Given that the Commission is currently conducting negotiations with Pakistan with a view to concluding an important and far-reaching co-operation agreement under which enormous amounts of economic aid are to be provided to Pakistan:

1. Can it say what stage has been reached in the negotiations?
2. Does it consider it to be reasonable and politically appropriate to continue to negotiate the agreement in its present form, particularly those sections which entail the provision of substantial amounts of aid to Pakistan?
3. Does it consider such an agreement appropriate as long as Pakistan is keeping an unpopular, cruel and obscurantist regime in place by means of the direct aid which it provides?
4. Would it not agree that the negotiations on an agreement which Pakistan considers to be of such importance would be better used to exert political pressure on that country with a view to persuading it to stop supporting the Taliban regime, or at least to reduce the amount of aid provided?

Answer given by Mr Patten on behalf of the Commission
(25 June 2001)

Signature of the EU's Co-operation Agreement with Pakistan was deferred sine die following the military take-over of 12 October 1999. Negotiations had already been concluded with the paraphing of the Agreement on 22 April 1998. Pending signature of the new Agreement, the previous one dating back to 22 April 1986 remains in force.

The Commission is fully aware that the new Agreement features 'respect for human rights and democratic principles' as its basis under Article 1. It is for this reason that the Council and the Commission did not proceed with the signature of the Agreement following the military take-over.

During ad-hoc political talks with Pakistan in November 2000, the Union Troika made it clear that further progress on improving relations is linked to concrete steps on return to democracy.

The Commission abides by the Union policy of neutrality between the conflict parties in Afghanistan. The Union's Common Position on Afghanistan of 22 January 2001 (1) calls on countries concerned to stop any further involvement of their military, paramilitary and secret service personnel in Afghanistan and cease all other military support to parties in the conflict. Commission humanitarian aid in Afghanistan is targeting groups at risk irrespective of whether they live on one or the other side of the conflict.


WRITTEN QUESTION E-1369/01
by Gary Titley (PSE) to the Commission
(7 May 2001)

Subject: Defence procurement

Could the Commission set out what exactly are the Community rules in relation to defence procurement as it understands them to be? Within the definition of defence procurement, I include such matters as uniforms, boots, provision of catering facilities and so on.

Answer given by Mr Bolkestein on behalf of the Commission
(19 July 2001)

Public procurement contracts, whether awarded in the field of defence or in any other field, must be awarded in compliance with the procedures for the award of contracts set out in the public procurement Directives. Three directives on the coordination of procedures for the award of public contracts currently
coexist and concern supply, works and services contracts respectively (1). On 10 May 2000, the Commission presented a proposal for a Parliament and Council Directive on the coordination of procedures for the award of public supply, services and works contracts which consolidates the three previous directives (2) in a single text.

The common award procedures, which feature in all the directives, include open or restricted calls for tender and negotiated procedures (in a limited number of cases) with prior publication of a contract notice in the Official Journal. Each of the directives lays down a limited number of special cases and exceptions. In relation to the question, two cases deserve closer attention. On the one hand, the case of contracts covered by Article 296 (ex Article 223) of the EC Treaty and, on the other hand, the case of contracts declared secret or requiring certain security measures or when the protection of essential interests of the State is involved.

Since the contracts are covered by Article 296 of the EC Treaty, a derogation from the award rules set out by the public procurement Directives is possible (Article 3 of the Supply Directive 93/36/EEC and Article 4 of the Services Directive 92/50/EEC).

Article 296 of the EC Treaty provides that:

1. The provisions of this Treaty shall not preclude the application of the following rules:

   (a) no Member State shall be obliged to supply information the disclosure of which it would consider contrary to the essential interests of its security;

   (b) any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material: such measures shall not adversely affect the conditions of competition in the common market regarding products which are not intended for specifically military purposes.

2. The Council may, acting unanimously on a proposal from the Commission, amend the list, which it drew up on 15 April 1958, of the products to which the provisions of paragraph 1(b) apply.

Article 296 does not limit the Community powers ratione materiae, since the verbs ‘may take’ are used in paragraph 1(b).

In addition, the exception contained in Article 296 is covered by the provisions of Article 298 (ex Article 225) of the EC Treaty. This lays down that the use of Article 296 may not distort the conditions of competition, and the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in Article 296.

The Court of Justice gave a restrictive interpretation of the use of Article 296 in its judgment of 16 September 1999 (3), by reiterating its previous case law (4). It considers that it is for the Member State which wishes to invoke the exceptions of Article 296 to prove that the measures taken are necessary in order to protect essential interests of its security and that, a contrario, compliance with Community law would have compromised those interests.

The three public procurement Directives (Article 2(b) of the Supply Directive 93/36/EEC, Article 4(b) of the Works Directive 92/37/EEC and Article 4(2) of the Services Directive 92/50/EEC) do not apply to supplies, works and services, ‘which are declared secret or the execution of which must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in the Member States concerned or when the protection of the basic interests of the Member State’s security so requires.’

Although these derogations from the application of the directives do not relate to a particular field or contracting authority, and it is possible that in certain cases the non-application of public procurement award procedures as defined by the directives is justified in the case of defence contracts, the interpretation given by the Court is strict, and the exception must be justified by the contracting authority invoking it (5).
Finally, as regards the supplies mentioned by the Honourable Member, at first sight it does not seem that the acquisition of such supplies is in breach of the provisions of the public procurement Directives, either under the terms of Article 296 or in relation to the exceptions under the above-mentioned directives.


(2) OJ C 29, 30.1.2001.

(3) Case 414/97, Commission of the European Communities v. Kingdom of Spain.


WRITTEN QUESTION E-1370/01

by Caroline Jackson (PPE-DE) to the Commission

(7 May 2001)

Subject: European equestrian organisations

In 1995, 28 national equestrian bodies in Europe established a scheme to equate the level of instructors’ qualifications in their sector across international boundaries: this led to the establishment of the ‘international equestrian passport’. The lead body was the British Horse Society. The Association of British Riding Schools, whose qualifications are also recognised by the British Government, was not invited, consulted or involved in any of this work.

The Association of British Riding Schools now finds that only those on the British Horse Society register of instructors are eligible to apply for the international equestrian passport. The qualifications of the ABRS are not recognised. This situation means that those who have studied for such qualifications may find that their lack of recognition by the BHS poses an obstacle to their ability to obtain work in another EU country.

Does the Commission agree that the operation of this ‘closed shop’ by an informal grouping of European equestrian organisations may be illegal in that, without the sanction of any EU mutual recognition system, it is posing an obstacle to the free movement of labour? Does the Commission agree that the answer to this problem lies in the swift recognition by the countries operating the international equestrian passport of the examinations and qualifications of the Association of British Riding Schools, thus obviating the need for legal action?

Answer given by Mr Bolkestein on behalf of the Commission

(16 July 2001)

On the basis of the information received, the Commission is not in a position to assess the compatibility of the agreement concluded between national equestrian bodies with the Community rules on freedom of movement of persons. The Commission would like to stress however that even if there is an infringement to the Community rules on freedom of movement of persons, it is not empowered to introduce an action against private bodies before the Court of Justice. Only national courts have competence to deal with disputes between private parties in this area.

Member States which regulate the profession of horse instructors in their territory are under the obligation to examine all diplomas of horse instructors obtained in other Member States in accordance with the rules of Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years’ duration (6) or Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC (7). Those directives have, however, not put in place a system of automatic recognition of diplomas. If the matters covered by the education and training which the migrant has received differ substantially from those covered by the diploma required in the host Member State, the host Member State’s national authorities may require the migrant to take an aptitude test or to complete an adaptation period — at the choice of the migrant. It...