimously approved by all the delegations, was a request that the Commission present, in addition to its annual general report on the outcome of invitations to tender, an ad hoc report, based on Article 43 of the Financial Regulation applicable to the fourth EDF, on the measures that the Commission has taken or proposes to take in order to improve the terms of competition for participation in invitations to tender issued for EDF projects.

In response to the wishes of the Member States, the Commission is presenting this report to the Council. It deals with the six measures on which there was unanimous agreement within the Council and which are concerned with informing firms direct or with informing the Member States or ACP States. The following pages describe the progress made in implementing each of these measures.

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I. Information bulletin on projects financed by the Community

1. This measure is a major innovation in the system of information on development schemes financed by the Community.

Up to now, information on projects financed by the Community has been published in the Official Journal of the European Communities at two stages in the procedure: following the financing decision and at the moment the invitation to tender is issued (notice of invitation to tender).

The new arrangements resulting from the Council's deliberations aim to give a progress report on the projects before they reach implementation, by producing information from the earliest stage (identification) and updating it as and when the successive stages in the life of the project are reached: appraisal, presentation for financing, financing decision, implementation.

The Commission shares the Member States' view that this new flow of information should help encourage more competition among firms tendering for contracts since the information on the initial stages of the procedure is a valuable source of knowledge for such firms, particularly in helping them plan their medium- and long-term industrial and commercial strategies. At the same time, the fact that more information is available means that the administration of development aid funds becomes more transparent.

2. It should be stressed that this expanded information system has not been put into practice simply by changing the form of the existing information system.

- (a) In order to gather the information it was necessary to standardize and centralize the data, given the variety of factors to be taken into consideration and the diversity of the departments responsible for preparing development schemes.

To this end, two measures were taken:

- i. instructions were given to spread the use of the "project card", giving the essentials, in standardized form, of the proposed development schemes and the progress made on the corresponding dossiers;
  - ii. a grade B official has been given the full-time task of summarizing the data provided on the basis of the centralized project cards. Although certain delegations felt, as was stated in the report to the COREPER, that there should not be any connection between the problems of substance and the Commission's staffing problems, the Commission would emphasize that this internal administrative measure, taken because of the high priority accorded by the Member States to information matters, has been possible only to the disadvantage of the work in which the official concerned was engaged previously.
- (b) With regard to the channel for disseminating the new type of information it is producing, the Commission has had to abandon its original plan to publish an independent monthly bulletin.

This idea ran into too many procedural difficulties, which would have delayed the implementation of this first measure for improving the conditions of competition and would in any case have restricted the

freedom of action of the departments responsible for gathering and producing the information.

The Commission therefore decided to use instead an existing medium of information specializing in development matters. Accordingly, it turned to the advantages offered by "The Courier", an ACP-EEC review which is a valuable source of information on activity under the Lomé Convention and already publishes, inter alia, announcements on behalf of the Centre for Industrial Development. The fact that this periodical is published only every two months is not a disadvantage from the standpoint of providing information on development schemes, since there is rarely a sudden change of tempo as the various stages of a project go ahead and, in addition, the information to be provided will relate wherever possible to the future (advance notice of presentation for financing, of the issue of invitations to tender, and so on); furthermore, the central data bank of project cards will make it possible to keep track of the latest developments in a project right up to the eve of publication.

As a result of the Commission's action, "The Courier" will carry a new section entitled "Operational summary of EEC-financed development schemes". This summary will cover all development schemes financed from Community resources, not only EDF-financed projects in the ACP States and the OCT but also operations in the Mediterranean countries (Maghreb and Mashreq) and in the non-associated developing countries.

The inclusion of a new section has also meant that the circulation of "The Courier" has had to be substantially increased for the specific

aim of providing information on projects: in this connection it was decided to include in the magazine's mailing list all the consultancy firms registered on the central files of the Directorate-General for Development and all the firms which have previously at some time sent in bids in response to invitations to tender issued for operations financed by the Community and which could still be traced by the Commission. It should be pointed out that this expansion of "The Courier's" circulation amounts to nearly 5 000 new addresses, and the Commission would of course welcome any new request from interested business firms for inclusion on the mailing list.

The new section will make its first appearance in the November-December issue of "The Courier" this year. It deals with 153 projects.

II. Publication of notices of invitation to tender in the review  
"Development Forum"

1. This step was devised as a useful back-up to the publication of notices of invitation to tender in the Official Journal of the European Communities, in view of the international audience reached by the above information bulletin, which is published fortnightly by the United Nations.

The Commission hopes by this means to reach a wider public, beyond the circle of subscribers to the Official Journal, among those familiar with projects financed by the World Bank, the Asian Development Bank, and so on, and thus to arouse greater interest in Community-financed contracts among potential tenderers.

2. In order to implement this measure, it was necessary to come to an agreement with the UN. As a result, since July 1980 all notices of invitations to tender relating to EEC-financed projects in the developing countries have been sent to the UN Office in Geneva. The first notices appeared in the issue of "Development Forum" which was published on 18 August.

III. Quarterly notification of statistics relating to contracts

1. Hitherto the Commission has supplied the Member States each year with statistics on contracts in two ways:

- i. officially, in its annual report to the Council, pursuant to Article 43 of the Financial Regulation (fourth EDF), on the results of invitations to tender: these statistics relate to results as at 31 December of the year in question;
- ii. more informally, the Commission has developed the practice of supplying the members of the ACP/FIN Working Party with statistical tables relating to the results as compiled up to 30 June of the current year.

2. The Council has asked the Commission to start making quarterly returns of statistics on commitments relating to works or supply contracts and technical cooperation contracts, so as to provide an up-to-date picture of the distribution of contracts among the Member States.

The Commission is aware of the importance attached to the regular monitoring of these statistics and will ensure that the request is complied with by presenting an initial report on the situation as at 30 September 1980 with regard to contracts financed by the EDF. It is also gathering information for a similar system dealing with the results of operations financed in the Mediterranean countries and the non-associated developing countries, although here the data are at present much more sparse than those relating to the EDF.



IV. Publication in the Official Journal of a weekly summary of current invitations to tender

1. The purpose of this is to supplement the present practice of publishing notices of invitation to tender as and when they are issued, by supplying a weekly table summarizing the situation of procedures which have been opened, including the following details: serial number, countries or regions concerned, a brief description of the services to be provided, final dates, and so on. The advantage of such an arrangement would be to provide at frequent intervals a complete picture of the invitations to tender which are being presented at a given date<sup>1</sup>, thus providing the firms interested with the latest information on the progress of procedures and perhaps giving them the opportunity to participate in an invitation to tender whose publication they had missed.

2. While considering that well-organized firms or national bodies representing branches of business or industry should be perfectly capable of keeping track of developments for themselves the Commission agreed to increase its information effort on the lines suggested. It wishes to point out, however, that as with any publication in the six official languages of the Community, there are a number of technical difficulties to be overcome before such a measure can be implemented. In addition, given the limited number of staff at its disposal for carrying out this type of work, the Commission considered that priority should be given to launching the operational summary of development schemes (see point I). Nevertheless, it would be reasonable to expect that the weekly summary will be in operation early in 1981.

V. Updating of the programme of contracts under the fourth EDF

The first version of this "programme", which consists of an advance timetable for the issue of invitations to tender, broken down by ACP State, was published in February 1977 and was subsequently updated

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<sup>1</sup> It will be recalled that under the rules for Community-financed operations the time allowed for submitting tenders is normally two months for supply contracts and four months for works contracts.

to 1 January 1978.

As requested by the Council, the Commission has updated this document. This new version, which is based on knowledge of projects up to and including 1 July 1980, covers the 1980/81-1983 period.

The document was sent to the Council Secretariat early in November 1980.

VI. Keeping the recipient countries informed via the Commission Delegates of what the Member States' firms, notably those without on-the-spot representation, can offer in the context of mutual agreement contracts

1. As it became apparent that in the case of mutual agreement contracts - which, while not excluding any form of competition, leave the contracting authority with a great deal of freedom in the selection of the contractor - the ACP States' authorities tended to consult a limited circle of firms known to them to some degree, certain Member States' delegations expressed the wish to see wider consultation. One of the solutions advocated in this connection was that the Commission Delegates should be requested to keep the national authorities of the recipient countries informed of what the Member States' firms other than those represented on the spot had to offer. This question was raised with particular reference to Danish, Irish and Luxembourg firms, for which the difficulties involved in being represented on the spot are far greater.

2. The Commission agreed to consider action of this kind. It wishes to point out, however, that in its view the Delegates have only a general information mission in this connection.

To give practical effect to this approach, a circular to all Delegates is in course of preparation. It will accompany brochures containing information on the internal markets of Denmark, Ireland and Luxembourg and this information will be made available to the ACP States' national authorities at the Commission Delegations. This action will, moreover,

fall within the general context of the Council's work on improving conditions of competition: the aim of the circular is to give an account of the various measures implemented to that end, in the same way that this report has done, though the Commission felt that the information should go to the Council first.

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Without wishing to anticipate future work by the Council, the Commission would stress that some of the matters referred to in point III of the interim Report to the Permanent Representatives Committee have already received attention from the Commission departments.

With regard to the updating of the brochure on access to contracts, in particular, the Commission would inform the Council that the new edition is at present being printed and should be available to the public towards the beginning of the year.

Similarly, the Commission has already received a number of suggestions from some Member States' Delegations concerning the next edition of the Manual of Instructions for Delegates and on the role to be played by Delegates in ensuring equal opportunity of access to EDF-financed contracts. Although some of the proposals made call for careful consideration - in the light of course of detailed discussion with all the Council Delegations - the Commission would emphasize its openness to any suggestion for improving local conditions of competition among firms, provided that the flexibility which is essential for the Delegates' activity is safeguarded.

