

ANNEX XX

REFERRED TO IN SUBPARAGRAPH 2(d) OF ARTICLE 7.1

GENERAL NOTES

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APPENDIX 1

PUBLIC WORKS CONCESSIONS

Rules applicable to public works concessions

1. The provisions on national treatment and non-discrimination apply to the entities covered by Chapter 7, when awarding contracts on public works concessions, as defined in subparagraph (n) of Article 7.2 of this Agreement. In that case, entities shall publish a notice according to Article 7.6.
2. Advertising shall not, however, be required when a contract on public works concession satisfies the conditions listed in paragraph 8 of Article 7.10 of this Agreement.
3. Beyond the provisions mentioned in paragraph 1, the Parties' domestic legislation on concessions shall apply.
4. Public works concessions are covered by the entities of Iceland, Liechtenstein and Norway of Appendices 1.B, 2.B and 3.B of Annex XIX and by the entities of Colombia of Appendices 1.A, 2.A and 3.A of Annex XIX.

Declaration by the Swiss Confederation

The provisions on national treatment and non-discrimination shall apply to the entities covered by Chapter 7 if in the future the Swiss Confederation awards contracts on public works concessions as defined in subparagraph (n) of Article 7.2 of this Agreement.

APPENDIX 2

REFERRED TO IN ARTICLE 7.5

MEANS OF PUBLICATION

PART A: COLOMBIA

The government procurement gateway of the Republic of Colombia:

<http://www.contratos.gov.co>

PART B: EFTA STATES

a. Republic of Iceland

Legislation: Stjórnartíðindi (The Government Gazette)

Jurisprudence: Hæstaréttardómar (Supreme Court Report)

Notices of procurement:

1. Official website of the State Trading Centre (Ríkiskaup):
<http://www.rikiskaup.is/english/>
2. All Icelandic EEA contract announcements are published in English via SIMAP on the Tender Electronics daily web: <http://ted.europa.eu>
3. Morgunbladid (Newspaper)
4. Official Journal of European Communities: <http://europa.eu.int/eur-lex/>

b. Principality of Liechtenstein

Legislation: Landesgesetzblatt

Jurisprudence: Liechtensteinische Entscheidsammlung

Notices of procurement: Liechtensteiner Volksblatt, Liechtensteiner Vaterland (Newspapers), Official Journal of the European Communities

http://europa.eu.int/eur-lex/en/search/search_oj.html

c. Kingdom of Norway

Legislation and Jurisprudence: Norsk Lovtidend (Norwegian Law Gazette)

(www.lovdatab.no)

Notices of procurement: Doffin database (www.doffin.no)

d. Swiss Confederation

Legislation: Compendium of Federal laws, Compendiums of Cantonal laws (26)

Jurisprudence: Decisions of the Swiss Federal Court, Jurisprudence of the administrative authorities of the Confederation and every Canton (26)

Notices of Procurements: Swiss Official Trade Gazette, Official publication of every Swiss Canton (26)

<http://www.shab.ch>

APPENDIX 3

REFERRED TO IN ARTICLE 7.9

TIME LIMITS

General minimum time limit

1. Except in so far as provided in paragraphs 2 and 3, 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 Annex XIX , 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; or
- (f) when an entity publishes a notice of intended procurement in accordance with Article 7.6 of this Agreement 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.

Note: The Parties may agree on different time limits in the future by decision of the Joint Committee.

APPENDIX 4

VALUE OF THRESHOLDS

1. Colombia shall calculate and convert the value of the thresholds into its own national currency using the conversion rates of its National Bank. The conversion rates shall be the average of the daily values of the respective national currencies in terms of the SDR¹ over the two-year period preceding 1 October or 1 November of the year prior to the thresholds becoming effective. The conversion rate shall apply from 1 January of the following year.
2. The EFTA States shall calculate and convert the value of the thresholds into their own national currencies using the conversion rates of their respective National Banks. The conversion rates will be the average of the daily values of the respective national currency in terms of the SDR over the two-year period preceding 1 October or 1 November of the year prior to the thresholds becoming effective. The conversion rate shall apply from 1 January of the following year.²
3. Colombia and the EFTA States shall notify each other of the value, in their respective currencies, of the newly calculated thresholds no later than one month before the respective thresholds take effect.

¹ Special Drawing Rights

² The second paragraph regulates the conversion for the EFTA States from SDR to the national thresholds. The two year starting point is set as either preceding 1 October or 1 November. As the calculation is made in the EEA Agreement and for the GPA is made from 1st September-31st August the dates must be changed to make room for this calculation. If The Swiss Confederation needs 1 October or 1 November, then also 1 September must be included.

APPENDIX 5

IMPARTIAL AUTHORITIES AND INTERIM MEASURES

For Colombia, the *Tribunal Contencioso Administrativo* and *Consejo de Estado* are impartial authorities for the purposes of paragraph 4 of Article 7.17. As these impartial authorities do not have authority to provide the interim remedies referred to in paragraph 7 of Article 7.17, the remedies available to the *Procuraduría General de la Nación* shall be deemed to satisfy the requirements of that paragraph.

The *Procuraduría General de la Nación* is an independent agency that has the authority to suspend tendering procedures and the awarding of a contract in the course of any disciplinary proceedings brought against the government agents responsible for a procurement.
