

In addition, several member States set up sector-specific demand support. At least 12 member States (Austria, Denmark, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal, Slovakia, Sweden, and the United Kingdom) introduced temporary "scrapping schemes" that provided consumer subsidies for replacing old, energy-inefficient vehicles. The total cost of these programmes in 2009-10 ranged from €10 million in Luxembourg to €5.8 billion in Germany.

Following the introduction of scrapping schemes, new car registrations increased in the EU in early 2009, with substantial increases in Austria, Germany, Italy, Portugal, Slovakia, and the United Kingdom. In addition, production in sectors related to the automobile industry registered increases during the first eight months of 2009, particularly in Germany. There is some evidence that scrapping schemes had cross-border spillover effects. For example, German imports of cars increased significantly during the first half of 2009, particularly from France, Italy, Romania, and Slovakia.

The European Commission indicates that the extent of aid received by the automotive sector appears to be linked to the perceived importance of this sector in the economy at large. The sector's size in terms of value added, although relatively small for the EU as a whole (1.5% of EU GDP), is significant for some member States, including the Czech Republic and Germany, where it is almost 4% of national GDP. In many car-producing countries, including Hungary, Slovakia, and Spain, a large share of output is exported.

There were concerns about possible conditions attached to some supply-side measures. For example, during the Pacte Automobile's signing ceremony, the President of France stated that Renault and PSA had undertaken a very important commitment not to close any of their sites for the duration of their loans, and to make every effort to avoid layoffs. Following discussions with the Commission on these loans, the French authorities formally undertook to ensure that the loan agreements would not contain any conditions concerning "either the location of [the car manufacturers'] activities or the requirement to prioritize France-based suppliers". According to the Commission, a similar issue was raised in the context of state aid that Germany intended to grant to another car manufacturer, Adam Opel GmbH, under an approved temporary framework scheme related to the sale by General Motors of its Opel/Vauxhall European operations to an investor. General Motors eventually reversed its decision to sell Opel.

Source: European Commission (2010), Product Market Review 2009: Microeconomic consequences of the crisis and implications for recovery, European Economy 11/2009; European Commission document SEC(2010) 1462, Facts and figures on State aid in the Member States Accompanying the Report from the Commission (State Aid Scoreboard, Autumn 2010 Update), 1 December 2010; European Commission press release MEMO/09/90, "State aids: the Commission obtains guarantees from the French government on the absence of protectionist measures in the French plan for aid to the automotive sector", 28 February 2009; Elysée online information, "Pacte Automobile", viewed at: <http://www.elysee.fr/president/les-dossiers/economie/face-a-la-crise/relance/pacte-automobile-9-fevrier-2009/signature-des-accords-de-soutien-a-la-filiere.6213.html>; and OECD (2009), *Economic Outlook 86, 2009*.

(iv) Government procurement

187. In the EU, as in other WTO Members, government procurement accounts for a very significant proportion of total economic activity and represents a core function of government, with major implications for economic structure and growth.²⁰⁶ In 2007, the EU public procurement totalled € 2,088 billion (16.8% of its GDP), of which € 367.2 billion (3% of GDP, and 18% of total public procurement) was above-threshold procurement, i.e., procurement covered by EU legislation rather than national legislation of EU member States.²⁰⁷

188. Public procurement policy in the EU aims to achieve the best value for money through open, transparent and non-discriminatory procedures, consistent with the underlying objectives of the

²⁰⁶ In total, government procurement has been estimated to account for 15-20% of GDP in OECD economies, on average. See OECD (2002).

²⁰⁷ WTO document GPA/94/Add.4, 15 July 2010.

Internal Market. All procurements carried out in the European Union above specified thresholds must comply with the requirements of the EU Directives on procurement, which are reflected in relevant legislation and regulations of the EU member States. In particular, procurement above the relevant thresholds must be advertised EU-wide and must follow uniform procedures.²⁰⁸ Furthermore, given the EU's status as a party to the WTO Agreement of Government Procurement (GPA), the Directives themselves in addition to the member States' legislation must conform to the GPA.

189. The EU is a key player in the ongoing renegotiation of the Government Procurement Agreement in the WTO. In addition to the GPA, the EU has signed a number of bilateral agreements covering government procurement. In many cases, the texts of these agreements are based on the GPA. Hence, the positions taken by the EU in the GPA and bilateral negotiations will have significant consequences for the future of the Agreement.

(a) Procurement Directives and the GPA

190. Above-threshold public procurement continues to be regulated by Directive 2004/17/EC, which coordinates the procurement procedures of entities operating in the water, energy, transport, and postal services sectors (the Utilities Directive); and Directive 2004/18/EC, on the coordination of procedures for the award of public work contracts, public supply contracts, and public services contracts. Directive 2009/81/EC, on defence and security procurement, entered into force in August 2009, opening procurement in this sector purely at the EU level to European suppliers.²⁰⁹ Member States must comply with the provisions of these Directives, which have to be transposed into national legislation. All member States have by now implemented the 2004 procurement legislative package, although Luxembourg transposed these Directives only at the end of 2009.²¹⁰ For supplies, services, and construction services (works), thresholds are specified in Commission Regulation (EC) No. 1177/2009, 30 November 2009, amending Directives 2004/17/EC and 2004/18/EC (Table III.10).

191. Since the previous Review of the EU in 2009, the procedures for awarding contracts, as specified under the EU procurement Directives, have not changed.²¹¹ Moreover, according to the Commission, during the global crisis, no "buy local" requirement was imposed at any level through government procurement. The Commission highlighted to interested parties some existing provisions of the EU procurement Directives. For example, Directive 2004/18/EC allows recourse to accelerated procedures if justified on grounds of urgency. In December 2008, the Commission recognized that the exceptional nature of the global crisis could justify the use of this accelerated procedure, reducing the overall time limit of procurement from 87 days to 30 days. Following this, the Commission set up a monitoring mechanism on the application of this option by member States.

192. The EU public procurement regime aims to ensure the best possible value for money to create opportunities to purchase better quality and value supplies and services. To achieve this objective, open and transparent procedures must be followed. Procurement above the stipulated thresholds must be advertised in the *Official Journal* (S series), which is freely accessible on the *Tenders Electronic Daily* website.²¹² In 2008, procurement published in the *Official Journal* represented between 1.2% and 9.6% of member States' GDP, between 7.1% and 61.1% of total procurement (Table III.11). The percentage varies among EU member States; for example, it is comparatively low in Germany, while much higher in Latvia, Bulgaria, and Estonia. The authorities attribute these variations to the

²⁰⁸ WTO document WT/TPR/M/214/Add.1, 2 July 2009, p. 223.

²⁰⁹ EU online information. Viewed at: http://ec.europa.eu/internal_market/publicprocurement/dpp_en.htm.

²¹⁰ European Communities (2009a) and (2009b).

²¹¹ For details of the procedures, see WTO (2009).

²¹² TED online information. Viewed at: <http://ted.europa.eu/>.

different structures of the public sector (and its spending power) in the respective member State. In total, procurement subject to the publication requirement accounted for 3.1% of GDP and 18.2% of total expenditures for goods and services, indicating that the remainder is regulated under national legislation.

Table III.10
Minimum public procurement thresholds, 2010-11^a
(Euros)

	Supplies		Services		Works	
	2008-09	2010-11	2008-09	2010-11	2008-09	2010-11
Public contracts, other than for utilities						
EU GPA contracting authorities	133,000	125,000	133,000	125,000	5,150,000	4,845,000
Other public sector contracting authorities	206,000	193,000	206,000	193,000	5,150,000	4,845,000
Contracts subsidized at more than 50% by the contracting authority ^b	n.a.	n.a.	206,000	193,000	5,150,000	4,845,000
Service designs contests						
Central government authorities	n.a.	n.a.	133,000	125,000	n.a.	n.a.
Other authorities	n.a.	n.a.	206,000	193,000	n.a.	n.a.
Specific sectors ^c	n.a.	n.a.	206,000	193,000	n.a.	n.a.
Utilities^d						
All sectors, except service design contests	412,000	387,000	412,000	387,000	5,150,000	4,845,000
Service designs contests	n.a.	n.a.	n.a.	387,000	n.a.	n.a.

n.a. Not applicable.

a Threshold amounts do not include VAT.

b Contracts that are subsidized at more than 50% by the contracting authorities involve either civil engineering to build hospitals, facilities intended for sports, recreation and leisure, school and university buildings, and buildings used for administrative purposes or the services connected to the aforementioned types of projects.

c Specific sectors refer to fields of research and development, telecommunications (CPC Reference No. 752), hotel and restaurant services, transport by rail and waterway, provision of personnel, vocational training, investigation and security, legal, health and social, recreational, cultural and sporting services.

d Utilities include water, energy, transport, postal and telecommunications services.

Source: Commission Regulation (EC) No. 1177/2009, 30 November 2009, amending Directives 2004/17/EC and 2004/18/EC. WTO documents GPA/W/299/Add.4, 1 January 2008, and GPA/W/309/Add.4, 5 February 2010.

Table III.11
Selected procurement indicators, 2006-08

	Value of procurement published in the OJ as a percentage of GDP			Value of procurement published in the OJ as a percentage of total public procurement		
	2006	2007	2008	2006	2007	2008
Austria	1.7	1.7	2.4	9.7	9.2	12.5
Belgium	2.4	3.2	3.6	16.3	21.7	23.8
Bulgaria	..	8.5	8.7	..	51.9	52.2
Cyprus	4.4	5.1	4.6	37.1	49.0	44.5
Czech Republic	5.2	4.1	5.3	19.4	16.2	21.0
Denmark	3.0	3.2	3.0	20.2	21.6	19.5
Estonia	7.3	7.2	8.2	42.8	42.3	45.3
Finland	3.1	3.6	3.9	19.0	22.1	23.6
France	3.4	3.4	3.7	19.7	19.4	21.1
Germany	1.7	1.1	1.2	10.2	6.8	7.1
Greece	5.6	3.5	2.8	59.9	36.4	30.0
Hungary	6.8	4.5	5.2	31.7	20.8	26.0
Ireland	3.3	3.4	2.5	26.1	24.3	16.0
Italy	3.0	2.3	2.3	21.1	16.5	16.4
Latvia	13.8	12.3	9.6	82.9	77.1	61.1
Lithuania	4.2	4.2	3.6	25.3	23.8	20.8

Table III.11 (cont'd)

	Value of procurement published in the OJ as a percentage of GDP			Value of procurement published in the OJ as a percentage of total public procurement		
	2006	2007	2008	2006	2007	2008
Luxembourg	1.4	1.2	1.3	10.5	9.0	9.1
Malta	1.8	2.0	1.2	12.0	14.5	8.0
Netherlands	2.3	1.8	1.9	9.1	7.0	7.1
Poland	5.2	5.8	7.2	28.3	32.0	38.3
Portugal	1.9	1.7	2.5	12.4	10.7	14.9
Romania	..	7.3	7.4	..	33.6	36.9
Slovakia	3.1	3.6	3.7	11.9	14.1	15.2
Slovenia	5.0	6.6	5.1	25.9	43.4	32.8
Spain	4.2	4.1	3.6	28.9	26.7	23.9
Sweden	3.0	3.0	3.5	16.9	16.8	18.8
United Kingdom	4.6	3.9	4.4	25.4	22.3	23.5
Total	..	3.0	3.1	..	17.9	18.2

.. Not available.

Source: Eurostat (undated), *Public procurement advertised in the Official Journal*. Viewed at: <http://appsso.eurostat.ec.europa.eu/nui/setupModifyTableLayout.do>.

193. After a contract is awarded, contracting authorities are required to post an award notice on the TED website. There is an automatic reminder system to EU contracting authorities to ensure full compliance with the relevant publication obligations. According to the authorities, in 2008, 85% of the notices of intended procurement were followed by a contract award notice.²¹³ Although it is difficult to identify the exact nationality of successful suppliers/service providers, the Commission started to establish a methodology to monitor cross-border procurement, including from non-EU origin.²¹⁴ The authorities provide that, in 2007 (the latest year for which data are available), contracts of a total value of €12 billion (3.3% of total above-threshold procurement, and 3.9% of total procurement open to GPA partners) were awarded to suppliers originating from non-EU GPA signatories.

194. The EU is a party to the WTO Government Procurement Agreement (GPA), and the 27 EU member States must comply with the EU's obligations under the GPA. The GPA applies to procurement contracts of value above certain specified thresholds. As required by the GPA, thresholds in national currencies are to be notified by parties every two years.²¹⁵ The EU notified its GPA thresholds for 2010-11²¹⁶, which are the same as those under the EU procurement Directives. Commission Regulation (EC) No. 1177/2009 stipulates that, one of the objectives of Directives 2004/17/EC and 2004/18/EC is to allow the contracting entities and the contracting authorities to comply with the obligation laid down in the GPA. Thus, the thresholds under those Directives should be aligned to correspond to the euro equivalents, rounded down to the nearest thousand, of the thresholds set out in the GPA.²¹⁷

195. Although the thresholds are the same, the coverage of the GPA is different from that of the Directives. The GPA covers entities, goods, and services, including construction services, as

²¹³ WTO document WT/TPR/M/214/Add.1, 2 July 2009, p. 222.

²¹⁴ WTO document WT/TPR/S/214/Rev.1, p. 67.

²¹⁵ WTO document GPA/1, dated 5 March 1996, Annex 3.

²¹⁶ WTO document GPA/W/309/Add.4, 5 February 2010.

²¹⁷ OJ L 314/64, 1 December 2009. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:314:0064:0065:EN:PDF>.

specified in EU's Appendix I. In 2007, out of total € 367.2 billion above-threshold procurement in the EU, € 309.6 billion (84%) was open to GPA partners.²¹⁸

196. Article XX of the GPA requires each party to provide a mechanism by which a supplier may challenge alleged breaches of the GPA before an independent and impartial review body. These procedures must meet the minimum standards of Article XX regarding the nature of the review body, the procedures for the hearing, and the remedies available.

197. The Remedies Directive, Directive 2007/66/EC, which supplemented and amended the Directives 89/665/EC and 92/13/EC, introduced two features. First, following an award decision for a public contract, contracting authorities must wait at least ten days before signing a contract. This "standstill period" gives bidders time to examine the decision and decide whether to initiate a review procedure. If a review procedure is initiated, the procurement process is automatically suspended until the review body reaches a decision. Second, more stringent rules were stipulated against illegal direct award of public contracts. In both cases, national courts or review bodies may nullify signed contracts if these rules are not followed. Member States had until December 2009 to bring their legislation into compliance with this Directive. By March 2011, all Member States but one had transposed the Directive. The Commission is currently checking the implementing measures communicated by member States.

198. The rules governing the EU government procurement market are designed to ensure an open and transparent government procurement system. Nonetheless, suppliers from third countries do not have an automatic and enforceable right to participate in the EU procurement market, unless "an international agreement concluded by the EU in the field of public procurement grants them the right to do so (GPA or bilateral agreements with the EU)".²¹⁹ In this regard, participation in the GPA provides an enforceable right to the EU procurement market covered by the EU's commitments under the GPA.

199. EU procurement Directives do not apply to contracts below thresholds, and to certain exempted sectors (such as the telecommunications and broadcasting sectors).²²⁰ Public procurement that is not directly covered by EU legislation is covered by national rules. Member States are understood to have discretionary authority in such cases to allow the participation of non-EU bidders in their procurement market, and suppliers from third countries have no enforceable right. For example, press reports suggested some foreign firms were excluded from bidding for UK public sector IT contracts.²²¹ The EU considers that procurement below thresholds does not need to follow the detailed rules of the EU procurement Directives; nevertheless the general principles of EU law (transparency, equal treatment and non-discrimination) must be respected.

200. The EU strongly supports the accession of new members to the GPA, with long-term strategy to turn the GPA into a multilateral agreement.²²² At the same time, the EU is keen on negotiating bilateral agreements covering government procurement. The EU has a key objective to contribute through its bilateral trade relations to the setting of effective, modern, and international procurement

²¹⁸ WTO document GPA/94/Add.4, 15 July 2010.

²¹⁹ WTO document WT/TPR/M/214/Add.1, 2 July 2009, p. 47.

²²⁰ European Communities (2009a).

²²¹ Computerweekly.com. Viewed at: <http://www.computerweekly.com/Articles/2009/02/17/234874/UK-public-IT-handicapped-by-procurement-process-say-Indian-IT.htm>; and *SME Times* online information. Viewed at: <http://smetimes.tradeindia.com/smetimes/news/top-stories/2010/Aug/20/industry-missing-opportunities-in-global-governmental-procurement.html>.

²²² European Commission document COM(2009)592 final, 28 October. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009DC0592:EN:NOT>.

principles, and to substantially liberalize public procurement markets. When negotiating with developing countries, the EU's main emphasis is on encouraging transparency and the creation/strengthening of regional procurement markets. The EU now includes substantial chapters on public procurement in all its bilateral trade agreements.²²³ So far, it has such agreements with CARIFORUM, Central America, Chile, Colombia, Iraq, Mexico, Peru, South Korea, and Switzerland. The EU stated that it is firmly committed to ensuring eventual GPA accession by its bilateral partners, and that it works to ensure the procurement chapter in its bilateral agreements is consistent with the GPA. When negotiating with partners that are already GPA signatories, the bilateral agreements are intended to deepen the commitments undertaken in the GPA framework, either by enhancing the rules, or by broadening the market access commitments, or both.

201. The EU is an important player in the ongoing renegotiation of the text and coverage commitments of the GPA. The text was provisionally agreed in 2006, but cannot be brought into force until negotiations on the coverage of the Agreement have also been concluded. The present negotiation includes the launch of a new set of work programmes in the WTO Committee on Government Procurement, which will explore the interaction of the GPA with key social considerations including the access to procurement markets by small and medium-sized enterprises (SMEs), and the implementation of "green" procurement.²²⁴ The EU reaffirms its commitment to the rapid completion of the GPA negotiations, which would increase coverage of the Agreement, ultimately leading to the expansion of the GPA membership.

(b) E-procurement

202. To modernize and simplify procurement procedures and in accordance with the e-Government transition in some member States, the Commission adopted an Action Plan for e-Procurement in 2004.²²⁵ However, the Commission's evaluation suggested that less than 5% of total procurement budgets were awarded through electronic systems in 2010. The EU considered that e-procurement has the potential to yield important improvements in the efficiency of individual purchases, the overall administration of public procurement and the functioning of the markets for government contracts.²²⁶ Thus, the Commission issued its Green Paper on expanding the use of e-procurement in the EU in October 2010.²²⁷

(c) Other objectives of the public procurement regime

203. Although the principal objective of government procurement in the EU is to ensure the best value for money, the 2004 Directives also mention the possibilities of reflecting social and environmental considerations in technical specifications, selection and award criteria, as well as contract performance clauses.²²⁸ At the same time, member States have national legislation provisions, intended to achieve social and environmental objectives through the public procurement system. Currently, a key challenge for the EU (as for other GPA parties) is to find ways to accord due weight

²²³ EU online information. Viewed at: <http://ec.europa.eu/trade/creating-opportunities/trade-topics/public-procurement/>.

²²⁴ WTO document GPA/106, 9 December 2010, paragraph 35.

²²⁵ Government institutions and other public-sector organizations purchase supplies and services or tendering public works through the use of electronic communications and transactions.

²²⁶ European Commission document SEC(2010) 1214 final, 18 October 2010. Viewed at: http://ec.europa.eu/internal_market/consultations/docs/2010/e-procurement/evaluation-report_en.pdf.

²²⁷ European Commission document COM(2010) 571 final, 18 October 2010. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0571:FIN:EN:PDF>.

²²⁸ For example, Article 26 of the Directive 2004/18/EC provides that the conditions governing the performance of a contract may concern social and environmental considerations.

to such objectives consistent with its respective policy interests and goals while ensuring that their implementation does not undermine the GPA's core principles of non-discrimination, transparency, and fair procedures.²²⁹

204. To illustrate the interplay of these issues, below-threshold procurement in the EU is regulated by national legislation, which must follow the basic principles of the Treaty on the Functioning of the European Union (transparency, non-discrimination, and equal treatment). The procurement Directives stipulate detailed rules/methods for estimating the value of contracts²³⁰, and an artificial split-up into smaller lots to circumvent the Directive represents an infringement.²³¹ Nonetheless, the contracting authorities may award contracts in lots with a view to accommodating social considerations, or promoting participation of SMEs in procurement, provided that the procurement requirement is not subdivided to avoid the application of the EU Directives.²³²

205. In this connection, to promote SMEs participation in the public procurement market, contracting authorities in some member States have suggested to award a specific call for tender into composite lots. One example is the 2006 Code on Public Procurement in France. The same Code also stipulated other measures to facilitate SMEs: bidders may be asked to indicate in their offers whether they intend to subcontract to third parties including SMEs (Article 48); and the economic monitoring mechanism within the Ministry of Economy, Finance and Industry must report the number of contracts awarded to SMEs (Articles 130 and 131).²³³

206. In Germany, many states have special laws and regulations to support SMEs; under the two main methods contracting authorities may split contract into lots; and a clause may be included in contract conditions requiring contractors to subcontract to SMEs.

✓ 207. Green public procurement (GPP) is "a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured".²³⁴ The 2004 Directives clarified how public procurement can include environmental considerations, while national legislation in some member States also defined national criteria and approaches to GPP. Some have expressed the view that the EU procurement Directives lack flexibility, and tend to constrain member States' ability to achieve their social/environmental objectives through public procurement. ✓

✓ 208. In July 2008, the Commission issued a communication "Public procurement for a better environment",²³⁵ which proposed that 50% of all public tendering procedure should be green by 2010, where "green" means compliant with core GPP criteria set out by the Commission in the Communication. The Communication also provided guidance on how to reduce the environmental ✓

²²⁹ The role of such objectives is also expected to figure in the "Future Work Programmes" of the Committee on Government Procurement, following the entry into force of the revised text of the Agreement.

²³⁰ Article 9 of Directive 2004/18/EC, and Article 17 of Directive 2004/17/EC.

²³¹ Article 9 (3) of Directive 2004/18/EC, and Article 17 (2) of Directive 2004/17/EC.

²³² European Commission online information, "Study on the incorporation of Social Considerations in Public Procurement in the EU – Proposed Elements for taking account of the Social Considerations in Public Procurement", 21 July 2008, p. 34. Viewed at: <http://ec.europa.eu/social/main.jsp?catId=331&langId=en&newsId=417&furtherNews=yes>.

²³³ PublicTendering.com online information. "Code des marches publics 2006". Viewed at: <http://www.publictendering.com/pdf/legislation/cmp2006.pdf>.

²³⁴ European Commission document COM (2008) 400 final, 16 July 2008. Viewed at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0400:FIN:EN:PDF>.

²³⁵ European Commission document COM (2008) 400 final, 16 July 2008. Viewed at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0400:FIN:EN:PDF>.

impact caused by public sector consumption, and how to use GPP to stimulate innovation in environmental technologies, products, and services. The EU stated that the GPP is a voluntary policy.²³⁶

(d) Future directions

209. In 2010, the Commission issued a Communication announcing a future review of its public procurement regime.²³⁷ The Commission finds that as the interaction between EU rules and national rules can be complex, there is a need for simplification of procedures.²³⁸ It seems that the levels of participation by firms from other member States in procurement procedures remain low compared to the import penetration in the private sector, indicating a potential for more cross-border trade. The Commission has announced its intention to prepare a legislative proposal by the end of 2012, with a view to simplifying and updating the European rules to make the award of contracts more flexible and to enable public contracts to be put to better use in support of other policies. There is recognition, however, that legislative changes need to be consistent with the EU's international commitments, notably the GPA, in particular regarding the thresholds for applying the EU public procurement rules. The Commission is currently undertaking consultations and an economic impact evaluation of the current EU procurement directives, as well as an impact assessment, examining the various possible policy options, taking into consideration the implementation of the EU's international commitments, such as the GPA.²³⁹

210. As noted, the policy challenges are to be considered not only in the context of the EU's own Procurement Guidelines but also in the Future Work Programmes of the Agreement on Government Procurement (after the revised GPA text comes into force), in which the EU will play a significant role. This is an important context in which the EU will be able to provide input of its own experience with green and social and "other" objectives in the procurement process.

(v) Competition policy

211. Competition policy in the European Union remains a central pillar of the Single Market, protecting consumers from abusive practices and ensuring that entry to particular lines of business or geographic localities is not deterred by anti-competitive practices. Over time, competition policy in the EU has been progressively refined through developments such as the "more economic approach", which have enhanced the relevant authorities' focus on the economic effects of changes in market structures and of companies' behaviours in such markets. Arguably, this has brought about a higher level of convergence/harmonization with the competition policies of major economic partners, thereby reducing (though not eliminating) the scope for conflicts of jurisdiction with those partners and enhancing possibilities for beneficial economic integration.

(a) Legislative framework

212. As outlined in the previous Review of the EU, Council Regulation No. 1/2003 implements the rules on competition laid down by Articles 101 and 102 of the Treaty on the Functioning of the

²³⁶ WTO document WT/TPR/M/214/Add.1, 2 July 2009, p. 220.

²³⁷ European Commission document COM(2010) 608 final, 27 October 2010. Viewed at: http://ec.europa.eu/internal_market/sinact/docs/single-market-act_en.pdf; and European Commission document COM(2011) 15 final, 27 January 2011. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0015:FIN:EN:PDF>.

²³⁸ European Commission document COM(2011) 206/4, 13 April 2011.

²³⁹ European Commission document COM(2011) 15 final, p. 54, 27 January 2011. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0015:FIN:EN:PDF>.