

APPENDIX 2

TO ANNEX XXI (GOVERNMENT PROCUREMENT)

**MARKET ACCESS COMMITMENTS BEYOND THE GPA**

For the purposes of this Appendix, “CPC” means the Provisional Central Product Classification (Statistical Papers, Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

## PART A: UNITED KINGDOM

In accordance with Article 6.1 (Scope and Coverage), of Chapter 6 (Government Procurement), that Chapter applies, in addition to the procurement covered by Article II of the GPA, to the procurement covered by this Appendix.

The Notes in Annexes 1 to 7 of the United Kingdom's Appendix I to the GPA also apply to the procurement covered by this Appendix, unless otherwise provided for in this Appendix.

Procurement covered by this Appendix

### 1. Additional procuring entities

Procurement of goods and services as set out in Annexes 4 to 6 of the United Kingdom's Appendix I to the GPA, and in paragraph 2 (Additional Services) of this Part A, by the following procuring entities:

- (a) all contracting entities whose procurement is covered by the Utilities Contracts Regulation 2016 and the Utilities Contracts (Scotland) Regulations 2016 which are contracting authorities (e.g. those covered under Annex 1 and Annex 2 to Appendix I to the GPA) or public undertakings (see Notes to paragraph 1 (Additional procuring entities)) and which have as one of their activities
  - (i) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of gas or heat or the supply of gas or heat to such networks; or
  - (ii) any combination between such activity and those referred to in Annex 3 to Appendix 1 to the GPA;
- (b) privately-owned procuring entities that have as one of their activities any of those referred to in subparagraph (a) of this paragraph, in paragraph 1 of Annex 3 to Appendix I to the GPA, or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority of the United Kingdom;

with regard to procurement equal to or above the following thresholds:

- 400,000 SDR for procurement of goods and services; and
- 5,000,000 SDR for procurement of construction services (CPC 51).

Notes to paragraph 1:

- (a) According to the Utilities Contracts Regulations 2016, a "public undertaking" means any undertaking over which contracting

authorities may exercise directly or indirectly a dominant influence by virtue of:

- (i) their ownership of that undertaking;
  - (ii) their financial participation in that undertaking; or
  - (iii) the rules which govern that undertaking.
- (b) According to the Utilities Contracts (Scotland) Regulations 2016, a “public undertaking” means a person over which one or more contracting authorities are able to exercise, directly or indirectly, a dominant influence by virtue of one or more of the following:
- (i) their ownership of that person;
  - (ii) their financial participation in that person; or
  - (iii) the rights accorded to them by the rules which govern that person.
- (c) According to both the Utilities Contracts Regulations 2016 and the Utilities Contracts (Scotland) Regulations 2016, a dominant influence on the part of contracting authorities is presumed in any of the following cases in which those authorities, directly or indirectly:
- (i) hold the majority of the undertaking’s subscribed capital;
  - (ii) control the majority of the votes attaching to shares issued by the undertaking; or
  - (iii) can appoint more than half of the undertaking’s administrative, management or supervisory body.
- (d) “Special or exclusive rights” are as defined in regulation 5 of the Utilities Contracts Regulations 2016 and regulation 4 of the Utilities Contracts (Scotland) Regulations 2016.
- (e) The supply of gas or heat to networks which provide a service to the public by a procuring entity other than a contracting authority shall not be considered as an activity within the meaning of this Appendix where:
- (i) the production of gas or heat by that contracting entity is the unavoidable consequence of carrying out an activity other than those referred to in paragraphs (a) to (e) of United Kingdom’s Appendix I to the GPA; and
  - (ii) the 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 on the basis of the average for the preceding three years, including the current year.

## **2. Additional services**

Procurement of the following services, in addition to the services listed under Annex 5 of the United Kingdom's Appendix I to the GPA, for entities covered under Annexes 1 to 3 of the United Kingdom's Appendix I to the GPA or under paragraph 1 (Additional procuring entities) of this Part A:

- Hotel and other lodging services (CPC 641);
- Food serving services (CPC 642);
- Beverage serving services (CPC 643);
- Postal and courier Services (CPC 751);
- Telecommunication related services (CPC 754);
- Real estate services on a fee or contract basis (CPC 8220);
- Legal services (CPC 861) (see subparagraph (b) in Notes to this paragraph);
- Taxation Services (CPC 863);
- Investigation and security services (CPC 873);
- Photographic services (CPC 875);
- Other business services (CPC 879);
- Services incidental to mining (CPC 883);
- Services incidental to the manufacture of metal products, machinery and equipment (CPC 885);
- Repair services incidental to metal products, machinery and equipment (CPC 886);
- Services incidental to energy distribution (CPC 887);
- Administrative services of the government (CPC 9127,91136);
- Education services (CPC 92); and
- Recreational, cultural and sporting services (CPC 96 except 9611, 9613).

Notes to paragraph 2:

- (a) Hotel and other lodging services (CPC 641), food serving services (CPC 642), beverage serving services (CPC 643), postal and courier services (CPC 751), legal services (CPC 861), investigation and security services (CPC 873), administrative services of the government (CPC 9127, 91136), education services (CPC 92), and recreational, cultural and sporting services (CPC 96311 to 96332, and 96411 to 96419) contracts are included under the national treatment regime for the suppliers, including service providers, of Iceland, Liechtenstein and Norway provided that their value equals or exceeds GBP 663,540 when they are awarded by procuring entities covered under Annexes 1 and 2 of the United Kingdom to Appendix I to the GPA and that their value equals or exceeds GBP 884,720 when they are awarded by procuring entities covered under Annex 3 of the United Kingdom to Appendix I to the GPA or by procuring entities covered by paragraph 1 (Additional procuring entities) of this Part A.
- (b) The following legal services (CPC 861) are not covered:
  - (i) legal representation of a client by a lawyer in:
    - (aa) an arbitration or conciliation held in the United Kingdom, another country or before an international arbitration or conciliation instance; or
    - (ab) judicial proceedings before the courts, tribunals or public authorities of the United Kingdom, another country or before international courts, tribunals or institutions;
  - (ii) legal advice given
    - (aa) in preparation of any of the proceedings referred to in subparagraph (a); or
    - (ab) where there is a tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings,

provided that the advice is given by a lawyer;
  - (iii) document certification and authentication services which must be provided by notaries;
  - (iv) legal services provided by trustees or appointed guardians or other legal services the providers of which are designated by a court or tribunal in the United Kingdom or are designated by law to carry out specific tasks under the supervision of such tribunals or courts; or

- (v) other legal services which in the United Kingdom are connected, even occasionally, with the exercise of official authority.
- (c) Procurement of any of the services covered under this paragraph by procuring entities covered under this Agreement is a covered procurement with regard to a particular Party's service provider only to the extent that such Party has covered that service under this Appendix (including that Party's coverage of services under Article II of the GPA).
- (d) Article 6.1 (Scope and Coverage), of Chapter 6 (Government Procurement) that Chapter and this Appendix do not cover procurement of the following services:
  - (i) Human health services (CPC 931);
  - (ii) Administrative healthcare services (CPC 91122); and
  - (iii) Supply services of nursing personnel and supply services of medical personnel (CPC 87206 and CPC 87209).

### **3. Concession contracts**

- (a) Services concessions contracts, when awarded by Annex 1 and 2 entities of the United Kingdom's Appendix I to the GPA, for the procurement of services as set out in Annex 5 of the United Kingdom's Appendix I to the GPA and in paragraph 2 (Additional services) of this Part A, are included under the national treatment regime for the suppliers, including service providers, of Iceland, Liechtenstein and Norway, provided that their value equals or exceeds 5,000,000 SDR.
- (b) For greater certainty, works concessions contracts are covered in and on the basis set out in Annex 6 of the United Kingdom's Appendix I to the GPA.

Notes to paragraph 3:

- (a) Paragraph 3 (Concession contracts) of this Part A applies to the extent procurement of services concessions contracts as described in paragraph 3 (Concession contracts) are covered under the Concession Contracts Regulations 2016 and the Concession Contracts (Scotland) Regulations 2016.

## **PART B: EEA EFTA STATES**

In accordance with Article 6.1 (Scope and Coverage) of Chapter 6 (Government Procurement) that Chapter applies, in addition to the procurement covered by Article II of the GPA, to the procurement covered by this Appendix.

The Notes in Annexes 1 to 7 of Iceland, Liechtenstein and Norway's Appendix I to the GPA also apply to the procurement covered by this Appendix, unless otherwise provided for in this Appendix.

### **A. ICELAND**

Procurement covered by this Appendix

#### **1. Additional procuring entities**

Procurement of goods and services as set out in Annexes 4 to 6 of Iceland to Appendix I to the GPA, and in paragraph 2 (Additional services) of this Section A of Part B, by the following procuring entities:

- (a) all contracting entities whose procurement is covered by the EU utilities directive which are contracting authorities (e.g. those covered under Annex 1 and Annex 2 to Appendix I to the GPA) or public undertakings and which have as one of their activities;
  - (i) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of gas or heat or the supply of gas or heat to such networks; or
  - (ii) any combination between such activity and those referred to in Annex 3 to Appendix I to the GPA; and
- (b) privately-owned procuring entities that have as one of their activities any of those referred to in subparagraph (a) of this paragraph, in subparagraph 1 of Annex 3 to Appendix I to the GPA, or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority of Iceland;

with regard to procurement equal to or above the following thresholds:

- 400,000 SDR for procurement of goods and services; and
- 5,000,000 SDR for procurement of construction services (CPC 51).

Notes to paragraph 1:

- (a) According to the EEA utilities directive, a public undertaking is any undertaking over which the contracting 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 contracting authorities shall be presumed when these authorities, directly or indirectly, in relation to an undertaking:

- (i) hold the majority of the undertaking's subscribed capital;
  - (ii) control the majority of the votes attaching to shares issued by the undertaking: or
  - (iii) can appoint more than half of the undertaking's administrative, management or supervisory body.
- (b) "Special and exclusive rights" are as defined in Article 4 of Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC.
- (c) The supply, by a procuring entity other than a contracting authority, of gas or heat to fixed networks which provide a service to the public shall not be considered to be a relevant activity within the meaning of this Appendix where all of the following conditions are met:
- (i) the production of gas or heat by that contracting entity is the unavoidable consequence of carrying out an activity other than those referred to in paragraphs (a) to (e) of Iceland's Appendix I to the GPA; and
  - (ii) the 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 on the basis of the average for the preceding three years, including the current year.

## **2. Additional services**

Procurement of the following services, in addition to the services listed under Annex 5 of Iceland's Appendix I to the GPA, for entities covered under Annexes 1 to 3 of Iceland's Appendix I to the GPA or under paragraph 1 (Additional procuring entities) of this Section A of Part B:

- Hotel and restaurant services (CPC 641);
- Food serving services (CPC 642);
- Beverage serving services (CPC 643);
- Postal and courier Services (CPC 751);



- Telecommunication related services (CPC 754);
- Real estate services on a fee or contract basis (CPC 8220);
- Legal services (CPC 861);
- Taxation services (CPC 863);
- Investigation and security services (CPC 873);
- Photographic services (CPC 875);
- Other business services (CPC 879);
- Services incidental to mining (CPC 883);
- Services incidental to the manufacture of metal products, machinery and equipment (CPC 885);
- Repair services incidental to metal products, machinery and equipment (CPC 886);
- Services incidental to energy distribution (CPC 887);
- Administrative services of the government (CPC 9127,91136);
- Education services (CPC 92); and
- Recreational, cultural and sporting services (CPC 96 (except 9611, 9613)).

Notes to paragraph 2:

- (a) Hotel and restaurant services (CPC 641), food serving services (CPC 642), beverage serving services (CPC 643), postal and courier services (CPC 751), legal services (CPC 861), investigation and security services (CPC 873), administrative services of the government (CPC 9127, 91136), education services (CPC 92) and recreational, cultural and sporting services (CPC 96) are included under the national treatment regime<sup>1</sup> for the suppliers, including service providers, of the United Kingdom, provided that their value equals or exceeds EUR 750,000 when they are awarded by procuring entities covered under Annexes 1 and 2 of Iceland's Appendix I to the GPA and that their value equals or exceeds EUR 1,000,000 when they are awarded by

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<sup>1</sup> For greater certainty, beyond the principle of non-discrimination, the domestic legislation of Iceland shall apply to the procurement of these services.

procuring entities covered under Annex 3 of Iceland's Appendix I to the GPA or by procuring entities covered by paragraph 1.<sup>2</sup>

- (b) The following legal services (CPC 861) are not covered:
- (i) legal representation of a client by a lawyer in:
    - (aa) an arbitration or conciliation held in Iceland, another country or before an international arbitration or conciliation instance; or
    - (ab) judicial proceedings before the courts, tribunals or public authorities of Iceland, another country or before international courts, tribunals or institutions;
  - (ii) legal advice given
    - (aa) in preparation of any of the proceedings referred to in subparagraph (a); or
    - (ab) where there is a tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings,

provided that the advice is given by a lawyer;
  - (iii) document certification and authentication services which must be provided by notaries;
  - (iv) legal services provided by trustees or appointed guardians or other legal services the providers of which are designated by a court or tribunal in Iceland or are designated by law to carry out specific tasks under the supervision of such tribunals or courts; or
  - (v) other legal services which in Iceland are connected, even occasionally, with the exercise of official authority.
- (c) Procurement of any of the services covered under this Appendix by procuring entities covered under this Agreement is a covered procurement with regard to a service provider of the United Kingdom only to the extent that the United Kingdom has covered that service under this Appendix (including the United Kingdom's coverage of services under Article II of the GPA).

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<sup>2</sup> For greater certainty, all services covered under paragraph 2 (Additional services) that are also covered under Title III (Particular Procurement Regimes) of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, are included under the national treatment regime of Iceland.

### **3. Concession contracts**

Works concessions for entities covered under Annexes 1 and 2 or Iceland's Appendix 1 to the GPA, are included under national treatment regime for the suppliers, including service providers, of the United Kingdom, provided their value exceeds 5.000.000 SDR. Service concessions contracts, for services covered under Annex 5 of Iceland's Appendix 1 to the GPA or under paragraph 2 (Additional services) of this Section A of Part B, for entities covered under Annex 1 and 2 of Iceland's Appendix 1 to the GPA are included under the national treatment regime for the suppliers, including service providers, of the United Kingdom, provided their value equals or exceeds 5.000.000 SDR.

Notes to paragraph 3:

- (a) “Works concessions” and “service concessions” are as defined in Article 5 in Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts.
- (b) For greater certainty, beyond the principle of non-discrimination, the domestic legislation of Iceland shall apply to the award of works and service concession contracts.

## **B. LIECHTENSTEIN**

Procurement covered by this Appendix

### **1. Additional procuring entities**

Procurement of goods and services as set out in Annexes 4 to 6 of Liechtenstein’s Appendix I to the GPA, and in paragraph 2 (Additional services) of this Section B of Part B, by the following procuring entities:

- (a) all contracting entities whose procurement is covered by the EEA utilities directive which are contracting authorities (e.g. those covered under Annex 1 and Annex 2 to Appendix I to the GPA) or public undertakings and which have as one of their activities
  - (i) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of gas or heat or the supply of gas or heat to such networks; or
  - (ii) any combination between such activity and those referred to in Annex 3 to Appendix I to the GPA; and
- (b) privately-owned procuring entities that have as one of their activities any of those referred to in subparagraph (a) of this paragraph, in subparagraph 1 of Annex 3 to Appendix I to the GPA, or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority of Liechtenstein;

with regard to procurement equal to or above the following thresholds:

- 400,000 SDR for procurement of goods and services; and
- 5,000,000 SDR for procurement of construction services (CPC 51).

Notes to paragraph 1:

- (a) According to the EEA Utilities Directive, a public undertaking is any undertaking over which the contracting 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 contracting authorities shall be presumed when these authorities, directly or indirectly, in relation to an undertaking:

- (i) hold the majority of the undertaking's subscribed capital;
  - (ii) control the majority of the votes attaching to shares issued by the undertaking; or
  - (iii) can appoint more than half of the undertaking's administrative, management or supervisory body.
- (b) "Special and exclusive rights" are as defined in Article 4 of Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC.
- (c) The supply, by a procuring entity other than a contracting authority, of gas or heat to fixed networks which provide a service to the public shall not be considered to be a relevant activity within the meaning of this Appendix where all of the following conditions are met:
- (i) the production of gas or heat by that contracting entity is the unavoidable consequence of carrying out an activity other than those referred to in paragraphs (a) to (e) of Liechtenstein's Appendix I to the GPA; and
  - (ii) the 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 on the basis of the average for the preceding three years, including the current year.

## **2. Additional services**

Procurement of the following services, in addition to the services listed under Annex 5 of Liechtenstein's Appendix I to the GPA, for entities covered under Annexes 1 to 3 of Liechtenstein's Appendix I to the GPA or under paragraph 1 (Additional procuring entities) of this Section B of Part B:

- Hotel and restaurant services (CPC 641);
- Food serving services (CPC 642);
- Beverage serving services (CPC 643);
- Postal and courier Services (CPC 751);

- Telecommunication related services (CPC 754);
- Real estate services on a fee or contract basis (CPC 8220);
- Taxation services (CPC 863);
- Investigation and security services (CPC 873);
- Photographic services (CPC 875);
- Other business services (CPC 87901, 87903, 87905-87907);
- Services incidental to mining (CPC 883);
- Services incidental to the manufacture of metal products, machinery and equipment (CPC 885);
- Repair services incidental to metal products, machinery and equipment (CPC 886);
- Education services (CPC 92); and
- Recreational, cultural and sporting services (CPC 96 (except 9611, 9613)).

Notes to paragraph 2:

- (a) Hotel and restaurant services (CPC 641), food serving services (CPC 642), beverage serving services (CPC 643), postal and courier services (CPC 751), investigation and security services (CPC 873), education services (CPC 92) and recreational, cultural and sporting services (CPC 96) are included under the national treatment regime<sup>3</sup> for the suppliers, including service providers, of the United Kingdom, provided that their value equals or exceeds EUR 750,000 when they are awarded by procuring entities covered under Annexes 1 and 2 of Liechtenstein's Appendix I to the GPA and that their value equals or exceeds EUR 1,000,000 when they are awarded by procuring entities covered under Annex 3 of Liechtenstein's Appendix I to the GPA or by procuring entities covered by paragraph 1 (Additional procuring entities) of this Section B of Part B.<sup>4</sup>
- (b) Procurement of any of the services covered under this Appendix by procuring entities covered under this Agreement is a covered procurement with regard to a service provider of the United Kingdom

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<sup>3</sup> For greater certainty, beyond the principle of non-discrimination, the domestic legislation of Liechtenstein shall apply to the procurement of these services.

<sup>4</sup> For greater certainty, all services covered under paragraph 2 (Additional services) that are also covered under Title III (Particular Procurement Regimes) of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, are included under the national treatment regime.

only to the extent that the United Kingdom has covered that service under this Appendix (including the United Kingdom's coverage of services under Article II of the GPA).

### **3. Concession contracts**

Works concessions, for entities covered under Annex 1 to 2 of Liechtenstein's Appendix 1 to the GPA, are included under the national treatment regime for the suppliers, including service providers, of the United Kingdom, provided their value equals or exceeds 5.000.000 SDR. Service concessions for services covered under Annex 5 of Liechtenstein's Appendix 1 to the GPA or under paragraph 2 (Additional services) of this Section B of Part B, for entities covered under Annexes 1 and 2 of Liechtenstein's Appendix 1 to the GPA are included under the national treatment regime for the suppliers, including service providers, of the United Kingdom, provided their value equals or exceeds 5.000.000 SDR.

Notes to paragraph 3:

- (a) "Works concessions" and "service concessions" are as defined in Article 5 in Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts.
- (b) For greater certainty, beyond the principle of non-discrimination, the domestic legislation of Liechtenstein shall apply to the award of works and service concession contracts.

### **C. NORWAY**

Procurement covered by this Appendix

#### **1. Additional procuring entities**

Procurement of goods and services as set out in Annexes 4 to 6 of Norway's Appendix I to the GPA, and in paragraph 2 (Additional services) of this Section C of Part B by the following procuring entities:

- (a) all contracting entities whose procurement is covered by the EEA Utilities Directive which are contracting authorities (e.g. those covered under Annex 1 and Annex 2 to Appendix I to the GPA) or public undertakings and which have as one of their activities
  - (i) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of gas or heat or the supply of gas or heat to such networks; or
  - (ii) any combination between such activity and those referred to in Annex 3 to Appendix I to the GPA; and

- (b) privately-owned procuring entities that have as one of their activities any of those referred to in subparagraph (a) of this paragraph, in subparagraph 1 of Annex 3 to Appendix I to the GPA, or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority of Norway,

with regard to procurement equal to or above the following thresholds:

- 400,000 SDR for procurement of goods and services; and
- 5,000,000 SDR for procurement of construction services (CPC 51).

Notes to paragraph 1:

- (a) According to the EEA Utilities Directive, a public undertaking is any undertaking over which the contracting 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 contracting authorities shall be presumed when these authorities, directly or indirectly, in relation to an undertaking:
  - (i) hold the majority of the undertaking's subscribed capital;
  - (ii) control the majority of the votes attaching to shares issued by the undertaking; or
  - (iii) can appoint more than half of the undertaking's administrative, management or supervisory body.
- (b) "Special and exclusive rights" are as defined in Article 4 of Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC.
- (c) The supply, by a procuring entity other than a contracting authority, of gas or heat to fixed networks which provide a service to the public shall not be considered to be a relevant activity within the meaning of this Appendix where all of the following conditions are met:
  - (i) the production of gas or heat by that contracting entity is the unavoidable consequence of carrying out an activity other than those referred to in paragraphs (a) to (e) of Norway's Appendix I to the GPA; and
  - (ii) the 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 on the basis of the average for the preceding three years, including the current year.



## 2. Additional services

Procurement of services that are not listed under Annex 5 of Norway's Appendix I to the GPA, for entities covered under Annexes 1 to 3 of Norway's Appendix I to the GPA or under paragraph 1 (Additional procuring entities) of this Section C of Part B.

- Hotel and restaurant services (CPC 641);
- Food serving services (CPC 642);
- Beverage serving services (CPC 643);
- Postal and Courier Services (CPC 751);
- Telecommunication related services (CPC 754);
- Real estate services on a fee or contract basis (CPC 8220);
- Legal services (CPC 861);
- Taxation services (CPC 863);
- Investigation and security services (CPC 873);
- Photographic services (CPC 875);
- Other business services (CPC 879);
- Services incidental to mining (CPC 883);
- Services incidental to the manufacture of metal products, machinery and equipment (CPC 885);
- Repair services incidental to metal products, machinery and equipment (CPC 886);
- Services incidental to energy distribution (CPC 887);
- Administrative services of the government (CPC 9127, 91136);
- Education services (CPC 92); and
- Recreational, cultural and sporting services (CPC 96 (except 9611, 9613)).

Notes to paragraph 2:

- (a) Hotel and restaurant services (CPC 641), food serving services (CPC 642), beverage serving services (CPC 643), postal and courier services (CPC 751), legal services (CPC 861), investigation and security

services (CPC 873), administrative services of the government (CPC 9127, 91136), education services (CPC 92) and recreational, cultural and sporting services (CPC 96) are included under the national treatment regime<sup>5</sup> for the suppliers, including service providers, of the United Kingdom, provided that their value equals or exceeds EUR 750,000 when they are awarded by procuring entities covered under Annexes 1 and 2 of Norway's Appendix I to the GPA and that their value equals or exceeds EUR 1,000,000 when they are awarded by procuring entities covered under Annex 3 of Norway's Appendix I to the GPA or by procuring entities covered by paragraph 1 (Additional procuring entities) of this Section C of Part B.<sup>6</sup>

- (b) The following legal services (CPC 861) are not covered:
- (i) legal representation of a client by a lawyer in:
    - (aa) an arbitration or conciliation held in Norway, another country or before an international arbitration or conciliation instance; or
    - (ab) judicial proceedings before the courts, tribunals or public authorities of Norway, another country or before international courts, tribunals or institutions;
  - (ii) legal advice given:
    - (aa) in preparation of any of the proceedings referred to in subparagraph (a); or
    - (ab) where there is a tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings,provided that the advice is given by a lawyer;
  - (iii) document certification and authentication services which must be provided by notaries;
  - (iv) legal services provided by trustees or appointed guardians or other legal services the providers of which are designated by a court or tribunal in Norway or are designated by law to carry out specific tasks under the supervision of such tribunals or courts; or

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<sup>5</sup> For greater certainty, beyond the principle of non-discrimination, the domestic legislation of Norway shall apply to the procurement of these services.

<sup>6</sup> For greater certainty, all services covered under paragraph 2 (Additional services) that are also covered under Title III (Particular Procurement Regimes) of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, are included under the national treatment regime.

- (v) other legal services which in Norway are connected, even occasionally, with the exercise of official authority.
- (c) Procurement of any of the services covered under this Appendix by procuring entities covered under this Agreement is a covered procurement with regard to a service provider of the United Kingdom only to the extent that the United Kingdom has covered that service under this Appendix (including the United Kingdom's coverage under Article II of the GPA).

### **3. Concession contracts**

Works concessions for entities covered under Annexes 1 and 2 of Norway's Appendix 1 to the GPA, are included under the national treatment regime for the suppliers, including service providers, of the United Kingdom, provided their value equals or exceeds 5.000.000 SDR. Service concessions for services covered under Annex 5 of Norway's Appendix 1 to the GPA or under paragraph 2 (Additional services) of this Section C of Part B, for entities covered under Annexes 1 and 2 of Norway's Appendix 1 to the GPA are included under the national treatment regime for the suppliers, including service providers, of the United Kingdom, provided their value equals or exceeds 5.000.000 SDR.

Notes to paragraph 3:

- (a) "Works concessions" and "service concessions" are as defined in Article 5 in Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts.
- (b) For greater certainty, beyond the principle of non-discrimination, the domestic legislation of Norway shall apply to the award of works and service concession contracts.