

**EUROPEAN COMMISSION DRAFT INTERPRETATIVE DOCUMENT ON
INCORPORATING SOCIAL CONSIDERATIONS IN PUBLIC
PROCUREMENT
UNICE COMMENTS**

1. UNICE has taken notice of the fact that the European Commission is working on a draft interpretative document referring to social considerations in public procurement.

UNICE recognises that social policy plays an important role in promoting both the level and the quality of employment and social protection in the EU and the EEA. Nevertheless, UNICE is convinced that public procurement rules are not an appropriate instrument for the pursuit of social policy. Compliance with social and labour law is already subject to a far-reaching framework of social and labour law provisions. This is the case, for instance, in the provisions of social and labour law applicable at the place where a public works contract is performed. Linking of public procurement law with social and labour law would therefore be unnecessary. Moreover it would be counterproductive as it would overburden the framework of public procurement. It would create the danger of making the framework for public procurement too complex, create new barriers to trade and weaken the efficiency of public procurement. UNICE has highlighted this in more detail in its "Comments on the inclusion of social aspects in the revised EU Directives on public procurement" (UNICE position paper dated 3 April 2001).

2. In order to ensure a situation which reflects the above considerations, UNICE urges that the communication is based on the following principles:

Social aspects may only be taken into consideration in public procurement

- insofar as they are directly relevant for the subject matter of the contract, i.e. they have a direct impact on the quality (including reliability) of the procurement,
- in cases of equivalent tenders, and
- if they are in line with the principles of the Treaty.

These principles must be valid for public contracts above and below the thresholds.
