

ANNEX XIV

REFERRED TO IN ARTICLE 48

GENERAL NOTES

**APPENDIX 1: PUBLIC WORKS
CONCESSIONS**

**APPENDIX 2: MEANS OF
PUBLICATION**

APPENDIX 3: TIME LIMITS

**APPENDIX 4: VALUE OF
THRESHOLDS**

**APPENDIX 5: PUBLICATION OF
NOTICES**

APPENDIX 1

PUBLIC WORKS CONCESSIONS

Rules applicable to public works concessions

1. The provisions on national treatment and non-discrimination apply to the entities covered by Chapter V, when awarding contracts on public works concessions, as defined in Article 49 of this Agreement. In that case, entities shall publish a notice according to Article 58 of this Agreement.
2. Advertising shall not, however, be required when a contract on public works concession satisfies the conditions listed in Article 56 of this Agreement.
3. Beyond the provisions mentioned in paragraph 1, the Parties' domestic legislation on concessions shall apply.
4. Public works concessions are covered by the entities of Iceland, Liechtenstein and Norway of Appendices 1.B, 2.B and 3.B of Annex XIII and by the entities of Chile of Appendices 1.A, 2.A and 3.A of Annex XIII.

Declaration by Switzerland

For public works concessions, Switzerland shall grant Chile a treatment no less favourable than that accorded to any third party following new obligations taken by Switzerland at the international level in the area of government procurement.

APPENDIX 2

REFERRED TO IN ARTICLE 53

MEANS OF PUBLICATION

PART A: CHILE

Diario Oficial de la República de Chile

<http://www.chilecompra.cl>

PART B: EFTA STATES

a. Iceland

Legislation: Stjórnartíðindi (The Government Gazette)

Jurisprudence: Hæstaréttardómar (Supreme Court Report)

Notices of procurement: Morgunbladid, Dagbladid, Dagur (Newspapers); Official Journal of European Communities

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

b. Liechtenstein

Legislation: Landesgesetzblatt

Jurisprudence: Liechtensteinische Entscheidsammlung

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

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

c. Norway

Legislation and Jurisprudence: Norsk Lovtidend (Norwegian Law Gazette)

Notices of procurement: Norsk lysingsblad (Norwegian Official Journal)

<http://www.norsk.lysingsblad.no/offentlig/index2.html>

d. Switzerland

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

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

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

<http://www.shab.ch>

APPENDIX 3

REFERRED TO IN ARTICLE 61

TIME LIMITS

General minimum time limit

1. Except in so far as provided in paragraphs 2 and 3, entities shall provide no less than 40 days between the date on which the notice of intended procurement is published and the final date for the submission of tenders.

Time limits when using the selective tendering procedure

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

Possibilities for reducing the general time limits

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

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

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

- (f) when an entity publishes a notice of intended procurement in accordance with Article 58 of this Agreement in an electronic media listed in Appendix 2 of this Annex and the complete tender documentation is made available electronically since the beginning of the publication of the notice.
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APPENDIX 4

VALUE OF THRESHOLDS

1. Chile shall calculate and convert the value of its thresholds into pesos using the conversion rate of the Banco Central de Chile. Its conversion rate shall be the existing value of the Chilean peso in terms of the US dollar as of 1 December and 1 June of each year, or the first working day thereafter. The conversion rate as of 1 December shall apply from 1 January to 30 June of the following year, and the conversion rate as of 1 June shall apply from 1 July to 31 December of that year.
2. The EFTA States shall calculate and convert the value of the thresholds into their own national currencies using the conversion rates of their respective National Banks. The conversion rates will be the average of the daily values of the respective national currency in terms of the SDR¹ over the two-year period preceding 1 October or 1 November of the year prior to the thresholds becoming effective. The conversion rate shall apply from 1 January of the following year.
3. Chile and the EFTA States shall notify each other of the value, in their respective currencies, of the newly calculated thresholds no later than one month before the respective thresholds take effect.

¹ Special Drawing Rights

APPENDIX 5

PUBLICATION OF NOTICES

Notice of planned procurement

1. Each Party may encourage its entities to publish, as early as possible, in each fiscal year, a notice of planned procurement containing information regarding entities' future procurement plans. Such notice should include the subject matter of the procurement and the planned date of the publication of the notice of intended procurement.
2. Entities operating in the utilities sector may use a notice of planned procurement as a notice of intended procurement, under the condition that such notice contains as much of the information referred to in Article 58(3) of this Agreement as is available, and that it explicitly invites interested suppliers to express their interest in the procurement to the entity.
3. Entities having used a notice of planned procurement as a notice of intended procurement shall subsequently communicate to all suppliers, who have expressed an initial interest, further information that shall include, at least, the information referred to in Article 58(3) of this Agreement and ask them to confirm their interest on that basis.

Notice regarding permanent lists of qualified suppliers

4. Entities which intend to maintain permanent lists shall, consistently with Article 58(2) of this Agreement, publish a notice which shall identify the entity, and indicate the purpose of the permanent list and the availability of the rules concerning its operation, including criteria for qualification and disqualification, as well as its duration.
 5. Where the permanent list is of a duration greater than three years, the notice shall be published annually.
 6. Entities operating in the utilities sector may use a notice on the existence of permanent lists of qualified suppliers as a notice of intended procurement. In that case, they shall provide, in a timely manner, information which allows all those who have expressed an interest to assess their interest in participating in the procurement. This information shall include the information contained in the notice referred to in Article 58(3) of this Agreement, to the extent that such information is available. Information provided to one interested supplier shall be provided in a non-discriminatory manner to the other interested suppliers.
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