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Contents

I *Acts whose publication is obligatory*

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II *Acts whose publication is not obligatory*

Council

- ★ Council Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply contracts 1
- ★ Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts 54
- ★ Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors 84

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other Acts are printed in bold type and preceded by an asterisk.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE 93/36/EEC

of 14 June 1993

coordinating procedures for the award of public supply contracts

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Council Directive 77/62/EEC of 21 December 1976 coordinating procedures for the award of public supply contracts ⁽⁴⁾ has been amended on a number of occasions; whereas, on the occasion of further amendments, the said Directive should, for reasons of clarity be recast;

Whereas it seems important in particular to align the drafting of the present Directive, as far as possible, on the provisions on public procurement as contained in Council Directive 93/37/EEC concerning the coordination of

procedures for the award of public works contracts ⁽⁵⁾ and Council Directive 92/50/EEC of 18 June 1992, relating to the coordination of procedures on the award of public service contracts ⁽⁶⁾;

Whereas the alignments to be introduced relate, in particular, to the introduction of the functional definition of contracting authorities, the option of recourse to the open or restricted procedure, the requirement to justify the refusal of candidates or tenderers, the rules for drawing up reports on the execution of the different award procedures, the conditions for referring to the common rules in the technical field, publication and participation, clarifications concerning award criteria and the introduction of the Advisory Committee procedure;

Whereas it is also necessary to introduce some drafting changes aimed at improving the clarity of existing provisions;

Whereas the attainment of freedom of movement of goods in respect of public supply contracts awarded in Member States on behalf of the State, or regional or local authorities or other bodies governed by public law entails not only the abolition of restrictions but also the coordination of national procedures for the award of public supply contracts;

Whereas such coordination should take into account as far as possible the procedures and administrative practices in force in each Member State;

⁽¹⁾ OJ No C 277, 26. 10. 1992, p. 1.

⁽²⁾ OJ No C 72, 15. 3. 1993, p. 73 and Decision of 26. 5. 1993 (not yet published in the Official Journal).

⁽³⁾ OJ No C 332, 16. 12. 1992, p. 72.

⁽⁴⁾ OJ No L 13, 15. 1. 1977, p. 1. Directive as last amended by Directive 92/50/EEC (OJ No L 209, 24. 7. 1992, p. 1).

⁽⁵⁾ See p. 54 of this Official Journal.

⁽⁶⁾ OJ No L 209, 24. 7. 1992, p. 1.

Whereas the Community is a Party to the Agreement on government procurement ⁽¹⁾, hereinafter referred to as 'the GATT Agreement';

Whereas Annex I to this Directive sets out the lists of contracting authorities subject to the GATT Agreement; whereas it is necessary to update this Annex in accordance with amendments submitted by the Member States;

Whereas this Directive does not apply to certain supply contracts which are awarded in the water, energy, transport and telecommunication sectors covered by Directive 90/531/EEC ⁽²⁾;

Whereas, without prejudice to the application of the threshold set out for supply contracts subject to the GATT Agreement, supply contracts of less than ECU 200 000 may be exempted from competition as provided under this Directive and it is appropriate to provide for their exemption from coordination measures;

Whereas provision must be made for exceptional cases where measures concerning the coordination of procedures may not necessarily be applied, but whereas such cases must be expressly limited;

Whereas the negotiated procedure should be considered to be exceptional and therefore applicable only in limited cases;

Whereas it is necessary to provide common rules in the technical field which take account of the Community policy on standards and specifications;

Whereas, to ensure development of effective competition in the field of public contracts, it is necessary that contract notices drawn up by the contracting authorities of Member States be advertised throughout the Community; whereas the information contained in these notices must enable suppliers established in the Community to determine whether the proposed contracts are of interest to them; whereas, for this purpose, it is appropriate to give them adequate information about the goods to be supplied and the conditions attached to their supply; whereas, more particularly, in restricted procedures advertisement is intended to enable suppliers of Member States to express their interest in contracts by seeking from the contracting authorities invitations to tender under the required conditions;

Whereas additional information concerning contracts must, as is customary in Member States, be given in the contract documents for each contract or else in an equivalent document;

Whereas it is necessary to provide common rules for participation in public supply contracts, including both qualitative selection criteria and criteria for the award of the contracts;

Whereas it would be appropriate to enable certain technical conditions concerning notices and statistical reports required by this Directive to be adapted in the light of changing technical requirements; whereas Annex II to this Directive refers to a nomenclature, whereas the Community may, as required, revise or replace its common nomenclature and whereas it is necessary to make provision for the possibility of adapting the reference made to the nomenclature accordingly;

Whereas this Directive should not affect the obligations of the Member States concerning the deadlines for transposition into national law and for application indicated in Annex V,

HAS ADOPTED THIS DIRECTIVE:

TITLE I

GENERAL PROVISIONS

Article 1

For the purpose of this Directive:

- (a) '*public supply contracts*' are contracts for pecuniary interest concluded in writing involving the purchase, lease rental or hire purchase, with or without option to buy, of products between a supplier (a natural or legal person) and one of the contracting authorities defined in (b) below. The delivery of such products may in addition include siting and installation operations;
- (b) '*contracting authorities*' shall be the State, regional or local authorities, bodies governed by public law, associations formed by one or several of such authorities or bodies governed by public law;

'a body governed by public law' means any body:

- established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character, and
- having legal personality, and

⁽¹⁾ OJ No L 71, 17. 3. 1980, p. 44 and OJ No L 345, 9. 12. 1987, p. 24.

⁽²⁾ OJ No L 297, 29. 10. 1990, p. 1.

- financed, for the most part, by the State, or regional or local authorities, or other bodies governed by public law, or subject to management supervision by those bodies, or having an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities or by other bodies governed by public law;

the lists of bodies or of categories of such bodies governed by public law which fulfil the criteria referred to in the second subparagraph are set out in Annex I to Directive 93/37/EEC. These lists shall be as exhaustive as possible and may be reviewed in accordance with the procedure laid down in Article 35 of Directive 93/37/EEC;

- (c) a supplier who submits a tender shall be designated by the term '*tenderer*', and one who has sought an invitation to take part in a restricted procedure by the term '*candidate*';
- (d) '*open procedures*' are those national procedures whereby all interested suppliers may submit tenders;
- (e) '*restricted procedures*' are those national procedures whereby only those suppliers invited by the contracting authorities may submit tenders;
- (e) '*negotiated procedures*' are those national procedures whereby contracting authorities consult suppliers of their choice and negotiate the terms of the contract with one or more of them.

Article 2

1. This Directive shall not apply to:

- (a) contracts awarded in the fields referred to in Articles 2, 7, 8 and 9 of Directive 90/531/EEC or fulfilling the conditions in Article 6 (2) of that Directive;
- (b) supply contracts 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.

2. When a contracting authority within the meaning of Article 1 (b) grants to a body other than a contracting authority — regardless of its legal status — special or exclusive rights to engage in a public service activity, the instrument granting this right shall stipulate that the body in question must observe the principle of non-discrimination by nationality when awarding public supply contracts to third parties.

Article 3

Without prejudice to Articles 2, 4 and 5 (1), this Directive shall apply to all products to which Article 1 (a) relates, including those covered by contracts awarded by contracting authorities in the field of defence, except for the products to which Article 223 (1) (b) of the EEC Treaty applies.

Article 4

This Directive shall not apply to public supply contracts governed by different procedural rules and awarded:

- (a) in pursuance of an international agreement concluded in conformity with the Treaty, between a Member State and one or more non-member countries and covering supplies intended for the joint implementation or exploitation of a project by the signatory States; all agreements shall be communicated to the Commission, which may consult the Advisory Committee for Public Contracts set up by Decision 71/306/EEC ⁽¹⁾;
- (b) to undertakings in a Member State or a non-member country in pursuance of an international agreement relating to the stationing of troops;
- (c) pursuant to the particular procedure of an international organization.

Article 5

1. (a) Titles II, III and IV and Articles 6 and 7 shall apply to public supply contracts:

- awarded by the contracting authorities referred to in Article 1 (b), including contracts awarded by the contracting authorities listed in Annex I in the field of defence in so far as the products not covered by Annex II are concerned, provided that the estimated value net of VAT is not less than ECU 200 000,
- awarded by the contracting authorities listed in Annex I and whose estimated value net of VAT is not less than the threshold fixed pursuant to the GATT Agreement; in the case of contracting authorities in the field of defence, this shall apply only to contracts involving products covered by Annex II;

⁽¹⁾ OJ No L 185, 16. 8. 1971, p. 15. Decision amended by Decision 77/63/EEC (OJ No L 13, 15. 1. 1977, p. 15).

- (b) this Directive shall apply to public supply contracts for which the estimated value equals or exceeds the threshold concerned at the time of publication of the notice in accordance with Article 9 (2);

- (c) the value of the thresholds in national currencies and the threshold of the GATT Agreement expressed in ecus shall in principle be revised every two years with effect from 1 January 1988. The calculation of these values shall be based on the average daily values of these currencies expressed in ecus and of the ecu expressed in SDRs over the 24 months terminating on the last day of August immediately preceding the 1 January revision;

the method of calculation laid down in the present subparagraph shall be reviewed, on the Commission's initiative, by the Advisory Committee for Public Contracts, in principle two years after its initial application;

- (d) the threshold laid down in subparagraph (c) and the value of the thresholds in national currencies and, as regards the threshold fixed by the GATT Agreement, its threshold expressed in ecus shall be published in the *Official Journal of the European Communities* at the beginning of the month of November which follows the revision laid down in the first part of subparagraph (c).

2. In the case of contracts for the lease, rental or hire purchase of products, the basis for calculating the estimated contract value shall be:

- in the case of fixed-term contracts, where their term is 12 months or less the total contract value for its duration, or, where their term exceeds 12 months, its total value including the estimated residual value;
- in the case of contracts for an indefinite period or in cases where there is doubt as to the duration of the contracts the monthly value multiplied by 48.

3. In the case of regular contracts or of contracts which are to be renewed within a given time, the estimated contract value shall be established on the basis of:

- either the actual aggregate value of similar contracts concluded over the previous fiscal year or 12 months, adjusted where possible, for anticipated changes in quantity or value over the 12 months following the initial contract;
- or the estimated aggregate value during the 12 months following the first delivery or during the term of the contract, where this is greater than 12 months.

The selection of the valuation method shall not be used with the intention of avoiding the application of this Directive.

4. If a proposed procurement of supplies of the same type may lead to contracts being awarded at the same time in separate parts, the estimated value of the total sum of these parts must be taken as the basis for the application of paragraphs 1 and 2.

5. In the case where a proposed procurement specifies option clauses, the basis for calculating the estimated contract value shall be the highest possible total of the purchase, lease, rental, or hire-purchase permissible, inclusive of the option clauses.

6. No procurement requirement for a given quantity of supplies may be split up with the intention of avoiding the application of this Directive.

Article 6

1. In awarding public supply contracts the contracting authorities shall apply the procedures defined in Article 1 (d), (e) and (f), in the cases set out below.

2. The contracting authorities may award their supply contracts by negotiated procedure in the case of irregular tenders in response to an open or restricted procedure or in the case of tenders which are unacceptable under national provisions that are in accordance with provisions of Title IV, in so far as the original terms for the contract are not substantially altered. The contracting authorities shall in these cases publish a tender notice unless they include in such negotiated procedures all the enterprises satisfying the criteria of Articles 20 to 24 which, during the prior open or restricted procedure, have submitted tenders in accordance with the formal requirements of the tendering procedure.

3. The contracting authorities may award their supply contracts by negotiated procedure without prior publication of a tender notice, in the following cases:

- (a) in the absence of tenders or appropriate tenders in response to an open or restricted procedure insofar as the original terms of the contract are not substantially altered and provided that a report is communicated to the Commission;
- (b) when the products involved are manufactured purely for the purpose of research, experiment, study or development, this provision does not extend to quantity

production to establish commercial viability or to recover research and development costs;

(c) when, for technical or artistic reasons, or for reasons connected with protection of exclusive rights, the products supplied may be manufactured or delivered only by a particular supplier;

(d) in so far as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the contracting authorities in question, the time limit laid down for the open, restricted or negotiated procedures referred to in paragraph 2 cannot be kept. The circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authorities;

(e) for additional deliveries by the original supplier which are intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire material having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance. The length of such contracts as well as that of recurrent contracts may, as a general rule, not exceed three years.

4. In all other cases, the contracting authorities shall award their supply contracts by the open procedure or by the restricted procedure.

Article 7

1. The contracting authority shall, within 15 days of the date on which the request is received, inform any eliminated candidate or tenderer who so requests of the reasons of rejection of his application or his tender, and, in the case of a tender, the name of the successful tenderer.

2. The contracting authority shall inform candidates or tenderers who so request of the grounds on which it decided not to award a contract in respect of which a prior call for competition was made, or to recommence the procedure. It shall also inform the Office for Official Publications of the European Communities of that decision.

3. For each contract awarded the contracting authorities shall draw up a written report which shall include at least the following:

- the name and address of the contracting authority, the subject and value of the contract,
- the names of the candidates or tenderers admitted and the reasons for their selection,

— the names of the candidates or tenderers rejected and the reasons for their rejection,

— the name of the successful tenderer and the reasons for his tender having been selected and, if known, any share of the contract the successful tenderer may intend to subcontract to a third party,

— for negotiated procedures, the circumstances referred to in Article 6 which justify the use of these procedures.

This report, or the main features of it, shall be communicated to the Commission at its request.

TITLE II

COMMON RULES IN THE TECHNICAL FIELD

Article 8

1. The technical specifications defined in Annex III shall be given in the general or contractual documents relating to each contract.

2. Without prejudice to the legally binding national technical rules, in so far as these are compatible with Community law, the technical specifications mentioned in paragraph 1 shall be defined by the contracting authorities by reference to national standards implementing European standards, or by reference to European technical approvals or by reference to common technical specifications.

3. A contracting authority may depart from paragraph 2 if:

(a) the standards, European technical approvals or common technical specifications do not include any provision for establishing conformity or technical means do not exist for establishing satisfactorily the conformity of a product to these standards, European technical approvals or common technical specifications;

(b) the application of paragraph 2 would prejudice the application of Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment⁽¹⁾ or Council Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications⁽²⁾ or other Community instruments in specific service or product areas;

⁽¹⁾ OJ No L 217, 5. 8. 1986, p. 21. Directive as amended by Directive 91/263/EEC (OJ No L 128, 23. 5 1991, p. 1).

⁽²⁾ OJ No L 36, 7. 2. 1987, p. 31.

- (c) use of these standards, European technical approvals or common technical specifications would oblige the contracting authority to acquire supplies incompatible with equipment already in use or would entail disproportionate costs or disproportionate technical difficulties, but only as part of a clearly defined and recorded strategy with a view to change-over, within a given period, to European standards, European technical approvals or common technical specifications;
- (d) the project concerned is of a genuinely innovative nature for which use of existing European standards, European technical approvals or common technical specifications would not be appropriate.

4. Contracting authorities invoking paragraph 3 shall record, wherever possible, the reasons for doing so in the tender notice published in the *Official Journal of the European Communities* or in the contract documents and in all cases shall record these reasons in their internal documentation and shall supply such information on request to Member States and to the Commission.

5. In the absence of European standards, European technical approvals or common technical specifications, the technical specifications:

- (a) shall be defined by reference to the national technical specifications recognized as complying with the basic requirements listed in the Community directives on technical harmonization, in accordance with the procedures laid down in those directives, and in particular in accordance with the procedures laid down in Directive 89/106/EEC ⁽¹⁾;
- (b) may be defined by reference to national technical specifications relating to design and method of calculation and execution of works and use of materials;
- (c) may be defined by reference to other documents. In this case, it is appropriate to make reference in order of preference to:
 - (i) national standards implementing international standards accepted by the country of the contracting authority;
 - (ii) other national standards and national technical approvals of the country of the contracting authority;
 - (iii) any other standard.

6. Unless such specifications are justified by the subject of the contract, Member States shall prohibit the introduction into the contractual clauses relating to a given contract of

technical specifications which mention goods of specific make or source or of a particular process and which therefore favour or eliminate certain suppliers or products. In particular, the indication of trade marks, patents, types or of a specific origin or production shall be prohibited. However, if such indication is accompanied by the words 'or equivalent' it shall be authorized in cases where the contracting authorities are unable to give a description of the subject of the contract using specifications which are sufficiently precise and fully intelligible to all parties concerned.

TITLE III

COMMON ADVERTISING RULES

Article 9

1. The contracting authorities shall make known, as soon as possible after the beginning of their budgetary year, by means of an indicative notice, the total procurement by product area which they envisage awarding during the subsequent 12 months where the total estimated value, taking into account the provisions of Article 5, is equal to or greater than ECU 750 000.

The product area shall be established by the contracting authorities by means of reference to the nomenclature 'Classification of Products According to Activities (CPA)'. The Commission shall determine the conditions of reference in the notice to particular positions of the nomenclature in accordance with the procedure laid down in Article 32 (2).

2. Contracting authorities who wish to award a public supply contract by open, restricted or negotiated procedure in the cases referred to in Article 6 (2), shall make known their intention by means of a notice.

3. Contracting authorities who have awarded a contract shall make known the result by means of a notice. However, certain information on the contract award may, in certain cases, not be published where release of such information would impede law enforcement or otherwise be contrary to the public interest, would prejudice the legitimate commercial interests of particular enterprises, public or private, or might prejudice fair competition between suppliers.

4. The notices shall be drawn up in accordance with the models given in Annex IV and shall specify the information requested in those models. The contracting authorities may not require any conditions other than those specified in

⁽¹⁾ OJ No L 40, 11. 2. 1989, p. 12.

Article 22 and 23 when requesting information concerning the economic and technical standards which they require of suppliers for their selection (Section 11 of Annex IV B, Section 9 of Annex IV C and Section 8 of Annex IV D).

5. The contracting authorities shall send the notices as rapidly as possible and by the most appropriate channels to the Office for Official Publications of the European Communities. In the case of the accelerated procedure referred to in Article 12, the notice shall be sent by telex, telegram or telefax.

The notice referred to in paragraph 1 shall be sent as soon as possible after the beginning of each budgetary year.

The notice referred to in paragraph 3 shall be sent at the latest 48 days after the award of the contract in question.

6. The notices referred to in paragraphs 1 and 3 shall be published in full in the *Official Journal of the European Communities* and in the TED data bank in the official languages of the Communities, the text in the original language alone being authentic.

7. The notice referred to in paragraph 2 shall be published in full in the *Official Journal of the European Communities* and in the TED data bank in their original language. A summary of the important elements of each notice shall be published in the official languages of the Communities, the text in the original language alone being authentic.

8. The Office for Official Publications of the European Communities shall publish the notices not later than 12 days after their dispatch. In the case of the accelerated procedure referred to in Article 12, this period shall be reduced to five days.

9. The notices shall not be published in the Official Journals or in the press of the country of the contracting authority before the date of dispatch to the Office for Official Publications of the European Communities; they shall mention that date. They shall not contain information other than that published in the *Official Journal of the European Communities*.

10. The contracting authorities must be able to supply proof of the date of dispatch.

11. The cost of publication of the notices in the *Official Journal of the European Communities* shall be borne by the Communities. The length of the notice shall not be greater than one page of the Journal, or approximately 650 words. Each edition of the Journal containing one or more notices

shall reproduce the model notice or notices on which the published notice or notices are based.

Article 10

1. In open procedures the time limit for the receipt of tenders, fixed by the contracting authorities, shall not be less than 52 days from the date of dispatch of the notice.

2. Provided they have been requested in good time, the contract documents and supporting documents must be sent to the suppliers by the contracting authorities or competent departments within six days of receiving their application.

3. Provided it has been requested in good time, additional information relating to the contract documents shall be supplied by the contracting not later than six days before the final date fixed for receipt of tenders.

4. Where the contract documents, supporting documents or additional information are too bulky to be supplied within the time limits laid down in paragraph 2 or 3 or where tenders can be made only after a visit to the site or after on-the-spot inspection of the documents supporting the contract documents, the time limit laid down in paragraph 1 shall be extended accordingly.

Article 11

1. In restricted procedures and negotiated procedures as described in Article 6 (2), the time limit for receipt of requests to participate fixed by the contracting authorities shall not be less than 37 days from the date of dispatch of the notice.

2. The contracting authorities shall simultaneously and in writing invite the selected candidates to submit their tenders. The letter of invitation shall be accompanied by the contract documents and supporting documents. It shall include at least the following information:

- (a) where appropriate, the address of the service from which the contract documents and supporting documents can be requested and the final date for making such a request; also the amount and terms of payment of any sum to be paid for such documents;
- (b) the final date for receipt of tenders, the address to which they must be sent and the language or languages in which they must be drawn up;
- (c) a reference to the contract notice published;
- (d) an indication of any documents to be annexed, either to support the verifiable statements furnished by the

candidate in accordance with Article 9 (4), or to supplement the information provided for in that Article under the same conditions as those laid down in Articles 22 and 23;

- (e) the criteria for the award of the contract if these are not given in the notice.

3. In restricted procedures, the time limit receipt of tenders fixed by the contracting authorities may not be less than 40 days from the date of dispatch of the written invitation.

4. Requests to participate in procedures for the award of contracts may be made by letter, by telegram, telex, telefax or by telephone. If by one of the last four, they must be confirmed by letter dispatched before the end of the period laid down in paragraph 1.

5. Provided it has been requested in good time, additional information relating to the contract documents must be supplied by the contracting authorities not later than six days before the final date fixed for receipt of tenders.

6. Where tenders can be made only after a visit to the site or after on-the-spot inspection of the documents supporting the contract documents, the time limit laid down in paragraph 3 shall be extended accordingly.

Article 12

1. In cases where urgency renders impracticable the time limits laid down in Article 11, the contracting authorities may fix the following time limits:

- (a) a time limit for the receipt of requests to participate which shall not be less than 15 days from the date of dispatch of the notice;
- (b) a time limit for the receipt of tenders which shall not be less than 10 days from the date of the invitation to tender.

2. Provided it has been requested in good time, additional information relating to the contract documents must be supplied by the contracting authorities not less than four days before the final date fixed for the receipt of tenders.

3. Requests for participation in contracts and invitations to tender must be made by the most rapid means of communication possible. When requests to participate are

made by telegram, telex, telefax or telephone, they must be confirmed by letter dispatched before the expiry of the time limit referred to in paragraph 1.

Article 13

Contracting authorities may arrange for the publication in the *Official Journal of the European Communities* of notices announcing public supply contracts which are not subject to the publication requirement laid down in this Directive.

Article 14

The conditions for the drawing up, transmission, receipt, translation, collection and distribution of the notices referred to in Article 9 and of the statistical reports provided for in Article 31 as well as the nomenclature provided for in Article 9 and in Annexes II and IV may be modified in accordance with the procedure laid down in Article 32 (2). The conditions for referring in the notices to particular positions in the nomenclature may be determined pursuant to the same procedure.

TITLE IV

Chapter 1

Common rules on participation

Article 15

1. Contracts shall be awarded on the basis for the criteria laid down in Chapter 3 of this Title, taking into account Article 16, after the suitability of the suppliers not excluded under Article 20 has been checked by the contracting authorities in accordance with the criteria of economic and financial standing and of technical capacity referred to in Articles 22, 23 and 24.

2. The contracting authorities shall respect fully the confidential nature of any information furnished by the suppliers.

Article 16

1. Where the criterion for the award of the contract is that of the most economically advantageous tender, contracting authorities may take account of variants which are submitted by a tenderer and meet the minimum specifications required by the contracting authorities.

The contracting authorities shall state in the contract documents the minimum specifications to be respected by

the variants and any specific requirements for their presentation. They shall indicate in the tender notice if variants are not permitted.

Contracting authorities may not reject the submission of a variant of the sole grounds that it has been drawn up with technical specifications defined by reference to national standards transposing European standards, to European technical approvals or to common technical specifications referred to in Article 8 (2), or again by reference to national technical specifications to in Article 8 (5) (a) and (b).

2. Contracting authorities which have admitted variants pursuant to paragraph 1 may not reject a variant on the sole grounds that it would lead, if successful, to a service contract rather than a public supply contract within the meaning of this Directive.

Article 17

In the contract documents, the contracting authority may ask the tenderer to indicate in his tender any share of the contract he may intend to subcontract to third parties.

This indication shall be without prejudice to the question of the principal supplier's liability.

Article 18

Tenders may be submitted by groups of suppliers. These groups may not be required to assume a specific legal form in order to submit the tender; however, the group selected may be required to do so when it has been awarded the contract, to the extent that this change is necessary for the satisfactory performance of the contract.

Article 19

1. In restricted and negotiated procedures the contracting authorities shall, on the basis of information given relating to the supplier's personal position as well as to the information and formalities necessary for the evaluation of the minimum conditions of an economic and technical nature to be fulfilled by him, select from among the candidates with the qualifications required by Articles 20 to 24 those whom they will invite to submit a tender or to negotiate.

2. Where the contracting authorities award a contract by restricted procedure, they may prescribe the range within which the number of suppliers which they intend to invite will fall. In this case the range shall be indicated in the contract notice. The range shall be determined in the light

of the nature of the goods to be supplied. The range must number at least five suppliers and may be up to 20.

In any event, the number of candidates invited to tender shall be sufficient to ensure genuine competition.

3. Where the contracting authorities award a contract by negotiated procedure as referred to in Article 6 (2), the number of candidates admitted to negotiate may not be less than three provided that there is a sufficient number of suitable candidates.

4. Each Member State shall ensure that contracting authorities issue invitations without discrimination to those nationals of other Member States who satisfy the necessary requirements and under the same conditions as to its own nationals.

Chapter 2

Criteria for qualitative selection

Article 20

1. Any supplier may be excluded from participation in the contract who:

- (a) is bankrupt or is being wound up, whose affairs are being administered by the court, who has entered into an arrangement with creditors, who has suspended business activities or who is in any analogous situation arising from a similar procedure under national laws and regulations;
- (b) is the subject of proceedings for a declaration of bankruptcy, for an order for compulsory winding up or administration by the court or for an arrangement with creditors or of any other similar proceedings under national laws and regulations;
- (c) has been convicted of an offence concerning his professional conduct by a judgment which has the force of *res judicata*;
- (d) has been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- (e) has not fulfilled obligations relating to the payment of social security contributions in accordance with the legal provisions of the country in which he is established or with those of the country of the contracting authority;
- (f) has not fulfilled obligations relating to the payment of taxes in accordance with the legal provisions of the country in which he is established or those of the country of the contracting authority;

(g) is guilty of serious misrepresentation in supplying the information required under this Chapter.

2. Where the contracting authority requires to the supplier proof that none of the cases quoted in (a), (b), (c), (e) or (f) of paragraph 1 applies to him, it shall accept as sufficient evidence:

- for points (a), (b) or (c), the production of an extract from the 'judicial record' or, failing this, of an equivalent document issued by a competent judicial or administrative authority in the country of origin in the country whence that person comes showing that these requirements have been met,
- for points (e) or (f), a certificate issued by the competent authority in the Member State concerned.

3. Where the country in question does not issue the documents or certificates referred to in paragraph 2 or where these do not cover all the cases quoted in (a), (b) or (c) of paragraph 1, they may be replaced by a declaration on oath or, in Member States where there is no provision for declarations on oath, by a solemn declaration made by the person concerned before a competent judicial or administrative authority, a notary or a competent professional or trade body, in the country of origin in the country whence that person comes.

4. Member States shall designate the authorities and bodies competent to issue the documents, certificates or declarations referred to in paragraphs 2 and 3 and shall forthwith inform the other Member States and the Commission thereof.

Article 21

1. Any supplier wishing to take part in a public supply contract may be requested to prove his enrolment, as prescribed in his country of establishment, in one of the professional or trade registers or to provide a declaration on oath or certificate as described in paragraph 2 below.

2. The relevant professional and trade registers or declarations or certificates are:

- in Belgium: 'Registre du commerce/Handelsregister',
- in Denmark: 'Aktieselskabsregistret', 'Foreningsregistret' and 'Handelsregistret',
- in Germany: 'Handelsregister' and 'Handwerksrolle',
- in Greece: 'Βιοτεχνικό ή Βιομηχανικό ή Εμπορικό Επιμελητήριο',
- in Spain: 'Registro Mercantil' or, in the case of non-registered individuals, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in question,

- in France: 'Registre du commerce' and 'répertoire des métiers',
- in Italy: 'Registro della Camera di commercio, industria, agricoltura e artigianato', and 'Registro delle Commissioni provinciali per l'artigianato',
- in Luxembourg: 'Registre aux firmes' and 'Rôle de la chambre des métiers',
- in the Netherlands: 'Handelsregister',
- in Portugal: 'Registo Nacional das Pessoas Colectivas',
- in the United Kingdom and Ireland, the supplier may be requested to provide a certificate from the Registrar of Companies or the Registrar of Friendly Societies, that he is certified as incorporated or registered or, if he is not so certified, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in question in the country in which he is established in a specific place under a given business name and under a specific trading name.

Article 22

1. Evidence of the supplier's financial and economic standing may, as a general rule, be furnished by one or more of the following references:

- (a) appropriate statements from bankers;
- (b) the presentation of the supplier's balance-sheets or extracts from the balance-sheets, where publication of the balance-sheet is required under the law of the country in which the supplier is established;
- (c) a statement of the supplier's overall turnover and its turnover in respect of the products to which the contract relates for the three previous financial years.

2. The contracting authorities shall specify in the notice or in the invitation to tender which reference or references mentioned in paragraph 1 they have chosen and which references other than those mentioned under paragraph 1 are to be produced.

3. If, for any valid reason, the supplier is unable to provide the references requested by the contracting authority, he may prove his economic and financial standing by any other document which the contracting authority considers appropriate.

Article 23

1. Evidence of the supplier's technical capacity may be furnished by one or more of the following means according to the nature, quantity and purpose of the products to be supplied:

- (a) a list of the principal deliveries effected in the past three years, with the sums, dates and recipients, public or private, involved:

- where effected to public authorities, evidence to be in the form of certificates issued or countersigned by the competent authority;
- where effected to private purchasers, delivery to be certified by the purchaser or, failing this, simply declared by the supplier to have been effected;

(b) a description of the supplier's technical facilities, its measures for ensuring quality and its study and research facilities;

(c) indication of the technicians or technical bodies involved, whether or not belonging directly to the supplier, especially those responsible for quality control;

(d) samples, description and/or photographs of the products to be supplied, the authenticity of which must be certified if the contracting authority so requests;

(e) certificates drawn up by official quality control institutes or agencies of recognized competence attesting conformity to certain specifications or standards of products clearly identified by references to specifications or standards;

(f) where the products to be supplied are complex or, exceptionally, are required for a special purpose, a check carried out by the contracting authorities or on their behalf by a competent official body of the country in which the supplier is established, subject to that body's agreement, on the production capacities of the supplier and if necessary on his study and research facilities and quality control measures.

2. The contracting authority shall specify, in the notice or in the invitation to tender, which references it wishes to receive.

3. The extent of the information referred to in Article 22 and in paragraph 1 and 2 of this Article must be confined to the subject of the contract; the contracting authority shall take into consideration the legitimate interests of the suppliers as regards the protection of their technical or trade secrets.

Article 24

Within the limits of Articles 20 to 23 the contracting authority may invite the suppliers to supplement the certificates and documents submitted or to clarify them.

Article 25

1. Member States who have official lists of recognized suppliers must adapt them to the provisions of points (a) to (d) and (g) of Article 20 (1) and of Articles 21, 22 and 23.

2. Suppliers registered in the official lists may, for each contract, submit to the contracting authority a certificate of registration issued by the competent authority. This certificate shall state the reference which enabled them to be registered in the list and the classification given in that list.

3. Certified registration in official lists of suppliers by the competent bodies shall, for the contracting authorities of other Member States, constitute a presumption of suitability corresponding to the suppliers classification only as regards Article 20 (1) (a) to (d) and (g), Article 21, Article 22 (1) (b) (e) Article 23 (1) (a).

Information which can be deduced from registration in official lists may not be questioned. However, with regard to the payment of social security contributions, an additional certificate may be required of any registered suppliers whenever a contract is offered.

The contracting authorities of other Member States shall apply the first and second subparagraph only in favour of suppliers established in the Member States holding the official list.

4. For the registration of suppliers of other Member States in an official list, no further proof or statements can be required other than those requested of national suppliers and, in any event, only those provided for under Articles 20 to 23.

5. Member States holding an official list shall communicate the address of the body to which requests for registration may be made to other Member States and to the Commission which shall ensure distribution.

Chapter 3

Criteria for the award of contracts

Article 26

1. The criteria on which the contracting authority shall base the award of contracts shall be:

(a) either the lowest price only;

(b) or, when award is made to the most economically advantageous tender, various criteria according to the contract in question: e. g. price, delivery date, running

costs, cost-effectiveness, quality, aesthetic and functional characteristics, technical merit, after-sales service and technical assistance.

2. In the case referred to in point (b) of paragraph 1, the contracting authority shall state in the contract documents or in the contract notice all the criteria they intend to apply to the award, where possible in descending order of importance.

Article 27

If, for a given contract, tenders appear to be abnormally low in relation to the goods to be supplied, the contracting authority shall, before it may reject those tenders, request in writing details of the constituent elements of the tender which it considers relevant and shall verify those constituent elements taking account of the explanations received.

The contracting authority may take into consideration explanations relating to the economics of the manufacturing process, or to the technical solutions chosen, or to the exceptionally favourable conditions available to the tenderer for the supply of the goods, or to the originality of the suppliers proposed by the tenderer.

If the documents relating to the contract provide for its award at the lowest price tendered, the contracting authority must communicate to the Commission the rejection of tenders which it considers to be too low.

TITLE V

FINAL PROVISIONS

Article 28

For the purposes of the award of public contracts by the contracting authorities referred to in Annex I, and, to the extent that rectifications, modifications or amendments have been made thereto, by their successor authorities, Member States shall apply in their relations conditions as favourable as those which they grant to third countries in implementation of the GATT Agreement, in particular those in Articles V and VI of that Agreement, on the restricted procedure, information and review. The Member States shall to this end consult each other within the Advisory Committee for Public Contracts on the measures to be taken pursuant to the Agreement.

Article 29

1. The Commission shall examine the application of this Directive in consultation with the Advisory Committee for Public Contracts and where appropriate shall submit new

proposals to the Council with the aim in particular of harmonizing the measures taken by the Member States for the implementation of this Directive.

2. The Commission shall review this Directive and any new measures which may be adopted by virtue of paragraph 1, having regard to the results of the further negotiations provided for in Article IX (6) of the GATT Agreement and shall, if necessary, submit appropriate proposals to the Council.

3. The Commission shall update Annex I on the basis of any rectifications, modifications or amendments referred to in Article 28 and shall have the updated version published in the *Official Journal of the European Communities*.

Article 30

The calculation of time limits shall be made in accordance with Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time limits ⁽¹⁾.

Article 31

1. In order to permit assessment of the results of applying this Directive, Member States shall forward to the Commission a statistical report relative to supply contract awards:

- (a) not later than 31 October of each year for the preceding year in respect of the contracting authorities listed in Annex I;
- (b) not later than 31 October 1991 and for the Hellenic Republic, the Kingdom of Spain and the Portuguese Republic 31 October 1995 and thereafter 31 October of each second year for the preceding year in respect of the other contracting authorities within the meaning of Article 1.

2. The statistical report shall detail at least:

- (a) the number and value of contracts awarded by each contracting authority above the threshold and, in the case of contracting authorities mentioned in Annex I, the value below the threshold;
- (b) the number and value of contracts awarded by each contracting authority above the threshold, subdivided by procedure, product and the nationality of the supplier to whom the contract has been awarded, and in the case of negotiated procedures, subdivided in accordance with Article 6, listing the number and value

⁽¹⁾ OJ No L 124, 8. 6. 1971, p. 1.

of the contracts awarded to each Member State and to third countries, and in the case of contracting authorities referred to in Annex I, the number and value of the contracts awarded to each signatory to the GATT Agreement.

3. The Commission shall determine in accordance with the procedure laid down in Article 32 (2) the nature of any additional statistical information, which is required in accordance with this Directive.

Article 32

1. The Commission shall be assisted by the Advisory Committee for Public Contracts set up by Decision 71/306/EEC.

2. Where reference is made to the procedure laid down in this paragraph, the representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account to the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

3. The Committee mentioned in paragraph 1 shall examine, on the initiative of the Commission or at the request of a Member State, any question relating to the application of this Directive.

Article 33

Directive 77/62/EEC⁽¹⁾ is hereby repealed, without prejudice to the obligation of the Member States concerning the deadlines for transposition into national law and for application indicated in Annex V.

References to the repealed Directives shall be construed as reference to this Directive and should be read in accordance with the correlation table set out in Annex VI.

Article 34

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 14 June 1994. They shall immediately inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods for making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.

Article 35

This Directive is addressed to the Member States.

Done at Luxembourg, 14 June 1993.

For the Council

The President

J. TRØJBORG

⁽¹⁾ Including the provisions which amended this Directive, namely:

- Directive 80/767/EEC (OJ No L 215, 18. 8. 1980, p. 1),
- Directive 88/295/EEC (OJ No L 127, 20. 5. 1988, p. 1),
- Article 35 (1) of Directive 90/531/EEC (OJ No L 297, 29. 10. 1990, p. 1),
- Article 42 (1) of Directive 92/50/EEC (OJ No L 209, 24. 7. 1992, p. 1).

ANNEX I

LIST OF CONTRACTING AUTHORITIES SUBJECT TO THE GATT AGREEMENT
ON GOVERNMENT PROCUREMENT

BELGIUM

A. L'État, exception faite pour les marchés passés dans le cadre de coopération au développement qui, en vertu d'accords internationaux conclus avec des pays tiers et se rapportant à la passation de marchés, sont soumis à d'autres dispositions, incompatibles avec les dispositions du présent arrêté ⁽¹⁾: — la Régie des postes ⁽²⁾, — la Régie des bâtiments; — le Fonds des routes.	De Staat, met uitzondering van de opdrachten inzake ontwikkelingssamenwerking die, krachtens internationale overeenkomsten met derde landen inzake het plaatsen van opdrachten, andere bepalingen behelzen die niet verenigbaar zijn met de bepalingen van dit besluit ⁽¹⁾: — de Regie der Posterijen ⁽²⁾; — de Regie der Gebouwen; — het Wegenfonds
B. Le Fonds général des bâtiments scolaires de l'État Le Fonds de construction d'institutions hospitalières et médico-sociales La Société nationale terrienne L'Office national de sécurité sociale L'Institut national d'assurances sociales pour travailleurs indépendants L'Institut national d'assurance maladie-invalidité L'Institut national de crédit agricole L'Office national des pensions L'Office central de crédit hypothécaire L'Office national du ducroire La Caisse auxiliaire d'assurance maladie-invalidité Le Fonds des maladies professionnelles La Caisse nationale de crédit professionnel L'Office national des débouchés agricoles et horticoles L'Office national du lait et de ses dérivés L'Office national de l'emploi Régie des voies aériennes	Het Algemeen Gebouwenfonds voor de rijksscholen Het Fonds voor de bouw van ziekenhuizen en medisch-sociale inrichtingen De Nationale Landmaatschappij De Rijksdienst voor sociale zekerheid Het Rijksinstituut voor de sociale verzekeringen der zelfstandigen Het Rijksinstituut voor ziekte- en invaliditeitsverzekering Het Nationaal Instituut voor landbouwkrediet De Rijksdienst voor pensioenen Het Centraal Bureau voor hypothecair krediet De Nationale Delcrederedienst De Hulpkas voor ziekte- en invaliditeitsverzekering Het Fonds voor de beroepsziekten De Nationale Kas voor beroepskrediet De Nationale Dienst voor afzet van land- en tuinbouwprodukten De Nationale Zuiveldienst De Rijksdienst voor arbeidsvoorziening De Regie der Luchtwegen

⁽¹⁾ Non-warlike materials contained in Annex II.⁽²⁾ Postal business only.

DENMARK

- | | |
|--|--|
| 1. Statsministeriet | — to departementer |
| 2. Arbejdsministeriet | — fem direktorater og institutioner |
| 3. Udenrigsministeriet
(tre departementer) | |
| 4. Boligministeriet | — fem direktorater og institutioner |
| 5. Energiministeriet | — ét direktorat og Forsøgsanlæg Risø |
| 6. Finansministeriet
(to departementer) | — fire direktorater og institutioner inklusive
Direktoratet for Statens Indkøb |
| | — fem andre institutioner |
| 7. Ministeriet for Skatter og Afgifter
(to departementer) | — fem direktorater og institutioner |
| 8. Fiskeriministeriet | — fire institutioner |
| 9. Industriministeriet
(Fulde navn: Ministeriet for Industri, Handel,
Håndværk og Skibsfart) | — ni direktorater og institutioner |
| 10. Indenrigsministeriet | — Civilforsvarsstyrelsen |
| | — ét direktorat |
| 11. Justitsministeriet | — Rigspolitichefen |
| | — fem andre direktorater og institutioner |
| 12. Kirkeministeriet | |
| 13. Landbrugsministeriet | — 19 direktorater og institutioner |
| 14. Miljøministeriet | — fem direktorater |
| 15. Kultur- og Kommunikationsministeriet ⁽¹⁾ | — tre direktorater og adskillige statsejede museer og
højere uddannelsesinstitutioner |
| 16. Socialministeriet | — fire direktorater |
| 17. Undervisningsministeriet | — seks direktorater |
| | — 12 universiteter og andre højere læreanstalter |
| 18. Økonomiministeriet
(tre departementer) | |
| 19. Ministeriet for Offentlige Arbejder ⁽²⁾ | — statshavne og statslufthavne |
| | — fire direktorater og adskillige institutioner |
| 20. Forsvarsministeriet ⁽³⁾ | |
| 21. Sundhedsministeriet | — adskillige institutioner inklusive Statens
Seruminstitut og Rigshospitalet |

⁽¹⁾ With the exception of telecommunications services of the 'Post- og Telegrafvæsenet'.

⁽²⁾ With the exception of the 'Danske Statsbaner'.

⁽³⁾ Non-warlike materials contained in Annex II.

FEDERAL REPUBLIC OF GERMANY

1. Auswärtiges Amt
2. Bundesministerium für Arbeit und Sozialordnung
3. Bundesministerium für Bildung und Wissenschaft
4. Bundesministerium für Ernährung, Landwirtschaft und Forsten
5. Bundesministerium der Finanzen
6. Bundesministerium für Forschung und Technologie
7. Bundesministerium des Inneren (nur ziviles Material)
8. Bundesministerium für Gesundheit
9. Bundesministerium für Frauen und Jugend
10. Bundesministerium für Familie und Senioren
11. Bundesministerium der Justiz
12. Bundesministerium für Raumordnung, Bauwesen und Städtebau
13. Bundesministerium für Post- und Telekommunikation ⁽¹⁾
14. Bundesministerium für Wirtschaft
15. Bundesministerium für wirtschaftliche Zusammenarbeit
16. Bundesministerium der Verteidigung ⁽²⁾
17. Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit

NB: According to existing national obligations, the entities contained in this list must, in conformity with special procedures, award contracts to certain groups in order to remove difficulties caused by the last war.

⁽¹⁾ With the exception of telecommunications equipment.

⁽²⁾ Non-warlike materials contained in Annex II.

FRANCE

1. Main purchasing entities

A. General budget

- Premier ministre
- Ministère d'État, ministère de l'éducation nationale de la jeunesse et des sports
- Ministère d'État, ministère de l'économie, des finances et du budget
- Ministère d'État, ministère de l'équipement, du logement, des transports et de la mer
- Ministère d'État, ministère des affaires étrangères
- Ministère de la justice
- Ministère de la défense ⁽¹⁾
- Ministère de l'intérieur et de la centralisation
- Ministère de l'industrie et de l'aménagement du territoire
- Ministère des affaires européennes
- Ministère d'État, ministère de la fonction publique et des réformes administratives
- Ministère du travail, de l'emploi et de la formation professionnelle
- Ministère de la coopération et du développement
- Ministère de la culture, de la communication, des grands travaux et du bicentenaire
- Ministère des départements et territoires d'outre-mer
- Ministère de l'agriculture et de la forêt
- Ministère des postes, des télécommunications et de l'espace ⁽²⁾
- Ministère chargé des relations avec le Parlement
- Ministère de la solidarité, de la santé et de la protection sociale
- Ministère de la recherche et de la technologie
- Ministère du commerce extérieur
- Ministère délégué auprès du ministère d'État, ministère de l'économie, des finances et du budget, chargé du budget
- Ministère délégué auprès du ministère d'État, ministère des affaires étrangères, chargé de la francophonie
- Ministère délégué auprès du ministère d'État, ministère des affaires étrangères
- Ministère délégué auprès du ministère de l'industrie et de l'aménagement du territoire, chargé de l'aménagement du territoire et des reconversions
- Ministère délégué auprès du ministère de l'industrie et de l'aménagement du territoire, chargé du commerce et de l'artisanat
- Ministère délégué auprès du ministère de l'industrie et de l'aménagement du territoire, chargé du tourisme
- Ministère délégué auprès du ministère de l'équipement, du logement, des transports et de la mer, chargé de la mer
- Ministère délégué auprès du ministère de la culture, de la communication, des grands travaux et du Bicentenaire, chargé de la communication
- Ministère délégué auprès du ministère de la solidarité, de la santé et de la protection sociale, chargé des personnes âgées

⁽¹⁾ Non-warlike materials contained in Annex II.

⁽²⁾ Postal business only.

- Secrétariat d'État chargé des droits des femmes
- Secrétariat d'État chargé des anciens combattants et des victimes de guerre
- Secrétariat d'État chargé de la prévention des risques technologiques et naturels majeurs,
- Secrétariat d'État auprès du premier ministre, chargé du plan
- Secrétariat d'État auprès du premier ministre, chargé de l'environnement
- Secrétariat d'État auprès du premier ministre
- Secrétariat d'État auprès du premier ministre, chargé de l'action humanitaire
- Secrétariat d'État auprès du ministère d'État, ministère de l'éducation nationale de la jeunesse et des sports, chargé de l'enseignement technique
- Secrétariat d'État auprès du ministère d'État, ministère de l'éducation nationale de la jeunesse et des sports, chargé de la jeunesse et des sports
- Secrétariat d'État auprès du ministère d'État, ministère de l'économie, des finances et du budget, chargé de la consommation
- Secrétariat d'État auprès du ministère des affaires étrangères, chargé des relations culturelles internationales
- Secrétariat d'État auprès du ministère de l'intérieur, chargé des collectivités territoriales
- Secrétariat d'État auprès du ministère de l'équipement, du logement, des transports et de la mer, chargé des transports routiers et fluviaux
- Secrétariat d'État auprès du ministère du travail, de l'emploi et de la formation professionnelle, chargé de la formation professionnelle
- Secrétariat d'État auprès du ministère de la culture, de la communication, des grands travaux et du bicentenaire, chargé des grands travaux
- Secrétariat d'État auprès du ministère de la solidarité, de la santé et de la protection sociale, chargé de la famille
- Secrétariat d'État auprès du ministère de la solidarité, de la santé et de la protection sociale, chargé des handicapés et des accidentés de la vie

B. Budget Annex

In particular:

- Imprimerie nationale

C. Special Treasury accounts

In particular:

- Fonds forestier national
- Soutien financier de l'industrie cinématographique et de l'industrie des programmes audiovisuels
- Fonds national d'aménagement foncier et d'urbanisme
- Caisse autonome de la reconstruction

2. National administrative public bodies

- Académie de France à Rome
- Académie de marine
- Académie des sciences d'outre-mer
- Agence centrale des organismes de sécurité sociale (ACOSS)
- Agences financières de bassins
- Agence nationale pour l'amélioration des conditions de travail (ANACT)
- Agence nationale pour l'amélioration de l'habitat (ANAH)
- Agence nationale pour l'emploi (ANPE)

- Agence nationale pour l'indemnisation des français d'outre-mer (ANIFOM)
- Assemblée permanente des chambres d'agriculture (APCA)
- Bibliothèque nationale
- Bibliothèque nationale et universitaire de Strasbourg
- Bureau d'études des postes et télécommunications d'outre-mer (BEPTOM)
- Caisse d'aide à l'équipement des collectivités locales (CAECL)
- Caisse des dépôts et consignations
- Caisse nationale des allocations familiales (CNAF)
- Caisse nationale d'assurance maladie des travailleurs salariés (CNAM)
- Caisse nationale d'assurance vieillesse des travailleurs salariés (CNAVTS)
- Caisse nationale des autoroutes (CNA)
- Caisse nationale militaire de sécurité sociale (CNMSS)
- Caisse nationale des monuments historiques et des sites
- Caisse nationale des télécommunications ⁽¹⁾
- Caisse de garantie du logement social
- Casa de Velasquez
- Centre d'enseignement zootechnique de Rambouillet
- Centre d'études du milieu et de pédagogie appliquée du ministère de l'agriculture
- Centre d'études supérieures de sécurité sociale
- Centres de formation professionnelle agricole
- Centre national d'art et de culture Georges Pompidou
- Centre national de la cinématographie française
- Centre national d'études et de formation pour l'enfance inadaptée
- Centre national d'études et d'expérimentation du machinisme agricole, du génie rural, des eaux et des forêts
- Centre national et de formation pour l'adaptation scolaire et l'éducation spécialisée (CNEFASES)
- Centre national de formation et de perfectionnement des professeurs d'enseignement ménager agricole
- Centre national des lettres
- Centre national de documentation pédagogique
- Centre national des œuvres universitaires et scolaires (CNOUS)
- Centre national d'ophtalmologie des quinze-vingts
- Centre national de préparation au professorat de travaux manuels éducatifs et d'enseignement ménager
- Centre national de promotion rurale de Marmilhat
- Centre national de la recherche scientifique (CNRS)
- Centre régional d'éducation populaire d'Île-de-France
- Centres d'éducation populaire et de sport (CREPS)
- Centres régionaux des œuvres universitaires (CROUS)
- Centres régionaux de la propriété forestière
- Centre de sécurité sociale des travailleurs migrants
- Chancelleries des universités
- Collèges d'État

⁽¹⁾ Postal business only.

- Commission des opérations de bourse
- Conseil supérieur de la pêche
- Conservatoire de l'espace littoral et des rivages lacustres
- Conservatoire national des arts et métiers
- Conservatoire national supérieur de musique
- Conservatoire national supérieur d'art dramatique
- Domaine de Pompadour
- École centrale — Lyon
- École centrale des arts et manufactures
- École française d'archéologie d'Athènes
- École française d'Extrême-Orient
- École française de Rome
- École des hautes études en sciences sociales
- École nationale d'administration
- École nationale de l'aviation civile (ENAC)
- École nationale des Chartes
- École nationale d'équitation
- École nationale du génie rural des eaux et des forêts (ENGREF)
- Écoles nationales d'ingénieurs
- École nationale d'ingénieurs des industries des techniques agricoles et alimentaires
- Écoles nationales d'ingénieurs des travaux agricoles
- École nationale des ingénieurs des travaux ruraux et des techniques sanitaires
- École nationale des ingénieurs des travaux des eaux et forêts (ENITEF)
- École nationale de la magistrature
- Écoles nationales de la marine marchande
- École nationale de la santé publique (ENSP)
- École nationale de ski et d'alpinisme
- École nationale supérieure agronomique — Montpellier
- École nationale supérieure agronomique — Rennes
- École nationale supérieure des arts décoratifs
- École nationale supérieure des arts et industries — Strasbourg
- École nationale supérieure des arts et industries textiles — Roubaix
- Écoles nationales supérieures d'arts et métiers
- École nationale supérieure des beaux-arts
- École nationale supérieure des bibliothécaires
- École nationale supérieure de céramique industrielle
- École nationale supérieure de l'électronique et de ses applications (ENSEA)
- École nationale supérieure d'horticulture
- École nationale supérieure des industries agricoles alimentaires
- École nationale supérieure du paysage (rattachée à l'école nationale supérieure d'horticulture)
- École nationale supérieure des sciences agronomiques appliquées (ENSSA)
- Écoles nationales vétérinaires

- École nationale de voile
- Écoles normales d'instituteurs et d'institutrices
- Écoles normales nationales d'apprentissage
- Écoles normales supérieures
- École polytechnique
- École technique professionnelle agricole et forestière de Meymac (Corrèze)
- École de sylviculture — Croigny (Aube)
- École de viticulture et d'œnologie de la Tour Blanche (Gironde)
- École de viticulture — Avize (Marne)
- Établissement national de convalescents de Saint-Maurice
- Établissement national des invalides de la marine (ENIM)
- Établissement national de bienfaisance Koenigs-Wazter
- Fondation Carnegie
- Fondations Singer-Polignac
- Fonds d'action sociale pour les travailleurs immigrés et leurs familles
- Hôpital-hospice national Dufresne-Sommeiller
- Institut de l'élevage et de médecine vétérinaire des pays tropicaux (IEMVPT)
- Institut français d'archéologie orientale du Caire
- Institut géographique national
- Institut industriel du Nord
- Institut international d'administration publique (IIAP)
- Institut national agronomique de Paris-Grignon
- Institut national des appellations d'origine des vins et eaux-de-vie (INAOVEV)
- Institut national d'astronomie et de géophysique (INAG)
- Institut national de la consommation (INC)
- Institut national d'éducation populaire (INEP)
- Institut national d'études démographiques (INED)
- Institut national des jeunes aveugles — Paris
- Institut national des jeunes sourds — Bordeaux
- Institut national des jeunes sourds — Chambéry
- Institut national des jeunes sourds — Metz
- Institut national des jeunes sourds — Paris
- Institut national de physique nucléaire et de physique des particules (I.N2.P3)
- Institut national de promotion supérieure agricole
- Institut national de la propriété industrielle
- Institut national de la recherche agronomique (INRA)
- Institut national de recherche pédagogique (INRP)
- Institut national de la santé et de la recherche médicale (INSERM)
- Institut national des sports
- Instituts nationaux polytechniques
- Instituts nationaux des sciences appliquées
- Institut national supérieur de chimie industrielle de Rouen

- Institut national de recherche en informatique et en automatique (INRIA)
- Institut national de recherche sur les transports et leur sécurité (INRETS)
- Instituts régionaux d'administration
- Institut supérieur des matériaux et de la construction mécanique de Saint-Ouen
- Lycées d'État
- Musée de l'armée
- Musée Gustave Moreau
- Musée de la marine
- Musée national J.J. Henner
- Musée national de la Légion d'honneur
- Musée de la poste
- Muséum national d'histoire naturelle
- Musée Auguste Rodin
- Observatoire de Paris
- Office de coopération et d'accueil universitaire
- Office français de protection des réfugiés et apatrides
- Office national des anciens combattants
- Office national de la chasse
- Office national d'information sur les enseignements et les professions (ONISEP)
- Office national d'immigration (ONI)
- ORSTOM — Institut français de recherche scientifique pour le développement en coopération
- Office universitaire et culturel français pour l'Algérie
- Palais de la découverte
- Parcs nationaux
- Réunion des musées nationaux
- Syndicat des transports parisiens
- Thermes nationaux — Aix-les-Bains
- Universités

3. Other national public bodies

- Union des groupements d'achats publics (UGAP)

IRELAND

1. Main purchasing entities

- Office of Public Works

2. Other departments

- President's Establishment
- Houses of the Oireachtas (Parliament)
- Department of the Taoiseach (Prime Minister)
- Central Statistics Office
- Department of the Gaeltacht (Irish-speaking areas)
- National Gallery of Ireland
- Department of Finance
- State Laboratory
- Office of the Comptroller and Auditor General
- Office of the Attorney general
- Office of the Director of Public Prosecutions
- Valuation Office
- Civil Service Commission
- Office of the Ombudsman
- Office of the Revenue Commissioners
- Department of Justice
- Commissioners of Charitable Donations and Bequests for Ireland
- Department of the Environment
- Department of Education
- Department of the Marine
- Department of Agriculture and Food
- Department of Labour
- Department of Industry and Commerce
- Department of Tourism and Transport
- Department of Communications
- Department of Defence ⁽¹⁾
- Department of Foreign Affairs
- Department of Social Welfare
- Department of Health
- Department of Energy

⁽¹⁾ Non-warlike materials contained in Annex II.

ITALY

1. Ministero del tesoro ⁽¹⁾
2. Ministero delle finanze ⁽²⁾
3. Ministero di grazia e giustizia
4. Ministero degli affari esteri
5. Ministero della pubblica istruzione
6. Ministero dell'interno
7. Ministero dei lavori pubblici
8. Ministero dell'agricoltura e delle foreste
9. Ministero dell'industria, del commercio e dell'artigianato
10. Ministero del lavoro e della previdenza sociale
11. Ministero della sanità
12. Ministero per i beni culturali e ambientali
13. Ministero della difesa ⁽³⁾
14. Ministero del bilancio e della programmazione economica
15. Ministero delle partecipazioni statali
16. Ministero del turismo e dello spettacolo
17. Ministero del commercio con l'estero
18. Ministero delle poste e delle telecomunicazioni ⁽⁴⁾
19. Ministero dell'ambiente
20. Ministero dell'università e della ricerca scientifica e tecnologica

NB: This Agreement shall not prevent the implementation of provisions contained in Italian Law No 835 of 6 October 1950 (Official Gazette N° 245 of 24 October 1950 of the Italian Republic) and in modifications thereto in force on the date on which this Agreement is adopted.

⁽¹⁾ Acting as the central purchasing entity for most of the other Ministries or entities.

⁽²⁾ Not including purchases made by the tobacco and salt monopolies.

⁽³⁾ Non-warlike materials contained in Annex II.

⁽⁴⁾ Postal business only.

LUXEMBOURG

1. Ministère d'État: service central des imprimés et des fournitures de l'État
2. Ministère de l'agriculture: administration des services techniques de l'agriculture
3. Ministère de l'éducation nationale: lycées d'enseignement secondaire et d'enseignement secondaire technique
4. Ministère de la famille et de la solidarité sociale: maisons de retraite
5. Ministère de la force publique: armée ⁽¹⁾ — gendarmerie — police
6. Ministère de la justice: établissements pénitentiaires
7. Ministère de la santé publique: hôpital neuropsychiatrique
8. Ministère des travaux publics: bâtiments publics — ponts et chaussées
9. Ministère des communications: postes et télécommunications ⁽²⁾
10. Ministère de l'énergie: centrales électriques de la Haute et Basse Sûre
11. Ministère de l'environnement: commissariat général à la protection des eaux

⁽¹⁾ Non-warlike materials contained in Annex II.

⁽²⁾ Postal business only.

THE NETHERLANDS

A. Ministries and central government bodies

1. Ministerie van Algemene Zaken
2. Ministerie van Buitenlandse Zaken
3. Ministerie van Justitie
4. Ministerie van Binnenlandse Zaken
5. Ministerie van Financiën
6. Ministerie van Economische Zaken
7. Ministerie van Onderwijs en Wetenschappen
8. Ministerie van volkshuisvesting, Ruimtelijke Ordening en Milieubeheer
9. Ministerie van Verkeer en Waterstaat
10. Ministerie van Landbouw, Natuurbeheer en Visserij
11. Ministerie van Sociale Zaken en Werkgelegenheid
12. Ministerie van Welzijn, Volksgezondheid en Cultuur
13. Kabinet voor Nederlands Antilliaanse en Arubaanse Zaken
14. Hogere Colleges van Staat

B. Central procurement offices

Entities listed above under A generally make their own specific purchases; other general purchases are effected through the entities listed below:

1. Directoraat-generaal Rijkswaterstaat
2. Directoraat-generaal voor de Koninklijke Landmacht ⁽¹⁾
3. Directoraat-generaal voor de Koninklijke Luchtmacht ⁽¹⁾
4. Directoraat-generaal voor de Koninklijke Marine ⁽¹⁾

⁽¹⁾ Non-warlike materials contained in Annex II.

UNITED KINGDOM

Cabinet Office

- Civil Service College
- Civil Service Commission
- Civil Service Occupational Health Service
- Office of the Minister for the Civil Service
- Parliamentary Counsel Office

Central Office of Information

Charity Commission

Crown Prosecution Service

Crown Estate Commissioners

Customs and Excise Department

Department for National Savings

Department of Education and Science

- University Grants Committee

Department of Employment

- Employment Appeals Tribunal
- Industrial Tribunals
- Office of Manpower Economics

Department of Energy

Department of Health

- Central Council for Education and Training in Social Work
- Dental Estimates Board
- English National Board for Nursing, Midwifery and Health Visitors
- Medical Boards and Examining Medical Officers (War Pensions)
- National Health Service Authorities
- Prescriptions Pricing Authority
- Public Health Laboratory Service Board
- Regional Medical Service
- United Kingdom Central Council for Nursing, Midwifery and Health Visiting

Department of Social Security

- Attendance Allowance Board
- Occupational Pensions Board
- Social Security Advisory Committee
- Supplementary Benefits Appeal Tribunals

Department of the Environment

- Building Research Establishment
- Commons Commissioners
- Countryside Commission
- Fire Research Station (Boreham Wood)
- Historic Buildings and Monuments Commission
- Local Valuation Panels
- Property Services Agency
- Rent Assessment Panels
- Royal Commission on Environmental Pollution
- Royal Commission on Historical Monuments of England
- Royal Fine Art Commission (England)

Department of the Procurator General and Treasury Solicitor

- Legal Secretariat to the Law Officers

Department of Trade and Industry
Laboratory of the Government Chemist
National Engineering Laboratory
National Physical Laboratory
Warren Spring Laboratory
National Weights and Measures Laboratory
Domestic Coal Consumers' Council
Electricity Consultative Councils for England and Wales
Gas Consumers' Council
Transport Users Consultative Committee
Monopolies and Mergers Commission
Patent Office

Department of Transport
Coastguard Services
Transport and Road Research Laboratory
Transport Tribunal

Export Credits Guarantee Department

Foreign and Commonwealth Office
Government Communications Headquarters
Wilton Park Conference Centre

Government Actuary's Department

Home Office
Boundary Commission for England
Gaming Board for Great Britain
Inspectors of Constabulary
Parole Board and Local Review Committees

House of Commons

House of Lords

Inland Revenue, Board of

Intervention Board for Agricultural Produce

Lord Chancellor's Department
Council on Tribunals
County Courts (England and Wales)
Immigration Appellate Authorities
Immigration Adjudicators
Immigration Appeals Tribunal
Judge Advocate-General and Judge Advocate of the Fleet
Lands Tribunal
Law Commission
Legal Aid Fund (England and Wales)
Pensions Appeals Tribunals
Public Trustee Office
Office of the Social Security Commissioners
Special Commissioners for Income Tax (England and Wales)
Supreme Court (England and Wales)
Court of Appeal: Civil and Criminal Divisions
Courts Martial Appeal Court
Crown Court
High Court
Value Added Tax Tribunals

Ministry of Agriculture, Fisheries and Food
Advisory Services
Agricultural Development and Advisory Service

Agricultural Dwelling House Advisory Committees
Agricultural Land Tribunals
Agricultural Science Laboratories
Agricultural Wages Board and Committees
Cattle Breeding Centre
Plant Variety Rights Office
Royal Botanic Gardens, Kew

Ministry of Defence ⁽¹⁾
Meteorological Office
Procurement Executive

National Audit Office

National Investment Loans Office

Northern Ireland Court Service
Coroners Courts
County Courts
Crown Courts
Enforcement of Judgements Office
Legal Aid Fund
Magistrates Court
Pensions Appeals Tribunals
Supreme Court of Judicature and Courts of Criminal Appeal

Northern Ireland, Department of Agriculture

Northern Ireland, Department for Economic Development

Northern Ireland, Department of Education

Northern Ireland, Department of the Environment

Northern Ireland, Department of Finance and Personnel

Northern Ireland, Department of Health and Social Services

Northern Ireland Office
Crown Solicitor's Office
Department of the Director of Public Prosecutions for Northern Ireland
Northern Ireland Forensic Science Laboratory
Office of Chief Electoral Officer for Northern Ireland
Police Authority for Northern Ireland
Probation Board for Northern Ireland
State Pathologist Service

Office of Arts and Libraries
British Library
British Museum
British Museum (Natural History)
Imperial War Museum
Museums and Galleries Commission
National Gallery
National Maritime Museum
National Portrait Gallery
Science Museum
Tate Gallery
Victoria and Albert Museum
Wallace Collection

Office of Fair Trading

Office of Population Censuses and Surveys
National Health Service Central Register

⁽¹⁾ Non-warlike materials contained in Annex II.

Office of the Parliamentary Commissioner for Administration and Health
Service Commissioners

Overseas Development Administration
Overseas Development and National Research Institute

Paymaster General's Office

Postal Business of the Post Office

Privy Council Office

Public Record Office

Registry of Friendly Societies

Royal Commission on Historical Manuscripts

Royal Hospital, Chelsea

Royal Mint

Scotland, Crown Office and Procurator
Fiscal Service

Scotland, Department of the Registers of Scotland

Scotland, General Register Office
National Health Service Central Register

Scotland, Lord Advocate's Department

Scotland, Queen's and Lord Treasurer's Remembrancer

Scottish Courts Administration
Accountant of Court's Office
Court of Justiciary
Court of Session
Lands Tribunal for Scotland
Pensions Appeal Tribunals
Scottish Land Court
Scottish Law Commission
Sheriff Courts
Social Security Commissioners' Office

Scottish Office
Central Services
Department of Agriculture and Fisheries for Scotland
Artificial Insemination Service
Crofters Commission
Red Deer Commission
Royal Botanic Garden, Edinburgh
Industry Department for Scotland
Scottish Electricity Consultative Councils
Scottish Development Department
Rent Assessment Panel and Committees
Royal Commission on the Ancient and Historical Monuments of Scotland
Royal Fine Art Commission for Scotland
Scottish Education Department
National Galleries of Scotland
National Library of Scotland
National Museums of Scotland

Scottish and Health Departments
HM Inspectorate of Constabulary
Local Health Councils
Mental Welfare Commission for Scotland
National Board for Nursing, Midwifery and Health Visiting for Scotland

Parole Board for Scotland and Local Review Committees
Scottish Antibody Production Unit
Scottish Council for Postgraduate Medical Education
Scottish Crime Squad
Scottish Criminal Record Office
Scottish Fire Service Training School
Scottish Health Boards
Scottish Health Service — Common Services Agency
Scottish Health Service Planning Council
Scottish Police College

Scottish Record Office

HM Stationery Office

HM Treasury

Central Computer and Telecommunications Agency
Chessington Computer Centre
Civil Service Catering Organization
National Economic Development Council
Rating of Government Property Department

Welsh Office

Ancient Monuments (Wales) Commission
Council for the Education and Training of Health Visitors
Local Government Boundary Commission for Wales
Local Valuation Panels and Courts
National Health Service Authorities
Rent Control Tribunals and Rent Assessment Panels and Committees

GREECE

1. Υπουργείο Εθνικής Οικονομίας
2. Υπουργείο Παιδείας & Θρησκευμάτων
3. Υπουργείο Εμπορίου
4. Υπουργείο Βιομηχανίας-Ενέργειας-Τεχνολογίας
5. Υπουργείο Εμπορικής Ναυτιλίας
6. Υπουργείο Προεδρίας της Κυβέρνησης
7. Υπουργείο Αιγαίου
8. Υπουργείο Εξωτερικών
9. Υπουργείο Δικαιοσύνης
10. Υπουργείο Εξωτερικών
11. Υπουργείο Εργασίας
12. Υπουργείο Πολιτισμού και Επιστημών
13. Υπουργείο Περιβάλλοντος Χωροταξίας & Δημοσίων Έργων
14. Υπουργείο Οικονομικών
15. Υπουργείο Μεταφορών και Επικοινωνιών
16. Υπουργείο Υγείας, Πρόνοιας & Κοινωνικών Ασφαλίσεων
17. Υπουργείο Μακεδονίας-Θράκης
18. Γενικό Επιτελείο Στρατού ⁽¹⁾
19. Γενικό Επιτελείο Ναυτικού ⁽¹⁾
20. Γενικό Επιτελείο Αεροπορίας ⁽¹⁾
21. Υπουργείο Γεωργίας
22. Γενική Γραμματεία Τύπου και Πληροφοριών
23. Γενική Γραμματεία Νέας Γενιάς
24. Γενικό Χημείο του Κράτους
25. Γενική Γραμματεία Λαϊκής Επιμόρφωσης
26. Γενική Γραμματεία Ισότητας των Δύο Φύλων
27. Γενική Γραμματεία Κοινωνικών Ασφαλίσεων
28. Γενική Γραμματεία Απόδημου Ελληνισμού
29. Γενική Γραμματεία Βιομηχανίας
30. Γενική Γραμματεία Έρευνας και Τεχνολογίας
31. Γενική Γραμματεία Αθλητισμού
32. Γενική Γραμματεία Δημοσίων Έργων
33. Εθνική Στατιστική Υπηρεσία
34. Εθνικός Οργανισμός Πρόνοιας
35. Οργανισμός Εργατικής Εστίας
36. Εθνικό Τυπογραφείο
37. Ελληνική Επιτροπή Ατομικής Ενέργειας

⁽¹⁾ Non-warlike materials contained in Annex II.

38. Ταμείο Εθνικής Οδοποιίας
39. Εθνικό Καποδιστριακό Πανεπιστήμιο Αθηνών
40. Πανεπιστήμιο Αιγαίου
41. Αριστοτέλειο Πανεπιστήμιο Θεσσαλονίκης
42. Δημοκρίτειο Πανεπιστήμιο Θράκης
43. Πανεπιστήμιο Ιωαννίνων
44. Πανεπιστήμιο Πατρών
45. Πολυτεχνείο Κρήτης
46. Σιβιτανίδειος Σχολή
47. Πανεπιστήμιο Μακεδονίας (Οικονομικές & Κοιν/κες Επιστημές)
48. Αιγινήτειο Νοσοκομείο
49. Αρεταίειο Νοσοκομείο
50. Εθνικό Κέντρο Δημόσιας Διοίκησης
51. Ελληνικά Ταχυδρομεία
52. Οργανισμός Διαχείρισης Δημόσιου Υλικού
53. Οργανισμός Γεωργικών Ασφαλίσεων
54. Οργανισμός Σχολικών Κτιρίων

SPAIN

1. Ministerio de Asuntos Exteriores
2. Ministerio de Justicia
3. Ministerio de Defensa ⁽¹⁾
4. Ministerio de Economía y Hacienda
5. Ministerio del Interior
6. Ministerio de Obras Públicas y Transportes
7. Ministerio de Educación y Ciencia
8. Ministerio de Trabajo y Seguridad Social
9. Ministerio de Industria, Comercio y Turismo
10. Ministerio de Agricultura, Pesca y Alimentación
11. Ministerio para las Administraciones Públicas
12. Ministerio de Cultura
13. Ministerio de Relaciones con las Cortes y de la Secretaría del Gobierno
14. Ministerio de Sanidad y Consumo
15. Ministerio de Asuntos Sociales
16. Ministerio del Portavoz del Gobierno

⁽¹⁾ Non-warlike materials contained in Annex II.

PORTUGAL

Presidência do Conselho de Ministros

1. Auditoria Jurídica da Presidência do Conselho de Ministros
2. Centro de Estudos e Formação Autárquica
3. Centro de Estudos Técnicos e Apoio Legislativo
4. Centro de Gestão da Rede Informática do Governo
5. Conselho Nacional de Planeamento Civil de Emergência
6. Conselho Permanente de Concertação Social
7. Departamento de Formação e Aperfeiçoamento Profissional
8. Gabinete de Macau
9. Gabinete do Serviço Cívico dos Objectores de Consciência
10. Instituto da Juventude
11. Instituto Nacional de Administração
12. Secretaria-Geral da Presidência do Conselho de Ministros
13. Secretariado para a Modernização Administrativa
14. Serviço Nacional de Protecção Civil
15. Serviços Sociais da Presidência do Conselho de Ministros

Ministério da Administração Interna

1. Direcção-Geral de Viação
2. Gabinete de Estudos e Planeamento de Instalações
3. Governos Cívicos
4. Guarda Fiscal
5. Guarda Nacional Republicana
6. Polícia de Segurança Pública
7. Secretaria-Geral
8. Secretariado Técnico dos Assuntos para o Processo Eleitoral
9. Serviço de Estrangeiros e Fronteiras
10. Serviço de Informação e Segurança
11. Serviço Nacional de Bombeiros

Ministério da Agricultura

1. Agência do Controlo das Ajudas Comunitárias ao Sector do Azeite
2. Direcção-Geral da Hidráulica e Engenharia Agrícola
3. Direcção-Geral da Pecuária
4. Direcção-Geral das Florestas
5. Direcção-Geral de Planeamento e Agricultura
6. Direcção-Geral dos Mercados Agrícolas e da Indústria Agro-alimentar
7. Direcção Regional de Agricultura da Beira Interior
8. Direcção Regional de Agricultura da Beira Litoral
9. Direcção Regional de Agricultura de Entre Douro e Minho

10. Direcção Regional de Agricultura de Trás-os-Montes
11. Direcção Regional de Agricultura do Alentejo
12. Direcção Regional de Agricultura do Algarve
13. Direcção Regional de Agricultura do Ribatejo e Oeste
14. Gabinete para os Assuntos Agrícolas Comunitários
15. Inspeção Geral e Auditoria de Gestão
16. Instituto da Vinha e do Vinho
17. Instituto de Qualidade Alimentar
18. Instituto Nacional de Investigação Agrária
19. Instituto Regulador Orientador dos Mercados Agrícolas
20. Obra Social — Secretaria Geral
21. Rede de Informação de Contabilidades Agrícolas
22. Secretaria Geral
23. IFADAP — Instituto Financeiro de Apoio ao Desenvolvimento da Agricultura e Pescas
24. INGA — Instituto Nacional de Intervenção e Garantia Agrícola

Ministério do Ambiente e Recursos Naturais

1. Direcção-Geral da Qualidade do Ambiente
2. Direcção-Geral dos Recursos Naturais
3. Gabinete dos Assuntos Europeus
4. Gabinete de Estudos e Planeamento
5. Gabinete de Protecção e Segurança Nuclear
6. Instituto Nacional do Ambiente
7. Instituto Nacional de Defesa do Consumidor
8. Instituto Nacional de Meteorologia e Geofísica
9. Secretaria-Geral
10. Serviço Nacional de Parques, Reservas e Conservação da Natureza
11. Gabinete do Saneamento Básico da Costa do Estoril
12. Delegações Regionais
13. Instituto Nacional da Água

Ministério do Comércio e Turismo

1. Comissão de Aplicação de Coimas em Matéria Económica
2. Direcção-Geral de Concorrência e Preços
3. Direcção-Geral de Inspeção Económica
4. Direcção-Geral do Comércio Externo
5. Direcção-Geral do Comércio Interno
6. Direcção-Geral do Turismo
7. Fundo de Turismo
8. Gabinete para os Assuntos Comunitários
9. ICEP — Instituto do Comércio Externo de Portugal
10. Inspeção Geral de Jogos
11. Instituto de Promoção Turística

12. Instituto Nacional de Formação Turística
13. Regiões de turismo
14. Secretaria-Geral
15. ENATUR — Empresa Nacional de Turismo, EP
16. AGA — Administração-Geral do Açúcar e do Álcool, EP

Ministério da Defesa Nacional ⁽¹⁾

1. Estado-Maior General das Forças Armadas
2. Estado-Maior da Força Aérea
3. Comando Logístico-Administrativo da Força Aérea
4. Estado-Maior do Exército
5. Estado-Maior da Armada
6. Direcção-Geral do Material Naval
7. Direcção das Infra-Estruturas Navais
8. Direcção de Abastecimento
9. Fábrica Nacional de Cordoaria
10. Hospital da Marinha
11. Arsenal do Alfeite
12. Instituto Hidrográfico
13. Direcção-Geral de Armamento
14. Direcção-Geral de Pessoal e Infra-estruturas
15. Direcção-Geral de Política de Defesa Nacional
16. Instituto de Defesa Nacional
17. Secretaria-Geral

Ministério da Educação

1. Auditoria Jurídica
2. Direcção-Geral da Administração Escolar
3. Direcção-Geral da Extensão Educativa
4. Direcção-Geral do Ensino Superior
5. Direcção-Geral dos Desportos
6. Direcção-Geral dos Ensinos Básico e Secundário
7. Direcção Regional de Educação de Lisboa
8. Direcção Regional de Educação do Algarve
9. Direcção Regional de Educação do Centro
10. Direcção Regional de Educação do Norte
11. Direcção Regional de Educação do Sul
12. Editorial do Ministério da Educação
13. Gabinete Coordenador do Ingresso no Ensino Superior
14. Gabinete de Estudos e Planeamento
15. Gabinete de Gestão Financeira
16. Gabinete do Ensino Tecnológico, Artístico e Profissional

⁽¹⁾ Non-warlike materials contained in Annex II.

17. Inspeção Geral de Educação
18. Instituto de Cultura da Língua Portuguesa
19. Instituto de Inovação Educacional
20. Instituto dos Assuntos Sociais da Educação
21. Secretaria-Geral

Ministério do Emprego e Segurança Social

1. Auditoria Jurídica
2. Caixa Nacional de Seguros e Doenças Profissionais
3. Caixas de Previdência Social
4. Casa Pia de Lisboa
5. Centro Nacional de Pensões
6. Centros Regionais de Segurança Social
7. Comissão para a Igualdade e Direitos das Mulheres
8. Departamento de Estatística
9. Departamento de Estudos e Planeamento
10. Departamento de Relações Internacionais e Convenções da Segurança Social
11. Departamento para Assuntos do Fundo Social Europeu
12. Departamento para os Assuntos Europeus e Relações Externas
13. Direcção-Geral da Acção Social
14. Direcção-Geral da Família
15. Direcção-Geral das Relações de Trabalho
16. Direcção-Geral de Apoio Técnico à Gestão
17. Direcção-Geral de Higiene e Segurança no Trabalho
18. Direcção-Geral do Emprego e Formação Profissional
19. Direcção-Geral dos Regimes de Segurança Social
20. Fundo de Estabilização Financeira da Segurança Social
21. Inspeção Geral da Segurança Social
22. Inspeção Geral do Trabalho
23. Instituto de Gestão Financeira da Segurança Social
24. Instituto do Emprego e Formação Profissional
25. Instituto Nacional para o Aproveitamento dos Tempos Livres dos Trabalhadores
26. Secretaria-Geral
27. Secretariado Nacional de Reabilitação
28. Serviços Sociais do MESS
29. Santa Casa da Misericórdia de Lisboa

Ministério das Finanças

1. ADSE — Direcção-Geral de Protecção aos Funcionários e Agentes da Administração Pública
2. Auditoria Jurídica
3. Direcção-Geral da Administração Pública
4. Direcção-Geral da Contabilidade Pública e Intendência Geral do Orçamento
5. Direcção-Geral da Junta de Crédito Público

6. Direcção-Geral das Alfândegas
7. Direcção-Geral das Contribuições e Impostos
8. Direcção-Geral do Património do Estado
9. Direcção-Geral do Tesouro
10. Gabinete de Estudos Económicos
11. Gabinete dos Assuntos Europeus
12. GAFEED — Gabinete para a análise do Financiamento do Estado e das Empresas Públicas
13. Inspeção Geral de Finanças
14. Instituto de Informática
15. Junta de Crédito Público
16. Secretaria-Geral
17. SOFE — Serviços Sociais do Ministério das Finanças

Ministério da Indústria e Energia

1. Delegação Regional da Indústria e Energia de Lisboa e Vale do Tejo
2. Delegação Regional da Indústria e Energia do Alentejo
3. Delegação Regional da Indústria e Energia do Algarve
4. Delegação Regional da Indústria e Energia do Centro
5. Delegação Regional da Indústria e Energia do Norte
6. Direcção-Geral da Indústria
7. Direcção-Geral da Energia
8. Direcção-Geral de Geologia e Minas
9. Gabinete de Estudos e Planeamento
10. Gabinete para a Pesquisa e Exploração do Petróleo
11. Gabinete para os Assuntos Comunitários
12. Instituto Nacional da Propriedade Industrial
13. Instituto Português da Qualidade
14. LNETI — Laboratório Nacional de Engenharia e Tecnologia Industrial
15. Secretaria-Geral

Ministério da Justiça

1. Centro de Estudos Judiciários
2. Centro de Identificação Civil e Criminal
3. Centros de Observação e Acção Social
4. Conselho Superior de Magistratura
5. Conservatória dos Registos Centrais
6. Direcção-Geral dos Registos e Notariado
7. Direcção-Geral dos Serviços de Informática
8. Direcção-Geral dos Serviços Judiciários
9. Direcção-Geral dos Serviços Prisionais
10. Direcção-Geral dos Serviços Tutelares de Menores
11. Estabelecimentos Prisionais
12. Gabinete de Direito Europeu

13. Gabinete de Documentação e Direito Comparado
14. Gabinete de Estudos e Planeamento
15. Gabinete de Gestão Financeira
16. Gabinete de Planeamento e Coordenação do Combate à Droga
17. Hospital-prisão de S. João de Deus
18. Instituto Corpus Christi
19. Instituto da Guarda
20. Instituto de Reinserção Social
21. Instituto de S. Domingos de Benfica
22. Instituto Nacional da Política e Ciências Criminais
23. Instituto Navarro Paiva
24. Instituto Padre António Oliveira
25. Instituto S. Fiel
26. Instituto S. José
27. Instituto Vila Fernando
28. Instituto de Criminologia
29. Instituto de Medicina Legal
30. Polícia Judiciária
31. Secretaria-Geral
32. Serviços Sociais

Ministério das Obras Públicas, Transportes e Comunicações

1. Conselho de Mercados de Obras Públicas e Particulares
2. Direcção-Geral de Aviação Civil
3. Direcção-Geral dos Edifícios e Monumentos Nacionais
4. Direcção-Geral dos Transportes Terrestres
5. Gabinete da Travessia do Tejo
6. Gabinete de Estudos e Planeamento
7. Gabinete do Nó Ferroviário de Lisboa
8. Gabinete do Nó Ferroviário do Porto
9. Gabinete para a Navegabilidade do Douro
10. Gabinete para as Comunidades Europeias
11. Inspecção Geral de Obras Públicas, Transportes e Comunicações
12. Junta Autónoma das Estradas
13. Laboratório Nacional de Engenharia Civil
14. Obra Social do Ministério das Obras Públicas, Transportes e Comunicações
15. Secretaria-Geral

Ministério dos Negócios Estrangeiros

1. Direcção-Geral dos Assuntos Consulares e Administração Financeira
2. Direcção-Geral das Comunidades Europeias
3. Direcção-Geral da Cooperação
4. Instituto de Apoio à Emigração e às Comunidades Portuguesas

5. Instituto de Cooperação Económica
6. Secretaria-Geral

Ministério do Planeamento e Administração do Território

1. Academia das Ciências
 2. Auditoria Jurídica
 3. Centro Nacional de Informação Geográfica
 4. Comissão Coordenadora da Região Centro
 5. Comissão Coordenadora da Região de Lisboa e Vale do Tejo
 6. Comissão Coordenadora da Região do Alentejo
 7. Comissão Coordenadora da Região do Algarve
 8. Comissão Coordenadora da Região Norte
 9. Departamento Central de Planeamento
 10. Direcção-Geral da Administração Autárquica
 11. Direcção-Geral do Desenvolvimento Regional
 12. Direcção-Geral do Ordenamento do Território
 13. Gabinete Coordenador do projecto do Alqueva
 14. Gabinete de Estudos e Planeamento da Administração do Território
 15. Gabinete para os Aeroportos da Região Autónoma da Madeira
 16. Inspeção Geral de Administração do Território
 17. Instituto Nacional de Estatísticas
 18. Instituto António Sérgio de Sector Cooperativo
 19. Instituto de Investigação Científica e Tropical
 20. Instituto Geográfico e Cadastral
 21. Junta Nacional de Investigação Científica e Tecnológica
 22. Secretaria-Geral
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ANNEX II

LIST OF PRODUCTS REFERRED TO IN ARTICLE 5 CONCERNING THE AWARD OF CONTRACTS
BY CONTRACTING AUTHORITIES IN THE FIELD OF DEFENCE

- Chapter 25: Salt; sulphur; earths and stone; plastering materials, lime and cement
- Chapter 26: Metallic ores, slag and ash
- Chapter 27: Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes
except:
ex 2710: special engine fuels
- Chapter 28: Inorganic chemicals; organic and inorganic compounds of precious metals, of rare-earth metals, of radioactive elements and of isotopes
except:
ex 2809: explosives
ex 2813: explosives
ex 2814: tear gas
ex 2828: explosives
ex 2832: explosives
ex 2839: explosives
ex 2850: toxic products
ex 2851: toxic products
ex 2854: explosives
- Chapter 29: Organic chemicals
except:
ex 2903: explosives
ex 2904: explosives
ex 2907: explosives
ex 2908: explosives
ex 2911: explosives
ex 2912: explosives
ex 2913: toxic products
ex 2914: toxic products
ex 2915: toxic products
ex 2921: toxic products
ex 2922: toxic products
ex 2923: toxic products
ex 2926: explosives
ex 2927: toxic products
ex 2929: explosives
- Chapter 30: Pharmaceutical products
- Chapter 31: Fertilizers
- Chapter 32: Tanning and dyeing extracts; tannings and their derivatives; dyes, colours, paints and varnishes; putty, fillers and stoppings; inks
- Chapter 33: Essential oils and resinoids; perfumery, cosmetic or toilet preparations
- Chapter 34: Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes and 'dental waxes'

- Chapter 35: Albuminoidal substances; glues; enzymes
- Chapter 37: Photographic and cinematographic goods
- Chapter 38: Miscellaneous chemical products
except:
ex 3819: toxic products
- Chapter 39: Artificial resins and plastic materials, celluloses esters and ethers; articles thereof
except:
ex 3903 explosives
- Chapter 40: Rubber, synthetic rubber, factice, and articles thereof
except:
ex 4011: bullet-proof tyres
- Chapter 41: Raw hides and skins (other than furskins) and leather
- Chapter 42: Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk-worm gut)
- Chapter 43: Furskins and artificial fur; manufactures thereof
- Chapter 44: Wood and articles of wood; wood charcoal
- Chapter 45: Cork and articles of cork
- Chapter 46: Manufactures of straw of esparto and of other plaiting materials; basketware and wickerwork
- Chapter 47: Paper-making material
- Chapter 48: Paper and paperboard; articles of paper pulp, of paper or of paperboard
- Chapter 49: Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans
- Chapter 65: Headgear and parts thereof
- Chapter 66: Umbrellas, sunshades, walking-sticks, whips, riding-crops and parts thereof
- Chapter 67: Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair
- Chapter 68: Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials
- Chapter 69: Ceramic products
- Chapter 70: Glass and glassware
- Chapter 71: Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles thereof; imitation jewellery
- Chapter 73: Iron and steel and articles thereof
- Chapter 74: Copper and articles thereof
- Chapter 75: Nickel and articles thereof

- Chapter 76: Aluminium and articles thereof
- Chapter 77: Magnesium and beryllium and articles thereof
- Chapter 78: Lead and articles thereof
- Chapter 79: Zinc and articles thereof
- Chapter 80: Tin and articles thereof
- Chapter 81: Other base metals employed in metallurgy and articles thereof
- Chapter 82: Tools, implements, cutlery, spoons and forks, of base metal; parts thereof
except:
ex 8205: tools
ex 8207: tools, parts
- Chapter 83: Miscellaneous articles of base metal
- Chapter 84: Boilers, machinery and mechanical appliances; parts thereof
except:
ex 8406: engines
ex 8408: other engines
ex 8445: machinery
ex 8453: automatic data-processing machines
ex 8455: parts of machines under heading No 84.53
ex 8459: nuclear reactors
- Chapter 85: Electrical machinery and equipment; parts thereof
except:
ex 8513: telecommunication equipment
ex 8515: transmission apparatus
- Chapter 86: Railway and tramway locomotives, rolling-stock and parts thereof; railway and tramway tracks fixtures and fittings; traffic signalling equipment of all kinds (not electrically powered)
except:
ex 8602: armoured locomotives, electric
ex 8603: other armoured locomotives
ex 8605: armoured wagons
ex 8606: repair wagons
ex 8607: wagons
- Chapter 87: Vehicles, other than railway or tramway rolling-stock, and parts thereof
except:
8708: tanks and other armoured vehicles
ex 8701: tractors
ex 8702: military vehicles
ex 8703: breakdown lorries
ex 8709: motorcycles
ex 8714: trailers
- Chapter 89: Ships, boats and floating structures
except:
ex 8901 A: warships

- Chapter 90: Optical, photographic, cinematographic, measuring, checking, precision, medical and surgical instruments and apparatus; parts thereof
- except:*
- ex 9005: binoculars
 - ex 9013: miscellaneous instruments, lasers
 - ex 9014: telemeters
 - ex 9028: electrical and electronic measuring instruments
 - ex 9011: microscopes
 - ex 9017: medical instruments
 - ex 9018: mechano-therapy appliances
 - ex 9019: orthopaedic appliances
 - ex 9020: X-ray apparatus
- Chapter 91: Clocks and watches and parts thereof
- Chapter 92: Musical instruments; sound recorders or reproducers; television image and sound recorders or reproducers; parts and accessories of such articles
- Chapter 94: Furniture and parts thereof; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings
- except:*
- ex 9401 A: aircraft seats
- Chapter 95: Articles and manufactures of carving or moulding material
- Chapter 96: Brooms, brushes, powder-puffs and sieves
- Chapter 98: Miscellaneous manufactured articles
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ANNEX III

DEFINITION OF CERTAIN TECHNICAL SPECIFICATIONS

For the purposes of this Directive the following terms shall be defined as follows:

1. **Technical specifications:** the totality of the technical prescriptions contained in particular in the tender documents, defining the characteristics required of a material, product or supply, which permits a material, a product or a supply to be described in a manner such that it fulfils the use for which it is intended by the contracting authority. These technical prescriptions shall include levels of quality, performance, safety or dimensions, including the requirements applicable to the material, the product or the supply as regards quality assurance, terminology, symbols, testing and test methods, packaging, marking or labelling.
 2. **Standard:** a technical specification approved by a recognized standardizing body for repeated and continuous application, compliance with which is in principle not compulsory.
 3. **European standard:** a standard approved by the European Committee for standardization (CEN) or by the European Committee for Electrotechnical Standardization (Cenelec) as 'European standard (EN)' or 'Harmonization documents (HD)' according to the common rules of these organizations.
 4. **European technical approval:** a favorable technical assessment of the fitness for use of a product, based on fulfilment of the essential requirements for building works, by means of the inherent characteristics of the product and the defined conditions of application and use. The European agreement shall be issued by an approval body designated for this purpose by the Member State.
 5. **Common technical specification:** a technical specification laid down in accordance with a procedure recognized by the Member States to ensure uniform application in all Member States which has been published in the *Official Journal of the European Communities*.
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ANNEX IV

MODEL NOTICES OF SUPPLY CONTRACTS

A. Prior information

1. The name, address, telegraphic address, telephone, telex and telefax numbers of the contracting authority, and if different, of the service from which additional information may be obtained:
2. The nature and quantity or value of the products to be supplied: CPA reference number:
3. Estimated date for initiating the award procedures in respect of the contract or contracts (if known):
4. Other information:
5. Date of dispatch of the notice:
6. Date of receipt of the notice by the Office for Official Publications of the European Communities:

B. Open procedures

1. The name, address, telegraphic address, telephone, telex and telefax numbers of the contracting authority:
2. (a) The award procedure chosen:
(b) Form of the contract for which tenders are being requested:
3. (a) Place of delivery:
(b) The nature and quantity of the goods to be supplied: CPA reference number:
(c) Indication of whether the supplier can tender for a part of the goods required:
4. Time limit for delivery, if any:
5. (a) Name and address of the service from which the contract documents and additional documents may be requested:
(b) The final date for making such requests:
(c) Where applicable, the amount and terms of payment of the sum to be paid to obtain such documents:
6. (a) The final date for receipt of tenders:
(b) The address to which they must be sent:
(c) The language or languages in which they must be drawn up:
7. (a) The persons authorized to be present at the opening of tenders:
(b) The date, hour and place of such opening:
8. Where applicable, any deposits and guarantees required:
9. The main terms concerning financing and payment and/or references to the provisions in which these are contained:
10. Where applicable, the legal form to be taken by the grouping of suppliers to whom the contract is awarded:
11. Information concerning the supplier's own position, and information and formalities necessary for an appraisal of the minimum economic and technical standards required of the supplier:
12. Period during which the tenderer is bound to keep open his tender:
13. The criteria for the award of the contract. Criteria other than that of the lowest price shall be mentioned if they do not appear in the contract documents:
14. Where applicable, prohibition on variants:
15. Other information:
16. Date of publication of the prior information notice in the *Official Journal of the European Communities* or references to its non-publication:

17. Date of dispatch of the notice:
18. Date of receipt of the notice by the Office for Official Publications of the European Communities:

C. Restricted procedures

1. The name, address, telegraphic address, telephone, telex and telefax numbers of the contracting authority:
2. (a) The award procedure chosen:
(b) Where applicable, justification for use of the accelerated procedure:
(c) Form of the contract for which tenders are being requested:
3. (a) Place of delivery:
(b) The nature and quantity of the goods to be supplied: CPA reference number:
(c) Indication of whether the supplier can tender for a part of the goods required:
4. Time limit for delivery, if any:
5. Where applicable, the legal form to be assumed by the grouping of suppliers to whom the contract is awarded:
6. (a) The final date for the receipt of requests to participate:
(b) The address to which they must be sent:
(c) The language or languages in which they must be drawn up:
7. The final date for the dispatch of invitations to tender:
8. Where applicable, any deposits and guarantees required:
9. Information concerning the supplier's personal position, and the information and formalities necessary for an appraisal of the minimum economic and technical standards required of him:
10. The criteria for the award of the contract where they are mentioned in the invitation to tender:
11. Envisaged number or range of suppliers which will be invited to tender:
12. Where applicable, prohibition on variants:
13. Other information:
14. Date of publication of the prior information notice in the *Official Journal of the European Communities* or references to its non-publication:
15. Date of dispatch of the notice:
16. Date of receipt of the notice by the Office for Official Publications of the European Communities:

D. Negotiated procedures

1. The name, address, telegraphic address, telephone, telex and telefax numbers of the contracting authority:
2. (a) The award procedure chosen:
(b) Where applicable, justification for use of the accelerated procedure:
(c) Where applicable, form of contract for which tenders are invited:
3. (a) Place of delivery:
(b) The nature and quantity of the goods to be supplied: CPA reference number:
(c) Indication of whether the suppliers can tender for a part of the goods required:
4. Time limit for delivery, if any:
5. Where applicable, the legal form to be assumed by a grouping of suppliers to whom the contract is awarded:

6. (a) The final date for the receipt of requests to participate:
(b) The address to which they must be sent:
(c) The language or languages in which they must be drawn up:
7. Where applicable, any deposits and guarantees required:
8. Information concerning the supplier's personal position, and the information and formalities necessary for an appraisal of the minimum economic and technical standards required of him:
9. Envisaged number or range of suppliers which will be invited to tender:
10. Where applicable, prohibition on variants:
11. Where applicable, the names and addresses of suppliers already selected by the awarding authority:
12. Where applicable, date(s) of previous publications in the *Official Journal of the European Communities*:
13. Other information:
14. Date of dispatch of the notice:
16. Date of receipt of the notice by the Office for Official Publications of the European Communities:

E. Contracts awards

1. Name and address of awarding authority:
 2. Award procedure chosen. In the case of the negotiated procedure, without publication of a tender notice, justification (Article 6 (3)):
 3. Date of award of contract:
 4. Criteria for award of contract:
 5. Number of tenders received:
 6. Name(s) and address(es) of supplier(s):
 7. The nature and quantity of goods supplied, where applicable, by supplier: CPA reference number:
 8. Price or range of prices (minimum/maximum) paid:
 9. Where appropriate, value and proportion of contract likely to be subcontracted to third parties:
 10. Other information:
 11. Date of publication of the tender notice in the *Official Journal of the European Communities*:
 12. Date of dispatch of the notice:
 13. Date of receipt of the notice by the Office for Official Publications of the European Communities:
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ANNEX V

DEADLINES FOR APPLICATION OF TRANSPOSITION MEASURES

Directive 77/62/EEC ⁽¹⁾	amended by Directives				amended by Acts of Accession	
	80/767/EEC ⁽²⁾	88/295/EEC ⁽³⁾	90/531/EEC ⁽⁴⁾	92/50/EEC ⁽⁵⁾	GR ⁽⁶⁾	ES/PO ⁽⁷⁾
Article 1 (a)		amended				
Article 1 (b) and (c)						
Article 1 (d) to (f)		amended				
Article 2 (1)		deleted				
Article 2 (2)		amended	amended			
Article 2 (3)						
Article 2a		inserted				
Article 3						
Article 4		deleted				
Article 5		amended				
Article 5 (1) (c)				amended		
Article 6		amended				
Article 7		amended				
Article 8						
Article 9		amended				
Article 10 (1)		amended				
Article 10 (2) to (4)						
Article 11 (1) to (3)		amended				
Article 11 (4) to (6)						
Article 12 (1)		amended				
Article 12 (2) to (3)						
Article 13		deleted				
Article 14		deleted				
Article 15		deleted				
Article 16						
Article 17						
Article 18						
Article 19 (1)		amended				
Article 19 (2)						
Article 20						
Article 21 (1)						
Article 21 (2)		amended				
Article 22						
Article 23						
Article 24						
Article 25						
Article 26		amended				
Article 27						
Article 28						
Article 29		amended				
Article 30						
Article 31						
Article 32						
Annex I		amended			amended	amended
Annex II		amended				

Directive 77/62/EEC ⁽¹⁾	amended by Directives				amended by Acts of Accession	
	80/767/EEC ⁽²⁾	88/295/EEC ⁽³⁾	90/531/EEC ⁽⁴⁾	92/50/EEC ⁽⁵⁾	GR ⁽⁶⁾	ES/PO ⁽⁷⁾
Annex III	Article 1 Article 2 Article 3 Article 4 Article 5 Article 6 Article 7 Article 8 Article 9 Article 10 Article 11 Annex I Annex II	amended deleted deleted deleted deleted deleted				

⁽¹⁾ EC-9: 24. 6. 1978
 GR: 1. 1. 1983
 ES, PO: 1. 1. 1986

⁽³⁾ EC-9: 1. 1. 1989
 GR, ES, PO: 1. 3. 1992

⁽⁵⁾ EC-12: 1. 7. 1993

⁽⁶⁾ EC-10: 1. 1. 1983

⁽²⁾ EC-9: 1. 1. 1981
 GR: 1. 1. 1983
 ES, PO: 1. 1. 1986

⁽⁴⁾ EC-9: 1. 1. 1983
 ES: 1. 1. 1996
 GR, PO: 1. 1. 1998

⁽⁷⁾ EC-12: 1. 1. 1986

ANNEX VI

CORRELATION TABLE

This directive	77/62/EEC	80/767/EEC	88/295/EEC	90/531/EEC	92/50/EEC
Article 1	Article 1				
Article 2 (1)	Article 2 (2)			Article 35 (1)	
Article 2 (2)	Article 2 (3)				
Article 3	Article 2a				
Article 4	Article 3				
Article 5 (1) (a) and (b)	Article 5 (1) (a) and (b)				
Article 5 (1) (c) first sub-paragraph	Article 5 (1) (c)				Article 42 (1)
Article 5 (1) (c) second sub-paragraph	Article 5 (1) (d)				
Article 5 (1) (d)	—				
Article 5 (2—6)	Article 5 (2—6)				
Article 6 (1)	Article 6 (1)				
—	Article 6 (2)				
Article 6 (2)	Article 6 (3)				
Article 6 (3) (a) — (e)	Article 6 (4) (a) — (e)				
Article 6 (4)	Article 6 (5)				
Article 7 (1—2)	(—)				
Article 7 (3)	Article 6 (6)				
Article 8 (1—4)	Article 7 (1—4)				
Article 8 (5) (a) and (b)	(—)				
Article 8 (5) (c)	Article 7 (5) (a) — (c)				
Article 8 (6)	Article 7 (6)				
Article 9 (1) first sub-paragraph	Article 9 (1) first sub-paragraph				
(—)	Article 9 (1) second sub-paragraph				
Article 9 (1) second sub-paragraph	—				
Article 9 (2) and (3)	Article 9 (2) and (3)				
Article 9 (4)	Article 9 (5)				
Article 9 (5)	Article 9 (4)				
Article 9 (6) and (7)	Article 9 (6) first sub-paragraph				
Article 9 (8)	Article 9 (6) second sub-paragraph				
Article 9 (9)	Article 9 (7)				
Article 9 (10)	Article 9 (8)				
Article 9 (11)	Article 9 (9)				
Article 10	Article 10				
Article 11 (1)	Article 11 (1)				
Article 11 (2)	Article 11 (2)				
Article 11 (2) (a) — (e)	(—)				
Article 11 (3)	Article 11 (3)				
Article 11 (4)	Article 11 (5)				

This directive	77/62/EEC	80/767/EEC	88/295/EEC	90/531/EEC	92/50/EEC
Article 11 (5)	Article 11 (4)				
Article 11 (6)	Article 11 (6)				
Article 12	Article 12				
Article 13	Article 16				
Article 14	(—)				
Article 15	Article 17				
Article 16 (1)	Article 8				
Article 16 (2)	(—)				
Article 17	(—)				
Article 18	Article 18				
Article 19 (1)	Article 19 (1)				
Article 19 (2) and (3)	(—)				
Article 19 (4)	Article 19 (2)				
Article 20	Article 20				
Article 21 (1) and (2)	Article 21				
Article 22	Article 22				
Article 23	Article 23				
Article 24	Article 24				
Article 25	(—)				
Article 26 (1) and (2)	Article 25 (1) and (2)				
(—)	Article 25 (3) and (4)				
Article 27	Article 25 (5) to (7)				
—	Article 26				
—	Article 27				
Article 28		Article 1 (1) and 7			
Article 29 (1) and (2)		Article 8 (1) and (2)			
Article 29 (3)		Article 1 (2)			
Article 30	Article 28				
Article 31	Article 29				
Article 32	(—)				
Article 33	Article 30 and 31	Article 9 and 10	Article 20 and 21		
Article 34	(—)				
Article 35	(—)				
(—)	Annex I				
Annex I		Annex I			
Annex II		Annex II			
Annex III	Annex II				
point 1	point 1				
point 2	point 2				
point 3	point 3				
point 4	—				
point 5	point 4				
Annex IV	Annex III				
point A	point D				
point B	point A				
point C	point B				
point D	point C				
point E	point E				
Annex V	(—)				
Annex VI	(—)				

COUNCIL DIRECTIVE 93/37/EEC

of 14 June 1993

concerning the coordination of procedures for the award of public works contracts

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

specific nature, rules concerning advertising should be included in this Directive;

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 57 (2), 66 and 100a thereof,

Whereas works contracts of less than ECU 5 000 000 may be exempted from competition as provided for under this Directive and it is appropriate to provide for their exemption from coordination measures;

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Whereas provision must be made for exceptional cases where measures concerning the coordination of procedures need not be applied, but such cases must be expressly limited;

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Council Directive 71/305/EEC of 26 July 1971 concerning the coordination of procedures for the award of public works contracts ⁽⁴⁾ has been amended substantially and on a number of occasions; whereas, for reasons of clarity and better understanding, the said Directive should be consolidated;

Whereas the negotiated procedure should be considered to be exceptional and therefore only applicable in certain limited cases;

Whereas the simultaneous attainment of freedom of establishment and freedom to provide services in respect of public works contracts awarded in Member States on behalf of the State, or regional or local authorities or other bodies governed by public law entails not only the abolition of restrictions but also the coordination of national procedures for the award of public works contracts;

Whereas it is necessary to provide common rules in the technical field which take account of the Community policy on standards and specifications;

Whereas such coordination should take into account as far as possible the procedures and administrative practices in force in each Member State;

Whereas, to ensure development of effective competition in the field of public contracts, it is necessary that contract notices drawn up by the contracting authorities of Member States be advertised throughout the Community; whereas the information contained in these notices must enable contractors established in the Community to determine whether the proposed contracts are of interest to them; whereas, for this purpose, it is appropriate to give them adequate information on the works undertaken and the conditions attached thereto; whereas, more particularly, in restricted procedures advertisement is intended to enable contractors of Member States to express their interest in contracts by seeking from the contracting authorities invitations to tender under the required conditions;

Whereas this Directive does not apply to certain works contracts which are awarded in the water, energy, transport and telecommunication sectors covered by Directive 90/531/EEC;

Whereas additional information concerning contracts must, as is customary in Member States, be given in the contract documents for each contract or else in an equivalent document;

Whereas, in view of the increasing importance of concession contracts in the public works area and of their

Whereas it is necessary to provide common rules for participation in public works contracts, including both

⁽¹⁾ OJ No C 46, 20. 2. 1992, p. 79.

⁽²⁾ OJ No C 125, 18. 5. 1992, p. 171 and OJ No C 305, 23. 11. 1992, p. 73.

⁽³⁾ OJ No C 106, 27. 4. 1992, p. 11.

⁽⁴⁾ OJ No L 185, 16. 8. 1971, p. 15; Directive as last amended by Directive 90/531/EEC (OJ No L 297, 29. 10. 1990, p. 1).

qualitative selection criteria and criteria for the award of the contract;

Whereas it would be appropriate to enable certain technical conditions concerning notices and statistical reports required by this Directive to be adapted in the light of changing technical requirements; whereas Annex II to this Directive refers to the General Industrial Classification of Economic Activities within the European Communities (NACE); whereas the Community may, as required, revise or replace its common nomenclature and whereas it is necessary to make provision for the possibility of adapting the reference made to the NACE nomenclature in the said Annex II accordingly;

Whereas this Directive should not affect the obligations of the Member States concerning the deadlines for transposition into national law and for application indicated in Annex VII,

HAS ADOPTED THIS DIRECTIVE:

TITLE I

GENERAL PROVISIONS

Article 1

For the purpose of this Directive:

(a) 'public works contracts' are contracts for pecuniary interest concluded in writing between a contractor and a contracting authority as defined in (b), which have as their object either the execution, or both the execution and design, of works related to one of the activities referred to in Annex II or a work defined in (c) below, or the execution, by whatever means, of a work corresponding to the requirements specified by the contracting authority;

(b) 'contracting authorities' shall be the State, regional or local authorities, bodies governed by public law, associations formed by one or several of such authorities or bodies governed by public law;

A 'body governed by public law' means any body:

- established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character, and
- having legal personality, and

— financed, for the most part, by the State, or regional or local authorities, or other bodies governed by public law, or subject to management supervision by those bodies, or having an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities or by other bodies governed by public law;

The lists of bodies and categories of bodies governed by public law which fulfil the criteria referred to in the second subparagraph are set out in Annex I. These lists shall be as exhaustive as possible and may be reviewed in accordance with the procedure laid down in Article 35. To this end, Member States shall periodically notify the Commission of any changes of their lists of bodies and categories of bodies;

- (c) a 'work' means the outcome of building or civil engineering, works taken as a whole that is sufficient of itself to fulfil an economic and technical function;
- (d) 'public works concession' is a contract of the same type as that indicated in (a) except for the fact that the consideration for the works to be carried out consists either solely in the right to exploit the construction or in this right together with payment;
- (e) 'open procedures' are those national procedures whereby all interested contractors may submit tenders;
- (f) 'restricted procedures' are those national procedures whereby only those contractors invited by the contracting authority may submit tenders;
- (g) 'negotiated procedures' are those national procedures whereby contracting authorities consult contractors of their choice and negotiate the terms of the contract with one or more of them;
- (h) a contractor who submits a tender shall be designated by the term 'tenderer' and one who has sought an invitation to take part in a restricted or negotiated procedure by the term 'candidate'.

Article 2

1. Member States shall take the necessary measures to ensure that the contracting authorities comply or ensure compliance with this Directive where they subsidize directly by more than 50 % a works contract awarded by an entity other than themselves.

2. Paragraph 1 shall concern only contracts covered by Class 50, Group 502, of the general industrial classification

of economic activities within the European Communities (NACE) nomenclature and contracts relating to building work for hospitals, facilities intended for sports, recreation and leisure, school and university buildings and buildings used for administrative purposes.

Article 3

1. Should contracting authorities conclude a public works concession contract, the advertising rules as described in Article 11 (3), (6), (7) and (9) to (13), and in Article 15, shall apply to that contract when its value is not less than ECU 5 000 000.

2. The contracting authority may:

- either require the concessionnaire to award contracts representing a minimum of 30 % of the total value of the work for which the concession contract is to be awarded, to third parties, at the same time providing the option for candidates to increase this percentage. This minimum percentage shall be specified in the concession contract,
- or request the candidates for concession contracts to specify in their tenders the percentage, if any, of the total value of the work for which the concession contract is to be awarded which they intend to assign to third parties.

3. When the concessionnaire is himself a contracting authority, as referred to in Article 1 (b), he shall comply with the provisions of this Directive in the case of works to be carried out by third parties.

4. Member States shall take the necessary steps to ensure that a concessionnaire other than a contracting authority shall apply the advertising rules listed in Article 11 (4), (6), (7), and (9) to (13), and in Article 16, in respect of the contracts which it awards to third parties when the value of the contracts is not less than ECU 5 000 000. An advertisement is not, however, required where works contracts meet the conditions laid down in Article 7 (3).

Undertakings which have formed a group in order to obtain the concession contract, or undertakings affiliated to them, shall not be regarded as third parties.

An 'affiliated undertaking' means any undertaking over which the concessionnaire may exercise, directly or indirectly, a dominant influence or which may exercise a dominant influence over the concessionnaire or which, in common with the concessionnaire, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation or the rules which

govern it. A dominant influence on the part of an undertaking shall be presumed when, directly or indirectly in relation to another undertaking, it:

- holds the major part of the undertaking's subscribed capital, or
- controls the majority of the votes attaching to shares issued by the undertakings, or
- can appoint more than half of the members of the undertaking's administrative, managerial or supervisory body.

A comprehensive list of these undertakings shall be enclosed with the candidature for the concession. This list shall be brought up to date following any subsequent changes in the relationship between the undertakings.

Article 4

This Directive shall not apply to:

- (a) contracts awarded in the fields referred to in Articles 2, 7, 8 and 9 of Directive 90/531/EEC or fulfilling the conditions in Article 6 (2) of that Directive;
- (b) works contracts 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 State concerned or when the protection of the basic interests of the Member State's security so requires.

Article 5

This Directive shall not apply to public contracts governed by different procedural rules and awarded:

- (a) in pursuance of an international agreement, concluded in conformity with the Treaty, between a Member State and one or more non-member countries and covering works intended for the joint implementation or exploitation of a project by the signatory States; all agreements shall be communicated to the Commission, which may consult the Advisory Committee for Public Contracts set up by Decision 71/306/EEC ⁽¹⁾;
- (b) to undertakings in a Member State or a non-member country in pursuance of an international agreement relating to the stationing of troops;
- (c) pursuant to the particular procedure of an international organization.

⁽¹⁾ OJ No L 185, 16. 8. 1971, p. 15; Decision as amended by Decision 77/63/EEC (OJ No L 13, 15. 1. 1977, p. 15).

Article 6

1. The provisions of this Directive shall apply to public works contracts whose estimated value net of VAT is not less than ECU 5 000 000.

2. (a) The value of the threshold in national currencies shall normally be revised every two years with effect from 1 January 1992. The calculation of this value shall be based on the average daily values of these currencies expressed in ecus over the 24 months terminating on the last day of August immediately preceding the 1 January revision. The exchange values shall be published in the *Official Journal of the European Communities* at the beginning of November.

(b) The method of calculation laid down in subparagraph (a) shall be reviewed, on a proposal from the Commission, by the Advisory Committee for Public Contracts in principle two years after its initial application.

3. Where a work is subdivided into several lots, each one the subject of a contract, the value of each lot must be taken into account for the purpose of calculating the amounts referred to in paragraph 1. Where the aggregate value of the lots is not less than the amount referred to in paragraph 1, the provisions of that paragraph shall apply to all lots. Contracting authorities shall be permitted to depart from this provision for lots whose estimated value net of VAT is less than ECU 1 000 000, provided that the total estimated value of all the lots exempted does not, in consequence, exceed 20 % of the total estimated value of all lots.

4. No work or contract may be split up with the intention of avoiding the application of this Directive.

5. When calculating the amounts referred to in paragraph 1 and in Article 7, account shall be taken not only of the amount of the public works contracts but also of the estimated value of the supplies needed to carry out the works are made available to the contractor by the contracting authorities.

Article 7

1. In awarding public works contracts the contracting authorities shall apply the procedures defined in Article 1 (e), (f) and (g), adapted to this Directive.

2. The contracting authorities may award their public works contracts by negotiated procedure, with prior publication of a contract notice and after having selected

the candidates according to publicly known qualitative criteria, in the following cases:

(a) in the event of irregular tenders in response to an open or restricted procedure or in the case of tenders which are unacceptable under national provisions that are in accordance with the provisions of Title IV, insofar as the original terms of the contract are not substantially altered. The contracting authorities shall not, in these cases, publish a contract notice where they include in such negotiated procedure all the enterprises satisfying the criteria of Articles 24 to 29 which, during the prior open or restricted procedure, have submitted tenders in accordance with the formal requirements of the tendering procedure;

(b) when the works involved are carried out purely for the purpose of research, experiment or development, and not to establish commercial viability or to recover research and development costs;

(c) in exceptional cases, when the nature of the works or the risks attaching thereto do not permit prior overall pricing.

3. The contracting authorities may award their public works contracts by negotiated procedure without prior publication of a contract notice, in the following cases:

(a) in the absence of tenders or of appropriate tenders in response to an open or restricted procedure insofar as the original terms of the contract are not substantially altered and provided that a report is communicated to the Commission at its request;

(b) when, for technical or artistic reasons or for reasons connected with the protection of exclusive rights, the works may only be carried out by a particular contractor;

(c) insofar as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseen by the contracting authorities in question, the time limit laid down for the open, restricted or negotiated procedures referred to in paragraph 2 cannot be kept. The circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authorities;

(d) for additional works not included in the project initially considered or in the contract first concluded but which have, through unforeseen circumstances, become necessary for the carrying out of the work described therein, on condition that the award is made to the contractor carrying out such work:

- when such works cannot be technically or economically separated from the main contract without great inconvenience to the contracting authorities, or
- when such works, although separable from the execution of the original contract, are strictly necessary to its later stages,

However, the aggregate amount of contracts awarded for additional works may not exceed 50 % of the amount of the main contract;

- (e) for new works consisting of the repetition of similar works entrusted to the undertaking to which the same contracting authorities awarded an earlier contract, provided that such works conform to a basic project for which a first contract was awarded according to the procedures referred to in paragraph 4.

As soon as the first project is put up for tender, notice must be given that this procedure might be adopted and the total estimated cost of subsequent works shall be taken into consideration by the contracting authorities when they apply the provisions of Article 6. This procedure may only be adopted during the three years following the conclusion of the original contract.

4. In all other cases, the contracting authorities shall award their public works contracts by the open procedure or by the restricted procedure.

Article 8

1. The contracting authority shall, within 15 days of the date on which the request is received, inform any eliminated candidate or tenderer who so requests of the reasons for rejection of his application or his tender, and, in the case of a tender, the name of the successful tenderer.

2. The contracting authority shall inform candidates or tenderers who so request of the grounds on which it decided not to award a contract in respect of which a prior call for competition was made, or to recommence the procedure. It shall also inform the Office for Official Publications of the European Communities of that decision.

3. For each contract awarded, the contracting authorities shall draw up a written report which shall include at least the following:

- the name and address of the contracting authority, the subject and value of the contract,
- the names of the candidates or tenderers admitted and the reasons for their selection,

- the names of the candidates or tenderers rejected and the reasons for their rejection,
- the name of the successful tenderer and the reasons for his tender having been selected and, if known, any share of the contract the successful tenderer may intend to subcontract to a third party,
- for negotiated procedures, the circumstances referred to in Article 7 which justify the use of these procedures.

This report, or the main features of it, shall be communicated to the Commission at its request.

Article 9

In the case of contracts relating to the design and construction of a public housing scheme whose size and complexity, and the estimated duration of the work involved, require that planning be based from the outset on close collaboration within a team comprising representatives of the contracting authorities, experts and the contractor to be responsible for carrying out the works, a special award procedure may be adopted for selecting the contractor most suitable for integration into the team.

In particular, contracting authorities shall include in the contract notice as accurate as possible a description of the works to be carried out so as to enable interested contractors to form a valid idea of the project. Furthermore, contracting authorities shall, in accordance with Articles 24 to 29, set out in such a contract notice the personal, technical and financial conditions to be fulfilled by candidates.

Where such procedure is adopted, contracting authorities shall apply the common advertising rules relating restricted procedure and to the criteria for qualitative selection.

TITLE II

COMMON RULES IN THE TECHNICAL FIELD

Article 10

1. The technical specifications defined in Annex III shall be given in the general or contractual documents relating to each contract.

2. Without prejudice to the legally binding national technical rules and insofar as these are compatible with Community law, the technical specifications shall be defined by the contracting authorities by reference to

national standards implementing European standards, or by reference to European technical approvals or by reference to common technical specifications.

3. A contracting authority may depart from paragraph 2 if:

- (a) the standards, European technical approvals or common technical specifications do not include any provision for establishing conformity, or, if technical means do not exist for establishing satisfactorily the conformity of a product to these standards, European technical approvals or common technical specifications;
- (b) use of these standards, European technical approvals or common technical specifications would oblige the contracting authority to acquire products or materials incompatible with equipment already in use or would entail disproportionate costs or disproportionate technical difficulties, but only as part of a clearly defined and recorded strategy with a view to change-over, within a given period, to European standards, European technical approvals or common technical specifications;
- (c) the project concerned is of a genuinely innovative nature for which use of existing European standards, European technical approvals or common technical specifications would not be appropriate.

4. Contracting authorities invoking paragraph 3 shall record, wherever possible, the reasons for doing so in the tender notice published in the *Official Journal of the European Communities* or in the contract documents and in all cases shall record these reasons in their internal documentation and shall supply such information on request to Member States and to the Commission.

5. In the absence of European standards or European technical approvals or common technical specifications, the technical specifications:

- (a) shall be defined by reference to the national technical specifications recognized as complying with the basic requirements listed in the Community directives on technical harmonization, in accordance with the procedures laid down in those directives, and in particular in accordance with the procedures laid down in Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products ⁽¹⁾;

(b) may be defined by reference to national technical specifications relating to design and method of calculation and execution of works and use of materials;

(c) may be defined by reference to other documents.

In this case, it is appropriate to make reference in order of preference to:

- (i) national standards implementing international standards accepted by the country of the contracting authority;
- (ii) other national standards and national technical approvals of the country of the contracting authority;
- (iii) any other standard.

6. Unless such specifications are justified by the subject of the contract, Member States shall prohibit the introduction into the contractual clauses relating to a given contract of technical specifications which mention products of a specific make or source or of a particular process and which therefore favour or eliminate certain undertakings. In particular, the indication of trade marks, patents, types, or of a specific origin or production shall be prohibited. However, if such indication is accompanied by the words 'or equivalent', it shall be authorized in cases where the contracting authorities are unable to give a description of the subject of the contract using specifications which are sufficiently precise and intelligible to all parties concerned.

TITLE III

COMMON ADVERTISING RULES

Article 11

1. Contracting authorities shall make known, by means of an indicative notice, the essential characteristics of the works contracts which they intend to award and the estimated value of which is not less than the threshold laid down in Article 6 (1).

2. Contracting authorities who wish to award a public works contract by open, restricted or negotiated procedure referred to in Article 7 (2), shall make known their intention by means of a notice.

3. Contracting authorities who wish to award a works concession contract shall make known their intention by means of a notice.

⁽¹⁾ OJ No L 40, 11. 2. 1989, p. 12.

4. Works concessionnaires, other than a contracting authority, who wish to award works contracts to a third party within the meaning of Article 3 (4), shall make known their intention by means of a notice.

5. Contracting authorities who have awarded a contract shall make known the result by means of a notice. However, certain information on the contract award may, in certain cases, not be published where release of such information would impede law enforcement or otherwise be contrary to the public interest, would prejudice the legitimate commercial interests of particular enterprises, public or private, or might prejudice fair competition between contractors.

6. The notices referred to in paragraphs 1 to 5 shall be drawn up in accordance with the models given in Annexes IV, V and VI, and shall specify the information requested in those Annexes.

The contracting authorities may not require any conditions but those specified in Articles 26 and 27 when requesting information concerning the economic and technical standards which they require of contracts for their selection (point 11 of Annex IV B, point 10 of Annex IV C and point 9 of Annex IV D).

7. The contracting authorities shall send the notices referred to in paragraphs 1 to 5 as rapidly as possible and by the most appropriate channels to the Office for Official Publications of the European Communities. In the case of the accelerated procedure referred to in Article 14, the notice shall be sent by telex, telegram or telefax.

The notice referred to in paragraph 1 shall be sent as soon as possible after the decision approving the planning of the works contracts that the contracting authorities intend to award.

The notice referred to in paragraph 5 shall be sent at the latest 48 days after the award of the contract in question.

8. The notices referred to in paragraphs 1 and 5 shall be published in full in the *Official Journal of the European Communities* and in the TED data bank in the official languages of the Communities, the original text alone being authentic.

9. The notices referred to in paragraphs 2, 3 and 4 shall be published in full in the *Official Journal of the European Communities* and in the TED data bank in the original languages. A summary of the important elements of each

notice shall be published in the other official languages of the Community, the original text alone being authentic.

10. The Office for Official Publications of the European Communities shall publish the notices not later than 12 days after their dispatch. In the case of the accelerated procedure referred to in Article 14, this period shall be reduced to five days.

11. The notice shall not be published in the official journals or in the press of the country of the contracting authority before the date of dispatch to the *Official Journal of the European Communities* and it shall mention this date. It shall not contain information other than that published in the *Official Journal of the European Communities*.

12. The contracting authorities must be able to supply evidence of the date of dispatch.

13. The cost of publication of the notices in the *Official Journal of the European Communities* shall be borne by the Communities. The length of the notice shall not be greater than one page of the Journal, or approximately 650 words. Each edition of the Journal containing one or more notices shall reproduce the model notice or notices on which the published notice or notices are based.

Article 12

1. In open procedures the time limit for the receipt of tenders, fixed by the contracting authorities shall be not less than 52 days from the date of dispatch of the notice.

2. The time limit for the receipt of tenders laid down in paragraph 1 may be reduced to 36 days where the contracting authorities have published the notice for in Article 11 (1), drafted in accordance with the specimen in Annex IV A, in the *Official Journal of the European Communities*.

3. Provided they have been requested in good time, the contract documents and supporting documents must be sent to the contractors by the contracting authorities or competent departments within six days of receiving their application.

4. Provided it has been requested in good time, additional information relating to the contract documents shall be supplied by the contracting authorities not later than six days before the final date fixed for receipt of tenders.

5. Where the contract documents, supporting documents or additional information are too bulky to be supplied

within the time limits laid down in paragraph 3 or 4 or where tenders can only be made after a visit to the site or after on-the-spot inspection of the documents supporting the contract documents, the time limits laid down in paragraphs 1 and 2 shall be extended accordingly.

Article 13

1. In restricted procedures and negotiated procedures as described in Article 7 (2), the time limit for receipt of requests to participate fixed by the contracting authorities shall be not less than 37 days from the date dispatch of the notice.

2. The contracting authorities shall simultaneously and in writing invite the selected candidates to submit their tenders. The letter of invitation shall be accompanied by the contract documents and supporting documents. It shall include at least the following information:

- (a) where appropriate, the address of the service from which the contract documents and supporting documents can be requested and the final date for making such a request; also the amount and terms of any sum to be paid for such documents;
- (b) the final date for receipt of tenders, the address to which they must be sent and the language or languages in which they must be drawn up;
- (c) a reference to the contract notice published;
- (d) an indication of any documents to be annexed, either to support the verifiable statements furnished by the candidate in accordance with Article 11 (7), or to supplement the information provided for in that Article under the same conditions as those laid down in Articles 26 and 27;
- (e) the criteria for the award of the contract if these are not given in the notice.

3. In restricted procedures, the time limit for receipt of tenders fixed by the contracting authorities may not be less than 40 days from the date of dispatch of the written invitation.

4. The time limit for the receipt of tenders laid down in paragraph 3 may be reduced to 26 days where the contracting authorities have published the notice provided for in Article 11 (1), drafted in accordance with the model in Annex IV A, in the *Official Journal of the European Communities*.

5. Requests to participate in procedures for the award of contracts may be made by letter, by telegram, telex, telefax or by telephone. If by one of the last four, they must be

confirmed by letter dispatched before the end of the period laid down in paragraph 1.

6. Provided it has been requested in good time, additional information relating to the contract documents must be supplied by the contracting authorities not later than six days before the final date fixed for the receipt of tenders.

7. Where tenders can be made only after a visit to the site or after on-the-spot inspection of the documents supporting the contract documents, the time limit laid down in paragraphs 3 and 4 shall be extended accordingly.

Article 14

1. In cases where urgency renders impracticable the time limits laid down in Article 13, the contracting authorities may fix the following time limits:

- (a) a time limit for receipt of requests to participate which shall be not less than 15 days from the date of dispatch of the notice;
- (b) a time limit for the receipt of tenders which shall be not less than 10 days from the date of the invitation to tender.

2. Provided it has been requested in good time, additional information relating to the contract documents must be supplied by the contracting authorities not later than four days before the final date fixed for the receipt of tenders.

3. Requests for participation in contracts and invitations to tender must be made by the most rapid means of communication possible. When requests to participate are made by telegram, telex, telefax or telephone, they must be confirmed by letter dispatched before the expiry of the time limit referred to in paragraph 1.

Article 15

Contracting authorities who wish to award a works concession contract shall fix a time limit for receipt of candidatures for the concession, which shall not be less than 52 days from the date of dispatch of the notice.

Article 16

In works contracts awarded by a works concessionnaire other than a contracting authority, the time limit for the receipt of requests to participate, fixed by the concessionnaire, shall be not less than 37 days from the

date of dispatch of the notice, and the time limit for the receipt of tenders not less than 40 days from the date of dispatch of the notice or the invitation to tender.

Article 17

Contracting authorities may arrange for the publication in the *Official Journal of the European Communities* of notices announcing public works contracts which are not subject to the publication requirement laid down in this Directive.

TITLE IV

COMMON RULES ON PARTICIPATION

Chapter 1

General provisions

Article 18

Contracts shall be awarded on the basis of the criteria laid down in Chapter 3 of this Title, taking into account Article 19, after the suitability of the contractors not excluded under Article 24 has been checked by contracting authorities in accordance with the criteria of economic and financial standing and of technical knowledge or ability referred to in Articles 26 to 29.

Article 19

Where the criterion for the award of the contract is that of the most economically advantageous tender, contracting authorities may take account of variants which are submitted by a tenderer and meet the minimum specifications required by the contracting authorities.

The contracting authorities shall state in the contract documents the minimum specifications to be respected by the variants and any specific requirements for their presentation. They shall indicate in the tender notice if variants are not permitted.

Contracting authorities may not reject the submission of a variant on the sole grounds that it has been drawn up with technical specifications defined by reference to national standards transposing European standards, to European technical approvals or to common technical specifications

referred to in Article 10 (2) or again by reference to national technical specifications referred to in Article 10 (5) (a) and (b).

Article 20

In the contract documents, the contracting authority may ask the tenderer to indicate in his tender any share of the contract he may intend to subcontract to third parties.

This indication shall be without prejudice to the question of the principal contractor's liability.

Article 21

Tenders may be submitted by groups of contractors. These groups may not be required to assume a specific legal form in order to submit the tender; however, the group selected may be required to do so when it has been awarded the contract.

Article 22

1. In restricted and negotiated procedures the contracting authorities shall, on the basis of information given relating to the contractor's personal position as well as to the information and formalities necessary for the evaluation of the minimum conditions of an economic and technical nature to be fulfilled by him, select from among the candidates with the qualifications required by Articles 24 to 29 those whom they will invite to submit a tender or to negotiate.

2. Where the contracting authorities award a contract by restricted procedure, they may prescribe the range within which the number of undertakings which they intend to invite will fall. In this case the range shall be indicated in the contract notice. The range shall be determined in the light of the nature of the work to be carried out. The range must number at least 5 undertakings and may be up to 20.

In any event, the number of candidates invited to tender shall be sufficient to ensure genuine competition.

3. Where the contracting authorities award a contract by negotiated procedure as referred to in Article 7 (2), the number of candidates admitted to negotiate may not be less than three provided that there is a sufficient number of suitable candidates.

4. Each Member State shall ensure that contracting authorities issue invitations without discriminations to those nationals of other Member States who satisfy the necessary requirements and under the same conditions as to its own nationals.

Article 23

1. The contracting authority may state in the contract documents, or be obliged by a Member State to do so, the authority or authorities from which a tenderer may obtain the appropriate information on the obligations relating to the employment protection provisions and the working conditions which are in force in the Member State, region or locality in which the works are to be executed and which shall be applicable to the works carried out on site during the performance of the contract.

2. The contracting authority which supplies the information referred to in paragraph 1 shall request the tenderers or those participating in the contract procedure to indicate that they have taken account, when drawing up their tender, of the obligations relating to employment protection provisions and the working conditions which are in force in the place where the work is to be carried out. This shall be without prejudice to the application of the provisions of Article 30 (4) concerning the examination of abnormally low tenders.

Chapter 2

Criteria for qualitative selection

Article 24

Any contractor may be excluded from participation in the contract who:

- (a) is bankrupt or is being wound up, whose affairs are being administered by the court, who has entered into an arrangement with creditors, who has suspended business activities or who is in any analogous situation arising from a similar procedure under national laws and regulations;
- (b) is the subject of proceedings for a declaration of bankruptcy, for an order for compulsory winding up or administration by the court or for an arrangement with creditors or of any other similar proceedings under national laws or regulations;
- (c) has been convicted of an offence concerning his professional conduct by a judgment which has the force of *res judicata*;
- (d) has been guilty of grave professional misconduct proved by any means which the contracting authorities can justify;
- (e) has not fulfilled obligations relating to the payment of social security contributions in accordance with the legal provisions of the country in which he is established or with those of the country of the contracting authority;
- (f) has not fulfilled obligations relating to the payment of taxes in accordance with the legal provisions of the

country in which he is established or those of the country of the contracting authority;

- (g) is guilty of serious misrepresentation in supplying the information required under this Chapter.

Where the contracting authority requires of the contractor proof that none of the cases quoted in (a), (b), (c), (e) or (f) applies to him, it shall accept as sufficient evidence:

- for points (a), (b) or (c), the production of an extract from the 'judicial record' or, failing this, of an equivalent document issued by a competent judicial or administrative authority in the country of origin in the country whence that person comes showing that these requirements have been met;
- for points (e) or (f), a certificate issued by the competent authority in the Member State concerned.

Where the country concerned does not issue such documents or certificates, they may be replaced a declaration on oath or, in Member States where there is no provision for declarations on oath, by a solemn declaration made by the person concerned before a judicial or administrative authority, a notary or a competent professional or trade body, in the country of origin or in the country whence that person comes.

Member States shall designate the authorities and bodies competent to issue these documents and shall forthwith inform the other Member States and the Commission thereof.

Article 25

Any contractor wishing to take part in a public works contract may be requested to prove his enrolment in the professional or trade register under the conditions laid down by the laws of the Member State in which he is established:

- in Belgium the 'Registre du Commerce - Handelsregister',
- in Denmark, the 'Handelsregistret, Aktieselskabsregistret' and the 'Erhvervsregistret',
- in Germany, the 'Handelsregister' and the 'Handwerksrolle',
- in Greece, the registrar of contractors' enterprises '(Μητρώο Εργοληπτικών Επιχειρήσεων)' of the Ministry for Environment, Town and Country Planning and Public Works,
- in Spain, the 'Registro Oficial de Contratistas del Ministerio de Industria, Comercio y Turismo',
- in France, the 'Registre du Commerce and the Répertoire des métiers',

- in Italy, the 'Registro della Camera di commercio, industria, agricoltura e artigianato',
- in Luxembourg, the 'Registre aux firmes and the Rôle de la Chambre des métiers',
- in the Netherlands, the 'Handelsregister',
- in Portugal, the 'Comissão de Alvarás de Empresas de Obras Públicas e Particulares (CAEOPP)',
- in the United Kingdom and Ireland, the contractor may be requested to provide a certificate from the Registrar of Companies or the Registrar of Friendly Societies or, if this is not the case, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in question in the country in which he is established, in a specific place and under a given business name.

Article 26

1. Evidence of the contractor's financial and economic standing may, as a general rule, be furnished by one or more of the following references:

- (a) appropriate statements from bankers;
- (b) the presentation of the firm's balance sheets or extracts from the balance sheets, where publication of the balance sheet is required under the law of the country in which the contractor is established;
- (c) a statement of the firm's overall turnover and the turnover on construction works for the three previous financial years.

2. The contracting authorities shall specify in the notice or in the invitation to tender which reference or references they have chosen and what references other than those mentioned under paragraph 1 (a), (b) or (c) are to be produced.

3. If, for any valid reason, the contractor is unable to supply the references requested by the contracting authorities, he may prove his economic and financial standing by any other document which the contracting authorities consider appropriate.

Article 27

1. Evidence of the contractor's technical capability may be furnished by:

- (a) the contractor's educational and professional qualifications and/or those of the firm's managerial staff and, in particular, those of the person or persons responsible for carrying out the works;
- (b) a list of the works carried out over the past five years, accompanied by certificates of satisfactory execution for the most important works. These certificates shall indicate the value, date and site of the works and shall specify whether they were carried out according to the

rules of the trade and properly completed. Where necessary, the competent authority shall submit these certificates to the contracting authority direct;

- (c) a statement of the tools, plant and technical equipment available to the contractor for carrying out the work;
- (d) a statement of the firm's average annual manpower and the number of managerial staff for the last three years;
- (e) a statement of the technicians or technical bodies which the contractor can call upon for carrying out the work, whether or not they belong to the firm.

2. The contracting authorities shall specify in the invitation to tender which of these references are to be produced.

Article 28

Within the limits of Articles 24 to 27, the contracting authority may invite the contractor to supplement the certificates and documents submitted or to clarify them.

Article 29

1. Member States who have official lists of recognized contractors must adapt them to the provisions of Article 24 (a) to (d) and (g) and of Articles 25, 26 and 27.

2. Contractors registered in the official lists may, for each contract, submit to the contracting authority a certificate of registration issued by the competent authority. This certificate shall state the reference which enabled them to be registered in the list and the classification given in this list.

3. Certified registration in the official lists by the competent bodies shall, for the contracting authorities of other Member States, constitute a presumption of suitability for works corresponding to the contractor's classification only as regards Articles 24 (a) to (d) and (g), 25, 26 (b) and (c) and 27 (b) and (d).

Information which can be deduced from registration in official lists may not be questioned. However, with regard to the payment of social security contributions, an additional certificate may be required of any registered contractor whenever a contract is offered.

The contracting authorities of other Member States shall apply the above provisions only in favour of contractors who are established in the country holding the official list.

4. For the registration of contractors of other Member States in an official list, no further proofs and statements may be required other than those requested of nationals and, in any event, only those provided for under Articles 24 to 27.

5. Member States holding an official list shall communicate to other Member States the address of the body to which requests for registration may be made.

Chapter 3

Criteria for the award of contracts

Article 30

1. The criteria on which the contracting authorities shall base the award of contracts shall be:

- (a) either the lowest price only;
- (b) or, when the award is made to the most economically advantageous tender, various criteria according to the contract: e. g. price, period for completion, running costs, profitability, technical merit.

2. In the case referred to in paragraph 1 (b), the contracting authority shall state in the contract documents or in the contract notice all the criteria it intends to apply to the award, where possible in descending order of importance.

3. Paragraph 1 shall not apply when a Member State bases the award of contracts on other criteria, within the framework of rules in force at the time of the adoption of this Directive whose aim is to give preference to certain tenderers, on condition that the rules invoked are compatible with the EEC Treaty.

4. If, for a given contract, tenders appear to be abnormally low in relation to the works, the contracting authority shall, before it may reject those tenders, request, in writing, details of the constituent elements of the tender which it considers relevant and shall verify those constituent elements taking account of the explanations received.

The contracting authority may take into consideration explanations which are justified on objective grounds including the economy of the construction method, or the technical solution chosen, or the exceptionally favourable conditions available to the tenderer for the execution of the work, or the originality of the work proposed by the tenderer.

If the documents relating to the contract provide for its award at the lowest price tendered, the contracting authority must communicate to the Commission the rejection of tenders which it considers to be too low.

However, until the end of 1992, if current national law so permits, the contracting authority may exceptionally, without any discrimination on grounds of nationality, reject tenders which are abnormally low in relation to the works, without being obliged to comply with the procedure provided for in the first subparagraph if the number of such tenders for a particular contract is so high that implementation of this procedure would lead to a considerable delay and jeopardize the public attaching to the execution of the contract in question. Recourse to this exceptional procedure shall be mentioned in the notice referred to in Article 11 (5).

Article 31

1. Until 31 December 1992, this Directive shall not prevent the application of existing national provisions on the award of public works contracts which have as their objective the reduction of regional disparities and the promotion of job creation in regions whose development is lagging behind and in declining industrial regions, on condition that the provisions concerned are compatible with the Treaty, in particular with the principles of non-discrimination on grounds of nationality, freedom of establishment and freedom to provide services, and with the Community's international obligations.

2. Paragraph 1 shall be without prejudice to Article 30 (3).

Article 32

1. Member States shall inform the Commission of national covered by Article 30 (3) and Article 31 and of the rules for applying them.

2. Member States concerned shall forward to the Commission, every year, a report describing the practical application of the measures referred to in paragraph 1. The reports shall be submitted to the Advisory Committee for Public Contracts.

TITLE V

FINAL PROVISIONS

Article 33

The calculation of the time limit for receipt of tenders or requests to participate shall be made in accordance with

Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time limits ⁽¹⁾.

Article 34

1. In order to permit assessment of the results of applying the Directive, Member States shall forward to the Commission a statistical report on the contracts award by contracting authorities by 31 October 1993 at the latest for the preceding year and thereafter by 31 October of every second year.

Nevertheless, for Greece, Spain and Portugal, the date of 31 October 1993 shall be replaced by 31 October 1995.

2. The statistical reports shall detail at least the number and value of contracts awarded by each contracting authority or category of contracting authority above the threshold, subdivided as far as possible by procedure, category of work and the nationality of the contractor to whom the contract has been awarded, and in the case of negotiated procedures, subdivided in accordance with Article 7, listing the number and value of the contracts awarded to each Member State and to third countries.

3. The Commission shall determine in accordance with the procedure laid down in Article 35 (3) the nature of any additional statistical information, which is requested under the Directive.

Article 35

1. Annex I shall be amended by the Commission, in accordance with the procedure laid down in paragraph 3, when, in particular on the basis of the notifications from the Member States, it appears necessary:

(a) to remove from the said Annex bodies governed by public law which no longer fulfil the criteria laid down in Article 1 (b);

(b) to include in that Annex bodies governed by public law which meet those criteria.

2. The conditions for the drawing up, transmission, receipt, translation, collection and distribution of the notices referred to in Article 11 and of the statistical reports

provided for in Article 34, the nomenclature provided for in Annex II, as well as the reference in the notices to particular positions of the nomenclature, may be modified in accordance with the procedure laid down in paragraph 3.

3. The chairman of the Advisory Committee for Public Contracts shall submit to the committee a draft of any measures to be taken. The committee shall deliver its opinion on the draft, if necessary by taking a vote, within a time limit to be fixed by the chairman in light of the urgency of the matter.

The opinion shall be recorded in the minutes. In addition, each Member State shall have the right to request that its position be recorded in the minutes.

The Commission shall take the fullest account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

4. Amended versions of Annexes I and II and of the conditions set out in paragraph 2 shall be published in the *Official Journal of the European Communities*.

Article 36

1. Directive 71/305/EEC ⁽²⁾ is hereby repealed, without prejudice to the obligations of the Member States concerning the deadlines for transposition into national law and for application indicated in Annex VII.

2. References to the repealed Directive shall be construed as references to this Directive and should be read in accordance with the correlation table given in Annex VIII.

Article 37

This Directive is addressed to the Member States.

Done at Luxembourg, 14 June 1993.

For the Council

The President

J. TRØJBORG

⁽¹⁾ OJ No L 124, 8. 6. 1971, p. 1.

⁽²⁾ including the provisions which amended this Directive, namely:

- Directive 78/669/EEC (OJ No L 225, 16. 8. 1978, p. 41),
- Directive 89/440/EEC (OJ No L 210, 21. 7. 1989, p. 1),
- Commission Decision 90/380/EEC (OJ No L 187, 19. 7. 1990, p. 55),
- Article 35 (2) of Directive 90/531/EEC (OJ No L 297, 29. 10. 1990, p. 1), and
- Directive 93/4/EEC (OJ No L 38, 16. 2. 1993, p. 31).

ANNEX I

LISTS OF BODIES AND CATEGORIES OF BODIES GOVERNED BY PUBLIC LAW REFERRED TO IN ARTICLE 1 (b)

I. BELGIUM

Bodies

- Archives générales du Royaume et Archives de l'État dans les Provinces — Algemeen Rijksarchief en Rijksarchief in de Provinciën,
- Conseil autonome de l'enseignement communautaire — Autonome Raad van het Gemeenschapsonderwijs,
- Radio et télévision belges, émissions néerlandaises — Belgische Radio en Televisie, Nederlandse uitzendingen,
- Belgisches Rundfunk- und Fernsehzentrum der Deutschsprachigen Gemeinschaft (Centre de radio et télévision belge de la Communauté de langue allemande — Centrum voor Belgische Radio en Televisie voor de Duitstalige Gemeenschap),
- Bibliothèque royale Albert I^{er} — Koninklijke Bibliotheek Albert I,
- Caisse auxiliaire de paiement des allocations de chômage — Hulpkas voor Werkloosheidsuitkeringen,
- Caisse auxiliaire d'assurance maladie-invalidité — Hulpkas voor Ziekte- en Invaliditeitsverzekeringen,
- Caisse nationale des pensions de retraite et de survie — Rijkskas voor Rust- en Overlevingspensioenen,
- Caisse de secours et de prévoyance en faveur des marins naviguant sous pavillon belge — Hulp- en Voorzorgskas voor Zeevarenden onder Belgische Vlag,
- Caisse nationale des calamités — Nationale Kas voor de Rampenschade,
- Caisse spéciale de compensation pour allocations familiales en faveur des travailleurs de l'industrie diamantaire — Bijzondere Verrekenkas voor Gezinsvergoedingen ten bate van de Arbeiders der Diamantnijverheid,
- Caisse spéciale de compensation pour allocations familiales en faveur des travailleurs de l'industrie du bois — Bijzondere Verrekenkas voor Gezinsvergoedingen ten bate van Arbeiders in de Houtnijverheid,
- Caisse spéciale de compensation pour allocations familiales en faveur des travailleurs occupés dans les entreprises de batellerie — Bijzondere Verrekenkas voor Gezinsvergoedingen ten bate van Arbeiders der Ondernemingen voor Binnenscheepvaart,
- Caisse spéciale de compensation pour allocations familiales en faveur des travailleurs occupés dans les entreprises de chargement, déchargement et manutention de marchandises dans les ports débarcadères, entrepôts et stations (appelée habituellement «Caisse spéciale de compensation pour allocations familiales des régions maritimes») — Bijzondere Verrekenkas voor Gezinsvergoedingen ten bate van de Arbeiders gebezigd door Ladings- en Lossingsondernemingen en door de Stuwadoors in de Havens, Losplaatsen, Stapelplaatsen en Stations (gewoonlijk genoemd: „Bijzondere Compensatiekas voor kindertoeslagen van de zeevaartgewesten”),
- Centre informatique pour la Région bruxelloise — Centrum voor Informatica voor het Brusselse Gewest,
- Commissariat général de la Communauté flamande pour la coopération internationale — Commissariaat-generaal voor Internationale Samenwerking van de Vlaamse Gemeenschap,
- Commissariat général pour les relations internationales de la Communauté française de Belgique — Commissariaat-generaal bij de Internationale Betrekkingen van de Franse Gemeenschap van België,
- Conseil central de l'économie — Centrale Raad voor het Bedrijfsleven,
- Conseil économique et social de la Région wallonne — Sociaal-economische Raad van het Waals Gewest,
- Conseil national du travail — Nationale Arbeidsraad,
- Conseil supérieur des classes moyennes — Hoge Raad voor de Middenstand,
- Office pour les travaux d'infrastructure de l'enseignement subsidié — Dienst voor Infrastructuurwerken van het Gesubsidieerd Onderwijs,
- Fondation royale — Koninklijke Schenking,

- Fonds communautaire de garantie des bâtiments scolaires — Gemeenschappelijk Waarborgfonds voor Schoolgebouwen,
- Fonds d'aide médicale urgente — Fonds voor Dringende Geneeskundige Hulp,
- Fonds des accidents du travail — Fonds voor Arbeitsongevallen,
- Fonds des maladies professionnelles — Fonds voor Beroepsziekten,
- Fonds des routes — Wegenfonds,
- Fonds d'indemnisation des travailleurs licenciés en cas de fermeture d'entreprises — Fonds tot Vergoeding van de in geval van Sluiting van Ondernemingen Ontslagen Werknemers,
- Fonds national de garantie pour la réparation des dégâts houillers — Nationaal Waarborgfonds inzake Kolenmijnschade,
- Fonds national de retraite des ouvriers mineurs — Nationaal Pensioenfonds voor Mijnwerkers,
- Fonds pour le financement des prêts à des États étrangers — Fonds voor Financiering van de Leningen aan Vreemde Staten,
- Fonds pour la rémunération des mousses enrôlés à bord des bâtiments de pêche — Fonds voor Scheepjongens aan Boord van Vissersvaartuigen,
- Fonds wallon d'avances pour la réparation des dommages provoqués par des pompages et des prises d'eau souterraine — Waals Fonds van Voorschotten voor het Herstel van de Schade veroorzaakt door Grondwaterzuiveringen en Afpompingen,
- Institut d'aéronomie spatiale — Instituut voor Ruimte-aëronomie,
- Institut belge de normalisation — Belgisch Instituut voor Normalisatie,
- Institut bruxellois de l'environnement — Brussels Instituut voor Milieubeheer,
- Institut d'expertise vétérinaire — Instituut voor Veterinaire Keuring,
- Institut économique et social des classes moyennes — Economisch en Sociaal Instituut voor de Middenstand,
- Institut d'hygiène et d'épidémiologie — Instituut voor Hygiëne en Epidemiologie,
- Institut francophone pour la formation permanente des classes moyennes — Franstalig Instituut voor Permanente Vorming voor de Middenstand,
- Institut géographique national — Nationaal Geografisch Instituut,
- Institut géotechnique de l'État — Rijksinstituut voor Grondmechanica,
- Institut national d'assurance maladie-invalidité — Rijksinstituut voor Ziekte- en Invaliditeitsverzekering,
- Institut national d'assurances sociales pour travailleurs indépendants — Rijksinstituut voor de Sociale Verzekeringen der Zelfstandigen,
- Institut national des industries extractives — Nationaal Instituut voor de Extractiebedrijven,
- Institut national des invalides de guerre, anciens combattants et victimes de guerre — Nationaal Instituut voor Oorlogsinvaliden, Oudstrijders en Oorlogsslachtoffers,
- Institut pour l'amélioration des conditions de travail — Instituut voor Verbetering van de Arbeidsvoorwaarden,
- Institut pour l'encouragement de la recherche scientifique dans l'industrie et l'agriculture — Instituut tot Aanmoediging van het Wetenschappelijk Onderzoek in Nijverheid en Landbouw,
- Institut royal belge des sciences naturelles — Koninklijk Belgisch Instituut voor Natuurwetenschappen,
- Institut royal belge du patrimoine artistique — Koninklijk Belgisch Instituut voor het Kunstpatrimonium,
- Institut royal de météorologie — Koninklijk Meteorologisch Instituut,
- Enfance et famille — Kind en Gezin,
- Compagnie des installations maritimes de Bruges — Maatschappij der Brugse Zeevaartinrichtingen,
- Mémorial national du fort de Breendonck — Nationaal Gedenkteken van het Fort van Breendonck,
- Musée royal de l'Afrique centrale — Koninklijk Museum voor Midden-Afrika,
- Musées royaux d'art et d'histoire — Koninklijke Musea voor Kunst en Geschiedenis,
- Musées royaux des beaux-arts de Belgique — Koninklijke Musea voor Schone Kunsten van België,
- Observatoire royal de Belgique — Koninklijke Sterrenwacht van België,
- Office belge de l'économie et de l'agriculture — Belgische Dienst voor Bedrijfsleven en Landbouw,
- Office belge du commerce extérieur — Belgische Dienst voor Buitenlandse Handel,

- Office central d'action sociale et culturelle au profit des membres de la communauté militaire — Centrale Dienst voor Sociale en Culturele Actie ten behoeve van de Leden van de Militaire Gemeenschap,
- Office de la naissance et de l'enfance — Dienst voor Borelingen en Kinderen,
- Office de la navigation — Dienst voor de Scheepvaart,
- Office de promotion du tourisme de la Communauté française — Dienst voor de Promotie van het Toerisme van de Franse Gemeenschap,
- Office de renseignements et d'aide aux familles des militaires — Hulp- en Informatiebureau voor Gezinnen van Militairen,
- Office de sécurité sociale d'outre-mer — Dienst voor Overzeese Sociale Zekerheid,
- Office national d'allocations familiales pour travailleurs salariés — Rijksdienst voor Kinderbijslag voor Werknemers,
- Office national de l'emploi — Rijksdienst voor de Arbeidsvoorziening,
- Office national des débouchés agricoles et horticoles — Nationale Dienst voor Afzet van Land- en Tuinbouwprodukten,
- Office national de sécurité sociale — Rijksdienst voor Sociale Zekerheid,
- Office national de sécurité sociale des administrations provinciales et locales — Rijksdienst voor Sociale Zekerheid van de Provinciale en Plaatselijke Overheidsdiensten,
- Office national des pensions — Rijksdienst voor Pensioenen,
- Office national des vacances annuelles — Rijksdienst voor de Jaarlijkse Vakantie,
- Office national du lait — Nationale Zuiveldienst,
- Office régional bruxellois de l'emploi — Brusselse Gewestelijke Dienst voor Arbeidsbemiddeling,
- Office régional et communautaire de l'emploi et de la formation — Gewestelijke en Gemeenschappelijke Dienst voor Arbeidsvoorziening en Vorming,
- Office régulateur de la navigation intérieure — Dienst voor Regeling der Binnenvaart,
- Société publique des déchets pour la Région flamande — Openbare Afvalstoffenmaatschappij voor het Vlaams Gewest,
- Orchestre national de Belgique — Nationaal Orkest van België,
- Organisme national des déchets radioactifs et des matières fissiles — Nationale Instelling voor Radioactief Afval en Splijtstoffen,
- Palais des beaux-arts — Paleis voor Schone Kunsten,
- Pool des marins de la marine marchande — Pool van de Zeelieden ter Koopvaardij,
- Port autonome de Charleroi — Autonome Haven van Charleroi,
- Port autonome de Liège — Autonome Haven van Luik,
- Port autonome de Namur — Autonome Haven van Namen,
- Radio et télévision belges de la Communauté française — Belgische Radio en Televisie van de Franse Gemeenschap,
- Régie des bâtiments — Regie der Gebouwen,
- Régie des voies aériennes — Regie der Luchtwegen,
- Régie des postes — Regie der Posterijen,
- Régie des télégraphes et des téléphones — Regie van Telegraaf en Telefoon,
- Conseil économique et social pour la Flandre — Sociaal-economische Raad voor Vlaanderen,
- Société anonyme du canal et des installations maritimes de Bruxelles — Naamloze Vennootschap „Zeekanaal en Haveninrichtingen van Brussel”,
- Société du logement de la Région bruxelloise et sociétés agréées — Brusselse Gewestelijke Huisvestingsmaatschappij en erkende maatschappijen,
- Société nationale terrienne — Nationale Landmaatschappij,
- Théâtre royal de la Monnaie — De Koninklijke Muntchouwburg,
- Universités relevant de la Communauté flamande — Universiteiten afhangende van de Vlaamse Gemeenschap,
- universités relevant de la Communauté française — Universiteiten afhangende van de Franse Gemeenschap,
- Office flamand de l'emploi et de la formation professionnelle — Vlaamse Dienst voor Arbeidsvoorziening en Beroepsopleiding,
- Fonds flamand de construction d'institutions hospitalières et médico-sociales — Vlaams Fonds voor de Bouw van Ziekenhuizen en Medisch-Sociale Instellingen,
- Société flamande du logement et sociétés agréées — Vlaamse Huisvestingsmaatschappij en erkende maatschappijen,
- Société régionale wallonne du logement et sociétés agréées — Waalse Gewestelijke Maatschappij voor de Huisvesting en erkende maatschappijen,
- Société flamande d'épuration des eaux — Vlaamse Maatschappij voor Waterzuivering,
- Fonds flamand du logement des familles nombreuses — Vlaams Woningfonds van de Grote Gezinnen.

Categories

- les centres publics d'aide sociale,
- les fabriques d'église (church councils).

II. DENMARK**Bodies**

Københavns Havn,

- Danmarks Radio,
- TV 2/Danmark,
- TV2 Reklame A/S,
- Danmarks Nationalbank,
- A/S Storebæltsforbindelsen,
- A/S Øresundsforbindelsen (alene tilslutningsanlæg i Danmark),
- Københavns Lufthavn A/S,
- Byfornylsesselskabet København,
- Tele Danmark A/S with subsidiaries:
- Fyns Telefon A/S,
- Jydsk Telefon Aktieselskab A/S,
- Kjøbenhavns Telefon Aktieselskab,
- Tele Sønderjylland A/S,
- Telecom A/S,
- Tele Danmark Mobil A/S.

Categories

- De kommunale havne (municipal ports),
- Andre Forvaltningssubjekter (other public administrative bodies).

III. GERMANY**1. Legal persons governed by public law**

Authorities, establishments and foundations governed by public law and created by federal, State or local authorities in particular in the following sectors:

1.1. Authorities

- Wissenschaftliche Hochschulen und verfaßte Studentenschaften (universities and established student bodies),
- berufsständige Vereinigungen (Rechtsanwalts-, Notar-, Steuerberater-, Wirtschaftsprüfer-, Architekten-, Ärzte- und Apothekerkammern) (professional associations representing lawyers, notaries, tax consultants, accountants, architects, medical practitioners and pharmacists),
- Wirtschaftsvereinigungen (Landwirtschafts-, Handwerks-, Industrie- und Handelskammern, Handwerksinnungen, Handwerkerschaften) (business and trade associations: agricultural and craft associations, chambers of industry and commerce, craftsmen's guilds, tradesmen's associations),
- Sozialversicherungen (Krankenkassen, Unfall- und Rentenversicherungsträger) (social security institutions: health, accident and pension insurance funds),
- kassenärztliche Vereinigungen (associations of panel doctors),
- Genossenschaften und Verbände (cooperatives and other associations).

1.2. Establishments and foundations

Non-industrial and non-commercial establishments subject to state control and operating in the general interest, particularly in the following fields:

- Rechtsfähige Bundesanstalten (federal institutions having legal capacity),
- Versorgungsanstalten und Studentenwerke (pension organizations and students' unions),
- Kultur-, Wohlfahrts- und Hilfsstiftungen (cultural, welfare and relief foundations).

2. Legal persons governed by private law

Non-industrial and non-commercial establishments subject to State control and operating in the general interest (including 'kommunale Versorgungsunternehmen' — municipal utilities), particularly in the following fields:

- Gesundheitswesen (Krankenhäuser, Kurmittelbetriebe, medizinische Forschungseinrichtungen, Untersuchungs- und Tierkörperbeseitigungsanstalten) (health: hospitals, health resort establishments, medical research institutes, testing and carcase-disposal establishments),
- Kultur (öffentliche Bühnen, Orchester, Museen, Bibliotheken, Archive, zoologische und botanische Gärten) (culture: public theatres, orchestras, museums, libraries, archives, zoological and botanical gardens),
- Soziales (Kindergärten, Kindertagesheime, Erholungseinrichtungen, Kinder- und Jugendheime, Freizeiteinrichtungen, Gemeinschafts- und Bürgerhäuser, Frauenhäuser, Altersheime, Obdachlosenunterkünfte) (social welfare: nursery schools, children's playschools, rest-homes, children's homes, hostels for young people, leisure centres, community and civic centres, homes for battered wives, old people's homes, accommodation for the homeless),
- Sport (Schwimmbäder, Sportanlagen und -einrichtungen) (sport: swimming baths, sports facilities),
- Sicherheit (Feuerwehren, Rettungsdienste) (safety: fire brigades, other emergency services),
- Bildung (Umschulungs-, Aus-, Fort- und Weiterbildungseinrichtungen, Volkshochschulen) (education: training, further training and retraining establishments, adult evening classes),
- Wissenschaft, Forschung und Entwicklung (Großforschungseinrichtungen, wissenschaftliche Gesellschaften und Vereine, Wissenschaftsförderung) (science, research and development: large-scale research institutes, scientific societies and associations, bodies promoting science),
- Entsorgung (Straßenreinigung, Abfall- und Abwasserbeseitigung) (refuse and garbage disposal services: street cleaning, waste and sewage disposal),
- Bauwesen und Wohnungswirtschaft (Stadtplanung, Stadtentwicklung, Wohnungsunternehmen, Wohnraumvermittlung) (building, civil engineering and housing: town planning, urban development, housing enterprises, housing agency services),
- Wirtschaft (Wirtschaftsförderungsgesellschaften) (economy: organizations promoting economic development),
- Friedhofs- und Bestattungswesen (cemeteries and burial services),
- Zusammenarbeit mit den Entwicklungsländern (Finanzierung, technische Zusammenarbeit, Entwicklungshilfe, Ausbildung) (cooperation with developing countries: financing, technical cooperation, development aid, training).

IV. GREECE

Categories

Other legal persons governed by public law whose public works contracts are subject to State control.

V. SPAIN

Categories

- Entidades Gestoras y Servicios Comunes de la Seguridad Social (administrative entities and common services of the health and social services)
- Organismos Autónomos de la Administración del Estado (independent bodies of the national administration)
- Organismos Autónomos de las Comunidades Autónomas (independent bodies of the autonomous communities)
- Organismos Autónomos de las Entidades Locales (independent bodies of local authorities)
- Otras entidades sometidas a la legislación de contratos del Estado español (other entities subject to Spanish State legislation on procurement).

VI. FRANCE

Bodies

1. National public bodies:

1.1. with scientific, cultural and professional character:

- Collège de France,
- Conservatoire national des arts et métiers,
- Observatoire de Paris.

1.2. Scientific and technological:

- Centre national de la recherche scientifique (CNRS),
- Institut national de la recherche agronomique,
- Institut national de la santé et de la recherche médicale,
- Institut français de recherche scientifique pour le développement en coopération (ORSTOM).

1.3. with administrative character:

- Agence nationale pour l'emploi,
- Caisse nationale des allocations familiales,
- Caisse nationale d'assurance maladie des travailleurs salariés,
- Caisse nationale d'assurance vieillesse des travailleurs salariés,
- Office national des anciens combattants et victimes de la guerre,
- Agences financières de bassins.

Categories

1. National public bodies:

- universités (universities),
- écoles normales d'instituteurs (teacher training colleges).

2. Administrative public bodies at regional, departmental and local level:

- collèges (secondary schools),
- lycées (secondary schools),
- établissements publics hospitaliers (public hospitals),
- offices publics d'habitations à loyer modéré (OPHLM) (public offices for low-cost housing).

3. Groupings of territorial authorities:

- syndicats de communes (associations of local authorities),
- districts (districts),
- communautés urbaines (municipalities),
- institutions interdépartementales et interrégionales (institutions common to more than one Département and interregional institutions).

VII. IRELAND**Bodies**

- Shannon Free Airport Development Company Ltd,
- Local Government Computer Services Board,
- Local Government Staff Negotiations Board,
- Córas Tráchtála (Irish Export Board),
- Industrial Development Authority,
- Irish Goods Council (Promotion of Irish Goods),
- Córas Beostoic agus Feola (CBF) (Irish Meat Board),
- Bord Fáilte Éireann (Irish Tourism Board),
- Údarás na Gaeltachta (Development Authority for Gaeltacht Regions),
- An Bord Pleanála (Irish Planning Board).

Categories

- Third level Educational Bodies of a Public Character,
- National Training, Cultural or Research Agencies,
- Hospital Boards of a Public Character,
- National Health & Social Agencies of a Public Character,
- Central & Regional Fishery Boards.

VIII. ITALY**Bodies**

- Agenzia per la promozione dello sviluppo nel Mezzogiorno.

Categories

- Enti portuali e aeroportuali (port and airport authorities),
- Consorzi per le opere idrauliche (consortia for water engineering works),
- Le università statali, gli istituti universitari statali, i consorzi per i lavori interessanti le università (State universities, State university institutes, consortia for university development work),
- Gli istituti superiori scientifici e culturali, gli osservatori astronomici, astrofisici, geofisici o vulcanologici (higher scientific and cultural institutes, astronomical, astrophysical, geophysical or vulcanological observatories),
- Enti di ricerca e sperimentazione (organizations conducting research and experimental work),
- Le istituzioni pubbliche di assistenza e di beneficenza (public welfare and benevolent institutions),
- Enti che gestiscono forme obbligatorie di previdenza e di assistenza (agencies administering compulsory social security and welfare schemes),
- Consorzi di bonifica (land reclamation consortia),
- Enti di sviluppo o di irrigazione (development or irrigation agencies),
- Consorzi per le aree industriali (associations for industrial areas),
- Comunità montane (groupings of municipalities in mountain areas),
- Enti preposti a servizi di pubblico interesse (organizations providing services in the public interest),
- Enti pubblici preposti ad attività di spettacolo, sportive, turistiche e del tempo libero (public bodies engaged in entertainment, sport, tourism and leisure activities),
- Enti culturali e di promozione artistica (organizations promoting culture and artistic activities)

IX. LUXEMBOURG**Categories**

- Les établissements publics de l'État placés sous la surveillance d'un membre du gouvernement (public establishments of the State placed under the supervision of a member of the Government),
- Les établissements publics placés sous la surveillance des communes (public establishments placed under the supervision of the communes),
- Les syndicats de communes créés en vertu de la loi du 14 février 1900 telle qu'elle a été modifiée par la suite (associations of communes created under the law of 14 February 1900 as subsequently modified).

X. THE NETHERLANDS**Bodies**

- De Nederlandse Centrale Organisatie voor Toegepast Natuurwetenschappelijk Onderzoek (TNO) en de daaronder ressorterende organisaties.

Categories

- De waterschappen (administration of water engineering works),
- De instellingen van wetenschappelijk onderwijs vermeld in artikel 8 van de Wet op het Wetenschappelijk Onderwijs (1985), de academische ziekenhuizen (Institutions for scientific education, as listed in Article 8 of the Scientific Education Act (1985)) wet op het Wetenschappelijk Onderwijs (1985) (teaching hospitals).

XI. PORTUGAL**Categories**

- Estabelecimentos públicos de ensino investigação científica e saúde (public establishments for education, scientific research and health),
- Institutos públicos sem carácter comercial ou industrial (public institutions without commercial or industrial character),
- Fundações públicas (public foundations),
- Administrações gerais e juntas autónomas (general administration bodies and independent councils).

XII. THE UNITED KINGDOM**Bodies**

- Central Blood Laboratories Authority,
- Design Council,
- Health and Safety Executive,
- National Research Development Corporation,
- Public Health Laboratory Services Board,
- Advisory, Conciliation and Arbitration Service,
- Commission for the New Towns,
- Development Board For Rural Wales,
- English Industrial Estates Corporation,
- National Rivers Authority,
- Northern Ireland Housing Executive,
- Scottish Enterprise,
- Scottish Homes,
- Welsh Development Agency.

Categories

- Universities and polytechnics, maintained schools and colleges,
 - National Museums and Galleries,
 - Research Councils,
 - Fire Authorities,
 - National Health Service Authorities,
 - Police Authorities,
 - New Town Development Corporations,
 - Urban Development Corporations.
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ANNEX II

**LIST OF PROFESSIONAL ACTIVITIES AS SET OUT IN THE GENERAL INDUSTRIAL
CLASSIFICATION OF ECONOMIC ACTIVITIES WITHIN THE EUROPEAN COMMUNITIES (NACE)**

Classes	Groups	Subgroups and items	Description
50			BUILDING AND CIVIL ENGINEERING
	500		General building and civil engineering work (without any particular specification) and demolition work
		500.1	General building and civil engineering work (without any particular specification)
		500.2	Demolition work
	501		Construction of flats, office blocks, hospitals and other buildings, both residential and non-residential
		501.1	General building contractors
		501.2	Roofings
		501.3	Construction of chimneys, kilns and furnaces
		501.4	Water-proofing and damp-proofing
		501.5	Restoration and maintenance of outside walls (repainting, cleaning, etc.)
		501.6	Erection and dismantlement of scaffolding
		501.7	Other specialized activities relating to construction work (including carpentry)
	502		Civil engineering: construction of roads, bridges, railways, etc.
		502.1	General civil engineering work
		502.2	Earth-moving (navvying)
		502.3	Construction of bridges, tunnels and shafts; drillings
		502.4	Hydraulic engineering (rivers, canals, harbours, flows, lochs and dams)
		502.5	Road-building (including specialized construction of airports and runways)
		502.6	Specialized construction work relating to water (i.e. to irrigation, land drainage, water supply, sewage disposal, sewerage, etc.)
		502.7	Specialized activities in other areas of civil engineering
	503		Installation (fittings and fixtures)
		503.1	General installation work
		503.2	Gas fitting and plumbing, and the installation of sanitary equipment
		503.3	Installation of heating and ventilating apparatus (central heating, air-conditioning, ventilation)
		503.4	Sound and heat insulation; insulation against vibration
		503.5	Electrical fittings
		503.6	Installation of aerials, lightning conductors, telephones, etc.
	504		Building completion work
		504.1	General building completion work
		504.2	Plastering
		504.3	Joinery, primarily engaged in the after assembly and/or installation (including the laying of parquet flooring)
		504.4	Painting, glazing and paper-hanging
		504.5	Tiling and otherwise covering floors and walls
		504.6	Other building completion work (putting in fireplaces, etc.)

ANNEX III

DEFINITION OF CERTAIN TECHNICAL SPECIFICATIONS

For the purposes of this Directive the following terms shall be defined as follows:

1. 'Technical specifications': the totality of the technical prescriptions contained in particular in the tender documents, defining the characteristics required of a work, material, product or supply, which permits a work, a material, a product or a supply to be described in a manner such that it fulfils the use for which it is intended by the contracting authority. These technical prescriptions shall include levels of quality, performance, safety or dimensions, including the requirements applicable to the material, the product or to the supply as regards quality assurance, terminology, symbols, testing and test methods, packaging, marking or labelling. They shall also include rules relating to design and costing, the test, inspection and acceptances for works and methods or techniques of construction and all other technical conditions which the contracting authority is in a position to prescribe, under general or specific regulations, in relation to the finished works and to the materials or parts which they involve;
 2. 'Standard': a technical specification approved by a recognized standardizing body for repeated and continuous application, compliance with which is in principle not compulsory;
 3. 'European standard': a standard approved by the European Committee for Standardization (CEN) or by the European Committee for Electrotechnical Standardization (Cenelec) as 'European standards (EN)' or 'Harmonization documents (HD)' according to the common rules of these organizations;
 4. 'European technical approval': a favourable technical assessment of the fitness for use of a product, based on fulfilment of the essential requirements for building works, by means of the inherent characteristics of the product and the defined conditions of application and use. The European agreement shall be issued by an approval body designated for this purpose by the Member State;
 5. 'Common technical specification': a technical specification laid down in accordance with a procedure recognized by the Member States to ensure uniform application in all Member States which has been published in the *Official Journal of the European Communities*.
 6. 'Essential requirements': requirements regarding safety, health and certain other aspects in the general interest, that the construction works must meet.
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ANNEX IV

MODEL CONTRACT NOTICES

A. Prior information

1. Name, address, telephone number, telegraphic address, telex and facsimile numbers of the contracting authority.
2. (a) Site.
(b) Nature and extent of the services to be provided and, where relevant, main characteristics of any lots by reference to the work.
(c) If available, an estimate of the cost range of the proposed services.
3. (a) Estimated date for initiating the award procedures in respect of the contract or contracts.
(b) If known, estimated date for the start of the work.
(c) If known, estimated timetable for completion of the work.
4. If known, terms of financing of the work and of price revision and/or references to the provisions in which these are contained.
5. Other information.
6. Date of dispatch of the notice.
7. Date of receipt of the notice by the Office for Official Publication of the European Communities.

B. Open procedures

1. Name, address, telephone number, telegraphic address, telex and facsimile numbers of the contracting authority.
2. (a) Award procedure chosen.
(b) Nature of the contract for which tenders are being requested:
3. (a) Site.
(b) Nature and extent of the services to be provided and general nature of the work.
(c) If the work or the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several or for all of the lots.
(d) Information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects.
4. Any time limit for completion.
5. (a) Name and address of the service from which the contract documents and additional documents may be requested.
(b) Where applicable, the amount and terms of payment of the sum to be paid to obtain such documents.
6. (a) Final date for receipt of tenders.
(b) Address to which tenders must be sent.
(c) Language or languages in which tenders must be drawn up.
7. (a) Where applicable, the persons authorized to be present at the opening of tenders.
(b) Date, hour and place of opening of tenders.
8. Any deposit and guarantees required.

9. Main terms concerning financing and payment and/or references to the provisions in which these are contained.
10. Where applicable, the legal form to be taken by the grouping of contractors to whom the contract is awarded.
11. Minimum economic and technical standards required of the contractor to whom the contract is awarded.
12. Period during which the tenderer is bound to keep open his tender.
13. Criteria for the award of the contract. Criteria other than that of the lowest price shall be mentioned where they do not appear in the contract documents.
14. Where applicable, prohibition on variants.
15. Other information.
16. Date of publication of the prior information notice in the *Official Journal of the European Communities* or references to its non-publication.
17. Date of dispatch of the notice.
18. Date of receipt of the notice by the Office for Official Publications of the European Communities.

C. Restricted procedures

1. Name, address, telephone number, telegraphic address, telex and facsimile numbers of the contracting authority.
2. (a) Award procedure chosen.
(b) Where applicable, justification for the use of the accelerated procedure.
(c) Nature of the contract which tenders are being requested.
3. (a) Site.
(b) Nature and extent of the services to be provided and general nature of the work.
(c) If the work of the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several or for all of the lots.
(d) Information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects.
4. Any time limit for completion.
5. Where applicable, the legal form to be taken by the grouping of contractors to whom the contract is awarded.
6. (a) Final date for receipt of requests to participate.
(b) Address to which requests must be sent.
(c) Language or languages in which requests must be drawn up.
7. Final date for dispatch of invitations to tender.
8. Any deposit and guarantees required.
9. Main terms concerning financing and payment and/or the provisions in which these are contained.
10. Information concerning the contractor's personal position and minimum economic and technical standards required of the contractor to whom the contract is awarded.
11. Criteria for the award of the contract where they are not mentioned in the invitation to tender.

12. Where applicable, prohibition on variants.
13. Other information.
14. Date of publication of the prior information notice in the *Official Journal of the European Communities* or reference to its non-publication.
15. Date of dispatch of the notice.
16. Date of receipt of the notice by the Office for Official Publications of the European Communities.

D. Negotiated procedures

1. Name, address, telephone number, telegraphic address, telex and facsimile numbers of the contracting authority.
2. (a) Award procedure chosen.
(b) Where applicable, justification for the use of the accelerated procedure.
(c) Nature of the contract for which tenders are being requested.
3. (a) Site.
(b) Nature and extent of the services to be provided and general nature of the work.
(c) If the work or the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several or for all of the lots.
(d) Information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects.
4. Any time limit.
5. Where applicable, the legal form to be taken by the grouping of contractors to whom the contract is awarded.
6. (a) Final date for receipt of tenders.
(b) Address to which tenders must be sent.
(c) Language or languages in which tenders must be drawn up.
7. Any deposit and guarantees required.
8. Main terms concerning financing and payment and/or the provisions in which these are contained.
9. Information concerning the contractor's personal position and information and formalities necessary in order to evaluate the minimum economic and technical standards required of the contractor to whom the contract is awarded.
10. Where applicable, prohibition on variants.
11. Where applicable, name and address of suppliers already selected by the awarding authority.
12. Date(s) of previous publications in the *Official Journal of the European Communities*.
13. Other information.
14. Date of publication of the prior information notice in the *Official Journal of the European Communities*.
15. Date of dispatch of the notice.
16. Date of receipt of the notice by the Office for Official Publications of the European Communities.

E. Contract awards

1. Name and address of awarding authority.
 2. Award procedure chosen.
 3. Date of award of contract.
 4. Criteria for award of contract.
 5. Number of offers received.
 6. Name and address of successful contractor(s).
 7. Nature and extent of the services provided, general characteristics of the finished structure.
 8. Price or range of prices (minimum/maximum) paid.
 9. Where appropriate, value and proportion of contract likely to be subcontracted to third parties.
 10. Other information.
 11. Date of publication of the tender notice in the *Official Journal of the European Communities*.
 12. Date of dispatch of the notice.
 13. Date of receipt of the notice by the Office for Official Publications of the European Communities.
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ANNEX V

MODEL NOTICE OF PUBLIC WORKS CONCESSION

1. Name, address, telephone number, telegraphic address, telex and facsimile numbers of the contracting authority.
2. (a) Site.
(b) Subject of the concession, nature and extent of the services to be provided
3. (a) Final date for receipt of candidatures.
(b) Address to which candidatures must be sent.
(c) Language or languages in which candidatures must be drawn up.
4. Personal, technical and financial conditions to be fulfilled by the candidates.
5. Criteria for award of contract.
6. Where applicable, the minimum percentage of the works contracts awarded to third parties.
7. Other information.
8. Date of dispatch of the notice.
9. Date of receipt of the notice by the Office for Official Publications of the European Communities.

ANNEX VI

MODEL NOTICE OF WORKS CONTRACTS AWARDED BY THE CONCESSIONNAIRE

1. (a) Site.
(b) Nature and extent of the services to be provided and the general nature of the work.
2. Any time limit for the completion of the works.
3. Name and address of the service from which the contract documents and additional documents may be requested.
4. (a) Final date for receipt of requests to participate and/or for receipt of tenders.
(b) Address to which requests must be sent.
(c) Language of languages in which requests must be drawn up.
5. Any deposit and guarantees required.
6. Economic and technical standards required of the contract.
7. Criteria for the award of the contract.
8. Other information.
9. Date of dispatch of the notice.
10. Date of receipt of the notice by the Office for Official Publications of the European Communities.

ANNEX VII

DEADLINES FOR TRANSPOSITION AND FOR APPLICATION

Directive 71/305/EEC ⁽¹⁾	amended by Directives			amended by Act of Accession of		
	78/669/EEC ⁽²⁾	89/440/EEC ⁽³⁾	90/531/EEC ⁽⁴⁾	DK, IRL, UK ⁽⁵⁾	GR ⁽⁶⁾	E, P ⁽⁷⁾
Article 1		amended				
Article 1 a		amended				
Article 1 b		amended				
Article 2		amended				
Article 3 (1)		deleted				
Article 3 (2)		deleted				
Article 3 (3)		deleted				
Article 3 (4) and (5), subparagraphs (a) and (b)		deleted				
Article 3, (4) and (5) subparagraph (c)		amended				
Article 4		amended				
Article 4 a		amended				
Article 5		amended				
Article 5 a		amended				
Article 6		amended				
Article 7 (1)	amended	deleted				
Article 7 (2)		deleted				
Article 8		deleted				
Article 9		deleted				
Article 10		amended				
Article 11		deleted				
Article 12		amended				
Article 13		amended				
Article 14		amended				
Article 15		amended				
Article 15 a		amended				
Article 15 b		amended				
Article 16		deleted				
Article 17		deleted				
Article 18		deleted				
Article 19	amended	amended				
Article 20		amended				
Article 20 a		amended				
Article 20 b		amended				
Article 21						
Article 22		amended				
Article 22 a		amended				
Article 23						
Article 24		amended		amended	amended	amended
Article 25						
Article 26						
Article 27						
Article 28						
Article 29 (1)						
Article 29 (2)						
Article 29 (3)		deleted				
Article 29 (4)		amended				
Article 29 (5)		amended				
Article 29 a		amended				
Article 29 b		amended				
Article 30						
Article 30 a		amended				
Article 30 b		amended				
Article 31		deleted				
Article 32						
Article 33						
Article 34						
Annexes I to VI		I to VI		I	I	II

⁽¹⁾ EC-6: 30. 7. 1972.
DK, IRL, UK: 1. 1. 1973.
GR: 1. 1. 1981.
E, P: 1. 1. 1986.

⁽²⁾ EC-9: 16. 2. 1979.
GR: 1. 1. 1981.
E, P: 1. 1. 1986.

⁽³⁾ EC-9: 19. 7. 1990.
GR, E, P: 1. 3. 1992.

⁽⁴⁾ EC-9: 1. 1. 1993.
E: 1. 1. 1996.
GR, P: 1. 1. 1998.

⁽⁵⁾ EC-9: 1. 1. 1973.
⁽⁶⁾ EC-10: 1. 1. 1981.
⁽⁷⁾ EC-12: 1. 1. 1986.

ANNEX VIII

CORRELATION TABLE

Directive 71/305/EEC	This Directive
Article 1	Article 1
Article 1 a	Article 2
Article 1 b	Article 3
Article 2	—
Article 3 (1)	—
Article 3 (2)	—
Article 3 (3)	—
Article 3 (4) and (5), subparagraphs (a) and (b)	Article 4, subparagraph (a)
Article 3 (4) and (5), subparagraph (c)	Article 4, subparagraph (b)
Article 4	Article 5
Article 4 a	Article 6
Article 5	Article 7
Article 5 a	Article 8
Article 6	Article 9
Article 7	—
Article 8	—
Article 9	—
Article 10	Article 10
Article 11	—
Article 12	Article 11
Article 13	Article 12
Article 14	Article 13
Article 15	Article 14
Article 15 a	Article 15
Article 15 b	Article 16
Article 16	—
Article 17	—
Article 18	—
Article 19	Article 17
Article 20	Article 18
Article 20 a	Article 19
Article 20 b	Article 20
Article 21	Article 21
Article 22	Article 22
Article 22 a	Article 23
Article 23	Article 24
Article 24	Article 25
Article 25	Article 26
Article 26	Article 27
Article 27	Article 28
Article 28	Article 29
Article 29 (1)	Article 30 (1)
Article 29 (2)	Article 30 (2)
Article 29 (3)	—
Article 29 (4)	Article 30 (3)
Article 29 (5)	Article 30 (4)
Article 29 a	Article 31
Article 29 b	Article 32
Article 30	Article 33
Article 30 a	Article 34
Article 30 b	Article 35
Article 31	—
—	Article 36
Article 32	—
Article 33	—
—	Article 37
Article 34	Article 38
Annexes I to VI	Annexes I to VI
—	Annexes VII and VIII

COUNCIL DIRECTIVE 93/38/EEC

of 14 June 1993

coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the last sentence of Articles 57 (2), 66, 100a and 113 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

1. Whereas the measures aimed at progressively establishing the internal market during the period up to 31 December 1992 need to be taken; whereas the internal market consists of an area without internal frontiers in which free movement of goods, persons, services and capital is guaranteed;
2. Whereas restrictions on the free movement of goods and on freedom to provide services in respect of supply and service contracts awarded in the water, energy, transport and telecommunications sectors are prohibited by the terms of Articles 30 and 59 of the EEC Treaty;
3. Whereas Article 97 of the Euratom Treaty prohibits any restrictions based on nationality as regards companies under the jurisdiction of a Member State where they desire to participate in the construction of nuclear installations of a scientific or industrial nature in the Community or to provide the relevant service in the Community;
4. Whereas these objectives also require the coordination of the procurement procedures applied by the entities operating in these sectors;
5. Whereas the White Paper on the completion of the internal market contains an action programme and a

timetable for opening up public procurement markets in sectors which are currently excluded from Council Directive 71/305/EEC of 26 July 1971 concerning the coordination of procedures for the award of public works contracts ⁽⁴⁾, and Council Directive 77/62/EEC of 21 December 1976 coordinating procedure for the award of public supply contracts ⁽⁵⁾;

6. Whereas the White Paper on the completion of the internal market also contains an action programme and a timetable for opening up service contracts;
7. Whereas among such excluded sectors are those concerning the provision of water, energy and transport services and, as far as Directive 77/62/EEC is concerned, the telecommunications sector;
8. Whereas the main reason for their exclusion was that entities providing such services are in some cases governed by public law, in others by private law;
9. Whereas the need to ensure a real opening-up of the market and a fair balance in the application of procurement rules in these sectors requires that the entities to be covered must be identified on a different basis than by reference to their legal status;
10. Whereas, in the four sectors concerned, the procurement problems to be solved are of a similar nature, thus permitting them to be addressed in one instrument;
11. Whereas, among the main reasons why entities operating in these sectors do not purchase on the basis of Community-wide competition is the closed nature of the markets in which they operate, due to the existence of special or exclusive rights granted by the national authorities, concerning the supply to,

⁽¹⁾ OJ No C 337, 31. 12. 1991, p. 1.

⁽²⁾ OJ No C 176, 13. 7. 1992, p. 136 and OJ No C 150, 31. 5. 1993.

⁽³⁾ OJ C 106, 27. 4. 1992, p. 6.

⁽⁴⁾ OJ No L 185, 16. 8. 1971, p. 5. Directive as last amended by Directive 89/440/EEC (OJ No L 210, 21. 7. 1989, p. 1).

⁽⁵⁾ OJ No L 13, 15. 1. 1977, p. 1. Directive as last amended by Directive 88/295/EEC (OJ No L 127, 20. 5. 1988, p. 1).

provision or operation of, networks for providing the service concerned, the exploitation of a given geographical area for a particular purpose, the provision or operation of public telecommunications networks or the provision of public telecommunications services;

12. Whereas the other main reason for the absence of Community-wide competition in these areas results from various ways in which national authorities can influence the behaviour of these entities, including participations in their capital and representation in the entities administrative, managerial or supervisory bodies;
13. Whereas this Directive should not extend to activities of those entities which either fall outside the sectors of water, energy and transport services or outside the telecommunications sector, or which fall within those sectors but are nevertheless directly exposed to competitive forces in markets to which entry is unrestricted;
14. Whereas it is appropriate that these entities apply common procurement procedures in respect of their activities relating to water; whereas certain entities have been covered up to now by Directives 71/305/EEC and 77/62/EEC in respect of their activities in the field of hydraulic engineering projects, irrigation, land drainage or the disposal and treatment of sewage;
15. Whereas, however, procurement rules of the type proposed for supplies of goods are inappropriate for purchases of water, given the need to procure water from sources near the area it will be used;
16. Whereas, when specific conditions are fulfilled, exploitation of a geographical area with the aim of exploring for or extracting oil, gas, coal or other solid fuels may be made subject to alternative arrangements which will enable the same objective of opening up contracts to be achieved; whereas the Commission must ensure that these conditions are complied with by the Member States who implement these alternative arrangements;
17. Whereas the Commission has announced that it will propose measures to remove obstacles to cross-frontier exchanges of electricity by 1992; whereas procurement rules of the type proposed for supplies of goods would not make it possible to overcome existing obstacles to the purchases of energy and fuels in the energy sector; whereas, as a result, it is not appropriate to include such purchases in the scope of this Directive, although it should be borne in mind that this exemption will be re-examined by the Council on the basis of a Commission report and Commission proposals;
18. Whereas Regulations (EEC) No 3975/87⁽¹⁾ and (EEC) No 3976/87⁽²⁾, Directive 87/601/EEC⁽³⁾ and Decision 87/602/EEC⁽⁴⁾ are designed to introduce more competition between the entities offering air transport services to the public and it is therefore not appropriate for the time being to include such entities in the scope of this Directive although the situation ought to be reviewed at a later stage in the light of progress made as regards competition;
19. Whereas, in view of the competitive position of Community shipping, it would be inappropriate for the greater part of the contracts in this sector to be subject to detailed procedures; whereas the situation of shippers operating sea-going ferries should be kept under review; whereas certain inshore and river ferry services operated by public authorities should no longer be excluded from the scope of Directives 71/305/EEC and 77/62/EEC;
20. Whereas it is appropriate to facilitate compliance with provisions relating to activities not covered by this Directive;
21. Whereas the rules on the award of service contracts should be as close as possible to the rules on the works and supply contracts referred to in this Directive;
22. Whereas obstacles to the free movement of services need to be avoided; whereas, therefore, service providers may be either natural or legal persons; whereas this Directive shall not, however, prejudice the application, at national level, of rules concerning the conditions for the pursuit of an activity or a profession provided that they are compatible with Community law;
23. Whereas the field of services is best described, for the purpose of application of procedural rules and for monitoring purposes, by subdividing the services into categories corresponding to particular positions of a common classification; whereas Annexes XVI A and XVI B to this Directive refer to the United Nations CPC (Central Product Classification) nomenclature; whereas that nomenclature is likely to be replaced by a Community nomenclature in the future; whereas it is

(1) OJ No L 374, 31. 12. 1987, p. 1.

(2) OJ No L 374, 31. 12. 1987, p. 9.

(3) OJ No L 374, 31. 12. 1987, p. 12.

(4) OJ No L 374, 31. 12. 1987, p. 19.

- necessary to make provision for the possibility of adapting the reference made to the CPC nomenclature in Annexes XVI A and XVI B accordingly;
24. Whereas the provision of services is covered by this Directive only in so far as it is based on contracts; whereas the provision of services on other bases, such as law, regulations or administrative provisions or employment contracts, is not covered;
25. Whereas, in accordance with Article 103f of the EEC Treaty, the encouragement of research and development is a means of strengthening the scientific and technological basis of European industry and the opening-up of public contracts will contribute to this end; whereas contributions to the financing of research programmes should not be subject to this Directive; whereas research and development service contracts other than those where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, on condition that the service provided is wholly remunerated by the contracting authority, are not therefore covered by this Directive;
26. Whereas contracts for the acquisition or rental of land, existing buildings or other immovable property have particular characteristics, which make the application of procurement rules inappropriate;
27. Whereas arbitration and conciliation services are usually provided by bodies or individuals which are agreed on, or selected, in a manner which cannot be governed by procurement rules;
28. Whereas the service contracts covered by this Directive do not include contracts for the issue, purchase sale or transfer of securities or other financial instruments;
29. Whereas this Directive should not apply to procurement contracts which are declared secret or may affect basic State security interests or are concluded according to other rules set up by existing international agreements or international organizations;
30. Whereas contracts with a designated single source of supply may, under certain conditions, be fully or partly exempted from this Directive;
31. Whereas the Community's or the Member States' existing international obligations must not be affected by the rules of this Directive;
32. Whereas it is appropriate to exclude certain service contracts awarded to an affiliated undertaking having as its principal activity, with respect to services, the provision of such services to the group of which it is part, rather than the offering of its services on the market;
33. Whereas full application of this Directive must be limited, for a transitional period, to contracts for those services where its provisions will enable the full potential for increased cross-frontier trade to be realized; whereas contracts for other services need to be monitored for a certain period before taking a decision on the full application of the said Directive; whereas the mechanism for such monitoring needs to be set up by this Directive and whereas it should at the same time enable those interested to share the relevant information;
34. Whereas the relevant Community rules on mutual recognition of diplomas, certificates or other evidence of formal qualifications apply when evidence of a particular qualification is required for participation in an award procedure or a design contest;
35. Whereas products, works or services must be described by reference to European specifications; whereas, in order to ensure that a product, work or service fulfils the use for which it is intended by the contracting entity, such reference may be complemented by specifications which do not change the nature of the technical solution or solutions set out in the European specification;
36. Whereas the principles of equivalence and of mutual recognition of national standards, technical specifications and manufacturing methods are applicable in the field of application of this Directive;
37. Whereas Community undertakings should be granted access to the award of service contracts in third countries; whereas the Community should endeavour to remedy any situation whereby such access, in law or in fact, is found to be restricted and whereas it should be possible, under certain conditions, to take measures as regards access to service contracts covered by this Directive for undertakings of the third country concerned or for tenders originating in that country;
38. Whereas, when the contracting entities define by common accord with tenderers the deadlines for receiving tenders, they shall comply with the principles of non-discrimination, and whereas, if there is no such agreement, it is necessary to lay down suitable provisions;

39. Whereas it could prove useful to provide for greater transparency as to the requirements regarding the protection and conditions of employment applicable in the Member State in which the works are to be carried out;

40. Whereas it is appropriate that national provisions for regional development requirements to be taken into consideration in the award of public contracts should be made to conform to the objectives of the Community and be in keeping with the principles of the EEC Treaty;

41. Whereas contracting entities must not be able to reject abnormally low tenders before having requested in writing explanations as to the constituent elements of the tender;

42. Whereas, within certain limits, preference should be given to an offer of Community origin where there are equivalent offers of third-country origin;

43. Whereas this Directive should not prejudice the position of the Community in any current or future international negotiations;

44. Whereas, based on the results of such international negotiations, this Directive should be extendable to offers of third-country origin, pursuant to a Council Decision;

45. Whereas the rules to be applied by the entities concerned should establish a framework for sound commercial practice and should leave a maximum of flexibility;

46. Whereas, as a counterpart for such flexibility and in the interest of mutual confidence, a minimum level of transparency must be ensured and appropriate methods adopted for monitoring the application of this Directive;

47. Whereas it is necessary to adapt Directives 71/305/EEC and 77/62/EEC to establish well-defined fields of application; whereas the scope of Directive 71/305/EEC should not be reduced, except as regards contracts in the water and telecommunications sectors; whereas the scope of Directive 77/62/EEC should not be reduced, except as regards certain contracts in the water sector; whereas the scope of Directives 71/305/EEC and 77/62/EEC should not, however, be extended to contracts awarded by carriers by land, air, sea, inshore or inland waterway which, although carrying out economic activities of an industrial or commercial nature, belong to the State administration; whereas,

nevertheless, certain contracts awarded by carriers by land, air, sea, inshore or inland waterway which belong to the State administration and are carried out only for reasons of public service should be covered by those Directives;

48. Whereas this Directive should be re-examined in the light of experience;

49. Whereas the opening-up of contracts in the sectors covered by this Directive might have an adverse effect upon the economy of the Kingdom of Spain; whereas the economies of the Hellenic Republic and the Portuguese Republic will have to sustain even greater efforts; whereas it is appropriate that these Member States be granted adequate additional periods to implement this Directive,

HAS ADOPTED THIS DIRECTIVE:

TITLE I

General provisions

Article 1

For the purpose of this Directive:

1. 'public authorities' shall mean the State, regional or local authorities, bodies governed by public law, or associations formed by one or more of such authorities or bodies governed by public law.

A body is considered to be governed by public law where it:

- is established for the specific purpose of meeting needs in the general interest, not being of an industrial or commercial nature,
- has legal personality, and
- is financed for the most part by the State, or regional or local authorities, or other bodies governed by public law, or is subject to management supervision by those bodies, or has an administrative, managerial or supervisory board more than half of whose members are appointed by the State, regional or local authorities, or other bodies governed by public law;

2. 'public undertaking' shall mean any undertaking over which the public authorities may exercise directly or indirectly a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it. A dominant influence on

the part of the public authorities shall be presumed when these authorities, directly or indirectly, in relation to an undertaking:

- hold the majority of the undertaking's subscribed capital, or
 - control the majority of the votes attaching to shares issued by the undertaking, or
 - can appoint more than half of the members of the undertaking's administrative, managerial or supervisory body;
3. 'affiliated undertaking' shall mean any undertaking the annual accounts of which are consolidated with those of the contracting entity in accordance with the requirements of the seventh Council Directive 83/349/EEC of 13 June 1983, based on Article 54 (3) (g) of the EEC Treaty on consolidated accounts ⁽¹⁾ or, in the case of entities not subject to that Directive, any undertaking over which the contracting entity may exercise, directly or indirectly, a dominant influence within the meaning of paragraph 2, or which may exercise a dominant influence over the contracting entity or which, in common with the contracting entity, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation, or the rules which govern it;
4. 'supply, works and service contracts' shall mean contracts for pecuniary interest concluded in writing between one of the contracting entities referred to in Article 2, and a supplier, a contractor or a service provider, having as their object:
- (a) in the case of supply contracts, the purchase, lease, rental or hire-purchase, with or without options to buy, of products;
 - (b) in the case of works contracts either the execution, or both the execution and design or the realization, by whatever means, of building or civil engineering activities referred to in Annex XI. These contracts may, in addition, cover supplies and services necessary for their execution;
 - (c) in the case of service contracts, any object other than those referred to in (a) and (b) and to the exclusion of:
 - (i) contracts for the acquisition or rental, by whatever financial means, of land, existing buildings, or other immovable property or concerning rights thereon; nevertheless, financial service contracts concluded at the

same time as, before or after the contract of acquisition or rental, in whatever form, shall be subject to this Directive;

- (ii) contracts for voice telephony, telex, radiotelephony, paging and satellite services;
- (iii) contracts for arbitration and conciliation services;
- (iv) contracts for the issue, sale, purchase or transfer of securities or other financial instruments;
- (v) employment contracts;
- (vi) research and development service contracts other than those where the benefits accrue exclusively to the contracting entity for its use in the conduct of its own affairs, on condition that the service provided is wholly remunerated by the contracting entity.

Contracts which include the provision of services and supplies shall be regarded as supply contracts if the total value of supplies is greater than the value of the services covered by the contract;

5. 'framework agreement' shall mean an agreement between one of the contracting entities defined in Article 2 and one or more suppliers, contractors or service providers the purpose of which is to establish the terms, in particular with regard to the prices and, where appropriate, the quantity envisaged, governing the contracts to be awarded during a given period;
6. 'tenderer' shall mean a supplier, contractor or service provider who submits a tender and 'candidate' shall mean a person who has sought an invitation to take part in a restricted or negotiated procedure; service providers may be either natural or legal persons, including contracting entities within the meaning of Article 2;
7. 'open, restricted and negotiated procedures' shall mean the award procedures applied by contracting entities whereby:
- (a) in the case of open procedures, all interested suppliers, contractors or service providers may submit tenders;
 - (b) in the case of the restricted procedures, only candidates invited by the contracting entity may submit tenders;
 - (c) in the case of negotiated procedures, the contracting entity consults suppliers, contractors or service providers of its choice and negotiates the terms of the contract with one or more of them;

⁽¹⁾ OJ No L 193, 18. 7. 1983, p. 1. Directive as last amended by Directive 90/605/EEC (OJ No L 317, 16. 11. 1990, p. 60).

8. 'technical specifications' shall mean the technical requirements contained in particular in the tender documents, defining the characteristics of a set of works, material, product, supply or service, and enabling a piece of work, a material, a product, a supply or a service to be objectively described in a manner such that it fulfils the use for which it is intended by the contracting entity. These technical specifications may include quality, performance, safety or dimensions, as well as requirements applicable to the material, product, supply or service as regards quality assurance, terminology, symbols, testing and test methods, packaging, marking or labelling. In the case of works contracts, they may also include rules for the design and costing, the test, inspection and acceptance conditions for works and techniques or methods of construction and all other technical conditions which the contracting entity is in a position to prescribe under general or specific regulations, in relation to the finished works and to the materials or parts which they involve;
9. 'standard' shall mean a technical specification approved by a recognized standardizing body for repeated or continuous application, compliance with which is in principle not compulsory;
10. 'European standard' shall mean a standard approved by the European Committee for Standardization (CEN) or by the European Committee for Electrotechnical Standardization (Cenelec) as a 'European Standard (EN)' or 'Harmonization Document (HD)', according to the common rules of those organizations, or by the European Telecommunications Standards Institute (ETSI) according to its own rules as a 'European Telecommunications Standard (ETS)';
11. 'common technical specification' shall mean a technical specification drawn up in accordance with a procedure recognized by the Member States with a view to uniform application in all Member States and published in the *Official Journal of the European Communities*;
12. 'European technical approval' shall mean a favourable technical assessment of the fitness for use of a product for a particular purpose, based on fulfilment of the essential requirements for building works, by means of the inherent characteristics of the product and the defined conditions of application and use, as provided for in Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products⁽¹⁾. European technical approval shall be issued by an approval body designated for this purpose by the Member State;
13. 'European specification' shall mean a common technical specification, a European technical approval or a national standard implementing a European standard;
14. 'public telecommunications network' shall mean the public telecommunications infrastructure which enables signals to be conveyed between defined network termination points by wire, by microwave, by optical means or by other electromagnetic means;
- 'network termination point' shall mean all physical connections and their technical access specification which form part of the public telecommunications network and are necessary for access to, and efficient communication through, that public network;
15. 'public telecommunications services' shall mean telecommunications services the provision of which the Member States have specifically assigned notably to one or more telecommunications entities;
- 'Telecommunications services' shall mean services the provision of which consists wholly or partly in the transmission and routing of signals on the public telecommunications network by means of telecommunications processes, with the exception of radio-broadcasting and television;
16. 'design contests' shall mean the national procedures which enable the contracting entity to acquire, mainly in the fields of architecture, engineering or data processing, a plan or design selected by a jury after having been put out to competition with or without the award of prizes.

Article 2

1. This Directive shall apply to contracting entities which:
- (a) are public authorities or public undertakings and exercise one of the activities referred to in paragraph 2;
 - (b) when they are not public authorities or public undertakings, have as one of their activities any of those referred to in paragraph 2 or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority of a Member State.

2. Relevant activities for the purposes of this Directive shall be:

⁽¹⁾ OJ No L 40, 11. 2. 1989, p. 12.

- (a) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of:
 - (i) drinking water; or
 - (ii) electricity; or
 - (iii) gas or heat;
 or the supply of drinking water, electricity, gas or heat to such networks;
- (b) the exploitation of a geographical area for the purpose of:
 - (i) exploring for or extracting oil, gas, coal or other solid fuels, or
 - (ii) the provision of airport, maritime or inland port or other terminal facilities to carriers by air, sea or inland waterway;
- (c) the operation of networks providing a service to the public in the field of transport by railway, automated systems, tramway, trolley bus, bus or cable.

As regards transport services, a network shall be considered to exist where the service is provided under operating conditions laid down by a competent authority of a Member State, such as conditions on the routes to be served, the capacity to be made available or the frequency of the service;

- (d) the provision or operation of public telecommunications networks or the provision of one or more public telecommunications services.

3. For the purpose of applying paragraph 1 (b), special or exclusive rights shall mean rights deriving from authorizations granted by a competent authority of the Member State concerned, by law, regulation or administrative action, having as their result the reservation for one or more entities of the exploitation of an activity defined in paragraph 2.

A contracting entity shall be considered to enjoy special or exclusive rights in particular where:

- (a) for the purpose of constructing the networks or the facilities referred to in paragraph 2, it may take advantage of a procedure for the expropriation or use of property or may place network equipment on, under or over the public highway;
- (b) in the case of paragraph 2 (a), the entity supplies with drinking water, electricity, gas or heat a network which is itself operated by an entity enjoying special or exclusive rights granted by a competent authority of the Member State concerned.

4. The provision of bus transport services to the public shall not be considered to be a relevant activity within the meaning of paragraph 2 (c) where other entities are free to

provide those services, either in general or in a particular geographical area, under the same condition as the contracting entities.

5. The supply of drinking water, electricity, gas or heat to networks which provide a service to the public by a contracting entity other than a public authority shall not be considered as a relevant activity within the meaning of paragraph 2 (a) where:

- (a) in the case of drinking water or electricity:
 - the production of drinking water or electricity by the entity concerned takes place because its consumption is necessary for carrying out an activity other than that referred to in paragraph 2, and
 - supply to the public network depends only on the entity's own consumption and has not exceeded 30 % of the entity's total production of drinking water or energy, having regard to the average for the preceding three years, including the current year;
- (b) in the case of gas or heat:
 - the production of gas or heat by the entity concerned is the unavoidable consequence of carrying on an activity other than that referred to in paragraph 2, and
 - supply to the public network is aimed only at the economic exploitation of such production and amounts to not more than 20 % of the entity's turnover having regard to the average for the preceding three years, including the current year.

6. The contracting entities listed in Annexes I to X shall fulfil the criteria set out above. In order to ensure that the lists are as exhaustive as possible, Member States shall notify the Commission of amendments to their lists. The Commission shall revise Annexes I to X in accordance with the procedure in Article 40.

Article 3

1. Member States may request the Commission to provide that exploitation of geographical areas for the purpose of exploring for or extracting oil, gas, coal or other solid fuels shall not be considered to be an activity defined in Article 2 (2) (b) (i) and that entities shall not be considered as operating under special or exclusive rights within the meaning of Article 2 (3) (b) by virtue of carrying on one or more of these activities, provided that all the following conditions are satisfied with respect to the relevant national provisions concerning such activities:

- (a) at the time when authorization to exploit such a geographical area is requested, other entities shall be free to seek authorization for that purpose under the same conditions as the contracting entities;

(b) the technical and financial capacity of entities to engage in particular activities shall be established prior to any evaluation of the merits of competing applications for authorization;

(c) authorization to engage in those activities shall be granted on the basis of objective criteria concerning the way in which it is intended to carry out exploitation or extraction, which shall be established and published prior to the requests and applied in a non-discriminatory manner;

(d) all conditions and requirements concerning the carrying out or termination of the activity, including provisions on operating obligations, royalties, and participation in the capital or revenue of the entities, shall be established and made available prior to the requests for authorization being made and then applied in a non-discriminatory manner; every change concerning these conditions and requirements shall be applied to all the entities concerned, or else amendments must be made in a non-discriminatory manner; however, operating obligations need not be established until immediately before the authorization is granted; and

(e) contracting entities shall not be required by any law, regulation, administrative requirement, agreement or understanding to provide information on a contracting entity's intended or actual sources of procurement, except at the request of national authorities with a view to the objectives mentioned in Article 36 of the EEC Treaty.

2. Member States which apply the provisions of paragraph 1 shall ensure, through the conditions of the authorization or other appropriate measures, that any entity:

(a) observes the principles of non-discrimination and competitive procurement in respect of the award of supplies, works and service contracts, in particular as regards the information which the entity makes available to undertakings concerning its procurement intentions;

(b) communicates to the Commission, under conditions to be defined by the latter in accordance with Article 40, information relating to the award of contracts.

3. As regards individual concessions or authorizations granted before the date on which Member States apply this Directive in accordance with Article 45, paragraph 1 (a), (b) and (c) shall not apply, provided that at that date other entities are free to seek authorization for the exploitation of geographical areas for the purpose of exploring for or extracting oil, gas, coal or other solid fuels, on a non-discriminatory basis and in the light of objective criteria. Paragraph 1 (d) shall not apply as regards

conditions or requirements established, applied or amended before the date referred to above.

4. A Member State which wishes to apply paragraph 1 shall inform the Commission accordingly. In so doing, it shall inform the Commission of any law, regulation or administrative provision, agreement or understanding relating to compliance with the conditions referred to in paragraphs 1 and 2.

The Commission shall take a decision in accordance with the procedure laid down in Article 40 (5) to (8). It shall publish its decision, giving its reasons, in the *Official Journal of the European Communities*.

It shall forward to the Council each year a report on the implementation of this Article and review its application in the framework of the report provided for in Article 44.

Article 4

1. When awarding supply, works or service contracts, or organizing design contests, the contracting entities shall apply procedures which are adapted to the provisions of this Directive.

2. Contracting entities shall ensure that there is no discrimination between different suppliers, contractors or service providers.

3. In the context of provision of technical specifications to interested suppliers, contractors or service providers, of qualification and selection of suppliers, contractors or service providers and of award of contracts, contracting entities may impose requirements with a view to protecting the confidential nature of information which they make available.

4. This Directive shall not limit the right of suppliers, contractors or service providers to require a contracting entity, in conformity with national law, to respect the confidential nature of information which they make available.

Article 5

1. Contracting entities may regard a framework agreement as a contract within a meaning of Article 1 (4) and award it in accordance with this Directive.

2. Where contracting entities have awarded a framework agreement in accordance with this Directive, they may avail themselves of Article 20 (2) (i) when awarding contracts based on that agreement.

3. Where a framework agreement has not been awarded in accordance with this Directive, contracting entities may not avail themselves of Article 20 (2) (i).

4. Contracting entities may not misuse framework agreements in order to hinder, limit or distort competition.

Article 6

1. This Directive shall not apply to contracts or design contests which the contracting entities award or organize for purposes other than the pursuit of their activities as described in Article 2 (2) or for the pursuit of such activities in a non-member country, in conditions not involving the physical use of a network or geographical area within the Community.

2. However, this Directive shall apply to contracts or design contests awarded or organized by the entities which exercise an activity referred to in Article 2 (2) (a) (i) and which:

(a) are connected with hydraulic engineering projects, irrigation or land drainage, provided that the volume of water intended for the supply of drinking water represents more than 20 % of the total volume of water made available by these projects or irrigation or drainage installations, or

(b) are connected with the disposal or treatment of sewage.

3. The contracting entities shall notify the Commission at its request of any activities they regard as excluded under paragraph 1. The Commission may periodically publish lists of the categories of activities which it considers to be covered by this exclusion for information in the *Official Journal of the European Communities*. In so doing, the Commission shall respect any sensitive commercial aspects the contracting entities may point out when forwarding this information.

Article 7

1. This Directive shall not apply to contracts awarded for purposes of resale or hire to third parties, provided that the contracting entity enjoys no special or exclusive right to sell or hire the subject of such contracts and other entities are free to sell or hire it under the same conditions as the contracting entity.

2. The contracting entities shall notify the Commission at its request of all the categories of products or activities which they regard as excluded under paragraph 1. The

Commission may periodically publish lists of the categories of products or activities which it considers to be covered by this exclusion for information in the *Official Journal of the European Communities*. In so doing, the Commission shall respect any sensitive commercial aspects which the contracting entities may point out when forwarding this information.

Article 8

1. This Directive shall not apply to contracts which contracting entities exercising an activity described in Article 2 (2) (d) award for purchases intended exclusively to enable them to provide one or more telecommunications services where other entities are free to offer the same services in the same geographical area and under substantially the same conditions.

2. The contracting entities shall notify the Commission at its request of any services which they regard as excluded under paragraph 1. The Commission may periodically publish the list of services which it considers to be covered by this exclusion for information in the *Official Journal of the European Communities*. In so doing, the Commission shall respect any sensitive commercial aspects the contracting entities may point out when forwarding this information.

Article 9

1. This Directive shall not apply to:

(a) contracts which the contracting entities listed in Annex I award for the purchase of water;

(b) contracts which the contracting entities listed in Annexes II to V award for the supply of energy or of fuels for the production of energy.

2. The Council shall re-examine the provisions of paragraph 1 when it has before it a report from the Commission together with appropriate proposals.

Article 10

This Directive shall not apply to contracts when they are declared to be secret by Member States, when their execution must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in the Member State concerned or when the protection of the basic security interests of that State so requires.

Article 11

This Directive shall not apply to service contracts awarded to an entity which is itself a contracting authority within

the meaning of Article 1 (b) of Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts ⁽¹⁾ on the basis of an exclusive right which it enjoys pursuant to a published law, regulation or administrative provision which is compatible with the EEC Treaty.

Article 12

This Directive shall not apply to contracts governed by different procedural rules and awarded:

1. pursuant to an international agreement concluded in conformity with the Treaty between a Member State and one or more third countries and covering supplies, works, services or design contests intended for the joint implementation or exploitation of a project by the signatory States; every agreement shall be communicated to the Commission, which may consult the Advisory Committee for Public Contracts set up by Council Decision 71/306/EEC ⁽²⁾ or, in the case of agreements governing contracts awarded by entities exercising an activity defined in Article 2 (2) (d), the Advisory Committee on Telecommunications Procurement referred to in Article 39;
2. to undertakings in a Member State or a third country in pursuance of an international agreement relating to the stationing of troops;
3. pursuant to the particular procedure of an international organization.

Article 13

1. This Directive shall not apply to service contracts which:

- (a) a contracting entity awards to an affiliated undertaking;
- (b) are awarded by a joint venture formed by a number of contracting entities for the purpose of carrying out a relevant activity within the meaning of Article 2 (2) to one of those contracting entities or to an undertaking which is affiliated with one of these contracting entities,

provided that at least 80 % of the average turnover of that undertaking with respect to services arising within the Community for the preceding three years derives from the provision of such services to undertakings with which it is affiliated.

Where more than one undertaking affiliated with the contracting entity provides the same service or similar services, the total turnover deriving from the provision of services by those undertakings shall be taken into account.

2. The contracting entities shall notify to the Commission, at its request, the following information regarding the application of the provisions of paragraph 1:

- the names of the undertakings concerned,
- the nature and value of the service contracts involved,
- such proof as may be deemed necessary by the Commission that the relationship between the undertaking to which the contracts are awarded and the contracting entity is in conformity with the requirements of this Article.

Article 14

1. This Directive shall apply to contracts the estimated value, not of VAT, for which is not less than:

- (a) ECU 400 000 in the case of supply and service contracts awarded by entities exercising an activity defined in Article 2 (2) (a), (b) and (c);
- (b) ECU 600 000 in the case of supply and service contracts awarded by entities carrying out an activity defined in Article 2 (2) (d);
- (c) ECU 5 000 000 in the case of works contracts.

2. For the purposes of calculating the estimated amount of a service contract, the contracting entity shall include the total remuneration of the service provider, taking account of the elements specified in paragraphs 3 to 13.

3. For the purposes of calculating the estimated contract amount of financial services, the following amounts shall be taken into account:

- as regards insurance services, the premium payable,
- as regards banking and other financial services, fees, commissions, interest and other types of remuneration,
- as regards contracts which involve design, the fee or commission payable.

4. In the case of supply contracts for lease, rental or hire-purchase, the basis for calculating the contract value shall be:

⁽¹⁾ OJ No L 209, 24. 7. 1992, p. 1.

⁽²⁾ OJ No L 185, 16. 8. 1971, p. 15. Decision as last amended by Decision 77/63/EEC (OJ No L 13, 15. 1. 1977, p. 15).

(a) in the case of fixed-term contracts, where their term is 12 months or less, the estimated total value for the contract's duration, or, where their term exceeds 12 months, the contract's total value including the estimated residual value;

(b) in the case of contracts for an indefinite period or in cases where there is doubt as to the duration of the contracts, the anticipated total instalments to be paid in the first four years.

5. In the case of service contracts which do not indicate a total cost, the basis for calculating the estimated contract value shall be:

— for fixed-term contracts, where their term is 48 months or less, the total value for their whole duration,

— for contracts without a fixed term or for a term exceeding 48 months, the monthly value multiplied by 48.

6. Where a proposed supply or service contract expressly specifies option clauses, the basis for calculating the contract value shall be the highest possible total purchase, lease, rental or hire-purchase permissible, inclusive of the option clauses.

7. In the case of a procurement of supplies or services over a given period by means of a series of contracts to be awarded to one or more suppliers or service providers or of contracts which are to be renewed, the contract value shall be calculated on the basis of:

(a) the total value of contracts with similar characteristics which were awarded over the previous financial year or 12 months, adjusted where possible for anticipated changes in quantity or value over the subsequent twelve months; or

(b) the aggregate value of contracts to be awarded during the 12 months following the first award or during the whole term of the contract, where this is longer than 12 months.

8. The basis for calculating the estimated value of a contract including both supplies and services shall be the total value of the supplies and services, regardless of their respective values. The calculation shall include the value of the siting and installation operations.

9. The basis for calculating the value of a framework agreement shall be the estimated maximum value of all the contracts envisaged for the period in question.

10. The basis for calculating the value of a works contract for the purposes of paragraph 1 shall be the total value of the work. 'Work' shall mean the result of building and civil engineering activities, taken as a whole, which are intended to fulfil an economic and technical function by themselves.

In particular, where a supply, work or service is the subject of several lots, the value of each lot shall be taken into account when assessing the value referred to in paragraph 1. Where the aggregate value of the lots equals or exceeds the value laid down in paragraph 1, that paragraph shall apply to all the lots. However, in the case of works contracts, contracting entities may derogate from paragraph 1 in respect of lots the estimated value net of VAT for which is less than ECU 1 million, provided that the aggregate value of those lots does not exceed 20 % of the overall value of the lots.

11. For the purposes of paragraph 1, contracting entities shall include in the estimated value of a works contract the value of any supplies or services necessary for the execution of the contracts which they make available to the contractor.

12. The value of supplies or services which are not necessary for the execution of a particular works contract may not be added to that of the works contract with the result of avoiding application of this Directive to the procurement of those supplies or services.

13. Contracting entities may not circumvent this Directive by splitting contracts or using special methods of calculating the value of contracts.

TITLE II

Two-tier application

Article 15

Supply and works contracts and contracts which have as their object services listed in Annex XVI A shall be awarded in accordance with the provisions of Titles III, IV and V.

Article 16

Contracts which have as their object services listed in Annex XVI B shall be awarded in accordance with Articles 18 and 24.

Article 17

Contracts which have as their object services listed in both Annexes XVI A and XVI B shall be awarded in accordance with the provisions of Titles III, IV and V where the value of the services listed in Annex XVI A is greater than the value of the services listed in Annex XVI B. Where this is not the case, they shall be awarded in accordance with Articles 18 and 24.

TITLE III

Technical specifications and standards

Article 18

1. Contracting entities shall include the technical specifications in the general documents or the contract documents relating to each contract.

2. The technical specifications shall be defined by reference to European specifications, where these exist.

3. In the absence of European specifications, the technical specifications should as far as possible be defined by reference to other standards having currency within the Community.

4. Contracting entities shall define such further requirements as are necessary to complete European specifications or other standards. In so doing, they shall prefer specifications which indicate performance requirements rather than design or description characteristics, unless the contracting entity has objective reasons for considering that such specifications are inadequate for the purposes of the contract.

5. Technical specifications which mention goods of a specific make or source or of a particular process, and which have the effect of favouring or eliminating certain undertakings, shall not be used unless such specifications are indispensable for the subject of the contract. In particular, the indication of trade marks, patents, types, of specific origin or production shall be prohibited; however, such an indication accompanied by the words 'or equivalent' shall be authorized where the subject of the contract cannot otherwise be described by specifications which are sufficiently precise and fully intelligible to all concerned.

6. Contracting entities may derogate from paragraph 2 if:

- (a) it is technically impossible to establish satisfactorily that a product conforms to the European specifications;
- (b) the application of paragraph 2 would prejudice the application of Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the mutual recognition

of type approval for telecommunications terminal equipment ⁽¹⁾, or of Council Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications ⁽²⁾;

(c) in the context of adapting existing practice to take account of European specifications, use of those specifications would oblige the contracting entity to acquire supplies incompatible with equipment already in use or would entail disproportionate cost or disproportionate technical difficulty. Contracting entities which have recourse to this derogation shall do so only as part of clearly-defined and recorded strategy with a view to a changeover to European specifications;

(d) the relevant European specification is inappropriate for the particular application or does not take account of technical developments which have come about since its adoption. Contracting entities which have recourse to this derogation shall inform the appropriate standardizing organization, or any other body empowered to review the European specification, of the reasons why they consider the European specification to be inappropriate and shall request its revision;

(e) the project is of a genuinely innovative nature for which use of European specifications would not be appropriate.

7. Notices published pursuant to Article 21 (1) (a) or Article 21 (2) (a) shall indicate any recourse to the derogations referred to in paragraph 6.

8. This Article shall be without prejudice to compulsory technical rules in so far as these are compatible with Community law.

Article 19

1. Contracting entities shall make available on request to suppliers, contractors or service providers interested in obtaining a contract the technical specifications regularly referred to in their supply, works or service contracts or the technical specifications which they intend to apply to contracts covered by periodic information notices within the meaning of Article 22.

2. Where such technical specifications are based on documents available to interested suppliers, contractors or service providers, a reference to those documents shall be sufficient.

⁽¹⁾ OJ No L 217, 5. 8. 1986, p. 21.

⁽²⁾ OJ No L 36, 7. 2. 1987, p. 31.

TITLE IV

Procedures for the award of contracts

Article 20

1. Contracting entities may choose any of the procedures described in Article 1 (7), provided that, subject to paragraph 2, a call for competition has been made in accordance with Article 21.

2. Contracting entities may use a procedure without prior call for competition in the following cases:

- (a) in the absence of tenders or suitable tenders in response to a procedure with a prior call for competition, provided that the original contract conditions have not been substantially changed;
- (b) where a contract is purely for the purpose of research, experiment, study or development and not for the purpose of ensuring profit or of recovering research and development costs and in so far as the award of such contract does not prejudice the competitive award of subsequent contracts which have in particular these purposes;
- (c) when, for technical or artistic reasons or for reasons connected with protection of exclusive rights, the contract may be executed only by a particular supplier, contractor or service provider;
- (d) in so far as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the contracting entities, the time limits laid down for open and restricted procedures cannot be adhered to;
- (e) in the case of supply contracts for additional deliveries by the original supplier which are intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations, where a change of supplier would oblige the contracting entity to acquire material having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance;
- (f) for additional works or services not included in the project initially awarded or in the contract first concluded but which have, through unforeseen circumstances, become necessary for the execution of the contract, on condition that the award is made to the contractor or service provider executing the original contract:

— when such additional works or services cannot be technically or economically separated from the main contract without great inconvenience to the contracting entities,

— or when such additional works or services, although separable from the execution of the original contract, are strictly necessary to its later stages;

- (g) in the case of works contracts, for new works consisting of the repetition of similar works entrusted to the contractor to which the same contracting entities awarded an earlier contract, provided that such works conform to a basic project for which a first contract was awarded after a call for competition. As soon as the first project is put up for tender, notice must be given that this procedure might be adopted and the total estimated cost of subsequent works shall be taken into consideration by the contracting entities when they apply the provisions of Article 14;
- (h) for supplies quoted and purchased on a commodity market;
- (i) for contracts to be awarded on the basis of a framework agreement, provided that the condition referred to in Article 5 (2) is fulfilled;
- (j) for bargain purchases, where it is possible to procure supplies taking advantage of a particularly advantageous opportunity available for a very short space of time at a price considerably lower than normal market prices;
- (k) for purchases of goods under particularly advantageous conditions from either a supplier definitively winding up his business activities or the receivers or liquidators of a bankruptcy, an arrangement with creditors or a similar procedure under national laws or regulations;
- (l) when the service contract concerned is part of the follow-up a design contest organized in conformity with the provisions of this Directive and must, in accordance with the relevant rules, be awarded to the winner or to one of the winners of that contest. In the latter case, all the winners must be invited to participate in the negotiations.

Article 21

1. In the case of supplies, works or service contracts, the call for competition may be made:

- (a) by means of a notice drawn up in accordance with Annex XII A, B or C; or
- (b) by means of a periodic indicative notice drawn up in accordance with Annex XIV; or
- (c) by means of a notice on the existence of a qualification system drawn up in accordance with Annex XIII.

2. When a call for competition is made by means of a periodic indicative notice:

- (a) the notice must refer specifically to the supplies, works or services which will be the subject of the contract to be awarded;
- (b) the notice must indicate that the contract will be awarded by restricted or negotiated procedure without further publication of a notice of a call for competition and invite interested undertakings to express their interest in writing;
- (c) contracting entities shall subsequently invite all candidates to confirm their interest on the basis of detailed information on the contract concerned before beginning the selection of tenderers or participants in negotiations.

2. When a call for competition is made by means of a notice on the existence of a qualification system, tenderers in a restricted procedure or participants in a negotiated procedure shall be selected from the qualified candidates in accordance with such a system.

4. In the case of design contests, the call for competition shall be made by means of a notice drawn up in accordance with Annex XVII.

5. The notices referred to in this Article shall be published in the *Official Journal of the European Communities*.

Article 22

1. Contracting entities shall make known, at least once a year, by means of a periodic indicative notice:

- (a) in the case of supply contracts, the total of the contracts for each product area of which the estimated value, taking into account the provisions of Article 14, is equal to or greater than ECU 750 000, and which they intend to award over the following twelve months;
- (b) in the case of works contracts, the essential characteristics of the works contracts which the contracting entities intend to award, the estimated value of which is not less than the threshold laid down in Article 14 (1).
- (c) in the case of service contracts, the estimated total value of the service contracts in each of the categories of services listed in Annex XVI A which they intend to award over the following 12 months, where such estimated total value, taking into account the provisions of Article 14, is equal to or greater than ECU 750 000.

2. The notice shall be drawn up in accordance with Annex XIV and published in the *Official Journal of the European Communities*.

3. Where the notice is used as a means of calling for competition in accordance with Article 21 (1) (b), it must have been published not more than 12 months prior to the date on which the invitation referred to in Article 21 (2) (c) is sent. Moreover, the contracting entity shall meet the deadlines laid down in Article 26 (2).

4. Contracting entities may, in particular, publish periodic indicative notices relating to major projects without repeating information previously included in a periodic indicative notice, provided that it is clearly stated that such notices are additional notices.

Article 23

1. This Article shall apply to design contests organized as part of a procedure leading to the award of a service contract the estimated value net of VAT for which is not less than the value referred to in Article 14 (1).

2. This Article shall apply to all design contests where the total amount of contest prizes and payments to participants is not less than ECU 400 000 for design contests organized by entities exercising an activity referred to in Article 2 (2) (a), (b) and (c) and ECU 600 000 for design contests organized by entities exercising an activity referred to in Article 2 (2) (d).

3. The rules for the organization of a design contest shall be in conformity with the requirements of this Article and shall be communicated to those interested in participating in the contest.

4. The admission of participants to design contests shall not be limited:

- by reference to the territory or part of the territory of a Member State,
- on the grounds that, under the law of the Member State in which the contest is organized, they would have been required to be either natural or legal persons.

5. Where design contests are restricted to a limited number of participants, the contracting authorities shall lay down clear and non-discriminatory selection criteria. In any event, the number of candidates invited to participate shall be sufficient to ensure genuine competition.

6. The jury shall be composed exclusively of natural persons who are independent of participants in the contest. Where a particular professional qualification is required from participants in a contest, at least a third of its members must have the same qualification or its equivalent.

The jury shall be autonomous in its decisions or opinions. These shall be reached on the basis of projects submitted anonymously and solely on the grounds of the criteria indicated in the notice provided for in Annex XVII.

Article 24

1. Contracting entities which have awarded a contract or organized a design contest shall communicate to the Commission, within two months of the award of the contract and under conditions to be laid down by the Commission in accordance with the procedure laid down in Article 40, the results of the awarding procedure by means of a notice drawn up in accordance with Annex XV or Annex XVIII.

2. Information provided under Section I of Annex XV or under Annex XVIII shall be published in the *Official Journal of the European Communities*. In this connection the Commission shall respect any sensitive commercial aspects which the contracting entities may point out when forwarding this information in connection with points 6 and 9 of Annex XV.

3. Contracting entities awarding service contracts within category No 8 of Annex XVI A to which Article 20 (2) (b) applies need mention, concerning point 3 of Annex XV, only the main title thereof within the meaning of the classification of Annex XVI. Contracting entities awarding service contracts within category No 8 of Annex XVI A to which Article 20 (2) (b) does not apply may, on the grounds of commercial confidentiality, limit the information provided for in point 3 of Annex XV. However, they must ensure that any information published under this point is no less detailed than that contained in the notice of the call for competition published in accordance with Article 20 (1) or, where a qualification system is used, no less detailed than the category referred to in Article 30 (7). In the case listed in Annex XVI B, the contracting entities shall indicate in the notice whether they agree on its publication.

4. Information provided under Section II of Annex XV must not be published, except in aggregated form, for statistical purposes.

Article 25

1. The contracting entities must be able to supply proof of the date of dispatch of the notices referred to in Articles 20 to 24.

2. The notices shall be published in full in their original language in the *Official Journal of the European Communities* and in the TED data bank. A summary of the important elements of each notice shall be published in the other official languages of the Community, the original text alone being authentic.

3. The Office for Official Publications of the European Communities shall publish the notices not later than 12 days after their dispatch. In exceptional cases it shall endeavour to publish the notice referred to in Article 21 (1) (a) within five days in response to a request by the contracting entity and provided that the notice has been sent to the Office by electronic mail, telex or telefax. Each edition of the *Official Journal of the European Communities* which contains one or more notices shall reproduce the model notice or notices on which the published notice or notices is/are based.

4. The cost of publication of the notices in the *Official Journal of the European Communities* shall be borne by the Communities.

5. Contracts or design contests in respect of which a notice is published in the *Official Journal of the European Communities* pursuant to Article 21 (1) or (4) shall not be published in any other way before that notice has been dispatched to the Office for Official Publications of the European Communities. Such publication shall not contain information other than that published in the *Official Journal of the European Communities*.

Article 26

1. In open procedures the time limit for the receipt of tenders shall be fixed by contracting entities at not less than 52 days from the date of dispatch of the notice. This time limit may be shortened to 36 days where contracting entities have published a notice in accordance with Article 22 (1).

2. In restricted procedures and in negotiated procedures with a prior call for competition, the following arrangements shall apply:

(a) the time limit for receipt of requests to participate, in response to a notice published in accordance with Article 21 (1) (a) or in response to an invitation from a

contracting entity in accordance with Article 21 (2) (c), shall, as a general rule, be at least five weeks from the date of dispatch of the notice or invitation and shall in any case not be less than the time limit for publication laid down in Article 25 (3), plus 10 days;

- (b) the time limit for receipt of tenders may be fixed by mutual agreement between the contracting entity and the selected candidates, provided that all tenderers are given equal time to prepare and submit tenders;
- (c) where it is not possible to reach agreement on the time limit for the receipt of tenders, the contracting entity shall fix a time limit which shall, as a general rule, be at least three weeks and shall in any case not be less than 10 days from the date of the invitation to tender; the time allowed shall be sufficiently long to take account in particular of the factors mentioned in Article 28 (3).

Article 27

In the contract documents, the contracting entity may ask the tenderer to indicate in his tender any share of the contract which he may intend to subcontract to third parties.

This indication shall be without prejudice to the question of the principal contractor's responsibility.

Article 28

1. Provided that they have been requested in good time, the contract documents and supporting documents must be sent to the suppliers, contractors or service providers by the contracting entities as a general rule within six days of receipt of the application.
2. Provided that it has been requested in good time, additional information relating to the contract documents shall be supplied by the contracting entities not later than six days before the final date fixed for receipt of tenders.
3. Where tenders require the examination of voluminous documentation such as lengthy technical specifications, a visit to the site or an on-the-spot inspection of the documents supporting the contract documents, this shall be taken into account when the appropriate time limits are fixed.
4. Contracting entities shall invite the selected candidates simultaneously and in writing. The letter of invitation shall be accompanied by the contract documents and supporting documents. It shall include at least the following information:

- (a) the address from which any additional documents can be requested, the final date for such requests and the

amount and methods of payment of any sum to be paid for such documents;

- (b) the final date for receipt of tenders, the address to which they must be sent and the language or languages in which they must be drawn up;
- (c) a reference to any tender notice published;
- (d) an indication of any document to be annexed;
- (e) the criteria for the award of the contract if these are not given in the notice;
- (f) any other special condition for participation in the contract.

5. Requests for participation in contracts and invitations to tender must be made by the most rapid means of communication possible. When requests to participate are made by telegram, telex, telephone or any electronic means, they must be confirmed by letter dispatched before the expiry of the time limit referred to in Article 26 (1) or of the time limit set by contracting entities pursuant to Article 26 (2).

Article 29

1. The contracting entity may state in the contract documents, or be obliged by a Member State so to do, the authority or authorities from which a tenderer may obtain the appropriate information on the obligations relating to the employment protection provisions and the working conditions which are in force in the Member State, region or locality in which the works or services are to be executed or performed and which shall be applicable to the works carried out or the services performed on site during the performance of the contract.

2. A contracting entity which supplies the information referred to in paragraph 1 shall request the tenderers or those participating in the contract procedure to indicate that they have taken account, when drawing up their tender, of the obligations relating to employment protection provisions and the working conditions which are in force in the place where the work or the service is to be carried out or performed. This shall be without prejudice to the application of Article 34 (5) concerning the examination of abnormally low tenders.

TITLE V

Qualification, selection and award

Article 30

1. Contracting entities which so wish may establish and operate a system of qualification of suppliers, contractors or service providers.

2. The system, which may involve different qualification stages, shall operate on the basis of objective criteria and rules to be established by the contracting entity. The contracting entity shall use European standards as a reference where they are appropriate. The criteria and rules may be updated as required.

3. The criteria and rules for qualification shall be made available on request to interested suppliers, contractors or service providers. The updating of these criteria and rules shall be communicated to the interested suppliers, contractors and service providers. Where a contracting entity considers that the qualification system of certain third entities or bodies meets its requirements, it shall communicate to interested suppliers, contractors and service providers the names of such third entities or bodies.

4. Contracting entities shall inform applicants of their decision as to qualification within a reasonable period. If the decision will take longer than six months from the presentation of an application, the contracting entity shall inform the applicant, within two months of the application, of the reasons justifying a longer period and of the date by which its application will be accepted or refused.

5. In reaching their decision as to qualification or when the criteria and rules are being updated, contracting entities may not:

- impose conditions of an administrative, technical or financial nature on some suppliers, contractors or service providers which are not imposed on others,
- require tests or proof which duplicate objective evidence already available.

6. Applicants whose qualification is refused shall be informed of this decision and the reasons for refusal. The reasons must be based on the criteria for qualification referred to in paragraph 2.

7. A written record of qualified suppliers, contractors or service providers shall be kept and it may be divided into categories, according to the type of contract for which the qualification is valid.

8. Contracting entities may bring the qualification of a supplier, contractor or service provider to an end only for reasons based on the criteria referred to in paragraph 2. The intention to bring qualification to an end must be notified in writing to the supplier, contractor or service provider beforehand, together with the reason or reasons justifying the proposed action.

9. The qualification system shall be the subject of a notice drawn up in accordance with Annex XIII and published in the *Official Journal of the European Communities*, indicating the purpose of the qualification system and the

availability of the rules concerning its operation. Where the system is of a duration greater than three years, the notice shall be published annually. Where the system is of a shorter duration, an initial notice shall suffice.

Article 31

1. Contracting entities which select candidates to tender in restricted procedures or to participate in negotiated procedures shall do so according to objective criteria and rules which they lay down and which they shall make available to interested suppliers, contractors or service providers.

2. The criteria used may include the criteria for exclusion specified in Article 23 of Directive 71/305/EEC and in Article 20 of Directive 77/62/EEC.

3. The criteria may be based on the objective need of the contracting entity to reduce the number of candidates to a level which is justified by the need to balance the particular characteristics of the contract award procedure and the resources required to complete it. The number of candidates selected must, however, take account of the need to ensure adequate competition.

Article 32

Should contracting entities require the production of certificates drawn up by independent bodies for attesting conformity of the service provider to certain quality assurance standards, they shall refer to quality assurance systems based on the relevant EN 29 000 European standards series certified by bodies conforming to the EN 45 000 European standards series.

Entities shall recognize equivalent certificates from bodies established in other Member States. They shall also accept other evidence of equivalent quality assurance measures from service providers who have no access to such certificates or no possibility of obtaining them within the relevant time limits.

Article 33

1. Groupings of suppliers, contractors or service providers shall be permitted to tender or negotiate. The conversion of such groupings into a specific legal form shall not be required in order to submit a tender or to negotiate, but the grouping selected may be required so to convert itself once it has been awarded the contract where such conversion is necessary for the proper performance of the contract.

2. Candidates or tenderers who, under the law of the Member State in which they are established, are entitled to carry out the relevant service activity shall not be rejected on the sole ground that under the law of the Member State in which the contract is awarded they would have been required to be either a natural or a legal person.

3. However, legal persons may be required to indicate, in the tender or the request for participation, the names and relevant professional qualifications of the staff to be responsible for the performance of the service.

Article 34

1. Without prejudice to national laws, regulations or administrative provisions on the remuneration of certain services, the criteria on which the contracting entities shall base the award of contracts shall be:

(a) the most economically advantageous tender, involving various criteria depending on the contract in question, such as: delivery or completion date, running costs, cost-effectiveness, quality, aesthetic and functional characteristics, technical merit, after-sales service and technical assistance, commitments with regard to spare parts, security of supplies and price; or

(b) the lowest price only.

2. In the case referred to in paragraph 1 (a), contracting entities shall state in the contract documents or in the tender notice all the criteria which they intend to apply to the award, where possible in descending order of importance.

3. Where the criterion for the award of the contract is that of the most economically advantageous tender, contracting entities may take account of variants which are submitted by a tenderer and meet the minimum specifications required by the contracting entities. Contracting entities shall state in the contract documents the minimum specifications to be respected by the variants and specific requirements for their presentation. Where variants are not permitted, they shall so indicate in the contract documents.

4. Contracting entities may not reject the presentation of a variant on the sole ground that it was drawn up on the basis of technical specifications defined with reference to European specifications or to national technical specifications recognized as complying with the essential requirements within the meaning of Directive 89/106/EEC.

5. If, for a given contract, tenders appear abnormally low in relation to the provision of services, the contracting entity shall, before it may reject those tenders, request in

writing details of the constituent elements of the tender which it considers relevant and shall verify those constituent elements taking account of the explanations received. It may set a reasonable period within which to reply.

The contracting entity may take into consideration explanations which are justified on objective grounds relating to the economy of the construction or production method, or the technical solutions chosen, or the exceptionally favourable conditions available to the tenderer for the execution of the contract, or the originality of the product or the work proposed by the tenderer.

Contracting entities may reject tenders which are abnormally low owing to the receipt of State aid only if they have consulted the tenderer and if the tenderer has been unable to show that the aid in question has been notified to the Commission pursuant to Article 93 (3) of the EEC Treaty or has received the Commission's approval. Contracting entities which reject a tender under these circumstances shall inform the Commission thereof.

Article 35

1. Article 27 (1) shall not apply where a Member State bases the award of contracts on other criteria, within the framework of rules in force at the time of adoption of this Directive, the aim of which is to give preference to certain tenderers, provided that the rules invoked are compatible with the Treaty.

2. Without prejudice to paragraph 1, this Directive shall not prevent, until 31 December 1992, the application of national provisions in force on the award of supply or works contracts which have as their objective the reduction of regional disparities and the promotion of job creation in disadvantaged regions or those suffering from industrial decline, provided that the provisions concerned are compatible with the EEC Treaty and with the Community's international obligations.

Article 36

1. This Article shall apply to tenders comprising products originating in third countries with which the Community has not concluded, multilaterally or bilaterally, an agreement ensuring comparable and effective access for Community undertakings to the markets of those third countries. It shall be without prejudice to the obligations of the Community or its Member States in respect of third countries.

2. Any tender made for the award of a supply contract may be rejected where the proportion of the products originating in third countries, as determined in accordance with Council Regulation (EEC) No 802/68 of 27 June

1968 on the common definition of the concept of the origin of goods ⁽¹⁾, exceeds 50 % of the total value of the products constituting the tender.

For the purposes of this Article, software used in telecommunications network equipment shall be considered as products.

3. Subject to paragraph 4, where two or more tenders are equivalent in the light of the award criteria defined in Article 34, preference shall be given to the tenders which may not be rejected pursuant to paragraph 2. The prices of these tenders shall be considered equivalent for the purposes of this Article, if the price difference does not exceed 3 %.

4. However, a tender shall not be preferred to another pursuant to paragraph 3 where its acceptance would oblige the contracting entity to acquire material having technical characteristics different from those of existing material, resulting in incompatibility or technical difficulties in operation and maintenance or disproportionate costs.

5. For the purpose of this Article, those third countries to which the benefit of the provisions of this Directive has been extended by a Council Decision in accordance with paragraph 1 shall not be taken into account for determining the proportion referred to in paragraph 2 of products originating in third countries.

6. The Commission shall submit an annual report to the Council (for the first time in the second half of 1991) on progress made in multilateral or bilateral negotiations regarding access for Community undertakings to the markets of third countries in the fields covered by this Directive, on any result which such negotiations may have achieved and on the implementation in practice of all the agreements which have been concluded.

The Council, acting by a qualified majority on a proposal from the Commission, may amend the provisions of this Article in the light of such developments.

Article 37

1. The Member States shall inform the Commission of any general difficulties encountered, in law or in fact, by their undertakings in securing the award of service contracts in third countries.

2. The Commission shall report to the Council before 31 December 1994 and periodically thereafter on the

opening-up of service contracts in third countries and on progress in negotiations with these countries on this subject, particularly within the GATT framework.

3. Whenever the Commission establishes, on the basis of either the reports referred to in paragraph 2 or other information, that with regard to the award of service contracts a third country:

- (a) does not grant Community undertakings effective access comparable to that granted by the Community to undertakings from that country;
- (b) does not grant Community undertakings national treatment or the same competitive opportunities as are available to national undertakings; or
- (c) grants undertakings from other third countries more favourable treatment than Community undertakings,

it must approach the third country concerned to try to remedy the situation.

4. Under the conditions referred to in paragraph 3, the Commission may at any time propose that the Council decide to suspend or restrict the award of service contracts to:

- (a) undertakings governed by the law of the third country in question;
- (b) undertakings affiliated to the undertakings specified in (a) and having their registered office in the Community but having no direct and effective link with the economy of a Member State;
- (c) undertakings submitting tenders which have as their object services originating in the third country in question,

during a period to be determined in the decision. The Council shall act by qualified majority as soon as possible.

The Commission may propose these measures on its own initiative or at the request of a Member State.

5. This Article is without prejudice to the obligations of the Community in relation to third countries.

TITLE VI

Final provisions

Article 38

1. The value in national currencies of the thresholds specified in Article 14 shall, in principle, be revised every

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 1. Regulation as last amended by Regulation (EEC) No 3860/87 (OJ No L 363, 23. 12. 1987, p. 30).

two years with effect from the date provided for in Directive 77/62/EEC as far as the thresholds for supply and service contracts are concerned and from the date provided for in Directive 71/305/EEC as far as the thresholds for works contracts are concerned. The calculation of such value shall be based on the average daily values of those currencies expressed in ecus over the 24 months terminating on the last day of August preceding the revision with effect from 1 January. The values shall be published in the *Official Journal of the European Communities* at the beginning of November.

2. The method of calculation laid down in paragraph 1 shall be examined pursuant to the provisions of Directive 77/62/EEC.

Article 39

1. The Commission shall be assisted, as regards procurement by the contracting entities exercising an activity referred to in Article 2 (2) (d), by a Committee of an advisory nature which shall be the Advisory Committee on Telecommunications Procurement. The Committee shall be composed of representatives of the Member States and chaired by a representative of the Commission.

2. The Commission shall consult this Committee on:

- (a) amendments to Annex X;
- (b) revision of the currency values of the thresholds;
- (c) the rules concerning contracts awarded under international agreements;
- (d) the review of the application of this Directive;
- (e) the procedures described in Article 40 (2) relating to notices and statistical reports.

Article 40

1. Annexes I to X shall be revised in accordance with the procedure laid down in paragraphs 4 to 8 with a view to ensuring that they fulfil the criteria of Article 2.

2. The conditions for the presentation, dispatch, reception, translation, keeping and distribution of the notices referred to in Articles 21, 22 and 24 and of the statistical reports provided for in Article 42 shall be established, for the purposes of simplification, in accordance with the procedure laid down in paragraphs 4 to 8.

3. The nomenclature cited in Annexes XVI A and XVI B and the references in the notices to particular headings of the nomenclature may be amended in accordance with the procedure laid down in paragraphs 4 to 8.

4. The revised Annexes and the conditions referred to in paragraphs 1 and 2 shall be published in the *Official Journal of the European Communities*.

5. The Commission shall be assisted by the Advisory Committee for Public Contracts and, in the case of the revision of Annex X, by the Advisory Committee on Telecommunications Procurement provided for in Article 39 of this Directive.

6. The Commission representative shall submit to the Committee a draft of the decisions to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

7. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

8. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 41

1. Contracting entities shall keep appropriate information on each contract which shall be sufficient to permit them at a later date to justify decisions taken in connection with:

- (a) the qualification and selection of contractors, suppliers or service providers and award of contracts;
- (b) recourse to derogations from the use of European specifications in accordance with Article 18 (6);
- (c) use of procedures without prior call for competition in accordance with Article 21 (2);
- (d) non-application of Titles II, III and IV in accordance with the derogations provided for in Title I.

2. The information shall be kept for at least four years from the date of award of the contract so that the contracting entity will be able, during that period, to provide the necessary information to the Commission if the latter so requests.

Article 42

1. The Member States shall ensure, in accordance with the arrangements to be laid down under the procedure provided for in Article 40 (4) to (8), that the Commission receives each year a statistical report concerning the total value, broken down by Member State and each category of activity to which Annexes I to X refer, of the contracts awarded below the thresholds defined in Article 14 which would, if they were not below those thresholds, be covered by this Directive.

2. Arrangements shall be fixed in accordance with the procedure referred to in Article 40 to ensure that:

- (a) in the interests of administrative simplification, contracts of lesser value may be excluded, provided that the usefulness of the statistics is not jeopardized;
- (b) the confidential nature of the information provided is respected.

Article 43

Article 2 (2) of Directive 77/62/EEC is hereby replaced by the following:

‘2. This Directive shall not apply to:

- (a) contracts awarded in the fields referred to in Articles 2, 7, 8 and 9 of Council Directive 90/531/EEC of 17 September 1990 on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors ⁽¹⁾ or fulfilling the conditions in Article 6 (2) of the said Directive;
- (b) supplies which are declared secret or when their delivery must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in the Member State concerned or when the protection of the basic interests of that State's security so requires ⁽¹⁾.

⁽¹⁾ OJ No L 297, 29. 10. 1990, p. 1.’

Article 44

Not later than four years after the application of this Directive, the Commission, acting in close cooperation with the Advisory Committee for Public Contracts, shall review the manner in which this Directive has operated and its field of application and, if necessary, shall make further proposals to adapt it, in the light of developments linked in particular with progress made in opening up contracts and the level of competition. In the case of entities exercising an activity defined in Article 2 (2) (d), the Commission shall act in close cooperation with the Advisory Committee on Telecommunications Procurement.

Article 45

1. Member States shall adopt the measures necessary to comply with the provisions of this Directive and shall apply them by 1 July 1994. They shall forthwith inform the Commission thereof.

2. Nevertheless, the Kingdom of Spain may provide that the measures referred to in paragraph 1 shall apply from 1 January 1997 only and the Hellenic Republic and the Portuguese Republic may provide that the measures referred to in paragraph 1 shall apply from 1 January 1998 only.

3. Directive 90/531/EEC shall cease to have effect as from the date on which this Directive is applied by the Member States and this shall be without prejudice to the obligations of the Member States concerning the deadlines laid down in Article 37 of that Directive.

4. References to Directive 90/531/EEC shall be construed as referring to this Directive.

Article 46

When Member States adopt the provisions referred to in Article 45, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 47

Member States shall communicate to the Commission the main provisions of national law, whether laws, regulations or administrative provisions, which they adopt in the field covered by this Directive.

Article 48

This Directive is addressed to the Member States.

Done at Luxembourg, 14 June 1993.

For the Council

The President

J. TRØJBORG

LIST OF ANNEXES

ANNEX I:	Production, transport or distribution of drinking water	106
ANNEX II:	Production, transport or distribution of electricity	109
ANNEX III:	Transport or distribution of gas or heat	111
ANNEX IV:	Exploration for and extraction of oil or gas	113
ANNEX V:	Exploration for and extraction of coal or other solid fuels	115
ANNEX VI:	Contracting entities in the field of railway services	117
ANNEX VII:	Contracting entities in the field of urban railway, tramway, trolley bus or bus services	119
ANNEX VIII:	Contracting entities in the field of airport facilities	122
ANNEX IX:	Contracting entities in the field of maritime or inland port or other terminal facilities	124
ANNEX X:	Operation of telecommunications networks or provision of telecommunications services	126
ANNEX XI:	List of professional activities as set out in the general industrial classification of economic activities within the European Communities	128
ANNEX XII:	A. Open procedures	129
	B. Restricted procedures	131
	C. Negotiated procedures	132
ANNEX XIII:	Notice on the existence of a qualification system	133
ANNEX XIV:	Periodic information notice:	
	A. For supply contracts	134
	B. For works contracts	134
	C. For service contracts	134
ANNEX XV:	Notice on contracts awarded	135
	I. Information for publication in the <i>Official Journal of the European Communities</i>	135
	II. Information not intended for publication	135
ANNEX XVI A:	Services within the meaning of Article 15	136
ANNEX XVI B:	Services within the meaning of Article 16	137
ANNEX XVII:	Design contest notices	138
ANNEX XVIII:	Results of design contests	138

ANNEX I

PRODUCTION, TRANSPORT OR DISTRIBUTION OF DRINKING WATER

BELGIUM

Entity set up pursuant to the *décret du 2 juillet 1987 de la région wallonne érigeant en entreprise régionale de production et d'adduction d'eau le service du ministère de la région chargé de la production et du grand transport d'eau*.

Entity set up pursuant to the *arrêté du 23 avril 1986 portant constitution d'une société wallonne de distribution d'eau*.

Entity set up pursuant to the *arrêté du 17 juillet 1985 de l'exécutif flamand portant fixation des statuts de la société flamande de distribution d'eau*.

Entities producing or distributing water and set up pursuant to the *loi relative aux intercommunales du 22 décembre 1986*.

Entities producing or distributing water set up pursuant to the *code communal, article 47 bis, ter et quater sur les régies communales*.

DENMARK

Entities producing or distributing water referred to in Article 3, paragraph 3 of *lovbekendtgørelse om vandforsyning m.v. af 4. juli 1985*.

GERMANY

Entities producing or distributing water pursuant to the *Eigenbetriebsverordnungen* or *Eigenbetriebsgesetze* of the *Länder* (*Kommunale Eigenbetriebe*).

Entities producing or distributing water pursuant to the *Gesetze über die Kommunale Gemeinschaftsarbeit oder Zusammenarbeit* of the *Länder*.

Entities producing water pursuant to the *Gesetz über Wasser- und Bodenverbände vom 10. Februar 1937* and the *erste Verordnung über Wasser- und Bodenverbände vom 3. September 1937*.

(*Regiebetriebe*) producing or distributing water pursuant to the *Kommunalgesetze* and notably with the *Gemeindeordnungen der Länder*.

Entities set up pursuant to the *Aktiengesetz vom 6. September 1965, zuletzt geändert am 19. Dezember 1985* or *GmbH-Gesetz vom 20. Mai 1898, zuletzt geändert am 15. Mai 1986*, or having the legal status of a *Kommanditgesellschaft*, producing or distributing water on the basis of a special contract with regional or local authorities.

GREECE

The Water Company of Athens / *Εταιρεία Υδρεύσεως — Αποχετεύσεως Πρωτευούσης* set up pursuant to Law 1068/80 of 23 August 1980.

The Water Company of Salonica / *Οργανισμός Υδρεύσεως Θεσσαλονίκης* operating pursuant to Presidential Decree 61/1988.

The Water Company of Voios / *Εταιρεία Υδρεύσεως Βόλου* operating pursuant to Law 890/1979.

Municipal companies / *Δημοτικές Επιχειρήσεις ύδρευσης — αποχέτευσης* producing or distributing water and set up pursuant to Law 1059/80 of 23 August 1980.

Associations of local authorities (*Σύνδεσμοι ύδρευσης*) operating pursuant to the Code of local authorities (*Κώδικας Δήμων και Κοινοτήτων*) implemented by Presidential Decree 76/1985.

SPAIN

- Entities producing or distributing water pursuant to *Ley n° 7/1985 de 2 de abril de 1985. Reguladora de las Bases del Régimen local* and to *Decreto Real n° 781/1986 Texto Refundido Régimen local*.
- *Canal de Isabel II. Ley de la Comunidad Autónoma de Madrid de 20 de diciembre de 1984.*
- *Mancomunidad de los Canales de Taibilla, Ley de 27 de abril de 1946.*

FRANCE

Entities producing or distributing water pursuant to the:

dispositions générales sur les régies, code des communes L 323-1 à L 328-8, R 323-1 à R 323-6 (dispositions générales sur les régies); or

code des communes L 323-8 R 323-4 [régies directes (ou de fait)]; or

décret-loi du 28 décembre 1926, règlement d'administration publique du 17 février 1930, code des communes L 323-10 à L 323-13, R 323-75 à 323-132 (régies à simple autonomie financière); or

code des communes L 323-9, R 323-7 à R 323-74, décret du 19 octobre 1959 (régies à personnalité morale et à autonomie financière); or

code des communes L 324-1 à L 324-6, R 324-1 à R 324-13 (gestion déléguée, concession et affermage); or

jurisprudence administrative, circulaire intérieure du 13 décembre 1975 (gérance); or

code des communes R 324-6, circulaire intérieure du 13 décembre 1975 (régie intéressée); or

circulaire intérieure du 13 décembre 1975 (exploitation aux risques et périls); or

décret du 20 mai 1955, loi du 7 juillet 1983 sur les sociétés d'économie mixte (participation à une société d'économie mixte); or

code des communes L 322-1 à L 322-6, R 322-1 à R 322-4 (dispositions communes aux régies, concessions et affermage).

IRELAND

Entities producing or distributing water pursuant to the *Local Government (Sanitary Services) Act 1878 to 1964.*

ITALY

Entities producing or distributing water pursuant to the *Testo unico delle leggi sull'assunzione diretta dei pubblici servizi da parte dei comuni e delle province approvato con Regio Decreto 15 ottobre 1925, n. 2578* and to *Decreto del P.R. n. 902 del 4 ottobre 1986.*

Ente Autonomo Acquedotto Pugliese set up pursuant to *RDL 19 ottobre 1919, n. 2060.*

Ente Acquedotti Siciliani set up pursuant to *leggi regionali 4 settembre 1979, n. 2/2 e 9 agosto 1980, n. 81.*

Ente Sardo Acquedotti e Fognature set up pursuant to *legge 5 luglio 1963 n. 9.*

LUXEMBOURG

Local authorities distributing water.

Associations of local authorities producing or distributing water set up pursuant to the *loi du 14 février 1900 concernant la création des syndicats de communes telle qu'elle a été modifiée et complétée par la loi du 23 décembre 1958 et par la loi du 29 juillet 1981* and pursuant to the *loi du 31 juillet 1962 ayant pour objet le renforcement de l'alimentation en eau potable du grand-duché du Luxembourg à partir du réservoir d'Esch-sur-Sûre.*

NETHERLANDS

Entities producing or distributing water pursuant to the *Waterleidingwet van 6 april 1957, amended by the wetten van 30 juni 1967, 10 september 1975, 23 juni 1976, 30 september 1981, 25 januari 1984, 29 januari 1986.*

PORTUGAL

Empresa Pública das Águas Livres producing or distributing water pursuant to the *Decreto-Lei nº 190/81 de 4 de Julho de 1981*.

Local authorities producing or distributing water.

UNITED KINGDOM

Water companies producing or distributing water pursuant to the *Water Acts 1945 and 1989*.

The *Central Scotland Water Development Board* producing water and the *water authorities* producing or distributing water pursuant to the *Water (Scotland) Act 1980*.

The *Department of the Environment for Northern Ireland* responsible for producing and distributing water pursuant to the *Water and Sewerage (Northern Ireland) Order 1973*.

ANNEX II

PRODUCTION, TRANSPORT OR DISTRIBUTION OF ELECTRICITY

BELGIUM

Entities producing, transporting or distributing electricity pursuant to *article 5: Des régies communales et intercommunales* of the *loi du 10 mars 1925 sur les distributions d'énergie électrique*.

Entities transporting or distributing electricity pursuant to the *loi relative aux intercommunales du 22 décembre 1986*.

EBES, Intercom, Unerg and other entities producing, transporting or distributing electricity and granted a concession for distribution pursuant to *article 8 — les concessions communales et intercommunales* of the *loi du 10 mars 1952 sur les distributions d'énergie électrique*.

The *Société publique de production d'électricité (SPÉ)*.

DENMARK

Entities producing or transporting electricity on the basis of a licence pursuant to § 3, *stk. 1*, of the *lov nr. 54 af 25. februar 1976 om elforsyning, jf. bekendtgørelse nr. 607 af 17. december 1976 om elforsyningslovens anvendelsesområde*.

Entities distributing electricity as defined in § 3, *stk. 2*, of the *lov nr. 54 af 25. februar 1976 om elforsyning, jf. bekendtgørelse nr. 607 af 17. december 1976 om elforsyningslovens anvendelsesområde* and on the basis of authorizations for expropriation pursuant to Articles 10 to 15 of the *lov om elektriske stærktstrømsanlæg, jf. lovbekendtgørelse nr. 669 af 28. december 1977*.

GERMANY

Entities producing, transporting or distributing electricity as defined in § 2 Absatz 2 of the *Gesetz zur Förderung der Energiewirtschaft (Energiewirtschaftsgesetz)* of 13 December 1935. Last modified by the *Gesetz* of 19 December 1977, and auto-production of electricity so far as this is covered by the field of application of the Directive pursuant to Article 2, paragraph 5.

GREECE

Δημόσια Επιχείρηση Ηλεκτρισμού (Public Power Corporation) set up pursuant to the law 1468 of 2 August 1950 *Περί ιδρύσεως Δημοσίας Επιχειρήσεως Ηλεκτρισμού*, and operating pursuant to the law 57/85: *Δομή, ρόλος και τρόπος διοίκησης και λειτουργίας της κοινωνικοποιημένης Δημόσιας Επιχείρησης Ηλεκτρισμού*.

SPAIN

Entities producing, transporting or distributing electricity pursuant to Article 1 of the *Decreto de 12 de marzo de 1954*, approving the *Reglamento de verificaciones eléctricas y regularidad en el suministro de energía* and pursuant to *Decreto 2617/1966, de 20 de octubre, sobre autorización administrativa en materia de instalaciones eléctricas*.

Red Eléctrica de España SA, set up pursuant to *Real Decreto 91/1985 de 23 de enero*.

FRANCE

Électricité de France, set up and operating pursuant to the *loi 46/6288 du 8 avril 1946 sur la nationalisation de l'électricité et du gaz*.

Entities (*sociétés d'économie mixte* or *régies*) distributing electricity and referred to in article 23 of the *loi 48/1260 du 12 août 1948 portant modification des lois 46/6288 du 8 avril 1946 et 46/2298 du 21 octobre 1946 sur la nationalisation de l'électricité et du gaz*.

Compagnie nationale du Rhône.

IRELAND

The Electricity Supply Board (ESB) set up and operating pursuant to the *Electricity Supply Act 1927*.

ITALY

Ente nazionale per l'energia elettrica set up pursuant to *legge n. 1643, 6 dicembre 1962 approvato con Decreto n. 1720, 21 dicembre 1965*.

Entities operating on the basis of a concession pursuant to article 4, n. 5 or 8 of *legge 6 dicembre 1962, n. 1643 — Istituzione dell'Ente nazionale per la energia elettrica e trasferimento ad esso delle imprese esercenti le industrie elettriche*.

Entities operating on the basis of concession pursuant to article 20 of *Decreto del Presidente della Repubblica 18 marzo 1965, n. 342 norme integrative della legge 6 dicembre 1962, n. 1643 e norme relative al coordinamento e all'esercizio delle attività elettriche esercitate da enti ed imprese diverse dell'Ente nazionale per l'energia elettrica*.

LUXEMBOURG

Compagnie grand-ducale d'électricité de Luxembourg, producing or distributing electricity pursuant to the *convention du 11 novembre 1927 concernant l'établissement et l'exploitation des réseaux de distribution d'énergie électrique dans le grand-duché du Luxembourg approuvée par la loi du 4 janvier 1928*.

Société électrique de l'Our (SEO).

Syndicat de Communes SIDOR.

NETHERLANDS

Elektriciteitsproduktie Oost-Nederland.

Elektriciteitsbedrijf Utrecht—Noord-Holland—Amsterdam (UNA).

Elektriciteitsbedrijf Zuid-Holland (EZH)

Elektriciteitsproduktiemaatschappij Zuid-Nederland (EPZ).

Provinciale Zeeuwse Energie Maatschappij (PZEM).

Samenwerkende Elektriciteitsbedrijven (SEP).

Entities distributing electricity on the basis of a licence (*vergunning*) granted by the provincial authorities pursuant to the *Provinciewet*.

PORTUGAL

Electricidade de Portugal (EDP), set up pursuant to the *Decreto-Lei nº 502/76 de 30 de Junho de 1976*.

Entities distributing electricity pursuant to *artigo 1º do Decreto-Lei nº 344-B/82 de 1 de Setembro de 1982*, amended by *Decreto-Lei nº 297/86 de 19 de Setembro de 1986*. Entities producing electricity pursuant to *Decreto Lei nº 189/88 de 27 de Maio de 1988*.

Independent producers of electricity pursuant to *Decreto Lei nº 189/88 de 27 de Maio de 1988*.

Empresa de Electricidade dos Açores — EDA, EP, created pursuant to the *Decreto Regional nº 16/80 de 21 de Agosto de 1980*.

Empresa de Electricidade da Madeira, EP, created pursuant to the *Decreto-Lei nº 12/74 de 17 de Janeiro de 1974* and regionalized pursuant to the *Decreto-Lei nº 31/79 de 24 de Fevereiro de 1979*, *Decreto-Lei nº 91/79 de 19 de Abril de 1979*.

UNITED KINGDOM

Central Electricity Generating (CEGB), and the Areas Electricity Boards producing, transporting or distributing electricity pursuant to the *Electricity Act 1947* and the *Electricity Act 1957*.

The *North of Scotland Hydro-Electricity Board (NSHB)*, producing, transporting and distributing electricity pursuant to the *Electricity (Scotland) Act 1979*.

The *South of Scotland Electricity Board (SSEB)* producing, transporting and distributing electricity pursuant to the *Electricity (Scotland) Act 1979*.

The *Northern Ireland Electricity Service (NIES)*, set up pursuant to the *Electricity Supply (Northern Ireland) Order 1972*.

ANNEX III

TRANSPORT OR DISTRIBUTION OF GAS OR HEAT

BELGIUM

Distrigaz SA operating pursuant to the *loi du 29 juillet 1983*.

Entities transporting gas on the basis of an authorization or concession pursuant to the *loi du 12 avril 1985* as amended by the *loi du 28 juillet 1987*.

Entities distributing gas and operating pursuant to the loi relative aux Intercommunales du 22 décembre 1986.

Local authorities, or associations of these local authorities supplying heat to the public.

DENMARK

Dansk Olie og Naturgas A/S operating on the basis of an exclusive right granted pursuant to *bekendtgørelse nr. 869 af 18. juni 1979 om eneretsbevilling til indførsel, forhandling, transport og oplagring af naturgas*.

Entities operating pursuant to *lov nr. 294 af 7. juni 1972 om naturgasforsyning*.

Entities distributing gas or heat on the basis of an approval pursuant to Chapter IV of *lov om varmforsyning, jf. lovbekendtgørelse nr. 330 af 29. juni 1983*.

Entities transporting gas on the basis of an authorization pursuant to *bekendtgørelse nr. 141 af 13. marts 1974 om rørledningsanlæg på dansk kontinentalsokkelområde til transport af kulbrinter* (installation of pipelines on the continental shelf for the transport of hydrocarbons).

GERMANY

Entities transporting or distributing gas as defined in § 2 Absatz 2 of the *Gesetz zur Förderung der Energiewirtschaft vom 13. Dezember 1935 (Energiewirtschaftsgesetz)*, as last amended by the law of 19 December 1977.

Local authorities, or associations of these local authorities supplying heat to the public.

GREECE

DEP transporting or distributing gas pursuant to the Ministerial decision 2583/1987 (*Ανάθεση στη Δημόσια Επιχείρηση Πετρελαίου αρμοδιοτήτων σχετικών με το φυσικό σέριο*) Σύσταση της ΔΕΠΑ ΑΕ (*Δημόσια Επιχείρηση Αερίου, Ανώνυμος Εταιρεία*).

Athens Municipal Gasworks S.A. *DEFA* transporting or distributing gas.

SPAIN

Entities operating pursuant to *Ley nº 10 de 15 de junio de 1987*.

FRANCE

Société nationale des gaz du Sud-Ouest transporting gas.

Gaz de France, set up and operating pursuant to the *loi 46/6288 du 8 avril 1946 sur la nationalisation de l'électricité et du gaz*.

Entities (*sociétés d'économie mixte* or *régies*) distributing electricity and referred to in Article 23 of the *loi 48/1260 du 12 août 1948 portant modification des lois 46/6288 du 8 avril 1946 et 46/2298 du 21 octobre 1946 sur la nationalisation de l'électricité et du gaz*.

Compagnie française du méthane transporting gas.

Local authorities, or associations of, supplying heat to the public.

IRELAND

Irish Gas Board and operating pursuant to the *Gas Act 1976 to 1987* and other entities governed by *Statute*.

Dublin Corporation, supplying heat to the public.

ITALY

SNAM and SGM e Montedison transporting gas.

Entities distributing gas pursuant to the *Testo unico delle leggi sull'assunzione diretta dei pubblici servizi da parte dei comuni e delle province approvato con Regio Decreto 15 ottobre 1925, n. 2578* and to the *Decreto del P.R. n. 902 del 4 ottobre 1986*.

Entities distributing heat to the public referred to in Article 10 of the *Legge 29 maggio 1982, n. 308 — Norme sul contenimento dei consumi energetici, lo sviluppo delle fonti rinnovabili di energia, l'esercizio di centrali elettriche alimentate con combustibili diversi dagli idrocarburi*.

Local authorities, or associations of, supplying heat to the public.

LUXEMBOURG

Société de transport de gaz SOTEG SA.

Gaswierk Esch-Uelzecht SA.

Service industriel de la commune de Dudelange.

Service industriel de la commune de Luxembourg.

Local authorities, or associations of these local authorities supplying heat to the public.

NETHERLANDS

NV Nederlandse Gasunie

Entities transporting or distributing gas on the basis of a licence (*vergunning*) granted by the local authorities pursuant to the *Gemeentewet*.

Local or provincial entities transporting or distributing gas to the public pursuant to the *Gemeentewet* and the *Provinciewet*.

Local authorities, or associations of these local authorities supplying heat to the public.

PORTUGAL

Petroquímica e Gás de Portugal, EP Decreto-Lei nº 346-A/88 de 29 de Setembro de 1988.

UNITED KINGDOM

British Gas plc and other entities operating pursuant to the *Gas Act 1986*.

Local authorities, or associations of, supplying heat to the public pursuant to the *Local Government (Miscellaneous Provisions) Act 1976*.

Electricity Boards distributing heat pursuant to the *Electricity Act 1947*.

ANNEX IV

EXPLORATION FOR AND EXTRACTION OF OIL OR GAS

The entities granted an authorization, permit, licence or concession to explore for or extract oil and gas pursuant to the following legal provisions:

BELGIUM

Loi du 1 mai 1939 complétée par l'arrêté royal n° 83 du 28 novembre 1939 sur l'exploration et l'exploitation du pétrole et du gaz.

Arrêté royal du 15 novembre 1919.

Arrêté royal du 7 avril 1953.

Arrêté royal du 15 mars 1960 loi au sujet de la plate-forme continentale du 15 juin 1969.

Arrêté de l'exécutif régional wallon du 29 septembre 1982.

Arrêté de l'exécutif flamand du 30 mai 1984.

DENMARK

Lov nr. 293 af 10. juni 1981 om anvendelse af Danmarks undergrund.

Lov om kontinentalsoklen, jf. lovbekendtgørelse nr. 182 af 1. maj 1979.

GERMANY

Bundesberggesetz vom 13. August 1980, as last amended on 12 February 1990.

GREECE

Law 87/1975 setting up DEP-EKY (Περί ιδρύσεως Δημοσίας Επιχειρήσεως Πετρελαίου).

SPAIN

Ley sobre Investigación y Explotación de Hidrocarburos de 27 de Junio de 1974 and its implementing decrees.

FRANCE

Code minier (décret 56-838 du 16 août 1956) amended by the loi 56-1327 du 29 décembre 1956, ordonnance 58-1186 du 10 décembre 1958, décret 60-800 du 2 août 1960, décret 61-359 du 7 avril 1961, loi 70-1 du 2 janvier 1970, loi 77-620 du 16 juin 1977, décret 80-204 du 11 mars 1980.

IRELAND

Continental Shelf Act 1960.

Petroleum and Other Minerals Development Act 1960.

Ireland Exclusive Licensing Terms 1975.

Revised Licensing Terms 1987.

Petroleum (Production) Act (NI) 1964.

ITALY

Legge 10 febbraio 1953, n. 136.

Legge 11 gennaio 1957, n. 6, modificata dalla legge 21 luglio 1967, n. 613.

LUXEMBOURG

NETHERLANDS

Mijnwet nr. 285 van 21 april 1810.

Wet opsporing delfstoffen nr. 258 van 3 mei 1967.

Mijnwet continentaal plat 1965, nr. 428 van 23 september 1965.

PORTUGAL

Decreto-Lei nº 543/74 de 16 de Outubro de 1974, nº 168/77 de 23 de Abril de 1977, nº 266/80 de 7 de Agosto de 1980, nº 174/85 de 21 de Maio de 1985 and Despacho nº 22 de 15 de Março de 1979.

Decreto-Lei nº 47973 de 30 de Setembro de 1967, nº 49369 de 11 de Novembro de 1969, nº 97/71 de 24 de Março de 1971, nº 96/74 de 13 de Março de 1974, nº 266/80 de 7 de Agosto de 1980, nº 2/81 de 7 de Janeiro de 1981 and nº 245/82 de 22 de Junho de 1982.

UNITED KINGDOM

Petroleum (Production) Act 1934 as extended by the Continental Shelf Act 1964.

Petroleum (Production) Act (Northern Ireland) 1964.

ANNEX V

EXPLORATION FOR AND EXTRACTION OF COAL OR OTHER SOLID FUELS

BELGIUM

Entities exploring or extracting coal or other solid fuels pursuant to the *arrêté du Régent du 22 août 1948* and the *loi du 22 avril 1980*.

DENMARK

Entities exploring or extracting coal or other solid fuels pursuant to the *lovbekendtgørelse nr. 531 af 10. oktober 1984*.

GERMANY

Entities exploring or extracting coal or other solid fuels pursuant to the *Bundesberggesetz vom 13. August 1980*, as last amended on 12 February 1990.

GREECE

Public Power Corporation *exploring or extracting coal or other fuels pursuant to the Mining code of 1973 as amended by the law of 27 April 1976. Δημόσια Επιχείρηση Ηλεκτρισμού.*

SPAIN

Entities exploring or extracting coal or other solid fuels pursuant to *Ley 22/1973, de 21 de julio, de Minas*, as amended by *Ley 54/1980 de 5 de noviembre* and by *Real Decreto Legislativo 1303/1986, de 28 de junio*.

FRANCE

Entities exploring extracting coal or other solid fuels pursuant to *code minier (décret 58-863 du 16 août 1956)*, as amended by the *loi 77-620 du 16 juin 1977, décret 80-204 et arrêté du 11 mars 1980*.

IRELAND

Bord na Mona.

Entities prospecting or extracting coal pursuant to the *Minerals Development Acts, 1940 to 1970*.

ITALY

Carbo Sulcis SpA

LUXEMBOURG

—

NETHERLANDS

—

PORTUGAL

Empresa Carbonífera do Douro.

Empresa Nacional de Urânio.

UNITED KINGDOM

British Coal Board (BCC) set up pursuant to the Coal Industry Nationalization Act 1946.

Entities benefiting from a licence granted by the BCC pursuant to the *Coal Industry Nationalization Act 1946*.

Entities exploring or extracting solid fuels pursuant to the Mineral Development Act (Northern Ireland) 1969.

ANNEX VI

CONTRACTING ENTITIES IN THE FIELD OF RAILWAY SERVICES

BELGIUM

Société nationale des chemins de fer belges/Nationale Maatschappij der Belgische Spoorwegen.

DENMARK

Danske Statsbaner (DSB)

Entities operating set up pursuant to *lov nr. 295 af 6. juni 1984 om privatbanerne, jf. lov nr. 245 af 6. august 1977.*

GERMANY

Deutsche Bundesbahn

Other entities providing railway services to the public as defined in paragraph 2 Abs. 1 of *Allgemeines Eisenbahngesetz of 29 March 1951.*

GREECE

Οργανισμός Σιδηροδρόμων Ελλάδος (ΟΣΕ). Organization of railways in Greece (OSE).

SPAIN

Red Nacional de Los Ferrocarriles Españoles.

Ferrocarriles de Vía Estrecha (FEVE).

Ferrocarrils de la Generalitat de Catalunya (FGC).

Eusko Trenbideak (Bilbao).

Ferrocarriles de la Generalitat Valenciana (FGV).

FRANCE

Société nationale des chemins de fer français and other *réseaux ferroviaires ouverts au public* referred to in the *loi d'orientation des transports intérieurs du 30 décembre 1982, titre II, chapitre 1^{er} du transport ferroviaire.*

IRELAND

Iarnród Éireann (Irish Rail).

ITALY

Ferrovie dello Stato

Entities providing railway services on the basis of a concession pursuant to Article 10 of *Regio Decreto 9 maggio 1912, n. 1447, che approva il Testo unico delle disposizioni di legge per le ferrovie concesse all'industria privata, le tramvie a trazione meccanica e gli automobili.*

Entities operating on the basis of a concession granted, pursuant to special laws, as referred to in *Titolo XI, Capo II, Sezione I* del *Regio Decreto 9 maggio 1912, n. 1447, che approva il Testo unico delle disposizioni di legge per le ferrovie concesse all'industria privata, le tramvie a trazione meccanica e gli automobili.*

Entities providing railway services on the basis of a concession pursuant to Article 4 of *Legge 14 giugno 1949, n. 410 — Concorso dello Stato per la riattivazione dei pubblici servizi di trasporto in concessione.*

Entities or local authorities providing railway services on the basis of a concession pursuant to Article 14 of *Legge 2 agosto 1952, n. 1221 — Provvedimenti per l'esercizio ed il potenziamento di ferrovie e di altre linee di trasporto in regime di concessione.*

LUXEMBOURG

Chemins de fer luxembourgeois (CFL).

NETHERLANDS

Nederlandse Spoorwegen NV.

PORTUGAL

Caminhos de Ferro Portugueses.

UNITED KINGDOM

British Railways Board.

Northern Ireland Railways.

ANNEX VII

CONTRACTING ENTITIES IN THE FIELD OF URBAN RAILWAY, TRAMWAY, TROLLEYBUS OR BUS SERVICES

BELGIUM

Société nationale des chemins de fer vicinaux (SNCV)/Nationale Maatschappij van Buurtspoorwegen (NMB)

Entities providing transport services to the public on the basis of a contract granted by SNCV pursuant to Articles 16 and 21 of the *arrêté du 30 décembre 1946 relatif aux transports rémunérés de voyageurs par route effectués par autobus et par autocars*.

Société des transports intercommunaux de Bruxelles (STIB),

Maatschappij van het Intercommunaal Vervoer te Antwerpen (MIVA),

Maatschappij van het Intercommunaal Vervoer te Gent (MIVG),

Société des transports intercommunaux de Charleroi (STIC),

Société des transports intercommunaux de la région liégeoise (STIL),

Société des transports intercommunaux de l'agglomération verviétoise (STIAV), and other entities set up pursuant to the *loi relative à la création de sociétés de transports en commun urbains/Wet betreffende de oprichting van maatschappijen voor stedelijk gemeenschappelijk vervoer* of 22 February 1962.

Entities providing transport services to the public on the basis of a contract with STIB pursuant to Article 10 or with other transport entities pursuant to Article 11 of the *arrêté royal 140 du 30 décembre 1982 relatif aux mesures d'assainissement applicables à certains organismes d'intérêt public dépendant du ministère des communications*.

DENMARK

Danske Statsbaner (DSB)

Entities providing bus services to the public (*almindelig rutekørsel*) on the basis of an authorization pursuant to *lov nr. 115 af 29. marts 1978 om buskørsel*.

GERMANY

Entities providing, on the basis of an authorization, short-distance transport services to the public (*Öffentlichen Personennahverkehr*) pursuant to the *Personenbeförderungsgesetz vom 21. März 1961, as last amended on 25 July 1989*.

GREECE

Ηλεκτροκίνητα Λεωφορεία Περιοχής Αθηνών-Πειραιώς, (Electric buses of the Athens — Piraeus area) operating pursuant to decree 768/1970 and law 588/1977).

Ηλεκτρικοί Σιδηρόδρομοι Αθηνών-Πειραιώς. (Athen-Piraeus electric railways) operating pursuant to laws 352/1976 and 588/1977.

Επιχείρηση Αστικών Συγκοινωνιών. (Enterprise of urban transport) operating pursuant to law 588/1977.

Κοινό Ταμείο Εισπράξεως Λεωφορείων. (Joint receipts fund of buses) operating pursuant to decree 102/1973.

ΡΟΔΑ (Δημοτική Επιχείρηση Λεωφορείων. Ρόδου) Roda: Municipal bus enterprise in Rhodes.

Οργανισμός Αστικών Συγκοινωνιών Θεσσαλονίκης. (Urban transport organization of Thessaloniki) operating pursuant to decree 3721/1957 and law 716/1980.

SPAIN

Entities providing transport services to the public pursuant to the *Ley de Régimen local*.

Corporación metropolitana de Madrid.

Corporación metropolitana de Barcelona.

Entities providing urban or inter-urban bus services to the public pursuant to Articles 113 to 118 of the *Ley de Ordenación de Transportes Terrestres* de 31 de julio de 1987.

Entities providing bus services to the public, pursuant to Article 71 of the *Ley de Ordenación de Transportes Terrestres* de 31 de julio de 1987.

FEVE, RENFE (or *Empresa Nacional de Transportes de Viajeros por Carretera*) providing bus services to the public pursuant to the *Disposiciones adicionales. Primera, de la Ley de Ordenación de Transportes Terrestres de 31 de julio de 1957*.

Entities providing bus services to the public pursuant to *Disposiciones Transitorias, Tercera, de la Ley de Ordenación de Transportes Terrestres de 31 de julio de 1957*.

FRANCE

Entities providing transport services to the public pursuant to *article 7-11 of the loi n° 82-1153 du 30 décembre 1982, transports intérieurs, orientation*).

Régie autonome des transports parisiens, Société nationale des chemins de fer français, APTR, and other entities providing transport services to the public on the basis of an authorization granted by the syndicat des transports parisiens pursuant to the ordonnance de 1959 et ses décrets d'application relatifs à l'organisation des transports de voyageurs dans la région parisienne.

IRELAND

Iarnrod Éireann (Irish Rail).

Bus Éireann (Irish Bus).

Bus Átha Cliath (Dublin Bus).

Entities providing transport services to the public pursuant to the amended *Road Transport Act 1932*.

ITALY

Entities providing transport services of a concession pursuant to *Legge 28 settembre 1939, n. 1822 — Disciplina degli autoservizi di linea (autolinee per viaggiatori, bagagli e pacchi agricoli in regime di concessione all'industria privata) — Article 1 as modified by Article 45 of Decreto del Presidente della Repubblica 28 giugno 1955, n. 771.*

Entities providing transport services to the public pursuant to *Article 1 (15) of Regio Decreto 15 ottobre 1925, n. 2578 — Approvazione del Testo unico della legge sull'assunzione diretta dei pubblici servizi da parte dei comuni e delle province.*

Entities operating on the basis of a concession pursuant to *Article 242 or 255 of Regio Decreto 9 maggio 1912, n. 1447, che approva il Testo unico delle disposizioni di legge per le ferrovie concesse all'industria privata, le tramvie a trazione meccanica e gli automobili.*

Entities or local authorities operating on the basis of a concession pursuant to *Article 4 of Legge 14 giugno 1949, n. 410, concorso dello Stato per la riattivazione dei pubblici servizi di trasporto in concessione.*

Entities operating on the basis of a concession pursuant to *Article 14 of Legge 2 agosto 1952, n. 1221 — Provvedimenti per l'esercizio ed il potenziamento di ferrovie e di altre linee di trasporto in regime di concessione.*

LUXEMBOURG

Chemins de fer du Luxembourg (CFL).

Service communal des autobus municipaux de la ville de Luxembourg.

Transports intercommunaux du canton d'Esch-sur-Alzette (TICE).

Bus service undertakings operating pursuant to the règlement grand-ducal du 3 février 1978 concernant les conditions d'octroi des autorisations d'établissement et d'exploitation des services de transports routiers réguliers de personnes rémunérées.

NETHERLANDS

Entities providing transport services to the public pursuant to *Chapter II (Openbaar vervoer) of the Wet Personenvervoer van 12 maart 1987.*

PORTUGAL

Rodoviaria Nacional, EP.

Companhia Carris de ferro de Lisboa.

Metropolitano de Lisboa, EP.

Serviços de Transportes Colectivos do Porto.

Serviços Municipalizados de Transporte do Barreiro.

Serviços Municipalizados de Transporte de Aveiro.

Serviços Municipalizados de Transporte de Braga.

Serviços Municipalizados de Transporte de Coimbra.

Serviços Municipalizados de Transporte de Portalegre.

UNITED KINGDOM

Entities providing bus services to the public pursuant to the *London Regional Transport Act 1984*.

Glasgow Underground.

Greater Manchester Rapid Transit Company.

Docklands Light Railway.

London Underground Ltd.

British Railways Board.

Tyne and Wear Metro.

ANNEX VIII

CONTRACTING ENTITIES IN THE FIELD OF AIRPORT FACILITIES

BELGIUM

Régie des voies aériennes set up pursuant to the *arrêté-loi du 20 novembre 1946 portant création de la régie des voies aériennes* amended by *arrêté royal du 5 octobre 1970 portant refonte du statut de la régie des voies aériennes*.

DENMARK

Airports operating on the basis of an authorization pursuant to § 55, *stk. 1, lov om luftfart, jf. lovbekendtgørelse nr. 408 af 11. september 1985*.

GERMANY

Airports as defined in Article 38 Absatz 2 no of the *Luftverkehrszulassungsordnung vom 19. März 1979*, as last amended by the *Verordnung vom 21. Juli 1986*.

GREECE

Airports operating pursuant to law 517/1931 setting up the civil aviation service (*Υπηρεσία Πολιτικής Αεροπορίας (ΥΠΑ)*).

International airports operating pursuant to presidential decree 647/1981.

SPAIN

Airports managed by *Aeropuertos Nacionales* operating pursuant to the *Real Decreto 278/1982 de 15 de octubre de 1982*.

FRANCE

Aéroports de Paris operating pursuant to *titre V, articles L 251-1 à 252-1 du code de l'aviation civile*.

Aéroport de Bâle — Mulhouse, set up pursuant to the *convention franco-suisse du 4 juillet 1949*.

Airports as defined in *article L 270-1, code de l'aviation civile*.

Airports operating pursuant to the *cahier de charges type d'une concession d'aéroport, décret du 6 mai 1955*.

Airports operating on the basis of a *convention d'exploitation* pursuant to *article L/221, code de l'aviation civile*.

IRELAND

Airports of *Dublin, Cork and Shannon* managed by *Aer Rianta — Irish Airports*.

Airports operating on the basis of a *Public use License* granted, pursuant to the *Air Navigation and Transport Act No 23 1936*, the *Transport Fuel and Power Transfer of Departmental, Administration and Ministerial Functions Order 1959 (SI No 125 of 1959)* and the *Air Navigation (Aerodromes and Visual Ground Aids) Order 1970 (SI No 291 of 1970)*.

ITALY

Civil Stat. airports (*aerodromi civili istituiti dallo Stato* referred to in Article 692 of the *Codice della navigazione*, *Regio Decreto 30 marzo 1942, n. 327*.

Entities operating airport facilities on the basis of a concession granted pursuant to Article 694 of the *Codice della navigazione*, *Regio Decreto 30 marzo 1942, n. 327*.

LUXEMBOURG

Aéroport de Findel.

NETHERLANDS

Airports operating pursuant to Articles 18 and following of the *Luchtvaartwet* of 15 January 1958, amended on 7 June 1978.

PORTUGAL

Airports managed by *Aeroportos de Navegação Aérea (ANA)*, EP pursuant to *Decreto-Lei nº 246/79*.

Aeroporto do Funchal and *Aeroporto de Porto Santo*, regionalized pursuant to the *Decreto-Lei nº 284/81*.

UNITED KINGDOM

Airports managed by *British Airports Authority plc*.

Airports which are *public limited companies (plc)* pursuant to the *Airports Act 1986*.

ANNEX IX

CONTRACTING ENTITIES IN THE FIELD OF MARITIME OR INLAND PORT OR OTHER
TERMINAL FACILITIES

BELGIUM

Société anonyme du canal et des installations maritimes de Bruxelles.

Port autonome de Liège.

Port autonome de Namur.

Port autonome de Charleroi.

Port de la ville de Gand.

La Compagnie des installations maritimes de Bruges — Maatschappij der Brugse haveninrichtingen.

Société intercommunale de la rive gauche de l'Escaut — Intercommunale maatschappij van de linker Scheldeoever (Port d'Anvers).

Port de Nieuwport.

Port d'Ostende.

DENMARK

Ports as defined in Article 1, I to III of the *bekendtgørelse nr. 604 af 16. december 1985 om hvilke havne der er omfattet af lov om trafikhavne, jf. lov nr. 239 af 12. maj 1976 om trafikhavne.*

GERMANY

Seaports owned totally or partially by territorial authorities (*Länder, Kreise, Gemeinden*).

Inland ports subject to the *Hafenordnung* pursuant to the *Wassergesetze der Länder*.

GREECE

Piraeus port (*Οργανισμός Λιμένος Πειραιώς*) set up pursuant to Emergency Law 1559/1950 and Law 1630/1951.

Thessaloniki port (*Οργανισμός Λιμένος Θεσσαλονίκης*) set up pursuant to decree N.A. 2251/1953.

Other ports governed by presidential decree 649/1977 (N.A. 649/1977) *Εποπτεία, οργάνωση λειτουργίας, διοικητικός έλεγχος λιμένων*. (supervision, organization of functioning and administrative control).

SPAIN

Puerto de Huelva set up pursuant to the *Decreto de 2 de octubre de 1969, nº 2380/69. Puertos y Faros. Otorga Régimen de Estatuto de Autonomía al Puerto de Huelva.*

Puerto de Barcelona set up pursuant to the *Decreto de 25 de agosto de 1978, nº 2407/78, Puertos y Faros. Otorga al de Barcelona Régimen de Estatuto de Autonomía.*

Puerto de Bilbao set up pursuant to the *Decreto de 25 de agosto de 1978, nº 2048/78. Puertos y Faros. Otorga al de Bilbao Régimen de Estatuto de Autonomía.*

Puerto de Valencia set up pursuant to the *Decreto de 25 de agosto de 1978, nº 2409/78. Puertos y Faros. Otorga al de Valencia Régimen de Estatuto de Autonomía.*

Juntas de Puertos operating pursuant to the *Lei 27/68 de 20 de junio de 1968; Puertos y Faros. Juntas de Puertos y Estatutos de Autonomía* and to the *Decreto de 9 de abril de 1970, nº 1350/70. Juntas de Puertos. Reglamento.*

Ports managed by the *Comisión Administrativa de Grupos de Puertos*, operating pursuant to the *Ley 27/68 de 20 de junio de 1968, Decreto 1958/78 de 23 de junio de 1978 and Decreto 571/81 de 6 de mayo de 1981.*

Ports listed in the *Real Decreto 989/82 de 14 de mayo de 1982. Puertos. Clasificación de los de interés general.*

FRANCE

Port autonome de Paris set up pursuant to *loi 68/917 du 24 octobre 1968 relative au port autonome de Paris*.

Port autonome de Strasbourg set up pursuant to the *convention du 20 mai 1923 entre l'État et la ville de Strasbourg relative à la constitution du port rhénan de Strasbourg et à l'exécution de travaux d'extension de ce port*, approved by the *loi du 26 avril 1924*.

Other inland waterway ports set up or managed pursuant to *article 6 (navigation intérieure)* of the *décret 69-140 du 6 février 1969 relatif aux concessions d'outillage public dans les ports maritimes*.

Ports autonomes operating pursuant to *articles L 111-1 et suivants* of the *code des ports maritimes*.

Ports non autonomes operating pursuant to *articles R 121-1 et suivants* of the *code des ports maritimes*.

Ports managed by regional authorities (*départements*) or operating pursuant to a concession granted by the regional authorities (*départements*) pursuant to *article 6* of the *loi 86-663 du 22 juillet 1983 complétant la loi 83-8 du 7 janvier 1983 relative à la répartition de compétences entre les communes, départements et l'État*.

IRELAND

Ports operating pursuant to the *Harbour Acts 1946 to 1976*.

Port of *Dun Laoghaire* operating pursuant to the *State Harbours Act 1924*.

Port of *Rosslare Harbour* operating pursuant to the *Finguard and Rosslare Railways and Harbours Act 1899*.

ITALY

State ports and other ports managed by the *Capitaneria di Porto* pursuant to the *Codice della navigazione, Regio Decreto 30 marzo 1942, n. 32*.

Autonomous ports (*enti portuali*) set up by special laws pursuant to *Article 19* of the *Codice della navigazione, Regio Decreto 30 marzo 1942, n. 327*.

LUXEMBOURG

Port de Mertert set up and operating pursuant to *loi du 22 juillet 1963 relative à l'aménagement et à l'exploitation d'un port fluvial sur la Moselle*.

NETHERLANDS

Havenbedrijven, set up and operating pursuant to the *Gemeentewet van 29 juni 1851*.

Havenschap Vlissingen, set up by the *wet van 10 september 1970 houdende een gemeenschappelijke regeling tot oprichting van het Havenschap Vlissingen*.

Havenschap Terneuzen, set up by the *wet van 8 april 1970 houdende een gemeenschappelijke regeling tot oprichting van het Havenschap Terneuzen*.

Havenschap Delfzijl, set up by the *wet van 31 juli 1957 houdende een gemeenschappelijke regeling tot oprichting van het Havenschap Delfzijl*.

Industrie- en havenschap Moerdijk, set up by *gemeenschappelijke regeling tot oprichting van het Industrie- en havenschap Moerdijk van 23 oktober 1970*, approved by *Koninklijke Besluit nr. 23 van 4 maart 1972*.

PORTUGAL

Porto do Lisboa set up pursuant to *Decreto Real do 18 de Fevereiro de 1907* and operating pursuant to *Decreto-Lei nº 36976 de 20 de Julho de 1948*.

Porto do Douro e Leixões set up pursuant to *Decreto-Lei nº 36977 de 20 de Julho de 1948*.

Porto de Sines set up pursuant to *Decreto-Lei nº 508/77 de 14 de Dezembro de 1977*.

Portos de Setúbal, Aveiro, Figueira de Foz, Viana do Castelo, Portimão e Faro operating pursuant to the *Decreto-Lei nº 37754 de 18 de Fevereiro de 1950*.

UNITED KINGDOM

Harbour Authorities within the meaning of *Section 57 of the Harbours Act 1964* providing port facilities to carriers by sea or inland waterway.

ANNEX X

OPERATION OF TELECOMMUNICATIONS NETWORKS OR PROVISION
OF TELECOMMUNICATIONS SERVICES

BELGIUM

Régie des télégraphes et des téléphones/Regie van Telegrafie en Telefonie.

DENMARK

Kjøbenhavns Telefon Aktieselskab.

Jydsk Telefon.

Fyns Telefon.

Statens Teletjeneste.

Tele Sønderjylland.

GERMANY

Deutsche Bundespost — Telekom.

Mannesmann — Mobilfunk GmbH.

GREECE

OTE/Hellenic Telecommunications Organization.

SPAIN

Compañía Telefónica Nacional de España.

FRANCE

Direction générale des télécommunications.

Transpac.

Telecom service mobile.

Société française de radiotéléphone.

IRELAND

Telecom Éireann.

ITALY

Amministrazione delle poste e delle telecomunicazioni.

Azienda di stato per i servizi telefonici.

Società italiana per l'esercizio telefonico SpA.

Italcable.

Telespazio SpA.

LUXEMBOURG

Administration des postes et télécommunications.

NETHERLANDS

Koninklijke PTT Nederland NV and subsidiaries ⁽¹⁾.

⁽¹⁾ Except PTT Post BV.

PORTUGAL

Telefones de Lisboa e Porto, SA.

Companhia Portuguesa Rádio Marconi.

Correios e Telecomunicações de Portugal.

UNITED KINGDOM

British Telecommunications plc.

Mercury Communications Ltd.

City of Kingston upon Hull.

Racal Vodafone.

Telecoms Securicor Cellular Radio Ltd (Cellnet).

ANNEX XI

LIST OF PROFESSIONAL ACTIVITIES AS SET OUT IN THE GENERAL INDUSTRIAL
CLASSIFICATION OF ECONOMIC ACTIVITIES WITHIN THE EUROPEAN COMMUNITIES

Classes	Groups	Subgroups and items	Description
50			BUILDING AND CIVIL ENGINEERING
	500		General building and civil engineering work (without any particular specification) and demolition work
		500.1	General building and civil engineering work (without any particular specification)
		500.2	Demolition work
	501		Construction of flats, office blocks, hospitals and other buildings, both residential and non-residential
		501.1	General building contractors
		501.2	Roofings
		501.3	Construction of chimneys, kilns and furnaces
		501.4	Water-proofing and damp-proofing
		501.5	Restoration and maintenance of outside walls (repointing, cleaning, etc.)
		501.6	Erection and dismantlement of scaffolding
		501.7	Other specialized activities relating to construction work (including carpentry)
	502		Civil engineering: construction of roads, bridges, railways, etc.
		502.1	General civil engineering work
		502.2	Earth-moving (navvying)
		502.3	Construction of bridges, tunnels and shafts; drillings
		502.4	Hydraulic engineering (rivers, canals, harbours, flows, lochs and dams)
		502.5	Road-building (including specialized construction of airports and runways)
		502.6	Specialized construction work relating to water (i.e. to irrigation land drainage, water supply, sewage disposal, sewerage, etc.)
		502.7	Specialized activities in other areas of civil engineering
	503		Installation (fittings and fixtures)
		503.1	General installation work
		503.2	Gas fitting and plumbing, and the installation of sanitary equipment
		503.3	Installation of heating and ventilating apparatus (central heating, air-conditioning, ventilation)
		503.4	Sound and heat insulation; insulation against vibration
		503.5	Electrical fittings
		503.6	Installation of aerials, lightning conductors, telephones, etc.
	504		Building completion work
		504.1	General building completion work
		504.2	Plastering
		504.3	Joinery, primarily engaged in the after assembly and/or installation (including the laying of parquet flooring)
		504.4	Painting, glazing and paper-hanging
		504.5	Tiling and otherwise covering floors and walls
		504.6	Other building completion work (putting in fireplaces, etc.)

ANNEX XII

A. OPEN PROCEDURES

1. Name, address, telephone number, telegraphic address, telex and telecopier number of the contracting entity.
2. Nature of the contract (supply, works or service, where appropriate, state if it is a framework agreement).
Category of service within the sense of Annex XVI A or XVI B and description (CPC classification).
3. Place of delivery, site or place of performance of service.
4. For supplies and works:
 - (a) nature and quantity of the goods to be supplied;
or
nature and extent of the services to be provided and general nature of the work;
 - (b) indication of whether the suppliers can tender for some and/or all the goods required. If, for works contracts, the work or the contract is subdivided into several lots, the order of size of the different lots and the possibility of tendering for one, for several or for all the lots;
 - (c) for works contracts:
Information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects.
5. For services:
 - (a) indication whether the execution of the service is by law, regulation, or administrative provision reserved to a particular profession;
 - (b) reference of the law, regulation or administrative provision;
 - (c) indication whether legal persons should indicate the names and professional qualification of the staff to be responsible for the execution of the services;
 - (d) indication whether suppliers can tender for a part of the services concerned.
6. Authorization to submit variants.
7. Derogation from the use of European specifications, in accordance with Article 13 (6).
8. Time limits for delivery or completion or duration of service contract.
9. (a) Address from which the contract documents and additional documents may be requested.
(b) Where appropriate, the amount and terms of payment of the sum to be paid to obtain such documents.
10. (a) Final date for receipt of tenders.
(b) Address to which they must be sent.
(c) Language or languages in which they must be drawn up.
11. (a) Where appropriate, the persons authorized to be present at the opening of tenders.
(b) Date, hour and place of such opening.
12. Where appropriate, any deposits and guarantees required.
13. Main terms concerning financing and payment and/or references to the provisions in which they are contained.
14. Where appropriate, the legal form to be taken by the grouping of suppliers, contractors or service providers to whom the contract is awarded.
15. Minimum economic and technical conditions required of the supplier, contractor or provider to whom the contract is awarded.

16. Period during which the tenderer is bound to keep open his tender.
17. Criteria for the award of the contract. Criteria other than that of the lowest price shall be mentioned where they do not appear in the contract documents.
18. Other information.
19. Where appropriate, the reference to publication of the periodic information notice in the *Official Journal of the European Communities* to which the contract refers.
20. Date of dispatch of the notice by the contracting entities.
21. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by the said Office).

B. RESTRICTED PROCEDURES

1. Name, address, telephone number, telegraphic address, telex and telecopier number of the contracting entity.
2. Nature of the contract (supply, works or service, where appropriate, state if it is a framework agreement).
Category of service within the sense of annex XVI A or XVI B and description (CPC classification).
3. Place of delivery, site or place of performance of service.
4. For supplies and works:
 - (a) nature and quantity of the goods to be supplied;
or
nature and extent of the services to be provided and general nature of the work;
 - (b) indication of whether the suppliers can tender for some and/or all the goods required. If, for works contracts, the work or the contract is subdivided into several lots, the order of size of the different lots and possibility of tendering for one, for several or for all the lots;
 - (c) for works contracts:
information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects.
5. For services:
 - (a) indication whether the execution of the service is by law, regulation, or administrative provision reserved to a particular profession;
 - (b) reference of the law, regulation or administrative provision;
 - (c) indication whether legal persons should indicate the names and professional qualification of the staff to be responsible for the execution of the services;
 - (d) indication whether suppliers can tender for a part of the services concerned;
6. Authorization to submit variants.
7. Derogation from the use of European specifications, in accordance with Article 18 (6).
8. Time limits for delivery or completion or duration of service contract.
9. Where appropriate, the legal form to be taken by the grouping of suppliers, contractors or providers to whom the contract is awarded.
10. (a) Final date for receipt of requests to participate.
(b) Address to which they must be sent.
(c) Language or languages in which they must be drawn up.
11. Final date for dispatch of invitations to tender.
12. Where appropriate, any deposits and guarantees required.
13. Main terms concerning financing and payment and/or references to the texts in which these are contained.
14. Information concerning the supplier's, contractor's or provider's position and minimum economic and technical conditions required of him.
15. Criteria for the award of the contract where they are not mentioned in the invitation to tender.
16. Other information.
17. Where appropriate, the reference to publication of the periodic information notice in the *Official Journal of the European Communities* to which the contract refers.
18. Date of dispatch of the notice by the contacting entities.
19. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by the said Office).

C. NEGOTIATED PROCEDURES

1. Name, address, telephone number, telegraphic address, telex and telecopier number of the contracting entity
2. Nature of the contract (supply, works or service, where appropriate, state if it is a framework agreement).
Category of service within the sense of Annex XVI A or XVI B and description (CPC classification).
3. Place of delivery, site or place of performance of service.
4. For supplies and works:
 - (a) nature and quantity of the goods to be supplied;
or
nature and extent of the services to be provided and general nature of the work;
 - (b) indication of whether the suppliers can tender for some and/or all the goods required. If, for works contracts, the work or the contract is subdivided into several lots, the order of size of the different lots and the possibility of tendering for one, for several or for all the lots;
 - (c) for works contracts:
Information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects.
5. For services:
 - (a) indication whether the execution of the service is by law, regulation, or administrative provision reserved to a particular profession;
 - (b) reference of the law, regulation or administrative provision;
 - (c) indication whether legal persons should indicate the names and professional qualification of the staff to be responsible for the execution of the services;
 - (d) indication whether suppliers can tender for a part of the services concerned.
6. Derogation from the use of European specifications, in accordance with Article 18 (6).
7. Time limits for delivery or completion or duration of service contract.
8. (a) Final date for receipt of tenders.
(b) Address to which they must be sent.
(c) Language or languages in which they must be drawn up.
9. Where appropriate, any deposits and guarantees required.
10. Main terms concerning financing and payment and/or references to the texts in which these are contained.
11. Where appropriate, the legal form to be taken by the grouping of suppliers, contractors or providers to whom the contract is awarded.
12. Information concerning the supplier's, contractor's or provider's position and minimum economic and technical conditions required of him.
13. Where appropriate, the names and addresses of suppliers, contractors or providers already selected by the contracting entity.
14. Where applicable, date(s) of previous publications in the *Official Journal of the European Communities*.
15. Other information.
16. Where appropriate, the reference to publication of the periodic information notice in the *Official Journal of the European Communities* to which the contract refers.
17. Date of dispatch of the notice by the contracting entities.
18. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by the said Office).

*ANNEX XIII***NOTICE ON THE EXISTENCE OF A QUALIFICATION SYSTEM**

1. Name, address, telephone number, telegraphic address, telex and telecopier number of the contracting entity.
 2. Purpose of the qualification system.
 3. Address where the rules concerning the qualification system can be obtained (if different from the address mentioned under 1).
 4. Where applicable, duration of the qualification system.
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ANNEX XIV

PERIODIC INFORMATION NOTICE

A. *For supply contracts*

1. Name, address, telephone number, telegraphic address, telex and telecopier number of the contracting entity or the service from which additional information may be obtained.
2. Nature and quantity or value of the services or products to be supplied.
3. (a) Estimated date of the commencement of the procedures of the award of the contract(s) (if known).
(b) Type of award procedure to be used.
4. Other information (for example, indicate if a call for competition will be published later).
5. Date of dispatch of the notice by the contracting entities.
6. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by the said Office).

B. *For works contracts*

1. Name, address, telegraphic address, telephone, telex and telecopier number of the contracting entity.
2. (a) Site.
(b) Nature and extent of the services to be provided, the main characteristics of the work or of the lots by reference to the work.
(c) An estimate of the cost of the service to be provided.
3. (a) Type of award procedure to be used.
(b) Date scheduled for initiating the award procedures in respect of the contract or contracts.
(c) Date scheduled for the start of the work.
(d) Planned timetable for completion of the work.
4. Terms of financing of the work and of price revision.
5. Other information (for example, indicate if a call for competition will be published later).
6. Date of dispatch of the notice by the contracting entities.
7. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by the said Office).

C. *For service contracts*

1. Name, address, telephone number, telegraphic address, telex and telecopier number of the contracting entity or the service from which additional information may be obtained.
2. Intended total procurement in each of the service categories listed in Annex XVI A.
3. (a) Estimated date of the commencement of the procedures of the award of the contract(s) (if known).
(b) Type of award procedure to be used.
4. Other information (for example, indicate if a call for competition will be published later).
5. Date of dispatch of the notice by the contracting entities.
6. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by the said Office).

ANNEX XV

NOTICE ON CONTRACTS AWARDED

I. Information for publication in the *Official Journal of the European Communities*

1. Name and address of the contracting entity.
2. Nature of the contract (supplies, works or services; where appropriate state if it is a framework agreement).
3. At least a summary indication of the nature of the products, works or services provided.
4. (a) Form of the call for competition (notice on the existence of a qualification procedure; periodic information notice; call for tenders).
(b) Reference of publication of the notice in the *Official Journal of the European Communities*.
(c) In the case of contracts awarded without a prior call for competition, indication of the relevant provision of Article 20 (2), or Article 16.
5. Award procedure (open, restricted or negotiated).
6. Number of tenders received.
7. Date of award of the contract.
8. Price paid for bargain purchases pursuant to Article 20 (2) (j).
9. Name and address of successful supplier(s), contractor(s) or service provider(s).
10. State, where appropriate, whether the contract has been, or may be, subcontracted.
11. Optional information:
 - value and share of the contract which may be subcontracted to third parties,
 - award criteria,
 - price paid (or range of prices).

II. Information not intended for publication

12. Number of contracts awarded (where an award has been split between more than one supplier).
13. Value of each contract awarded.
14. Country of origin of the product or service (EEC origin or non-Community origin; if the latter, broken down by third country).
15. Was recourse made to the exceptions to the use of European specifications provided for under Article 18 (6). If so, which?
16. Which award criteria was used (most economically advantageous; lowest price; criteria permitted pursuant to Article 35)?
17. Was the contract awarded to a bidder who submitted a variant, in accordance with Article 34 (3)?
18. Were any tenders excluded on the grounds that they were abnormally low, in accordance with Article 34 (5)?
19. Date of transmission of the notice by the contracting entities.
20. In the case of contracts for services listed in Annex XVI B, agreement by the contracting entity to publication of the notice (Article 24 (3)).

ANNEX XVI A

SERVICES IN THE SENSE OF ARTICLE 15

Category	Subject	CPC reference No
1	Maintenance and repair services	6112, 6122, 633, 886
2	Land transport services ⁽¹⁾ , including armoured car services, and courier services, except transport of mail	712 (except 71235), 7512, 87304
3	Air transport services of passengers and freight, except transport of mail	73 (except 7321)
4	Transport of mail by land ⁽¹⁾ and by air	71235, 7321
5	Telecommunications services ⁽²⁾	752
6	Financial services (a) Insurance services (b) Banking and investment services ⁽³⁾	ex 81 812, 814
7	Computer and related services	84
8	R&D services ⁽⁴⁾	85
9	Accounting, auditing and book-keeping services	862
10	Market research and public opinion polling services	864
11	Management consulting services ⁽⁵⁾ and related services	865, 866
12	Architectural services; Engineering services and integrated engineering services; Urban planning and landscape architectural services; Related scientific and technical consulting services; Technical testing and analysis services	867
13	Advertising services	871
14	Building-cleaning services and property management services	874 82201, 82206
15	Publishing and printing services on a fee or contract basis	88442
16	Sewage and refuse disposal services; sanitation and similar services	94

⁽¹⁾ Except for rail transport services covered by category 18.

⁽²⁾ Except voice telephony, telex, radiotelephony, paging and satellite services.

⁽³⁾ Except contracts for the issue, sale, purchase or transfer of securities or other financial instruments, and central bank services.

⁽⁴⁾ Except research and development service contracts other than those where the benefits accrue exclusively to the contracting entity for its use in the conduct of its own affairs on condition that the service provided is wholly remunerated by the contracting entity.

⁽⁵⁾ Except arbitration and conciliation services.

ANNEX XVI B

SERVICES IN THE SENSE OF ARTICLE 16

Category	Subject	CPC reference No
17	Hotel and restaurant services	64
18	Transport services by rail	711
19	Water transport services	72
20	Supporting and auxiliary transport services	74
21	Legal services	861
22	Personnel placement and supply services	872
23	Investigation and security services (except armoured car services)	873 (except 87304)
24	Education and vocational education services	92
25	Health and social services	93
26	Recreational, cultural and sporting services	96
27	Other services	

ANNEX XVII

DESIGN CONTEST NOTICES

1. Name, address, telegraphic address, telephone, telex and fax numbers of the contracting entity and of the service from which the relevant documents may be obtained.
 2. Project description.
 3. Nature of the contest: open or restricted.
 4. In the case of open contests: final date for receipt of projects.
 5. In the case of restricted contests:
 - (a) the envisaged number of participants, or range;
 - (b) where applicable, names of already selected participants;
 - (c) the criteria to be applied in the selection of participants;
 - (d) final date for receipt of requests to participate.
 6. Where applicable, indication whether participation is reserved to a particular profession.
 7. Criteria to be applied in the evaluation of projects.
 8. Where applicable, names of selected members of the jury.
 9. Indication whether the decision of the jury is binding for the authority.
 10. Where applicable, the number and value of the prizes to be awarded.
 11. Where applicable, details on payments to all participants.
 12. Indication whether the prizewinners are entitled to be awarded any follow-up contracts.
 13. Other information.
 14. Date of dispatch of the notice.
 15. Date of receipt of the notice by the Office for Official Publications of the European Communities.
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ANNEX XVIII

RESULTS OF DESIGN CONTESTS

1. Name, address, telegraphic address, telephone, telex and fax numbers of the contracting entity.
 2. Project description.
 3. Total number of participants.
 4. Number of foreign participants.
 5. Winner(s) of the contest.
 6. Where applicable, the prize(s).
 7. Other information.
 8. Reference of the design contest notice.
 9. Date of dispatch of the notice.
 10. Date of receipt of the notice by the Office for Official Publications of the European Communities.
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