

COUNCIL DIRECTIVE

of 26 July 1971

concerning the co-ordination of procedures for the award of public works contracts

(71/305/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the General Programme for the abolition of restrictions on freedom of establishment,¹ and in particular Title IV B1 thereof;

Having regard to the General Programme for the abolition of restrictions on freedom to provide services,² and in particular Title V C (e) 1 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament³;

Having regard to the Opinion of the Economic and Social Committee⁴;

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

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

Whereas the Council, in a statement concerning the aforementioned General Programmes, has stressed

that co-ordination should be based on the following principles: prohibition of technical specifications that have a discriminatory effect, adequate advertising of contracts, the fixing of objective criteria for participation and the introduction of a procedure of joint supervision to ensure the observation of these principles;

Whereas some of the bodies which currently administer transport services in the Member States are governed by public law and some by private law; whereas, in accordance with the objectives of the common transport policy, equality of treatment should be ensured not only between separate undertakings concerned with a single mode of transport but also between such undertakings and undertakings concerned with other modes of transport;

Whereas, therefore, pending the adoption of provisions concerning the co-ordination of procedures which take into account the special circumstances described above, it is necessary to exclude from the scope of this Directive authorities referred to above which, by reason of their legal status, would fall within its scope;

Whereas it is necessary to avoid the subjection of the production, distribution and transmission or transportation services for water and energy to different systems for their works contracts, depending on whether they come under the State, regional or local authorities or other legal persons governed by public law or whether they have separate legal personality; whereas it is therefore necessary to exclude from the scope of this Directive those services referred to above which by reason of their legal status, would fall within its scope until such time as a definitive solution can be adopted in the light of experience;

Whereas provision must be made for exceptional cases where measures concerning the co-ordination of

¹ OJ No 2, 15.1.1962, p. 36/62.

² OJ No 2, 15.1.1962, p. 32/62.

³ OJ No 62, 13.4.1965, p. 883/65.

⁴ OJ No 63, 13.4.1965, p. 929/65.

procedures may not necessarily be applied, but such cases must be expressly limited;

Whereas works contracts of less than 1 000 000 units of account can, for the moment, be exempted from competition as provided for under this Directive, and it is appropriate to provide for their exemption from co-ordination measures; whereas, in the light of experience, the Commission will at a later date submit to the Council a new proposal for a Directive whose aim is to lower the threshold for the application of co-ordination measures to public works contracts;

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

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

HAS ADOPTED THIS DIRECTIVE:

TITLE I

General provisions

Article 1

For the purposes of this Directive:

- (a) 'public works contracts' are contracts for pecuniary consideration concluded in writing between a contractor (a natural or legal person) and an authority awarding contracts as defined under (b), which have as their object one of the activities referred to in Article 2 of the Council Directive of 26 July 1971 concerning the abolition of restrictions on freedom to provide services in the field of public works contracts and

on the award of public works contracts to contractors through acting agents or branches¹;

- (b) the State, regional or local authorities and the legal persons governed by public law specified in Annex I shall be regarded as 'authorities awarding contracts';
- (c) a contractor who has submitted a tender shall be designated by the term 'tenderer', and one who has sought an invitation to take part in a restricted procedure by the term 'candidate'.

Article 2

In awarding public works contracts, the authorities awarding contracts shall apply their national procedures adapted to the provisions of this Directive.

Article 3

1. In the event of the authorities awarding contracts concluding a contract of the same type as that indicated in Article 1 (a) except for the fact that the consideration for the works to be carried out consists either solely in the right to exploit the construction or in this right together with payment, the provisions of this Directive shall not apply to this so called 'concession' contract. In all other cases, application of the procedures for the award of public contracts shall be compulsory.

2. When the concessionaire is himself one of the authorities awarding contracts, he must apply the national procedures for the award of public works contracts adapted to the provisions of this Directive for works to be carried out by third parties.

3. When the State, a regional or local authority or one of the legal persons governed by public law specified in Annex I grants to a concessionaire other than an authority awarding contracts the right to have public works carried out and to exploit them, the concession contract shall stipulate that such concessionaire must observe the principle of non-discrimination on grounds of nationality in respect of contracts awarded to third parties.

4. Public works contracts awarded by bodies which are governed by public law and which administer transport services shall not be subject to the provisions of this Directive.

5. The provisions of this Directive shall not apply to public works contracts awarded by the

¹ OJ No L 185, 16.8.1971, p. 1.

production, distribution, transmission or transportation services for water and energy.

Article 4

The Directive shall not apply to public contracts awarded by a Member State:

- in pursuance of an international agreement concluded with a third country which, in respect of the award of contracts, contains provisions which differ from those of this Directive;
- to undertakings of third countries in pursuance of an international agreement which excludes undertakings of Member States;
- in accordance with the particular procedure of an international organisation.

Article 5

1. National procedures whereby any interested contractor may tender shall be subject to the provisions relating to 'open procedures' within the meaning of this Directive (Articles 10 to 13, 16, 20 and 23 to 29).

2. National procedures whereby contractors may tender only if invited to do so by the authorities awarding contracts shall be subject to the provisions relating to 'restricted procedures' within the meaning of this Directive (Articles 10 to 12, 14, 15, 17, 18, 20 to 29).

3. Contracts awarded in the cases referred to in Article 9 shall be subject to the provisions of Article 10 only.

Article 6

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

In particular, authorities awarding contracts shall include in the contract notice as accurate as possible a description of the works to be carried out so as to enable interested contractors to form a valid idea of the project. Furthermore, authorities awarding

contracts shall, in accordance with the provisions of Articles 23 to 28, set out in such contract notice the personal, technical and financial conditions to be fulfilled by candidates.

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

Article 7

1. The provisions of Titles II, III and IV and Article 9 shall apply, under the conditions laid down in Article 5, to public works contracts whose estimated value is not less than 1 000 000 units of account.

2. No contract may be split up with the intention of avoiding the application of this Article.

Article 8

When calculating the amounts referred to in Articles 7, 9 and 29 account shall be taken not only of the amount of the works contracts but also of the estimated value of the supplies needed to carry out the works which are made available to the contractor by the authorities awarding contracts.

Article 9

Authorities awarding contracts may award their works contracts without applying the provisions of this Directive, except those of Article 10, in the following cases:

- (a) in the absence of tenders, or in the event of irregular tenders following adoption of one of the procedures laid down in this Directive, or in the event of tenders which are unacceptable under national provisions that are in accordance with the provisions of Title IV, in so far as the terms of the original contract are not substantially altered;
- (b) when, for technical or artistic reasons or for reasons connected with the protection of exclusive rights, the works may only be carried out by a particular contractor;
- (c) for works carried out purely for purposes of research, experiment, study or development;
- (d) in so far as is strictly necessary when, for reasons of extreme urgency brought by events unforeseen by the authorities awarding contracts, the time limit laid down in other procedures cannot be kept;

(e) when works are declared secret or when their execution must be accompanied by special security measures in accordance with the provisions laid down by law, regulation or administrative action in force in the Member State concerned, or when the protection of the basic interests of that State's security so requires;

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

— when such works cannot be technically or financially separated from the main contract without great inconvenience to the authorities awarding contracts;

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

however, the aggregate value of contracts awarded for additional works may not exceed 50% of the value of the original contract;

(g) for new works consisting of the repetition of similar works entrusted to the undertaking to which the same authorities awarding contracts awarded an earlier contract, provided that such works conform to a basic project for which a first contract was awarded according to the procedures referred to in Article 5;

as soon as the first project is put up for tender, notice must be given that this procedure might be adopted and the total estimated cost of subsequent works shall be taken into consideration by the authorities awarding contracts when they apply the provisions of Article 5. This procedure may only be applied during the three years following the conclusion of the original contract;

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

Before the end of June of each year, Member States shall send the Commission a statement of the number and total value of contracts awarded in the preceding year on the basis of the present Article, at least as regards contracts awarded by States, Länder, regions, provinces or départements. Member States shall, as far as possible, classify the contracts awarded according to each of the cases cited in this Article.

TITLE II

Common rules in the technical field

Article 10

1. The technical specifications defined in Annex II and the description of testing, checking, acceptance and calculation methods shall figure in the general documents or in the contractual documents relating to each contract. Such technical specifications may be defined by reference to national standards.

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

Article 11

When projects are put up for competition or when invitations to tender permit contractors to submit variations on a project of the administration, the authorities awarding contracts may not reject a tender solely on the grounds that it has been drawn up using a method for pricing the works which differs from that used in the country where the contract is being awarded, provided that the tender accords with the terms and conditions of the contract documents. The tenderer must include with his tender all the evidence needed for examining the project and must supply any additional explanations which the authorities awarding contracts consider necessary.

TITLE III

Common advertising rules

Article 12

Authorities awarding contracts who wish to award a public works contract by open or restricted procedure shall make known their intention by means of a notice.

Such notice shall be sent to the Official Publications Office of the European Communities and shall be published in full in the *Official Journal of the European Communities* in the official languages of the Communities, the original text alone being authentic.

Under the accelerated procedure provided for in Article 15, the notice shall be published in its original language only, in the four editions of the *Official Journal of the European Communities*.

The notice referred to in the preceding paragraph shall be published in the *Official Journal of the European Communities* not later than nine days after the date of dispatch and, in the case of the accelerated procedure provided for in Article 15, not later than five days after that date.

The notice shall not be published in the official journals or in the specialist press of the country of the authorities awarding contracts before the date of its dispatch, and it shall mention this date. It shall not contain information other than that published in the *Official Journal of the European Communities*.

The authorities awarding contracts must be able to supply evidence of the date of dispatch.

Article 13

In open procedures, the time limit for the receipt of tenders shall be fixed by the authorities awarding contracts at no less than thirty-six days from the date of sending the notice. Provided it has been requested in good time, additional information relating to the contract documents shall be supplied by the authorities awarding contracts not later than six days before the final date fixed for receipt of tenders.

Where tenders can only be made after a visit to the site or after inspection of the documents supporting the contract documents, the time limits laid down in the preceding paragraph shall be extended accordingly.

Article 14

In restricted procedures, the time limit for receipt of requests to participate shall be fixed by the authorities awarding contracts at not less than twenty one days from the date of sending the notice.

The authorities awarding contracts shall simultaneously and in writing invite the selected candidates to submit their tenders.

The time limit for the receipt of tenders shall be fixed by the authorities awarding contracts at not less than

twenty-one days from the date of sending the written invitation. Provided it has been requested in good time, additional information relating to the contract documents must be supplied by the authorities awarding contracts at least six days before the final date fixed for receipt of tenders.

When tenders can only be made after a visit to the site or after inspection of the documents supporting the contract documents, the time limits laid down in the preceding paragraph shall be extended accordingly.

Article 15

In cases where urgency renders impracticable the time limits laid down in the preceding Article, the authorities awarding contracts may apply the shorter time limits specified below:

- a time limit for the receipt of requests to participate which shall be not less than twelve days from the date of sending the notice;
- a time limit for the receipt of tenders which shall be not less than ten days from the date of the invitation to tender.

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

Requests for participation in contracts and invitations to tender may be made in writing or by telegram, telex or telephone. When requests to participate are made by telegram, telex or telephone, they must be confirmed in writing.

Article 16

In open procedures, the notice shall include at least the following information:

- (a) the date of dispatch to the Official Publications Office of the European Communities;
- (b) the award procedure chosen;
- (c) the site; the nature and extent of the services to be provided and the general nature of the work; if the contract is subdivided into several lots: the order of size of the different lots and the possibility of tendering for one, for several, or for all of the lots; if the notice concerns a contract which, apart from the possible carrying out of works, entails the drawing up of a project, then only the information needed by contractors to understand the purpose of the contract and to tender accordingly;

- (d) any time limit for the completion of the works;
- (e) the address of the service awarding the contract;
- (f) the address of the service from which the contract documents and additional documents may be requested and the final date for making such a request; also the amount and terms of payment of any sum for such documents;
- (g) the final date for receipt of tenders, the address to which they must be sent and the language or languages in which they must be drawn up;
- (h) the persons authorised to be present at the opening of tenders and the date, time and place of this opening;
- (i) information about deposits and any other guarantees, whatever their form, which may be required by the authorities awarding contracts;
- (j) the main terms concerning financing and payment and/or references to the provisions laid down by law or regulation in which these are contained;
- (k) the specific legal form which will, if necessary, be assumed by the group of contractors to whom the contract is awarded;
- (l) the minimum economic and technical standards which the authorities awarding contracts require of contractors for their selection; these requirements may not be other than those specified in Articles 25 and 26;
- (m) the period during which tenderers shall be bound to keep open their tenders.

Article 17

In restricted procedures, the notice shall include at least the following information:

- (a) the information given in Article 16 (a), (b), (c), (d), (e) and (k);
- (b) the final date for receipt of requests to participate, the address to which they must be sent and the language or languages in which they must be written;
- (c) the final date for which invitations to tender shall be issued by the service awarding the contract;
- (d) the information to be given in the request to participate, in the form of statements which can later be checked concerning the contractor's personal position and the minimum economic and technical standards which the authorities awarding contracts require of contractors for their selection; these requirements may not be other than those specified in Articles 25 and 26.

Article 18

An invitation to tender under restricted procedures shall include at least the following information:

- (a) the information given in Article 16 (f), (g), (i) and (j);
- (b) a reference to the notice mentioned in Article 17;
- (c) an indication of any documents to be annexed, either to support the verifiable statements furnished by the candidate in accordance with Article 17 (d), or to supplement the information provided for in that Article under the same conditions as those laid down in Articles 25 and 26;
- (d) the criteria for the award of the contract if these are not given in the notice.

Article 19

The authorities awarding contracts may publish in the *Official Journal of the European Communities* notices of public works contracts which are not subject to the compulsory advertising measures provided for in this Directive, where the value of such contract is not less than 500 000 units of account.

TITLE IV

6

Common rules on participation

Article 20

Contracts shall be awarded on the basis of the criteria laid down in Chapter 2 of this Title, after the suitability of contractors not excluded under the provisions of Article 23 has been checked by the authorities awarding contracts in accordance with the criteria of economic and financial standing and of technical knowledge or ability referred to in Articles 25 to 28.

Article 21

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

Article 22

In restricted procedures, within the meaning of Article 5 (2), the authorities awarding contracts shall on the basis of the information given in accordance with the provisions of Article 17 (d) select which candidates they shall invite to tender.

Each Member State shall ensure that authorities awarding contracts issue invitations to those nationals of other Member States who satisfy the necessary requirements, under the same conditions as to its own nationals.

Chapter I

Criteria for qualitative selection

Article 23

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

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

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

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

Where the country concerned does not issue such documents or certificates, they may be replaced by a declaration on oath made by the person concerned before a judicial or administrative authority, a notary or a competent professional or trade body, in the country of origin or in the country whence that person comes.

Member States shall, within the time limit laid down in Article 32, designate the authorities and bodies competent to issue these documents and shall forthwith inform the other Member States and the Commission thereof.

Article 24

Any contractor wishing to take part in a public works contract may be requested to prove his enrolment in the professional or trade register under the conditions laid down by the laws of the Community country in which he is established: in Belgium, the *registre du commerce* — *Handelsregister*; in Germany, the *Handelsregister* and the *Handwerksrolle*; in France, the *registre du commerce* and the *répertoire des métiers*; in Italy, the *Registro della Camera di commercio, industria, agricoltura e artigianato* and the *Registro delle commissioni provinciali per l'artigianato*; in Luxembourg, the *registre aux firmes* and the *rôle de la Chambre des métiers*; in the Netherlands, the *Handelsregister*.

Article 25

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

- (a) appropriate statements from bankers;
- (b) the presentation of the firm's balance sheets or extracts from the balance sheets, where publication of the balance sheet is required under

company law in the country in which the contractor is established;

- (c) a statement of the firm's overall turnover and the turnover on construction works for the three previous financial years.

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

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

Article 26

Proof of the contractor's technical knowledge or ability may be furnished by:

- (a) the contractor's educational and professional qualifications and/or those of the firm's managerial staff, and, in particular, those of the person or persons responsible for carrying out the works;
- (b) a list of the works carried out over the past five years, accompanied by certificates of satisfactory execution for the most important works. These certificates shall indicate the value, date and site of the works and shall specify whether they were carried out according to the rules of the trade and properly completed. Where necessary, the competent authority shall submit these certificates to the authority awarding contracts direct;
- (c) a statement of the tools, plant and technical equipment available to the contractor for carrying out the work;
- (d) a statement of the firm's average annual manpower and the number of managerial staff for the last three years;
- (e) a statement of the technicians or technical divisions which the contractor can call upon for carrying out the work, whether or not they belong to the firm.

The authorities awarding contracts shall specify in the notice or in the invitation to tender which of these references are to be produced.

Article 27

The authority awarding contracts may, within the limits of Articles 23 to 26, invite the contractor to

supplement the certificates and documents submitted or to clarify them.

Article 28

1. Member States who have official lists of recognised contractors must, when this Directive enters into force, adapt them to the provisions of Article 23 (a) to (d) and (g) and of Articles 24 to 26.

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

3. Certified registration in such lists by the competent bodies shall, for the authorities of other Member States awarding contracts, constitute a presumption of suitability for works corresponding to the contractor's classification only as regards Articles 23 (a) to (d) and (g), 24, 25 (b) and (c) and 26 (b) and (d) and not as regards Articles 25 (a) and 26 (a), (c) and (e).

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

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

4. For the registration of contractors of other Member States in such a list, no further proofs and statements may be required other than those requested of nationals and, in any event, only those provided for under Articles 23 to 26.

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

Chapter II

Criteria for the award of contracts

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

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

2. In the latter instance, the authorities awarding contracts shall state in the contract documents or in the contract notice all the criteria they intend to apply to the award, where possible in descending order of importance.

3. The price criterion as calculated in accordance with current national regulations (Italian 'anonymous envelope' procedure) may be retained for a period of three years following expiry of the time limit laid down in Article 32 for contracts whose estimated value does not exceed 10 000 000 units of account, and for seven years from the same date for contracts whose estimated value is between 1 000 000 and 2 000 000 units of account.

4. The provisions of paragraph 1 shall not apply when a Member State bases the award of contracts on other criteria, within the framework of rules whose aim is to give preference to certain tenderers by way of aid, on condition that the rules invoked are in conformity with the Treaty, in particular Articles 92 *et seq.*

5. If, for a given contract, tenders are obviously abnormally low in relation to the transaction, the authority awarding contracts shall examine the details of the tenders before deciding to whom it will award the contract. The result of this examination shall be taken into account.

For this purpose it shall request the tenderer to furnish the necessary explanations and, where appropriate, it shall indicate which parts it finds unacceptable.

If the documents relating to the contract provide for its award at the lowest price tendered, the authority awarding contracts must justify to the Advisory Committee set up by the Council Decision of 26 July 1971¹ the rejection of tenders which it considers to be too low.

¹ OJ No L 185, 16.8.1971, p. 15.

TITLE V

Final provisions

Article 30

The calculation of the time limit for receipt of tenders or requests to participate shall be made in accordance with Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time limits².

Article 31

The cost of publication in the *Official Journal of the European Communities* of the notices provided for under Articles 12 and 19 shall be defrayed by the Communities in accordance with the procedure and conditions published in the *Official Journal*.

Article 32

Member States shall adopt the measures necessary to comply with this Directive within twelve months of its notification and shall forthwith inform the Commission thereof.

Article 33

Member States shall ensure that the text of the main provisions of national law which they adopt in the field covered by this Directive is communicated to the Commission.

Article 34

This Directive is addressed to the Member States.

Done at Brussels, 26 July 1971.

For the Council

The President

A. MORO

² OJ No L 124, 8.6.1971, p. 1.

ANNEX I

List of corporate bodies governed by public law referred to in Article 1 (b)

I. In all Member States:

Associations governed by public law formed by regional or local authorities, e.g., *associations de communes, syndicats de communes, Gemeindeverbände* etc.

II. In Belgium:

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| — le Fonds des routes | — het Wegenfonds |
| — La Régie des voies aériennes | — de Regie der luchtwegen |
| — public assistance commissions | |
| — structures of the Church | |
| — L'Office régulateur de la navigation intérieure | — de Dienst voor regeling van de binnenvaart |
| — la Régie des services frigorifiques de l'État belge | — de Regie der Belgische Rijkskoel en vriesdiensten |

III. In Germany:

the bundesunmittelbare Körperschaften, Anstalten und Stiftungen des öffentlichen Rechts

IV. In France:

other administrative public bodies at national, departmental and local levels

V. In Italy:

- state universities, state university institutes, consortia for university development works,
- higher scientific and cultural institutes, astronomical, astrophysical, geophysical and vulcanological observatories
- the Enti di riforma fondiaria
- relief and charity organisations

VI. In Luxembourg:

- social insurance offices
- other public administrative bodies

VII. In the Netherlands:

- the Waterschappen
- the Rijksuniversiteiten, the Academische Ziekenhuizen, the Gemeentelijke Universiteit van Amsterdam, the Rooms-Katholieke Universiteit van Nijmegen, the Vrije Universiteit van Amsterdam, the Technische Hogescholen
- the Nederlandse Centrale Organisatie voor toegepast natuurwetenschappelijk onderzoek (TNO) and its dependent organisations

*ANNEX II***Technical specifications within the meaning of this Directive**

Within the meaning of this Directive, technical specifications in the field of public works contracts shall comprise all the technical requirements given in the contract documents which permit an objective description of a job, material, product or supply (especially quality, performance) so that that job, material, product or supply fulfils the purpose for which it is required by the authority awarding contracts.

These technical specifications shall include all the mechanical, physical and chemical properties, the classifications and standards, and the test, checking, and acceptance conditions for works and for the materials and parts which they involve. They shall also include methods or techniques of construction and all the other technical conditions which the authority awarding contracts is in a position to prescribe, under general or specific regulations, in relation to the finished works and to the materials or parts which they involve.
