

ANNEX XIV

REFERRED TO IN SUBPARAGRAPH 1 (E) OF ARTICLE 7.1
(SCOPE AND COVERAGE),
PARAGRAPH 1 TO ARTICLE 7.9
(PUBLICATION OF PROCUREMENT INFORMATION),
PARAGRAPHS 1, 3 AND 4 OF ARTICLE 7.10
(PUBLICATION OF NOTICES),
PARAGRAPH 1 OF ARTICLE 7.13 (MULTI-USE LIST),
ARTICLE 7.17 (TIME LIMITS), AND
SUBPARAGRAPH 1 (B) OF ARTICLE 7.19
(SELECTIVE TENDERING)

REGARDING GENERAL NOTES

ANNEX XIV

REFERRED TO IN SUBPARAGRAPH 1 (E) OF ARTICLE 7.1 (SCOPE AND
COVERAGE), PARAGRAPH 1 TO ARTICLE 7.9 (PUBLICATION OF
PROCUREMENT INFORMATION), PARAGRAPHS 1, 3 AND 4 OF ARTICLE 7.10
(PUBLICATION OF NOTICES), PARAGRAPH 1 OF ARTICLE 7.13 (MULTI-USE
LIST), ARTICLE 7.17 (TIME LIMITS), AND SUBPARAGRAPH 1 (B) OF ARTICLE
7.19 (SELECTIVE TENDERING)

REGARDING GENERAL NOTES

APPENDIX 1: PUBLIC WORKS CONCESSIONS

APPENDIX 2: MEANS OF PUBLICATION

APPENDIX 3: TIME LIMITS

APPENDIX 4: VALUE OF THRESHOLDS

APPENDIX 1 TO ANNEX XIV
REGARDING PUBLIC WORKS CONCESSIONS

Rules applicable to public works concessions

1. For the purposes of this Annex, “public works concessions” mean a contract of the same type as construction services contracts, except that the remuneration for the works to be carried out consists either solely in the right to exploit the construction or in this right combined with a payment.
2. The provisions on national treatment and non-discrimination apply to the entities covered by Chapter 7 (Government Procurement) of this Agreement, when awarding contracts on public works concessions. In that case, entities shall publish a notice of intended procurement according to Article 7.10 (Publication of Notices) of this Agreement.
3. Advertising shall not, however, be required when a contract on public works concession satisfies the conditions listed in Article 7.20 (Limited Tendering) of this Agreement.
4. Beyond the provisions referred to in paragraph 2, the domestic legislation of the Parties on concessions shall apply.
5. 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 (Covered Entities) and by the entities of Peru of Appendices 1.A, 2.A and 3.A of Annex XIII (Covered Entities).

Declaration by Switzerland

The provisions on national treatment and non-discrimination shall apply to the entities covered by Chapter 7 (Government Procurement) of this Agreement, if in the future Switzerland awards contracts on public works concessions. Also, Switzerland shall grant Peru 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 TO ANNEX XIV
REGARDING MEANS OF PUBLICATION

PART A: PERU

Legislation and Jurisprudence: <http://www.osce.gob.pe>

Notices of Intended Procurement:

- (a) for the procurement of goods and services: <http://www.seace.gob.pe>; and
- (b) for public work concession: <http://www.proinversion.gob.pe>

PART B: EFTA STATES

a. Iceland

Legislation: Stjórnartíðindi (The Government Gazette)

Jurisprudence: Hæstaréttardómar (Supreme Court Report)

Notices of procurement:

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

b. Liechtenstein

Legislation: Landesgesetzblatt

Jurisprudence: Liechtensteinische Entscheidsammlung

Notices of procurement: Liechtensteiner Volksblatt, Liechtensteiner Vaterland (Newspapers), Official Journal of the European Union: http://europa.eu.int/eur-lex/en/search/search_oj.html

c. Norway

Legislation and jurisprudence: Norsk Lovtidend (Norwegian Law Gazette)

Notice of procurement: Doffin – Database for offentlige innkjøp (Database for Public Procurement): <http://www.english.doffin.no>

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): <https://www.simap.ch>

APPENDIX 3 TO ANNEX XIV

REGARDING TIME LIMITS

General Minimum Time Limit

1. Except 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 ten 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) 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 (Covered Entities), 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 7.10 (Publication of Notices) of this Agreement in an electronic media listed in Appendix 2 of this Annex and the complete tender documentation is made available electronically since the beginning of the publication of the notice.

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

APPENDIX 4 TO ANNEX XIV

REGARDING VALUE OF THRESHOLDS

1. Peru shall calculate and convert the value of the thresholds into its own national currency using the conversion rates of its National Bank. The conversion rates shall be the average of the daily values of the respective national 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.
2. The EFTA States shall calculate and convert the value of the thresholds into their own national currencies using the conversion rates of their respective National Banks. The conversion rates will be the average of the daily values of the respective national currency in terms of the SDR over the two-year period preceding 1 October or 1 November of the year prior to the thresholds becoming effective. The conversion rate shall apply from 1 January of the following year.
3. Peru 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