

ANNEX XIII

**GOVERNMENT PROCUREMENT
IMPLEMENTATION OF CERTAIN PROVISIONS OF PART IV, TITLE IV**

Appendix 1

(Referred to in Articles 137(3) and 138(i))

PUBLIC WORKS CONCESSIONS

Rules applicable to public works concessions

1. The provisions on national treatment and non-discrimination apply to the entities covered by this Title, when awarding contracts on public works concessions, as defined in Article 138(i). In that case, entities shall publish a notice according to Article 147.
2. Advertising shall not, however, be required when a contract on public works concession satisfies the conditions listed in Article 145.
3. Beyond the provisions mentioned in paragraph 1, the Parties' domestic legislation on concessions shall apply.
4. The coverage of public works concessions by the Community entities of Annex I, Appendix 3 shall be subject to this Title in accordance with the Community Public Procurement Directives.

Appendix 2

(Referred to in Articles 147(11) and 142)

MEANS OF PUBLICATION

1. COMMUNITY

Official Journal of the European Communities

<http://simap.eu.int>

Austria

Österreichisches Bundesgesetzblatt Amtsblatt zur Wiener Zeitung

Sammlung von Entscheidungen des Verfassungsgerichtshofes

Sammlung der Entscheidungen des Verwaltungsgerichtshofes – administrativrechtlicher und finanzrechtlicher Teil

Amtliche Sammlung der Entscheidungen des OGH in Zivilsachen

Belgium

Laws, royal regulations, ministerial regulations, ministerial circulars – *Le Moniteur Belge*

Jurisprudence – *Pasicrisie*

Denmark

Laws and regulations – *Lovtidende*

Judicial decisions – *Ugeskrift for Retsvaesen*

Administrative rulings and procedures – *Ministerialtidende*

Rulings by the Appeal Board for Public Procurement – *Konkurrencerådets Dokumentation*

Germany

Legislation and regulations – *Bundesanzeiger* – Herausgeber: der Bundesminister der Justiz

Judicial Decisions: *Entscheidungsammlungen des Bundesverfassungsgerichts,*

Bundesgerichtshofs, Bundesverwaltungsgerichts, Bundesfinanzhofs sowie der

Oberlandesgerichte

Spain

Legislation – *Boletín Oficial des Estado*

Judicial rulings – no official publication

France

Legislation – *Journal Officiel de la République française*

Jurisprudence – *Recueil des arrêts du Conseil d'Etat*

Revue des marchés publics

Greece

Government Gazette of Greece – *Επίσημη Εφημερίδα των Ευρωπαϊκών Κοινοτήτων*

Ireland

Legislation and regulations – *Iris Oifigiúil* (Official Gazette of the Irish Government)

Italy

Legislation – *Gazzetta Ufficiale*

Jurisprudence – no official publication

Luxembourg

Legislation – *Mémorial*

Jurisprudence – *Pasicrisie*

Netherlands

Legislation – *Nederlandse Staatscourant* and/or *Staatsblad*

Jurisprudence – no official publication

Portugal

Legislation – *Diário da República Portuguesa 1ª Série A e 2ª série*

Judicial Publications: *Boletim do Ministério da Justiça*

Colectânea de Acordos do Supremo Tribunal Administrativo;

Colectânea de Jurisprudência das Relações

Finland

Suomen Säädoskokoelma – Finlands Författningssamling (The Collection of the Statutes of Finland)

Sweden

Svensk Författningssamling (Swedish Code of Statutes)

United Kingdom

Legislation – HM Stationery Office

Jurisprudence – Law Reports

Public Bodies – HM Stationery Office

2. CHILE

Diario Oficial de la República de Chile

<http://www.chilecompra.cl>

Appendix 3

(Referred to in Article 150)

TIME-LIMITS

General minimum time-limit

1. Except in so far as provided in paragraphs 3 and 4, entities shall provide no less than 40 days between the date on which the notice of intended procurement is published and the final date for the submission of tenders.

Time-limits when using the selective tendering procedure

2. Where an entity requires suppliers to satisfy qualification requirements in order to participate in a procurement, the entity shall provide no less than 25 days between the date on which the notice of intended procurement is published and the final date to submit the requests for participation and no less than 40 days between the date of issuance of the invitation to tender and the final date for submission of tenders.

Possibilities for reducing the general time-limits

3. Under the following circumstances, entities may establish a time period for tendering that is shorter than the periods referred to in paragraphs 1 and 2, provided that such time period is sufficiently long to enable suppliers to prepare and submit responsive tenders and is in no case less than 10 days prior to the final date for the submission of tenders:

- (a) where a notice of planned procurement has been published 40 days and not more than 12 months in advance;
- (b) in the case of the second or subsequent publications dealing with contracts of a recurring nature;
- (c) in the case where the entity procures off-the-shelf goods or services (goods or services with the same technical specifications as those of goods or services that are sold or offered for sale to, and customarily purchased by non-governmental buyers for non-governmental purposes); the entity shall not reduce time-limits for this reason if the entity requires that potential suppliers be qualified for participation in the procurement before submitting tenders;
- (d) where a state of urgency duly substantiated by the procuring entity renders impracticable the periods specified in paragraphs 1 and 2;
- (e) when the period for the submission of tenders referred to in paragraph 2, for procurements by entities set out in Annexes XI and XII, Appendix 3, be fixed by mutual agreement between the entity and the selected suppliers. In the absence of

agreement, the entity may fix periods which shall be sufficiently long to enable responsive tendering;

- (f) when an entity publishes a notice of intended procurement in accordance with Article 147 in an electronic media listed in Appendix 2 of this Annex and the complete tender documentation is made available electronically since the beginning of the publication of the notice.

Appendix 4

(Referred to in Article 158)

STATISTICAL REPORTS

1. If the conditions set out in Article 158 are met, the statistical reports shall contain the following information :

- (a) for entities in Annexes XI and XII, Appendix 1, statistics on the estimated value of contracts awarded on a global basis and broken down by entities; for entities in Annexes XI and XII, Appendices 2 and 3, statistics on the estimated value of contracts on a global basis and broken down by categories of entities;
- (b) for entities in Annexes XI and XII, Appendix 1, statistics on the number and total value of contracts awarded, broken down by entities and categories of products and services according to uniform classification systems; for entities in Annexes XI and XII, Appendices 2 and 3, statistics on the estimated value of contracts awarded broken down by categories of entities and categories of products and services; and
- (c) for entities in Annexes XI and XII, Appendix 1, statistics, broken down by entity and by categories of products and services, on the number and total value of contracts awarded in all cases where tendering procedures other than open or selective are used; for categories of entities in Annexes XI and XII, Appendices 2 and 3, statistics on the total value of contracts awarded above the threshold value in all cases where tendering procedures other than open or selective are used.

2. Where any party considers that the statistical information it has provided is incomplete, it shall also provide its best estimate of the true total numbers or value of the information required in Article 147(11).

3. The Association Committee shall assess the need to review this provision regularly.

Appendix 5

VALUE OF THRESHOLDS

Each Party shall publish the value of the thresholds under this Title expressed in EUR and/or in the corresponding national currency.

For the Community, the calculation of these values shall be based on the average of the daily values of the Special Drawing Rights (SDR) to EUR exchange rate and on the average of the daily values of national currencies expressed in EUR over the 24 months terminating on the last day of August preceding the revision with effect from 1 January. The value of the thresholds thus revised shall, where necessary, be rounded down to the nearest thousand EUR.

For Chile, the calculation of these values shall be based on the average of the daily values of the SDR to Chilean peso exchange rate over the 24 months terminating on the last day of August preceding the revision with effect from 1 January. The value of the thresholds thus revised shall, where necessary, be rounded down to the nearest ten thousand Chilean peso.