



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL DECISION

concerning the notification to the Republic of Korea of the withdrawal of the European Community from the Agreement on telecommunications procurement between the European Community and the Republic of Korea

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Agreement on telecommunications procurement between the European Community and the Republic of Korea signed in Brussels and Korea on 29 October 1997¹ and in force since 1 November 1997 provides transparent and non-discriminatory reciprocal access to the procurement contracts of certain named telecommunications operators (TOs). In accordance with its provisions, upon liberalisation of the European telecommunications market, European TOs are no longer subject to the agreement, as they have been excluded from the procurement regime.

Representatives of the Korean Government requested in 2002 to exclude KT (Korea Telecom) from the scope of the EC – Korea Agreement on Telecommunications Procurement. This request was the consequence of the privatisation process and the Korean claim that a similar level of liberalisation to the EC has been achieved and that KT should not remain subject to the agreement.

The Korean Mission in Brussels has recently confirmed that they are urgently seeking the termination of the bilateral agreement, preferably on the basis of mutual consent, alternatively on a unilateral basis.

Furthermore, the Korean Government requested the withdrawal of KT from the list of entities covered by the WTO Agreement on Government Procurement (GPA). Although the EC initially objected to this request, the EC finally withdrew its objection in September 2003, accepting *de facto* that the degree of liberalisation and competition as well as the absence of government control or influence was sufficient to agree to the withdrawal of KT from the GPA.

EU industry, represented by the main telecommunications suppliers based in Korea have been consulted on the expiry of the EC-Korea Telecommunications Procurement Agreement and welcome a dialogue on Information Technology (IT) as suggested by Korea.

The Korean side has indicated that they would like to keep a dialogue with the EC and set up a Korea-EU IT dialogue. This could possibly be done in the context of the EU-Korea Framework Agreement.

The Commission should therefore consider that maintaining the bilateral agreement is not justified and the EC should respond positively to the Korean request to terminate the Agreement.

The Commission therefore is hereby requested to adopt this proposal for a Council Decision to be submitted to the Council which would allow the notification of the unilateral withdrawal from the bilateral agreement. This procedure contained in the agreement itself is the most appropriate way to withdraw from the agreement. Considering that Korea requested first to terminate the Agreement by mutual consent and expressed the desire to avoid unilateral withdrawal, it seems more appropriate for the Commission to respond to the Korean request through the mechanism settled in the Agreement while inviting the Government of Korea to exchange a similar notification.

¹ OJ L 321, 22.11.1997 p. 32.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with the first sentence of Article 300 thereof,

Having regard to paragraph 5 of Article 8 of the Agreement on telecommunications procurement between the European Community and the Republic of Korea² as adopted by Council Decision 97/784/EC of 22 April 1997³,

Having regard to the proposal from the Commission,⁴

Whereas:

- (1) Pursuant to paragraph 5 of Article 8 of the Agreement on telecommunications procurement between the European Community and the Republic of Korea either Party may withdraw from the Agreement by notifying the other party.
- (2) The Agreement on telecommunications procurement between the European Community and the Republic of Korea, has, with the withdrawal of the Community telecommunications operators, the liberalisation of the Korean telecommunications market and the privatisation of Korea Telecom become devoid of purpose.
- (3) The Republic of Korea also considers that the Agreement on telecommunications procurement between the European Community and the Republic of Korea has become devoid of purpose.
- (4) It is appropriate that the European Community should withdraw from the Agreement on telecommunications procurement between the European Community and the Republic of Korea.
- (5) The Council should authorise the Commission to notify the withdrawal from the Agreement.

² OJ L 321, 22.11.1997 p. 32.

³ OJ L 321, 22.11.1997 p. 30.

⁴ OJ C [...] [...], p. [...]

- (6) The Agreement in the form of a memorandum of understanding concerning the procurement of private telecommunications operators between the European Community and the Republic of Korea⁵ should be maintained,

HAS DECIDED AS FOLLOWS:

Article 1

The European Community hereby withdraws from the Agreement on telecommunications procurement between the European Community and the Republic of Korea.

Article 2

The President of the Council is hereby authorised to designate the person empowered to notify the Republic of Korea.

Done at Brussels, [...]

For the Council
The President
[...]

⁵ OJ L 321, 22.11.1997 p. 41.