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COMMISSION DECISION

of 24 March 2009

on approving the Australian request for reciprocal access in Asia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006¹ establishing a financing instrument for development cooperation, and in particular Article 31.2 thereof;

Whereas:

- (1) Untying of aid is one of the main priority areas for increasing aid efficiency. In the Third High Level Forum, held in Accra in September 2008, donors were encouraged to fully untie their aid and to accelerate the implementation of the Paris Declaration on Aid Effectiveness of 2 March 2005. The Council Conclusions of May 2008 stated that the EU will promote further untying of aid, going beyond existing OECD recommendations (2001 OECD/OECD/DAC recommendation on untying aid to Least Developed Countries (LDCs)).
- (2) Australia, together with the other non-EU and non-EEA members of the OECD DAC, is automatically eligible for LDC ODA-financed contracts under Regulation EC n°1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing an instrument for development cooperation ("DCI"). Australia may be eligible for all external aid contracts financed under this instrument (including to non-LDC ODA contracts), provided that it obtains reciprocal access on the basis of a Decision by the Commission.
- (3) Australia has formally requested to obtain reciprocal access to procurement contracts (services, supplies and works) financed by the Community external aid in Asia². Its request does not cover grants.
- (4) The Commission has examined the information provided by AusAID and further analysed the results of consultation of relevant recipient countries, together with additional elements reported by the European Commission Delegations in those countries, with a view to determining whether the untying of Australia's external aid is actual and effective and comparing the level of external aid provided by the

¹ OJUE L 378, 27.12.2006, p. 41

² Afghanistan, Bangladesh, Bhutan, Cambodia, China, India, Indonesia, Korea Democratic Republic, Laos, Malaysia, Maldives, Mongolia, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka, Thailand, Vietnam.

Community and Australia, on a sectoral or geographical level, taking into account qualitative and quantitative aspects.

- (5) This analysis demonstrates that the Australian overseas aid program has been untied since April 2006, except for the Australia-Indonesia Partnership for Reconstruction and Development ("AIPRD"), an AUD 1 billion six-year partnership between the Governments of Australia and Indonesia, set up in 2005 in response to the earthquake tsunamis of December 2004, which is restricted to Australian, Indonesian and New Zealand companies. AIPRD projects are due to be completed by 2011 and AIPRD arrangements would be superseded by a new untied Indonesia-Australia Aid Strategy. At this time, therefore, Australia cannot be granted reciprocal access to Community external aid procurement contracts in Indonesia. When the Commission is notified by the Australian authorities that ongoing AIPRD-funded programs are duly completed and superseded by a new untied Indonesia-Australia Aid Strategy, then the present Decision might be amended and/or renewed in order to grant Australia reciprocal access to EC procurement contracts also in Indonesia, after having verified, through the consultation of the relevant recipient country, that the other conditions for granting reciprocal access to Australia in Indonesia are met.
- (6) The total value of Community external aid to the relevant Asian countries for the years 2005 and 2006 is almost double the value of Australian external aid in those countries for the same period. Except in Indonesia, where the amount of Australian external aid is significantly higher than Community external aid, while in several other countries (Cambodia, the Philippines, Sri Lanka and Viet Nam), the amount of Australian external aid is relatively high, compared to Community external aid.
- (7) Pursuant to the information reported by the recipient countries and European Commission Delegations, the Commission considers that granting Australia reciprocal access to Community external aid to these countries would enhance competition between companies, to the benefit of recipient countries and therefore help in enhancing ownership and facilitating national capacity development in those recipient countries, in line with the objectives of the Paris Declaration on Aid Effectiveness and the Third High Level Forum in Accra.
- (8) The measures provided for in this Decision are in accordance with the opinion of the DCI Committee set up under Article 35 of Regulation (EC) No 1905/2006.

HAS DECIDED AS FOLLOWS:

Sole Article

Australia is hereby granted reciprocal access to Community procurement contracts (excluding grants) financed under the geographic programmes as defined in Article 5 of the DCI, for a period of three years as from the date of the present Decision, for the following countries: Afghanistan, Bangladesh, Bhutan, Cambodia, China, India, Korea Democratic Republic, Laos, Malaysia, Maldives, Mongolia, Myanmar, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand and Vietnam. This Decision will also apply to the origin of the supplies and material purchased under a procurement contract financed under the geographical programmes foreseen in the DCI.

Done at Brussels, 24 March 2009

For the Commission

[...]

Member of the Commission