COUNCIL DECISION (EU) 2018/1536

of 9 October 2018

establishing the position to be taken on behalf of the European Union within the Committee on Government Procurement on the accession of Australia to the Revised Agreement on Government Procurement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) On 2 June 2015, Australia applied for accession to the Revised Agreement on Government Procurement ('the Revised GPA').

(2) Australia's commitments on coverage are laid down in its final offer, as submitted to the Parties to the Revised GPA ('the Parties') on 7 March 2018.

(3) Although comprehensive, the offer by Australia does not provide full coverage. It is thus appropriate to introduce certain carve-outs specific to Australia to Union coverage. These specific carve-outs, as reflected in the Attachment to this Decision, will become part of the terms of accession to the Revised GPA for Australia and will be reflected in the decision adopted by the Committee on Government Procurement ('the GPA Committee') on Australia's accession.

(4) Australia's accession to the Revised GPA is expected to make a positive contribution to further opening of public procurement markets internationally.

(5) Article XXII(2) of the Revised GPA provides that any Member of the WTO may accede to the Revised GPA on terms to be agreed between that Member and the Parties, with such terms stated in a decision of the GPA Committee.

(6) It is therefore appropriate to establish the position to be taken on behalf of the Union within the GPA Committee in relation to the accession of Australia,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the Union within the Committee on Government Procurement shall be to approve the accession of Australia to the Revised Agreement on Government Procurement, subject to the specific terms of accession set out in the Attachment to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Luxembourg, 9 October 2018.

For the Council
The President
E. KÖSTINGER

Attachment

EU TERMS OF AUSTRALIA'S ACCESSION TO THE GPA

Upon Australia's accession to the Agreement on Government Procurement:

— point 3 of section 2 ('The Central Government contracting authorities of the EU Member States') of Annex 1 to Appendix I Commitments of the European Union shall read as follows:

'3. For the goods, services, suppliers and service providers of the United States; Canada; Japan; Hong Kong, China; Singapore; Korea; Armenia; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, New Zealand and Australia, procurement by the following central government contracting authorities, provided they are not marked by an asterisk.'

— Note 2 of the Notes to Annex 1 to Appendix I Commitments of the European Union shall be modified as follows:

'2. The provisions of Article XVIII shall not apply to suppliers and service providers of Japan, Korea, US and Australia in contesting the award of contracts to a supplier or service provider of Parties other than those mentioned, which are small or medium sized enterprises under the relevant provisions of EU law, until such time as the EU accepts that they no longer operate discriminatory measures in favour of certain domestic small and minority businesses.'

Upon Australia's accession to the Agreement on Government Procurement:

— Note 1 of the Notes to Annex 2 to Appendix I Commitments of the European Union shall include the following points after the point (g):

'(h) procurement by regional and local contracting authorities (contracting authorities of administrative units listed under NUTS 2 and 3 and smaller administrative units, as referred to in Regulation (EC) No 1059/2003 (as amended)) in regard of goods, services, suppliers and service providers from Australia;

(i) procurement between 200 000 SDR and 355 000 SDR by regional contracting authorities and between 200 000 SDR and 400 000 SDR for bodies governed by public law covered under this Annex of goods and services for suppliers and service providers from Australia;

(j) procurement by procuring entities covered under this Annex of:

i motor vehicles, as described in the Chapters of the Combined Nomenclature (CN) specified below:

8702 Motor vehicles for the transport of ten or more persons, including the driver

8703 Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars

8704 Motor vehicles for the transport of goods

8705 Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological units)

8711 Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side cars

8713 Carriages for disabled persons, whether or not motorised or otherwise mechanically propelled

ii components for motor vehicles, as described in the Chapters of the Combined Nomenclature (CN) specified below:

8706 00 Chassis fitted with engines, for the motor vehicles of headings 8701 to 8705

8707 Bodies (including cabs), for the motor vehicles of headings 8701 to 8705

8708 Parts and accessories of the motor vehicles of headings 8701 to 8705

8714 Parts and accessories of vehicles of headings 8711 to 8713

8716 Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof

in regard of suppliers and service providers from Australia.'

— Note 2 of the Notes to Annex 2 to Appendix I Commitments of the European Union shall be modified as follows:

'(2) The provisions of Article XVIII shall not apply to suppliers and service providers of Japan, Korea, US and Australia in contesting the award of contracts to a supplier or service provider of Parties other than those mentioned, which are small or medium sized enterprises under the relevant provisions of EU law, until such time as the EU accepts that they no longer operate discriminatory measures in favour of certain domestic small and minority businesses.'

Upon Australia's accession to the Agreement on Government Procurement Note 6 of the Notes to Annex 3 to Appendix I Commitments of the European Union shall include the following points after the point (r):

'(s) procurement by procuring entities operating in the fields of:

i production, transport or distribution of drinking water covered under this Annex;

ii production, transport or distribution of electricity covered under this Annex;

iii airport facilities covered under this Annex;

iv maritime or inland port or other terminal facilities covered under this Annex;

v urban railway, tramway, trolley bus or bus services covered under this Annex; and

vi transport by railways covered under this Annex;

in regard of supplies, services, suppliers and service providers from Australia.'