

AGREEMENT**between the European Community and the Swiss Confederation on certain aspects of government procurement**

The EUROPEAN COMMUNITY (hereinafter 'the Community'),
of the one part, and

The SWISS CONFEDERATION (hereinafter 'Switzerland'),
of the other part,

hereinafter referred to as 'the Parties',

CONSIDERING the Parties' efforts and commitments to liberalise their respective public procurement markets, notably through the Government Procurement Agreement (GPA) concluded in Marrakesh on 15 April 1994, which entered into force on 1 January 1996, and through the adoption of national rules providing for effective market opening in the field of government procurement through progressive liberalisation,

CONSIDERING the exchange of letters of 25 March and 5 May 1994 between the European Commission and the Swiss Federal Office for Foreign Economic Affairs,

CONSIDERING the Agreement concluded on 22 July 1972 between Switzerland and the Community,

DESIROUS to improve and broaden the scope of their respective Annexes to Appendix I of the GPA,

DESIROUS also to pursue liberalisation efforts among themselves by granting access to procurement of products, works and services by their respective telecommunications and railway operators, entities active in the field of energy other than electricity, and private utilities which operate on the basis of special or exclusive rights granted by a competent state authority and are active in the sectors of drinking water, electricity, urban transport, airports and maritime or inland ports,

HAVE AGREED AS FOLLOWS:

CHAPTER 1

BROADENING THE SCOPE OF THE GOVERNMENT PROCUREMENT AGREEMENT CONCLUDED WITHIN THE FRAMEWORK OF THE WORLD TRADE ORGANISATION*Article 1***Obligations of the Community**

1. In order to supplement and broaden the scope of its commitments vis-à-vis Switzerland under the Government Procurement Agreement (GPA) signed on 15 April 1994 within the framework of the World Trade Organisation (WTO), the Community undertakes to amend its Annexes and General Notes to Appendix I of the GPA as follows:

delete the reference to Switzerland in the first indent of General Note No 2, so as to allow Swiss suppliers and service providers to challenge, pursuant to Article XX, the award of contracts by Community entities listed in Annex 2, paragraph 2.

2. The Community shall notify the WTO Secretariat of this amendment within one month after the entry into force of this Agreement.

*Article 2***Obligations of Switzerland**

1. In order to supplement and broaden the scope of its commitments vis-à-vis the Community under the GPA, Switzerland undertakes to amend its Annexes and General Notes to Appendix I of the GPA as follows:

Insert in Annex 2, under 'List of entities', the following new point after point 2:

'3. Authorities and public bodies at district and municipality level.'

2. Switzerland shall notify the WTO Secretariat of this amendment within one month from the entry into force of this Agreement.

CHAPTER II

PROCUREMENT BY TELECOMMUNICATIONS AND RAILWAY OPERATORS AND BY CERTAIN UTILITIES*Article 3***Objectives, definitions and scope**

1. The aim of this Agreement is to secure reciprocal, transparent and non-discriminatory access of the Parties' suppliers and service providers to purchases of products and services, including construction services, by telecommunications operators, railway operators, entities active in the field of energy other than electricity and private utilities of both Parties.

2. For the purposes of this Chapter:

- (a) 'telecommunications operators' (hereinafter referred to as 'TOs') shall mean entities which provide or operate public telecommunications networks or provide one or more public telecommunications services and which either are public authorities or public undertakings or operate on the basis of special or exclusive rights granted by a competent authority of one of the Parties;
- (b) 'public telecommunications network' shall mean the telecommunications infrastructure available to the public which enables signals to be conveyed between defined network termination points by wire, microwave, optical means or other electromagnetic means;
- (c) 'public 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;
- (d) 'railway operators' (hereinafter referred to as 'ROs') shall mean contracting entities which either are public authorities or public undertakings or operate on the basis of special or exclusive rights granted by a competent authority of one of the Parties and which have as one of their activities the operation of networks providing a service to the public in the field of transport by railway;
- (e) 'entities active in the field of energy other than electricity' shall mean contracting entities which either are public authorities or public undertakings or operate on the basis of special or exclusive rights granted by a competent authority of one of the Parties and which have as one of their activities any of those referred to in i) and ii) below or any combination thereof:

- (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) the exploitation of a geographical area for the purpose of exploring for or extracting oil, gas, coal or other solid fuels;
- (f) 'private utilities' shall mean contracting entities which are not covered by the GPA but operate on the basis of special or exclusive rights granted by a competent authority of one of the Parties and which have as one of their activities any of those referred to in i) to v) below or any combination thereof:
- (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 drinking water or the supply of drinking water to such networks;
 - (ii) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of electricity or the supply of electricity to such networks;
 - (iii) the provision of airport or other terminal facilities to carriers by air;
 - (iv) the provision of maritime or inland port or other terminal facilities to carriers by sea or inland waterway;
 - (v) the operation of networks providing a service to the public in the field of transport by urban railway, automated systems, tramway, trolley bus, bus or cable.

3. This Agreement applies to any law, regulation or practice regarding procurement by the Parties' TOs, ROs, entities active in the field of energy other than electricity and private utilities (hereinafter referred to as 'Covered Entities') as defined in this Article and specified in Annexes I to IV and to the award of all procurement contracts by such Covered Entities.

4. Articles 5 and 6 shall apply to contracts, or series of contracts, the estimated value of which, excluding VAT, is not less than:

- (a) when awarded by TOs:
 - (i) EUR 600 000 or its equivalent in SDRs, as regards supplies and services;
 - (ii) EUR 5 000 000 or its equivalent in SDRs, as regards works;

- (b) when awarded by ROs and entities active in the field of energy other than electricity:
 - (i) EUR 400 000 or its equivalent in SDRs, as regards supplies and services;
 - (ii) EUR 5 000 000 or its equivalent in SDRs, as regards works;
- (c) when awarded by private utilities:
 - (i) SDR 400 000 or its equivalent in euro, as regards supplies and services;
 - (ii) SDR 5 000 000 or its equivalent in euro, as regards works.

The conversion of euro in SDRs shall be in accordance with the procedures established in the Government Procurement Agreement (GPA).

5. This Chapter shall not apply to contracts, awarded by TOs, 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. Each Party shall promptly inform the other Party about such contracts. This provision shall apply under the same conditions also to contracts awarded by ROs, entities active in the field of energy other than electricity and private utilities as soon as these sectors have been liberalised.

6. With regard to services, including construction services, this Agreement shall apply to those listed in Annexes VI and VII to this Agreement.

7. This Agreement shall not apply to Covered Entities where they fulfil the conditions laid down in Articles 2(4), 2(5), 3, 6(1), 7(1), 9(1), 10, 11, 12 and 13(1) of Directive 93/38/EEC, as last amended by Directive 98/4/EC (OJ L 101, 4.4.1998, p. 1) for the Community and in Annexes VI and VIII for Switzerland.

This Agreement shall not apply to contracts awarded by ROs where such contracts concern the purchase or lease of products in order to re-finance supply contracts awarded in accordance with the provisions of this Agreement.

Article 4

Procurement procedures

1. The parties shall ensure that the procurement procedures and practices for the award of contracts followed by their Covered Entities comply with the principles of non-discrimination, transparency and fairness. Such procedures and practices shall at least meet the following conditions:

- (a) calls for competition shall be made by publication of a tender notice, an indicative notice or a notice on the existence of a qualification system. These notices, or a summary of the important elements thereof, shall be published in at least one of the official languages of the GPA at national level in the case of Switzerland, on the one hand, and at Community level, on the other hand. They shall contain all necessary information about the intended procurement, including where applicable the type of award procedure being followed;
- (b) time-limits shall be adequate to allow suppliers or service providers to prepare and submit tenders;
- (c) tender documentation shall contain all information necessary, notably technical specifications and selection and award criteria, to enable tenderers to submit eligible tenders. Tender documentation shall be forwarded to suppliers or service providers upon request;
- (d) selection criteria shall be non-discriminatory. Qualification system applied by Covered Entities must be based on pre-defined and non-discriminatory criteria and the procedure and conditions for participation shall be made available upon request;
- (e) award criteria may be either the most economically advantageous tender, involving specific evaluation criteria such as delivery or completion date, cost-effectiveness, quality, technical merit, after-sales service, commitments with regard to spare parts, price, etc., or the lowest price only.

2. The Parties shall also ensure that their Covered Entities define the technical specifications set out in the tender documentation in terms of performance rather than design or descriptive characteristics. Such specifications shall be based on international standards, where they exist, otherwise on national technical regulations, recognised national standards or recognised building codes. Any technical specifications adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to procurement by a Party's Covered Entity of products or services from the other Party and to related trade between the Parties shall be prohibited.

Article 5

Challenge procedures

1. The Parties must provide non-discriminatory, timely, transparent and effective procedures enabling suppliers or service providers to challenge alleged breaches of the Agreement arising in the context of procurements in which they have, or have had, an interest. The challenge procedures laid down in Annex V shall apply.

2. The Parties must ensure that their respective Covered Entities retain documentation relating to procurement procedures covered by this Chapter for at least three years.

3. The Parties must ensure that decisions taken by bodies responsible for challenge procedures are properly enforced.

CHAPTER III

GENERAL AND FINAL PROVISIONS

Article 6

Non-discrimination

1. The Parties shall ensure that, in their procedures and practices for the award of procurement contracts above the value thresholds laid down in Article 3(4), Covered Entities established in their respective territories do not:

- (a) treat products, services, suppliers and service providers of the other Party less favourably than
 - (i) domestic products, services, suppliers and service providers; or
 - (ii) third-country products, services, suppliers and service providers;
- (b) treat a locally-established supplier or service provider less favourably than another locally-established supplier or service provider on the basis of the degree of affiliation to, ownership of or control by natural or legal persons from the other Party;
- (c) discriminate against a locally-established supplier or service provider on the basis of the fact that the product or service being supplied originates from the other Party;
- (d) prescribe offsets in the qualification and selection of products, services, suppliers or service providers, or in the evaluation of tenders and award of contracts.

2. The Parties undertake to refrain from requiring either the competent authorities or the Covered Entities to act in a discriminatory manner, either directly or indirectly. An illustrative list of areas where such discrimination is possible is set out in Annex X.

3. In their procedures and practices for the award of procurement contracts below the value thresholds laid down in Article 3(4), the Parties undertake to encourage their Covered Entities to treat the suppliers and service providers of the other Party in accordance with the provisions of paragraph 1. The Parties agree that, not later than five years after the entry into force of this Agreement, the conditions and implementation of this provision will be reviewed in the light of experience acquired in their mutual relations. To that end, the Joint Committee will draw up lists of situations in which the principle established in this Article 6 is applied.

4. The principles set out in paragraph 1, notably in a), no i), and in paragraphs 2 and 3 shall be without prejudice to measures made necessary by the particular integration process of the Community and the establishment and functioning of its internal market, as well as by the development of the Swiss domestic market. Likewise, these principles, notably those set out in a), no ii), shall be without prejudice to preferential treatment granted under existing or future regional economic integration agreements. However, the application of this provision must not jeopardise the administration of this Agreement. The measures to which this paragraph applies are listed in Annex IX; either Party may notify other measures covered by this paragraph. Consultations by the Joint Committee shall take place at the request of either Party with a view to ensuring that this Agreement continues to be implemented satisfactorily.

Article 7

Information exchange

1. To the extent necessary to ensure effective implementation of Chapter II, the Parties shall inform each other of planned changes to their relevant legislation falling or likely to fall within the scope of this Agreement (proposals for directives, draft laws and orders and draft amendments to the Concordat intercantonal).

2. The Parties shall also inform each other about any other issue relevant to the interpretation and application of this Agreement.

3. The Parties shall communicate to each other the names and addresses of 'contact points' responsible for providing information on the rules of law falling within the scope of this Agreement and of the GPA, including at local level.

Article 8

Monitoring authority

1. The implementation of this Agreement shall be monitored, within each Party, by an independent authority. This authority shall be competent to receive any complaint or grievance concerning the application of this Agreement and shall act promptly and effectively.

2. Not later than two years after the entry into force of this Agreement, the authority shall also be competent to initiate proceedings or take administrative or judicial action against Covered Entities in the event of a breach of this Agreement in the context of a procurement procedure.

Article 9

Urgent measures

1. If a Party considers that the other Party has failed to comply with its obligations under this Agreement or that a law, regulation or practice of the other Party substantially reduces or threatens to reduce substantially the benefits accruing to it under this Agreement, and the Parties are unable to agree promptly on appropriate compensation or other remedial action, the adversely affected Party may, without prejudice to its other rights and obligations under international law, suspend partly or completely, as appropriate, the application of this Agreement. It shall immediately notify the other Party of any such suspension. The adversely affected Party may also terminate the Agreement in accordance with Article 18(3).

2. The scope and duration of such measures shall be limited to what is necessary in order to remedy the situation and to secure, if necessary, a fair balance of rights and obligations under this Agreement.

Article 10

Settlement of disputes

Each Contracting Party may bring a matter under dispute which concerns the interpretation or application of this Agreement to the Joint Committee, which shall endeavour to settle the dispute. The Joint Committee shall be provided with all relevant information for an in depth examination of the situation with a view to finding an acceptable solution. To that end, the Joint Committee shall be required to examine all possibilities for maintaining the good functioning of this Agreement.

Article 11

Joint Committee

1. A Joint Committee is hereby established. It shall ensure the effective implementation and operation of this Agreement. To that end, it shall carry out exchanges of views and information and constitute the forum for consultations between the Parties.

2. The Joint Committee shall consist of representatives of the Parties and shall act by mutual consent. It shall adopt its rules of procedure and may establish working groups to assist it in carrying out its tasks.

3. In order to ensure the effective operation of this Agreement, the Joint Committee shall meet at least once a year or at the request of either Party.

4. The Joint Committee shall regularly examine the Annexes to this Agreement. The Joint Committee may amend them at the request of either Party.

Article 12

Information technology

1. The Parties shall cooperate with a view to ensuring that the type of procurement information, notably in tender notices and documentation, held on their respective databases is comparable in terms of quality and accessibility. Likewise, they shall cooperate with a view to ensuring that the type of information exchanged through their respective electronic means between interested parties for the purposes of public procurement is comparable in terms of quality and accessibility.

2. Paying due attention to issues of interoperability and interconnectivity, and after having agreed that the type of procurement information referred to in paragraph 1 is comparable, the Parties shall take all the necessary measures to ensure that suppliers and service providers of the other Party have access to relevant procurement information, such as tender notices, held on their respective databases. They shall also afford suppliers and service providers of the other Party access to their respective electronic procurement systems, such as electronic tendering systems. The Parties shall also comply with Article XXIV(8) of the GPA.

Article 13

Implementation

1. The Parties shall take all the necessary measures, whether general or specific, to ensure that they fulfil their obligations under this Agreement.

2. They shall refrain from any action that could jeopardise attainment of the objectives of this Agreement.

Article 14

Revision

The Parties shall review the functioning of this Agreement not later than three years from the date of its entry into force with the aim of improving its operation, if necessary.

*Article 15***Relationship with WTO agreements**

This Agreement does not affect the rights and obligations of the Parties under agreements concluded under the auspices of the WTO.

*Article 16***Scope of territorial application**

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other, to the territory of Switzerland.

*Article 17***Annexes**

The annexes to this Agreement shall form an integral part thereof.

*Article 18***Entry into force and duration**

1. This Agreement shall be ratified or approved by the Parties according to the procedures applicable to them. It shall enter into force on the first day of the second month following the last notification of deposit of the instruments

of ratification or approval of all seven of the following agreements:

- agreement on certain aspects of government procurement;
- agreement on the free movement of persons;
- agreement on air transport;
- agreement on the carriage of goods and passengers by rail and road;
- agreement on trade in agricultural products;
- agreement on mutual recognition in relation to conformity assessment;
- agreement on scientific and technological cooperation.

2. This Agreement is concluded for an initial period of seven years. It shall be renewed for an indefinite period unless the Community or Switzerland notifies the other Party to the contrary before the expiry of the initial period. In the event of such notification, the provisions of paragraph 4 shall apply.

3. The Community or Switzerland may terminate this Agreement by notifying the other Party of its decision. In the event of such notification, the provisions of paragraph 4 shall apply.

4. The seven agreements referred to in paragraph 1 shall cease to apply six months after the receipt of notification of non-renewal referred to in paragraph 2 or of termination referred to in paragraph 3.

Hecho en Luxemburgo, el veintiuno de junio de mil novecientos noventa y nueve. El presente Acuerdo se establecerá por duplicado en lenguas alemana, danesa, española, finesa, francesa, griega, inglesa, italiana, neerlandesa, portuguesa y sueca y cada uno de estos textos será auténtico.

Udfærdiget i Luxembourg, den enogtyvende juni nitten hundrede og nioghalvfems. Denne aftale er udfærdiget i to eksemplarer på dansk, engelsk, finsk, fransk, græsk, italiensk, nederlandsk, portugisisk, spansk, svensk og tysk, idet hver af disse tekster har samme gyldighed.

Geschehen zu Luxemburg am einundzwanzigsten Juni neunzehnhundertneunundneunzig. Dieses Abkommen ist in zwei Urschriften in dänischer, deutscher, englischer, finnischer, französischer, griechischer, italienischer, niederländischer, portugiesischer, spanischer und schwedischer Sprache abgefaßt, wobei jeder Wortlaut gleichermaßen verbindlich ist.

Έγινε στο Λουξεμβούργο, στις είκοσι μία Ιουνίου χίλια εννιακόσια ενενήντα εννέα. Η παρούσα συμφωνία καταρτίζεται εις διπλούν στα αγγλικά, τα γαλλικά, τα γερμανικά, τα δανικά, τα ελληνικά, τα ισπανικά, τα ιταλικά, τα ολλανδικά, τα πορτογαλικά, τα σουηδικά και τα φινλανδικά, καθένα από τα κείμενα αυτά είναι αυθεντικό.

Done at Luxembourg on the twenty-first day of June in the year one thousand and ninety-nine. This Agreement is drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish languages, each of these texts being equally authentic.

Fait à Luxembourg, le vingt-et-un juin mil neuf cent quatre-vingt dix-neuf. Le présent accord est établi, en double exemplaire, en langues allemande, anglaise, danoise, espagnole, finnoise, française, grecque, italienne, néerlandaise, portugaise et suédoise, chacun de ces textes faisant également foi.

Fatto a Lussemburgo, addì ventuno giugno millenovecentonovantanove. Il presente Accordo è redatto, in duplice copia, in lingua danese, finlandese, francese, greca, inglese, italiana, olandese, portoghese, spagnola, svedese e tedesca; ognuno di questi testi fa ugualmente fede.

Gedaan te Luxemburg, de eenentwintigste juni negentienhonderd negenennegentig. Deze overeenkomst is opgesteld in tweevoud in de Deense, de Duitse, de Engelse, de Finse, de Franse, de Griekse, de Italiaanse, de Nederlandse, de Portugese, de Spaanse en de Zweedse taal, zijnde alle teksten gelijkelijk authentiek.

Feito no Luxemburgo, em vinte e um de Junho de mil novecentos e noventa e nove. O presente Acordo é estabelecido em exemplar duplo, nas línguas alemã, inglesa, dinamarquesa, espanhola, finlandesa, francesa, grega, italiana, neerlandesa, portuguesa e sueca, fazendo igualmente fé qualquer dos textos.

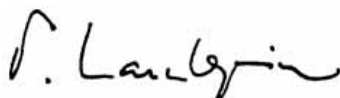
Tehty Luxemburgissa kahdentenkymmenentenäensimmäisenä päivänä kesäkuuta vuonna tuhatyhdeksänsataayhdeksänkymmentäyhdeksän. Tämä sopimus on laadittu kahtena kappaleena englannin, espanjan, hollannin, italian, kreikan, portugalin, ranskan, ruotsin, saksan, suomen ja tanskan kielellä, ja jokainen teksti on yhtä todistusvoimainen.

Utfärdat i Luxemburg den tjugoförsta juni nittonhundraiontio i två exemplar på det danska, engelska, finska, franska, grekiska, italienska, nederländska, portugisiska, spanska, svenska och tyska språket, vilka samtliga texter är lika giltiga.

Por la Comunidad Europea
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Voor de Europese Gemeenschap
Pela Comunidade Europeia
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar



Por la Confederación Suiza
For Det Schweiziske Edsforbund
Für die Schweizerische Eidgenossenschaft
Για την Ελβετική Συνομοσπονδία
For the Swiss Confederation
Pour la Confédération suisse
Per la Confederazione svizzera
Voor de Zwitserse Bondsstaat
Pela Confederação Suíça
Sveitsin valaliiton puolesta
På Schweiziska edsförbundets vägnar



ANNEX I

(referred to in Articles (3)(1) and (2)(a) to (c) and (5) of the Agreement)

TELECOMMUNICATIONS OPERATORS COVERED**Annex I A — Community**

Belgium	Belgacom
Danemark	Tele Danmark A/S and subsidiaries
Germany	Deutsche Bundespost Telekom
Greece	OTE/Hellenic Telecom Organisation
Spain	Telefónica de Spain SA
France	France Telecom
Ireland	Telecom Eireann
Italy	Telecom Italia
Luxembourg	Administration des postes et télécommunications
Netherlands	Koninklijke PTT Netherlands NV and subsidiaries, except PTT Post BV
Austria	Österreichische Post und Telekommunikation (PTT)
Portugal	Portugal Telecom and subsidiaries
Finland	Sonera
Sweden	Telia
United Kingdom	British Telecommunications (BT)
	City of Kingston upon Hull

These telecommunications operators are covered inasmuch as they come under the scope of application of Directive 93/38/EEC, as amended by Directive 98/4/EC (OJ L 101 of 4.4.1998, p. 1).

Annexe I B — Switzerland

Specification of the entities active in the field of telecommunications as referred to in Articles (3)(1) and (2)(a) to (c) of the Agreement

Entities providing a public telecommunications service under a concession within the meaning of Article 66, first indent, of the Federal Law on Telecommunications of 30 April 1997.

For example: Swisscom.

ANNEXE II

(referred to in Articles (3)(1) and (2)(d) and (5) of the Agreement)

RAILWAY OPERATORS COVERED

Annex II A — Community

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 om privatbanerne of 6 June 1984, jf. lov nr. 245 of 6 August 1977
Germany	Deutsche Bundesbahn Other entities providing railway services to the public as defined in paragraph 2 Abs. 1 of the Allgemeines Eisenbahngesetz of 29 March 1951
Greece	Organisation of Railways in Greece (OSE)/Οργανισμός Σιδηρόδρομων Ελλάδος (ΟΣΕ)
Spain	Red Nacional de los Ferrocarriles Españoles (RENFE) 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 railway networks open to the public referred to in the Loi d'orientation des transports intérieurs of 30 December 1982, Title II, Chapter 1, rail transport
Ireland	Iarnrod Éireann (Irish Rail)
Italy	Ferrovie dello Stato Entities providing railway services on the basis of a concession pursuant to Article 10 of Regio Decreto n. 1447 of 9 May 1912 approving the Consolidated Text of the legal provisions concerning railways operating as private concessions, mechanical tramways and automobiles Entities operating on the basis of a concession granted by the State pursuant to special laws, see Title XI, Chapter II, Section Ia of Regio Decreto n. 1447 of 9 May 1912 approving the Consolidated Text of the legal provisions concerning railways operating as private concessions, mechanical tramways and automobiles Entities providing railway services to the public on the basis of a concession pursuant to Article 4 of Legge n. 410 — Concorso dello Stato per la riattivazione dei pubblici servizi di trasporto in concessione of 14 June 1949 Entities or local authorities providing railway services on the basis of a concession pursuant to Article 14 Legge n. 1221 — Provvedimenti per l'esercizio ed il potenziamento di ferrovie e di altre linee di trasporto in regime di concessione of 2 August 1952
Luxembourg	Chemins de fer luxembourgeois (CFL)
Netherlands	Nederlandse Spoorwegen NV
Austria	Entities providing railway services to the public pursuant to the Eisenbahngesetz 1957 (BGBl. Nr. 60/1957)
Portugal	Caminhos de Ferro Portugueses
Finland	Valtionrautatiet/Statsjärnvägarna

Sweden	Public entities operating railway services in accordance with förordningen (1988:1379) om statens spåranläggningar and lagen (1990:1157) om järnvägssäkerhet Regional and local public entities operating regional or local railway communications pursuant to lagen (1978:438) om huvudmannaskap foer viss kollektiv persontrafik Private entities operating railway services pursuant to permission under foerordningen (1988:1379) om statens spaaranlaeggningar where such permission complies with Article 2(3) of the directive
United Kingdom	British Railways Boards Northern Ireland Railways

Annexe II B — Switzerland

Specification of railway operators as referred to in Articles (3)(1) and (2)(d) of the Agreement

Chemins de fer fédéraux (CFF) ⁽¹⁾

Entities within the meaning of Articles 1(2) and 2(1) of the 'Loi fédérale sur les chemins de fer' of 20 December 1957, where they operate public transport services by standard- or narrow-gauge railway ⁽¹⁾.

For example: BLS, MthB, Chemin de fer du Jura, RhB, FO, GFM.

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⁽¹⁾ Except for holdings and undertakings which are not directly active in the transport sector.

ANNEX III

(referred to in Articles (3)(1) and 2(e) and (5) of the Agreement)

ENTITIES ACTIVE IN THE FIELD OF ENERGY

Annex III A — Community

(a) Transport or distribution of gas or heat

Belgium	<p>Distrigaz SA operating pursuant to the Law of 29 July 1983</p> <p>Entities transporting gas on the basis of an authorisation or concession pursuant to the Law of 12 April 1965, as amended by the Law of 28 July 1987</p> <p>Entities distributing gas and operating pursuant to the Loi relative aux intercommunes of 22 December 1986</p> <p>Local authorities, or associations of local authorities, distributing heat</p>
Denmark	<p>Dansk Olie og Naturgas A/S operating on the basis of an exclusive right granted pursuant to bekendtgoerelse nr. 869 om eneretsbevilling til indfoersel, forhandling, transport og oplagring af naturgas of 18 June 1979</p> <p>Entities operating pursuant to lov nr. 249 af 7. Juni 1972 om naturgasforsyning</p> <p>Entities distributing gas or heat on the basis of an approval pursuant to Chapter IV of lov om varmemforsyning, jf. lovbekendtoerelse nr. 330 af 29. Juni 1983</p> <p>Entities transporting gas on the basis of an authorisation pursuant to bekendtgoerelse nr. 141 af 13. marts 1974 om rorledningsanlaeg paa dansk kontinentalsokkelomraade til transport af kulbrinter (installation of pipelines on the continental shelf for the transport of hydrocarbons)</p>
Germany	<p>Entities transporting or distributing gas as defined in paragraph 2 Abs. 2 of the Gesetz zur Forderung der Energiewirtschaft (Energiewirtschaftsgesetz) of 13 December 1935, as last amended by the law of 19 December 1977</p> <p>Local authorities, or associations of local authorities, distributing heat</p>
Greece	<p>DEP transporting or distributing gas pursuant to Ministerial Decision 2583/1987 (Anathesi sti Dimosia Epicheirisi Petrelaiou armodiotiton schetikon me to fysiko aerio) Systasi tis DEPA AE (Dimosia Epicheirisi Aerioy, Anonymos Etaireia).</p> <p>Athens Municipal Gasworks S.A. DEFA transporting or distributing gas</p>
Spain	<p>Entities operating pursuant to Ley no 10 of 15 June 1987</p>

France	<p>Société nationale des gaz du Sud-Ouest transporting gas</p> <p>Gaz de France, set up and operating pursuant to Loi 46/6288 sur la nationalisation de l'électricité et du gaz of 8 April 1946</p> <p>Entities (sociétés d'économie mixte or régies) distributing electricity and referred to in Article 23 of Loi 48/1260 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 of 12 August 1948</p> <p>Compagnie française du méthane transporting gas</p> <p>Local authorities, or associations of local authorities, distributing heat</p>
Ireland	<p>Irish Gas Board operating pursuant to the Gas Act 1976 to 1987 and other entities governed by Statute</p> <p>Dublin Corporation, distributing heat</p>
Italy	<p>SNAM and SGM e Montedison transporting gas</p> <p>Entities distributing gas pursuant to the Consolidated Text of Leggi sull'assunzione diretta dei pubblici servizi da parte dei comuni e delle province approvato con Regio Decreto n. 2578 of 15 October 1925 and to Decreto del PR n. 902 of 4 October 1986</p> <p>Entities distributing heat to the public referred to in Article 10 of Legge 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 of 29 May 1982</p> <p>Local authorities, or associations of local authorities, distributing heat</p>
Luxembourg	<p>Société de transport de gaz SOTEG SA</p> <p>Gaswierk Esch-Uelzecht SA</p> <p>Service industriel de la commune de Dudelange</p> <p>Service industriel de la commune de Luxembourg</p> <p>Local authorities, or associations of local authorities, distributing heat</p>
Netherlands	<p>NV Nederlandse Gasunie</p> <p>Entities transporting or distributing gas on the basis of a licence (vergunning) granted by the local authorities pursuant to the Gemeentewet</p> <p>Local or provincial entities transporting or distributing gas to the public pursuant to the Gemeentewet and the Provinciewet</p> <p>Local authorities, or associations of local authorities, distributing heat</p>
Austria	<p>Gas: contracting entities transporting or distributing gas pursuant to the Energiewirtschaftsgesetz 1935, dRGBL. I S 1451/1935 as amended by dRGBL. I S 467/1941</p> <p>Heat: contracting entities transporting or distributing heat licensed pursuant to the Austrian Trade, Commerce and Industry Regulation Act (Gewerbeordnung BGL. Nr. 50/1974)</p>

Portugal	Petroquímica e Gás de Portugal (EP) pursuant to Decreto-Lei no 346-A/88 of 29 September 1988
Finland	Municipal energy boards, or associations thereof, or other entities distributing gas or heat on the basis of a concession granted by the municipal authorities
Sweden	Entities which transport or distribute gas or heat on the basis of a concession pursuant to lagen (1978:160) om vissa rörledningar
United Kingdom	British Gas plc and other entities operating pursuant to the Gas Act 1986 Local authorities, or associations of local authorities, distributing heat pursuant to the Local Government (Miscellaneous Provisions) Act 1976 Electricity Boards distributing heat pursuant to the Electricity Act 1947

(b) Exploration for and extraction of oil or gas

The entities granted an authorisation, permit, licence or concession to explore for or extract oil and gas pursuant to the following legal provisions:

Belgium	Law of 1 May 1939 supplemented by Arrêté royal n° 83 sur l'exploration et l'exploitation du pétrole et du gaz of 28 November 1939 Arrêté royal of 15 November 1919 Arrêté royal of 7 April 1953 Arrêté royal of 15 March 1960 (Loi au sujet de la plate-forme continentale of 15 June 1969) Arrêté de l'exécutif régional wallon of 29 September 1982 Arrêté de l'exécutif flamand of 30 May 1984
Denmark	Lov nr. 293 om anvendelse af Danmarks undergrund of 10 June 1981 Lov om kontinentalsoklen, jf. Lovbekendtgørelse nr. 182 of 1 May 1979
Germany	Bundesberggesetz of 13 August 1980, as last amended on 12 February 1990
Greece	Law 87/1975 setting up DEP-EKY (Peri idryseos Dimosias Epicheiriseos Petrelaioy)
Spain	Ley sobre Investigación y Explotación de Hidrocarburos of 27 June 1974 and its implementing decrees
France	Code minier (Décret 56-838 of 16 August 1956) amended by Loi 56-1327 of 29 December 1956, Ordonnance 58-1186 of 10 December 1958, Décret 60-800 of 2 August 1960, Loi 77-620 of 16 June 1977, Décret 80-204 of 11 March 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 n. 136 of 19 February 1953 Legge n. 6 of 11 January 1957, as amended by Legge n. 613 of 21 July 1967
Luxembourg	—
Netherlands	Mijnwet nr. 285 of 21 April 1810 Wet opsporing delfstoffen nr. 258 of 3 May 1967 Mijnwet continentaal plat 1965, nr. 428 of 23 September 1965
Austria	Entities created pursuant to the Berggesetz 1975 (BGBl. Nr. 259/1975, as last amended by BGBl Nr. 193/1993)
Portugal	Surface area: Decreto-Lei no 543/74 of 16 October 1974, no 168/77 of 23 April 1977, no 266/80 of 7 August 1980, no 174/85 of 21 May 1985 and Despacho no 22 of 15 March 1979 Submerged area: Decreto-Lei no 47973 of 30 September 1967, no 49369 of 11 November 1969, no 97/71 of 24 March 1971, no 96/74 of 13 March 1974, no 266/80 of 7 August 1980, no 2/81 of 7 January 1981 and no 245/82 of 22 June 1982
Finland	—
Sweden	Entities holding a concession for exploring for or exploiting oil or gas under minerallagen (1991:45) or which have been granted an authorisation pursuant to lagen (1966:314) om kontinentalsöckeln.
United Kingdom	Petroleum Production Act 1934, as extended by the Continental Shelf Act 1964 Petroleum (Production) Act (Northern Ireland) 1964
(c) Exploration for and extraction of coal or other solid fuels	
Belgium	Entities exploring for or extracting coal or other solid fuels pursuant to the Arrêté du Régent of 22 August 1948 and the Law of 22 April 1980
Denmark	Entities exploring for or extracting coal or other solid fuels pursuant to the lov bekendtgoerelse nr. 531 of 10 October 1984
Germany	Entities exploring for or extracting coal or other solid fuels pursuant to the Bundesberggesetz of 13 August 1980, as last amended on 12 February 1980
Greece	Public Power Corporation Dimosia Epicheirisi Ilektrismoy exploring for or extracting coal or other solid fuels pursuant to the Mining Code of 1973, as amended by the law of 27 April 1976
Spain	Entities exploring for or extracting coal or other solid fuels pursuant to Ley 22/1973 de Minas of 21 July, as amended by Ley 54/1980 of 5 November and Real Decreto Legislativo 1303/1986 of 28 June
France	Entities exploring for or extracting coal or other solid fuels pursuant to the Code minier (Décret 58-863 of 16 August 1956), as amended by Loi 77-620 of 16 June 1977, Décret 80-204 and the Arrêté of 11 March 1980

Ireland	Bord na Mona Entities prospecting for or extracting coal pursuant to the Minerals Development Acts, 1940 to 1970
Italy	Carbo Sulcis SpA
Luxembourg	—
Netherlands	—
Austria	Entities exploring for or extracting coal or other solid fuels pursuant to the Berggesetz 1975 (BGBl. Nr. 259/1975)
Portugal	Empresa Carbonífera do Douro Empresa Nacional de Urânio
Finland	Entities exploring for or extracting coal or other solid fuels and operating on the basis of an exclusive right pursuant to Articles 1 and 2 of Laki oikeudesta luovuttaa valtion maaomaisuutta ja tuloatuottavia oikeuksia (687/78)
Sweden	Entities exploring for or extracting coal or other solid fuels on the basis of a concession pursuant to minerallagen (1991:45) or lagen (1985:620) om vissa torvfyndigheter or which have been granted an authorisation pursuant to lagen (1966:314) om kontinentalsockeln
United Kingdom	British Coal Corporation (BCC) set up pursuant to the Coal Industry Nationalisation Act 1946 Entities benefiting from a licence granted by the BCC pursuant to the Coal Industry Nationalisation Act 1946 Entities exploring for or extracting solid fuels pursuant to the Mineral Development Act (Northern Ireland) 1969

Annex III B — Switzerland

(a) Transport or distribution of gas or heat

Entities transporting or distributing gas pursuant to Article 2 of the 'Loi fédérale sur les installations de transport par conduits de combustibles ou carburants liquides ou gazeux' of 4 October 1963

Entities transporting or distributing heat on the basis of a cantonal concession

For example: SWISSGAS AG, Gaznat SA, Gasverbund Ostschweiz AG, REFUNA AG, Cadbar SA

(b) Exploration for and extraction of oil or gas

Entities exploring for and extracting oil or gas in accordance with the 'Concordat Interkantonal concernant la prospection et l'exploitation du pétrole entre les cantons de Zurich, Schwyz, Glaris, Zoug, Schaffhouse, Appenzell Rh.-Ext., Appenzell Rh.-Int., Saint-Gall, Argovie et Thurgovie' of 24 September 1955

For example: Seag AG

(c) Exploration for and extraction of coal or other solid fuels

No entities in Switzerland

ANNEX IV

(referred to in Articles 3)(1) and (2)(f) and (5) of the Agreement)

PRIVATE UTILITIES COVERED

Annex IV A — Community

(a) Production, transport or distribution of drinking water

Belgium	<p>Entity set up pursuant to the Décret 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 of 2 July 1987</p> <p>Entity set up pursuant to the Arrêté portant constitution d'une société wallonne de distribution d'eau of 23 April 1986</p> <p>Entity set up pursuant to the Arrêté de l'exécutif flamand portant fixation des statuts de la société flamande de distribution d'eau of 17 July 1985</p> <p>Entities producing or distributing water and set up pursuant to the Loi relative aux intercommunales of 22 December 1986</p> <p>Entities producing or distributing water and set up pursuant to the Code communal, article 147 bis, ter et quater sur les régies communales</p>
Denmark	<p>Entities producing or distributing water referred to in Article 3(3) lovbekendtgørelse om vandforsyning m.v. of 4 July 1985</p>
Germany	<p>Entities producing or distributing water pursuant to the Eigenbetriebsverordnungen or Eigenbetriebsgesetze of the Länder (Kommunale Eigenbetriebe)</p> <p>Entities producing or distributing water pursuant to the Gesetze über die Kommunale Gemeinschaftsarbeit oder Zusammenarbeit of the Länder</p> <p>Entities producing water pursuant to the Gesetz über Wasser- und Bodenverbände of 10 February 1937 and the erste Verordnung über Wasser- und Bodenverbände of 3 September 1937</p> <p>(Regiebetriebe) producing or distributing water pursuant to the Kommunalgesetze and notably the Gemeindeordnungen of the Länder</p> <p>Entities set up pursuant to the Aktiengesetz of 6 September 1965, as last amended on 19 December 1985, or the GmbH-Gesetz of 20 May 1898, as last amended on 15 May 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</p>
Greece	<p>The Water Company of Athens (Etaireia Ydrefseos — Apochetefseos Protevoysis) set up pursuant to Law 1068/80 of 23 August 1980</p> <p>The Water Company of Thessaloniki (Organismos Ydrefseos Thessalonikis) operating pursuant to Presidential Decree 61/1988</p> <p>The Water Company of Volos (Etaireia Ydrefseos Voloy) operating pursuant to Law 890/1979</p> <p>Municipal companies (Dimotikes Epicheiriseis ydrefsis-apochetefsis) producing or distributing water and set up pursuant to Law 1069/80 of 23 August 1980</p> <p>Associations of local authorities (Syndesmoi ydrefsis) operating pursuant to the Code of local authorities (Kodikas Dimon kai Koinotiton) implemented by Presidential Decree 76/1985</p>

Spain	<p>Entities producing or distributing water pursuant to Ley no 7/1985 of 2 April 1985, Reguladora de las Bases del Régimen local and Decreto Real no 781/1986 Texto Refundido Régimen local</p> <p>Canal de Isabel II. Ley de la Comunidad Autónoma de Madrid of 20 December 1984</p> <p>Mancomunidad de los Canales de Taibilla, Law of 27 April 1946</p>
France	<p>Entities producing or distributing water pursuant to the:</p> <ul style="list-style-type: none"> — dispositions générales sur les régies, code des communes L 323-1 à L 323-8, R 323-1 à R 323-6 (dispositions générales sur les régies) — Code des communes L 323-8, R 323-4 [régies directes (ou de fait)] Décret-loi of 28 December 1926, Règlement d'administration publique of 17 February 1930 — Code des communes L 323-10 à L 323-13, R 323-75 à 323-132 (régies à simple autonomie financière) — Code des communes L 323-9, R 323-7 à R 323-74, Décret of 19 October 1959 (régies à personnalité morale et à autonomie financière) — Code des communes L 324-1 à L 324-6, R 324-1 à R 324-13 (gestion déléguée, concession et affermage) — jurisprudence administrative, circulaire intérieure (gérance) of 13 December 1975, or — Code des communes R 324-6, circulaire intérieure (régie intéressée) of 13 December 1975 — Circulaire intérieure (exploitation aux risques et périls) of 13 December 1975 — Décret of 20 May 1955, Loi sur les sociétés d'économie mixte (participation à une société d'économie mixte) of 7 July 1983 — Code des communes L 322-1 à L 322-6, R 322-1 à R 322-4 (dispositions communes aux régies, concessions et affermages)
Ireland	<p>Entities producing or distributing water pursuant to the Local Government (Sanitary Services) Act 1878 to 1964</p>
Italy	<p>Entities producing or distributing water pursuant to the Consolidated Text of Leggi sull'assunzione diretta dei pubblici servizi da parte dei comuni e delle province approvato con Regio Decreto n. 2578 of 15 October 1925 and Decreto del P.R. n. 902 of 4 October 1986</p> <p>Ente Autonomo Acquedotto Pugliese set up pursuant to RDL n. 2060 of 19 October 1919.</p> <p>Ente Acquedotti Siciliani set up pursuant to Leggi regionali n. 2/2 of 4 September 1979 and n. 81 of 9 August 1980</p> <p>Ente Sardo Acquedotti e Fognatur set up pursuant to Legge n. 9 of 5 June 1963</p>
Luxembourg	<p>Local authorities distributing water.</p> <p>Associations of local authorities producing or distributing water set up pursuant to the Loi concernant la création des syndicats de communes of 14 February 1900, as amended and supplemented by the Law of 23 December 1958 and the Law of 29 July 1981 and pursuant to the Loi ayant pour objet le renforcement de l'alimentation en eau potable du grand-duché de Luxembourg à partir du réservoir d'Esch-sur-Sûre of 31 July 1962</p>

Netherlands	Entities producing or distributing water pursuant to the Waterleidingwet of 6 April 1957, as amended by the Laws of 30 June 1967, 10 September 1975, 23 June 1976, 30 September 1981, 25 January 1984 and 29 January 1986
Austria	Entities of local authorities (Gemeinden) and associations of local authorities (Gemeindeverbände) producing, transporting or distributing water pursuant to the Wasserversorgungsgesetze of the nine Länder
Portugal	Empresa Pública das Águas Livres producing or distributing water pursuant to the Decreto-Lei no 190/81 of 4 July 1981 Local authorities producing or distributing water
Finland	Entities producing, transporting or distributing water pursuant to Article 1 of Laki yleisistä vesi- ja viemärilaitoksista (982/77) of 23 December 1977
Sweden	Local authorities and municipal companies which produce, transport or distribute drinking water pursuant to lagen (1970:244) om allmänna vatten- och avloppsanläggningar
United Kingdom	Water companies producing or distributing water pursuant to the Water Acts 1945 and 1989 The Central Scotland Water Development Board producing or distributing 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

(b) Production, transport or distribution of electricity

Belgium	Entities producing, transporting or distributing electricity pursuant to Article 5: Des régions communales et intercommunales of the Loi sur les distributions d'énergie électrique of 10 March 1925. Entities producing or distributing electricity pursuant to the Loi relative aux intercommunales of 22 December 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 sur les distributions d'énergie électrique of 10 March 1925 The Société publique de production d'électricité (SPE)
Denmark	Entities producing or transporting electricity on the basis of a licence pursuant to § 3, stk 1, of Lov. nr. 54 of 25 February 1976 om elforsyning, jf. bekendtgoerelse nr. 607 of 17 December 1976 om elforsyningslovens anvendelsesomraade Entities distributing electricity as defined in § 3, stk 2, of Lov nr. 54 of 25 February 1976 om elforsyning, jf. bekendtgoerelse nr. 607 of 17 December 1976 om elforsyningslovens anvendelsesomraade and on the basis of authorisations for expropriation pursuant to Articles 10 to 15 of Lov om elektriske staerkstroemsanlaeg, jf. Lovbekendtgørelse nr. 669 of 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, as last amended 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(5)

Greece	Dimosia Epicheirisi Ilektrismoy (Public Power Corporation) set up pursuant to Law 1468 of 2 August 1950: Peri idryseos Dimosias Epicheiriseos Ilektrismoy, and operating pursuant to Law 57/85: Domi, rolos kai tropos dioikisis kai leitoyrgias tis koinonikopoiimenis Dimosias Epicheirisis Ilektrismoy
Spain	Entities producing, transporting or distributing electricity pursuant to Article 1 of the Decreto of 12 March 1954 approving the Reglamento de verificaciones eléctricas y regularidad en el suministro de energía and pursuant to Decreto 2617/1966 of 20 October sobre autorización administrativa en materia de instalaciones eléctricas Red Eléctrica de España SA, set up pursuant to Real Decreto 91/1985 of 23 January
France	Électricité de France, set up and operating pursuant to Loi 46/6288 sur la nationalisation de l'électricité et du gaz of 8 April 1946 Entities (sociétés d'économie mixte or régies) distributing electricity and referred to in Article 23 of Loi 48/1260 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 of 12 August 1948 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 (ENEL) set up pursuant to Legge n. 1643 of 6 December 1962, approvato by Decreto n. 1720 of 21 December 1965 Entities operating on the basis of a concession pursuant to Article 4, n. 5 or 8 of Legge n. 1643 — Istituzione dell'Ente nazionale per la energia elettrica e trasferimento ad esso delle imprese esercenti le industrie elettriche of 6 December 1962 Entities operating on the basis of a concession pursuant to Article 20 of Decreto del Presidente della Repubblica n. 342 — Norme integrative della legge del 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 of 18 March 1965
Luxembourg	Compagnie grand-ducale d'électricité de Luxembourg, producing or distributing electricity pursuant to the Convention of 11 November 1927 concernant l'établissement et l'exploitation des réseaux de distribution d'énergie électrique dans le grand-duché de Luxembourg, approved by the Law of 4 January 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

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| Austria | Entities producing, transporting or distributing electricity pursuant to the second Verstaatlichungsgesetz (BGBl. Nr. 81/1947) and the Elektrizitätswirtschaftsgesetz (BGBl. Nr. 260/1975), including the Elektrizitätswirtschaftsgesetze of the nine Länder |
| Portugal | <p>Electricidade de Portugal (EDP), set up pursuant to Decreto-Lei no 502/76 of 30 June 1976.</p> <p>Entities distributing electricity pursuant to Artigo 1o do Decreto-Lei no 344-B/82 of 1 September 1982, as amended by Decreto-Lei no 297/86 of 19 September 1986. Entities producing electricity pursuant to Decreto-Lei no 189/88 of 27 May 1988</p> <p>Independent producers of electricity pursuant to Decreto-Lei no 189/88 of 27 May 1988.</p> <p>Empresa de Electricidade dos Açores — EDA, EP, created pursuant to Decreto Regional no 16/80 of 21 August 1980</p> <p>Empresa de Electricidade da Madeira, EP, created pursuant to Decreto-Lei no 12/74 of 17 January 1974 and regionalised pursuant to Decreto-Lei no 31/79 of 24 February 1979 and Decreto-Lei no 91/79 of 19 April 1979</p> |
| Finland | Entities producing, transporting or distributing electricity on the basis of a concession pursuant to Article 27 of Sähkölaki (319/79) of 16 March 1979 |
| Sweden | Entities transporting or distributing electricity on the basis of a concession pursuant to lagen (1902:71 s. 1) innefattande vissa bestämmelser om elektriska anläggningar |
| United Kingdom | <p>Central Electricity Generating Board (CEGB) and the Area Electricity Boards producing, transporting or distributing electricity pursuant to the Electricity Act 1947 and the Electricity Act 1957</p> <p>The North of Scotland Hydro-Electricity Board (NSHB), transporting or distributing electricity pursuant to the Electricity (Scotland) Act 1979</p> <p>The South of Scotland Electricity Board (SSEB) transporting or distributing electricity pursuant to the Electricity (Scotland) Act 1979</p> <p>The Northern Ireland Electricity Service (NIES), set up pursuant to the Electricity Supply (Northern Ireland) Order 1972</p> |
| (c) | Contracting entities in the field of urban railway, automated systems, tramway, trolley bus, bus or cable services |
| Belgium | <p>Société nationale des chemins de fer vicinaux (SNCV)/Nationale Maatschappij van Buurtspoorwegen (NMB)</p> <p>Entities providing transport services to the public on the basis of a contract granted by the SNCV pursuant to Articles 16 and 21 of the Arrêté relatif aux transports rémunérés de voyageurs par route effectués par autobus et par autocars of 30 December 1946</p> <p>Société des transports intercommunaux de Bruxelles (STIB)</p> <p>Maatschappij van het Intercommunaal Vervoer te Antwerpen (MIVA)</p> <p>Maatschappij van het Intercommunaal Vervoer te Gent (MIVG)</p> <p>Société des transports intercommunaux de Charleroi (STIC)</p> <p>Société des transports intercommunaux de la région liégeoise (STIL)</p> |

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 relatif aux mesures d'assainissement applicables à certains organismes d'intérêt public dépendant du ministère des communications of 30 December 1982

Denmark

Danske Statsbaner (DSB)

Entities providing bus services to the public (almindelig rutekørsel) on the basis of an authorisation pursuant to Lov nr. 115 om buskørsel of 29 March 1978

Germany

Entities providing, on the basis of an authorisation, short-distance transport services to the public (Öffentlichen Personennahverkehr) pursuant to the Personenbeförderungsgesetz of 21 March 1961, as last amended on 25 July 1989

Greece

Ilektrokinita Leoforeia Periochis Athinon-Peiraios (Electric buses of the Athens — Piraeus area) operating pursuant to Decree 768/1970 and Law 588/1977

Ilektrikoi Sidirodromoi Athinon-Peiraios (Athens — Piraeus electric railways) operating pursuant to Laws 352/1976 and 588/1977

Epicheirisi Astikon Sygkoinonion (Enterprise of urban transport) operating pursuant to Law 588/1977

Koino Tameio Eisprazeos Leoforeion (Joint receipts fund of buses) operating pursuant to Decree 102/1973

RODA (Dimotiky Epicheirisi Leoforeion Rodoy) Roda: Municipal bus enterprise in Rhodes

Organismos Astikon Sygkoinonion Thessalonikis (Urban transport organisation of Thessaloniki) operating pursuant to Decree 3721/1957 and Law 716/1980

Spain

Entities providing transport services to the public pursuant to Article 71 of the Ley de Régimen local

Corporación metropolitana de Madrid

Corporación metropolitana de Barcelona

Entities providing bus services to the public pursuant to Article 71 of the Ley de Ordenación de Transportes Terrestres of 31 July 1987

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 of 31 July 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 of 31 July 1957

Entities providing bus services to the public pursuant to Disposiciones Transitorias, Tercera, de la Ley de Ordenación de Transportes Terrestres of 31 July 1957

France	<p>Entities providing transport services to the public pursuant to Article 7-II of Loi 82-1153 (transports intérieurs, orientation) of 30 December 1982</p> <p>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 authorisation 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</p>
Ireland	<p>Iarnrod Éireann (Irish Rail)</p> <p>Bus Éireann (Irish Bus)</p> <p>Bus Átha Cliath (Dublin Bus)</p> <p>Entities providing services to the public pursuant to the amended Road Transport Act 1932</p>
Italy	<p>Entities providing transport services on the basis of a concession pursuant to Article 1 of Legge n. 1822 — Disciplina degli autoservizi di linea (autolinee per viaggiatori, bagagli e pacchi agricoli in regime di concessione all'industria privata) of 28 September 1939, as amended by Article 45 of Decreto del Presidente della Repubblica n. 771 of 28 June 1955</p> <p>Entities providing transport services to the public pursuant to Article 1(15) of Regio Decreto n. 2578 — Approvazione del Testo unico della legge sull'assunzione diretta dei pubblici servizi da parte dei comuni e delle province of 15 October 1925</p> <p>Entities operating on the basis of a concession pursuant to Article 242 or 256 of Regio Decreto 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 of 9 May 1912</p> <p>Entities operating on the basis of a concession pursuant to Article 4 of Legge n. 410, concorso dello Stato per la riattivazione dei pubblici servizi di trasporto in concessione of 14 June 1949</p> <p>Entities operating on the basis of a concession pursuant to Article 14 of Legge n. 1221 — Provvedimenti per l'esercizio ed il potenziamento di ferrovie e di altre linee di trasporto in regime di concessione of 2 August 1952</p>
Luxembourg	<p>Chemins de fer luxembourgeois (CFL)</p> <p>Service communal des autobus municipaux de la ville de Luxembourg</p> <p>Transports intercommunaux du canton d'Esch-sur-Alzette (TICE)</p> <p>Bus service undertakings operating pursuant to the Règlement grand-ducal concernant les conditions d'octroi des autorisations d'établissement et d'exploitation des services de transports routiers réguliers de personnes rémunérées of 3 February 1978</p>
Netherlands	<p>Entities providing transport services to the public pursuant to Chapter II (Openbaar vervoer) of the Wet Personenvervoer of 12 March 1987</p>
Austria	<p>Entities providing transport services pursuant to the Eisenbahngesetz 1957 (BGBl. Nr. 60/1957) and the Kraftfahrliniengesetz 1952 (BGBl. Nr. 84/1952)</p>

Portugal	<p>Rodoviária Nacional, EP</p> <p>Companhia Carris de Ferro de Lisboa</p> <p>Metropolitano de Lisboa, EP</p> <p>Serviços de Transportes Colectivos do Porto</p> <p>Serviços Municipalizados de Transporte do Barreiro</p> <p>Serviços Municipalizados de Transporte de Aveiro</p> <p>Serviços Municipalizados de Transporte de Braga</p> <p>Serviços Municipalizados de Transporte de Coimbra</p> <p>Serviços Municipalizados de Transporte de Portalegre</p>
Finland	<p>Public or private entities operating bus services according to Laki (343/91) luvanvaraisesta henkilöliikenteestä tiellä and Helsingin kaupungin liikennelaitos/Helsingfors stads trafikverk (Helsinki Transport Board), which provides metro and tramway services to the public</p>
Sweden	<p>Entities operating urban railway or tramway services according to lagen (1978:438) om huvudmannaskap för viss kollektiv persontrafik and lagen (1990:1157) om järnvägssäkerhet</p> <p>Public or private entities operating a trolley bus or bus service in accordance with lagen (1978:438) om huvudmannaskap för viss kollektiv persontrafik and lagen (1983:293) om yrkestrafik</p>
United Kingdom	<p>Entities providing bus services to the public pursuant to the London Regional Transport Act 1984</p> <p>Glasgow Underground</p> <p>Greater Manchester Rapid Transit Company</p> <p>Docklands Light Railway</p> <p>London Underground Ltd</p> <p>British Railways Board</p> <p>Tyne and Wear Metro</p>
(d) Contracting entities in the field of airport facilities	
Belgium	<p>Régie des voies aériennes set up pursuant to the Arrêté-loi portant création de la régie des voies aériennes of 20 November 1946, amended by Arrêté royal portant refonte du statut de la régie des voies aériennes of 5 October 1970</p>
Denmark	<p>Airports operating on the basis of an authorisation pursuant to § 55, stk. 1, lov om luftfart, jf. lovbekendtgørelse nr. 408 of 11 September 1985</p>
Germany	<p>Airports as defined in Article 38 Absatz 2 Nr. 1 of the Luftverkehrszulassungsordnung of 13 March 1979, as last amended by the Verordnung of 21 July 1986</p>
Greece	<p>Airports operating pursuant to Law 517/1931 setting up the civil aviation service (Ypiresia Politikis Aeroporias (YPA)).</p> <p>International airports operating pursuant to Presidential decree 647/981</p>

Spain	Airports managed by Aeropuertos Nacionales operating pursuant to Real Decreto 278/1982 of 15 October 1982
France	<p>Aéroports de Paris operating pursuant to Titre V, Articles L 251-1 à 252-1 of the Code de l'aviation civile</p> <p>Aéroport de Bâle-Mulhouse, set up pursuant to the Convention franco-suisse of 4 July 1949</p> <p>Airports as defined in Article L 270-1 of the Code de l'aviation civile</p> <p>Airports operating pursuant to the Cahier des charges type d'une concession d'aéroport, Décret of 6 May 1955</p> <p>Airports operating on the basis of a Convention d'exploitation pursuant to Article L/221 of the Code de l'aviation civile</p>
Ireland	<p>Airports of Dublin Cork and Shannon managed by Aer Rianta — Irish Airports</p> <p>Airports operating on the basis of a Public use License granted pursuant to the Air Navigation and Transport Act No 40/1936, the Transport Fuel and Power (Transfer of Departmental Administration Functions) Order 1959 (SI No 125 of 1959) and the Air Navigation (Aerodromes and Visual Ground Aids) Order 1970 (SI No 291 of 1970)</p>
Italy	<p>Civil State airports (aerodromi civili istituiti dallo Stato) referred to in Article 692 of the Codice della navigazione, Regio Decreto n. 327 of 30 March 1942</p> <p>Entities operating airport facilities on the basis of a concession granted pursuant to Article 694 of the Codice della navigazione, Regio Decreto n. 327 of 30 March 1942</p>
Luxembourg	Aéroport de Findel
Netherlands	Airports operating pursuant to Articles 18 and following of the Luchtvaartwet of 15 January 1958 (stbld. 47), amended on 7 June 1978
Austria	<p>Austro Control GmbH</p> <p>Entities as defined in Articles 60 to 80 of the Luftfahrtgesetz 1957 (BGBl. Nr. 253/1957)</p>
Portugal	<p>Airports managed by Aeroportos e Navegação Aérea (ANA), EP pursuant to Decreto-Lei no 246/79</p> <p>Aeroporto de Funchal and Aeroporto de Porto Santo, regionalised pursuant to Decreto-Lei no 284/81</p>
Finland	Airports managed by Ilmailulaitos/Luftfartsverket pursuant to Ilmailulaki (595/64)
Sweden	<p>Publicly owned and operated airports in accordance with lagen (1957:297) om luftfart</p> <p>Privately owned and operated airports with an exploitation permit under the act, where this permit corresponds to the criteria of Article 2(3) of the Directive</p>
United Kingdom	<p>Airports managed by British Airports Authority plc</p> <p>Airports which are public limited companies (plc) and operated pursuant to the Airports Act 1986</p>

(e) Contracting entities in the field of maritime or inland port or other terminal facilities

Belgium	<p>Société anonyme du canal et des installations maritimes de Bruxelles</p> <p>Port autonome de Liège</p> <p>Port autonome de Namur</p> <p>Port autonome de Charleroi</p> <p>Port de la ville de Gand</p> <p>Compagnie des installations maritimes de Bruges — Maatschappij der Brugse haveninrichtingen.</p> <p>Société intercommunale de la rive gauche de l'Escaut — Intercommunale maatschappij van de linker Scheldeoever (Port d'Anvers)</p> <p>Port de Nieuwport</p> <p>Port d'Ostende</p>
Denmark	<p>Ports as defined in Article 1, I to III of the bekendtgørelse nr. 604 of 16 December 1985 om hvilke havne der er omfattet af lov om trafikhavne, jf. Lov nr. 239 of 12 May 1976 om trafikhavne</p>
Germany	<p>Seaports owned totally or partially by territorial authorities (Länder, Kreise, Gemeinden)</p> <p>Inland ports subject to the Hafenordnung pursuant to the Wassergesetze der Länder</p>
Greece	<p>Piraeus port (Organismos Limenos Peiraios) set up pursuant to Emergency Law 1559/1950 and Law 1630/1951</p> <p>Thessaloniki port (Organismos Limenos Thessalonikis) set up pursuant to decree N.A. 2251/1953</p> <p>Other ports governed by Presidential decree 649/1977 (N.A. 649/1977) Epopteia, organosi leitoyrgias kai dioikitikos elenchos limenon (supervision, organisation of functioning and administrative control)</p>
Spain	<p>Puerto de Huelva set up pursuant to Decreto no 2380/692 of 2 October 1969: Puertos y Faros. Otorga Régimen de Estatuto de Autonomía al Puerto de Huelva</p> <p>Puerto de Barcelona set up pursuant to Decreto no 2407/78 of 25 August 1978: Puertos y Faros. Otorga al de Barcelona Régimen de Estatuto de Autonomía</p> <p>Puerto de Bilbao set up pursuant to Decreto no 2408/78 of 25 August 1978: Puertos y Faros. Otorga al de Bilbao Régimen de Estatuto de Autonomía</p> <p>Puerto de Valencia set up pursuant to Decreto no 2409/78 of 25 August 1978: Puertos y Faros. Otorga al de Valencia Régimen de Estatuto de Autonomía.</p> <p>Juntas de Puertos operating pursuant to Ley 27/68 of 20 June 1968: Puertos y Faros. Juntas de Puertos y Estatutos de Autonomía and to Decreto no 1350/70 of 9 April de 1970: Juntas de Puertos. Reglamento</p> <p>Ports managed by the Comisión Administrativa de Grupos de Puertos, operating pursuant to Ley 27/68 of 20 June 1968, Decreto 1958/78 of 23 June 1978 and Decreto 571/81 of 6 May 1981</p> <p>Ports listed in Real Decreto 989/82 of 14 May 1982: Puertos. Clasificación de los de interés general</p>

France	<p>Port autonome de Paris set up pursuant to Loi 68/917 relative au port autonome de Paris of 24 October 1968.</p> <p>Port autonome de Strasbourg set up pursuant to the Convention entre l'État et la ville de Strasbourg relative à la construction du port rhénan de Strasbourg et à l'exécution de travaux d'extension de ce port of 20 May 1923, approved by the Law of 26 April</p> <p>Other inland waterway ports set up or managed pursuant to Article 6 (navigation intérieure) of Décret 69-140 relatif aux concessions d'outillage public dans les ports maritimes of 6 February 1969</p> <p>Ports autonomes operating pursuant to Articles L 111-1 and following of the Code des ports maritimes</p> <p>Ports non autonomes operating pursuant to Articles R 121-1 and following of the Code des ports maritimes</p> <p>Ports managed by regional authorities (départements) or operating pursuant to a concession granted by the regional authorities (départements) pursuant to Article 6 of Loi 86-663 of 22 July 1983 complétant la loi 83-8 relative à la répartition des compétences entre les communes, départements et l'État of 7 January 1983</p>
Ireland	<p>Ports operating pursuant to the Harbour Acts 1946 to 1976</p> <p>Port of Dun Laoghaire operating pursuant to the State Harbours Act 1924</p> <p>Port of Rosslare Harbour operating pursuant to the Finguard and Rosslare Railways and Harbours Act 1899</p>
Italy	<p>State ports and other ports managed by the Capitaneria di Porto pursuant to the Codice della navigazione, Regio Decreto n. 327 of 30 March 1942</p> <p>Autonomous ports (enti portuali) set up by special laws pursuant to Article 19 of the Codice della Navigazione, Regio Decreto n. 327 of 30 March 1942</p>
Luxembourg	<p>Port de Mertert set up and operating pursuant to the Loi relative à l'aménagement et à l'exploitation d'un port fluvial sur la Moselle of 22 July 1963</p>
Netherlands	<p>Havenbedrijven, set up and operating pursuant to the Gemeentewet of 29 June 1851</p> <p>Havenschap Vlissingen, set up by the Wet houdende een gemeenschappelijke regeling tot oprichting van het Havenschap Vlissingen of 10 September 1970</p> <p>Havenschap Terneuzen, set up by the Wethoudende een gemeenschappelijke regeling tot oprichting van het Havenschap Terneuzen of 8 April 1970</p> <p>Havenschap Delfzijl, set up by the Wethoudende een gemeenschappelijke regeling tot oprichting van het Havenschap Delfzijl of 31 July 1957</p> <p>Industrie- en havenschap Moerdijk, set up by the gemeenschappelijke regeling tot oprichting van het Industrie- en havenschap Moerdijk of 23 October 1970, approved by Koninklijk Besluit nr. 23 of 4 March 1972</p>
Austria	<p>Inland ports owned totally or partially by Länder and/or Gemeinden</p>
Portugal	<p>Porto de Lisboa set up pursuant to the Decreto Real of 18 February 1907 and operating pursuant to Decreto-Lei no 36976 of 20 July 1948</p> <p>Porto do Douro e Leixões set up pursuant to Decreto-Lei nº 36977 of 20 July 1948</p> <p>Porto do Sines set up pursuant to Decreto-Lei nº 508/77 of 14 December 1977</p> <p>Portos de Setúbal, Aveiro, Figueira da Foz, Viana do Castelo, Portimão e Faro set up pursuant to Decreto-Lei nº 37754 of 18 February 1950</p>

Finland	Ports operating pursuant to Laki kunnallisista satamajärjestyksistä ja liikennemaksuista (955/76) Saimaa Canal(Saimaan kanavan hoitokunta)
Sweden	Ports and terminal facilities according to lagen (1983:293) om inrättande, utvidgning och avlysning av allmän farled och allmän hamn and the förordningen (1983:744) om trafiken på Göta kanal
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 IV B — Switzerland

Specification of private utilities as referred to in Articles (3)(1) and (2)(f) of the Agreement

(a) Production, transport or distribution of drinking water

Entities producing, transporting and distributing drinking water and operating pursuant to cantonal or local legislation or under individual agreements complying with such legislation

For example: Wasserversorgung Zug AG, Wasserversorgung Düringen

(b) Production, transport or distribution of electricity

Entities transporting and distributing electricity which may be granted a right to expropriate pursuant to the 'Loi fédérale concernant les installations électriques à faible et à fort courant' of 24 June 1902

Entities producing electricity pursuant to the 'Loi fédérale sur l'utilisation des forces hydrauliques' of 22 December 1916 and the Loi fédérale sur l'utilisation pacifique de l'énergie atomique of 23 December 1959

For example: CKW, ATEL, EGL

(c) Transport by urban railway, tramway, automated systems, trolley bus, bus or cable

Entities operating tramway services within the meaning of Article 2(1) of the 'Loi fédérale sur les chemins de fer' of 20 December 1957

Entities providing transport services to the public within the meaning of Article 4(1) of the 'Loi fédérale sur les entreprises de trolleybus' of 29 March 1950

Entities providing, as a business activity, regular scheduled passenger transport services on the basis of a concession granted pursuant to Article 4 of the 'Loi fédérale sur le transport de voyageurs et les transports par route' of 18 June 1993, where their lines provide a service within the meaning of Article 5(3) of the 'Ordonnance sur les indemnités, les prêts et les aides financières selon la loi des chemins de fer' of 18 December 1995

(d) Airports

Entities operating airports on the basis of a concession granted pursuant to Article 37(1) of the 'Loi fédérale sur la navigation aérienne' of 21 December 1948

For example: Bern-Belp, Birrfeld, Grenchen, Samedan

ANNEX V

(referred to in Article 5 of the Agreement, relating to challenge procedures)

1. Challenges shall be heard by a court or by an impartial and independent review body having no interest in the outcome of the procurement, the members of which are secure from external influence and the decisions of which are legally binding. The time-limit, if any, within which a challenge procedure may be initiated shall in no case be less than 10 days and shall run from the time when the basis of the complaint is known or should reasonably have been known.

A review body which is not a court shall either be subject to judicial review or shall have procedures which provide that:

- (a) participants have the right to be heard before a decision is reached, they may be represented and accompanied during the proceedings and shall have access to all proceedings
 - (b) witnesses may be presented and documentation relating to procurement under challenge and necessary to the proceedings shall be disclosed to the review body
 - (c) oral proceedings may be public and decisions shall be given in writing and shall state the reasons on which they are based.
2. The Parties shall ensure that measures concerning challenge procedures include at least either provisions for the powers:
 - (a) to take, at the earliest opportunity, interim measures with the aim of correcting the alleged infringement or preventing further injury to the interests concerned, including measures to suspend or to ensure the suspension of the procedure for the award of a contract or the implementation of any decision taken by the Covered Entity and
 - b) to set aside or ensure the setting aside of decisions taken unlawfully, including the removal of discriminatory technical, economic or financial specifications in the tender notice, the indicative notice, the notice on the existence of a qualification system or any other document relating to the contract award procedure in question. However, the powers of the body responsible for challenge procedures may be limited to awarding damages to any person harmed by an infringement if the contract has already been concluded by a Covered Entity

or provisions for powers to exert indirect pressure on Covered Entities in order to make them correct any infringements or prevent them from committing infringements, and to prevent injury from occurring.

3. Challenge procedures shall also provide for the award of damages to persons injured by the infringement. Where damages are claimed on the grounds that a decision has been taken unlawfully, either Party may provide that the contested decision must first be set aside or declared illegal.

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ANNEX VI

(referred to in Articles (3)(6) and (7) of the Agreement)

SERVICES

The following services, which are listed in the sectoral classification of services reproduced in document MTN.GNS/W/120, are covered by this Agreement:

<i>Subject</i>	<i>CPC (Central Product Classification) reference No</i>
Maintenance and repair services	6112, 6122, 633, 886
Land transport services including armoured car services, and courier services, except carriage of mail	712 (except 71235) 7512, 87304
Air transport services: carriage of passengers and freight, except carriage of mail	73 (except 7321)
Carriage of mail by land (except transport services by rail) and by air	71235, 7321
Telecommunications services	752 (except 7524, 7525, 7526)
Financial services:	
a) insurance services	ex 81 812, 814
b) banking and investment services ⁽¹⁾	
Computer and related services	84
Accounting, auditing and book-keeping services	862
Market research and public opinion polling services	864
Management consulting services and related services	865, 866 ⁽²⁾
Architectural services; engineering services and integrated engineering services; urban planning and landscape engineering services; related scientific and technical consulting services; technical testing and analysis services	867
Advertising services	871
Building-cleaning services and property management services	874, 82201-82206
Publishing and printing services on a fee or contract basis	88442
Sewage and refuse disposal services; Sanitation and similar services	94

The commitments entered into by the Parties in the field of services, including construction services, under this Agreement are limited to the initial commitments specified in the final offers presented by the Community and Switzerland in the context of the General Agreement on Trade in Services.

⁽¹⁾ Excluding financial market services relating to the issue, purchase, sale and transfer of securities or other financial instruments, and central bank services.

⁽²⁾ Excluding arbitration and conciliation services.

Trade in Services. This Agreement does not apply to:

- 1) service contracts awarded to an entity which is itself a contracting authority within the meaning of this Agreement and of Annex 1, 2 or 3 to the GPA on the basis of an exclusive right which it enjoys pursuant to a published law, regulation or administrative provision
 - 2) service contracts which a contracting entity awards to an affiliated undertaking or 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 3 of this Agreement 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 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
 - 3) service contracts for the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or concerning rights thereon
 - 4) employment contracts
 - 5) contracts for the acquisition, development, production or co-production of programme material by broadcasters and contracts for broadcasting time.
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ANNEX VII

(referred to in Article (3)(6) of the Agreement)

CONSTRUCTION SERVICES

Specification construction services covered:

1. *Definition:*

A contract for construction services is a contract which has as its object the execution, by whatever means, of construction, civil engineering or building work within the meaning of Division 51 of the Central Product Classification (CPC).

2. *List of services covered according to Division 51 of the CPC*

Site preparation work	511
Construction work	512
Civil engineering work	513
Assembly and construction of prefabricated structures	514
Specialised construction work	515
Installation work	516
Building completion work	517
Other services	518

The commitments entered into by the Parties in the field of services, including construction services, under this Agreement are limited to the initial commitments specified in the final offers presented by the EC and Switzerland in the context of the General Agreement on Trade in Services.

ANNEX VIII

(referred to in Article (3)(7) of the Agreement)

Switzerland

This Agreement shall not apply in Switzerland to:

- (a) contracts which the contracting entities award for purposes other than the pursuit of their activities as described in Article (3)(2) and Annexes I to IV to this Agreement or for the pursuit of their activities outside Switzerland;
 - (b) 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
 - (c) contracts awarded for the purchase of water
 - (d) contracts awarded by a contracting entity other than a public authority supplying drinking water or electricity to networks which provide a service to the public, where 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 Article (3)(2)(f)(i) and (ii) 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
 - (e) contracts awarded by a contracting entity other than a public authority supplying gas or heat to networks which provide a service to the public, where the production of gas or heat by the entity concerned is the inevitable result of the exercise of an activity other than that referred to in Article 3(2)(e)(i) and the purpose of supply to the public network is solely the economic exploitation of such production and accounts for no more than 20 % of the entity's turnover, having regard to the average for the three preceding years, including the current year
 - (f) contracts awarded for the supply of energy or of fuels for the production of energy
 - (g) contracts awarded by contracting entities providing bus transport services to the public where other entities are free to provide those services, either in general or in a particular geographical area, under the same conditions as the contracting entities
 - (h) contracts awarded by contracting entities carrying out an activity referred to in Article (3)(2)(d), provided that the contracts have as their object the sale and leasing of products for re-financing a supply contract awarded in accordance with the provisions of this Agreement
 - (i) contracts awarded pursuant to an international agreement and covering the joint implementation or exploitation of a project by the Parties
 - (j) contracts awarded pursuant to the particular procedure of an international organisation
 - (k) contracts when they are declared to be secret by the Parties or when their execution must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in the signatory states or when the protection of the basic security interests of that state so requires.
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ANNEX IX

(referred to in Article (6)(4) of the Agreement)

Annex IX A — Measures notified by the European Community:**Annex IX B — Measures notified by Switzerland:**

Review procedures in accordance with Article (6)(4) of this Agreement introduced in the cantons and municipalities for contracts below the thresholds on the basis of the *Loi fédérale sur le marché intérieur* of 6 October 1995.

ANNEX X

(referred to in Article (6)(2) of the Agreement)

Examples of areas where discrimination may be possible:

Any law, procedure or practice, such as levies, price preferences, local content requirements, local investment or production requirements, terms of licence or authorization, or funding or bidding rights, which discriminate, or require a Party's Covered Entity to discriminate, against the other Party's products, services, suppliers or service providers in the award of procurement contracts shall be prohibited.
