

Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

PART THREE

SEPARATION PROVISIONS

TITLE VIII

ONGOING PUBLIC PROCUREMENT AND SIMILAR PROCEDURES

Article 76

Rules applicable to ongoing procedures

- 1 The relevant rules shall apply:
 - a without prejudice to point (b), in respect of procedures launched by contracting authorities or contracting entities from the Member States or the United Kingdom under those rules before the end of the transition period and not yet finalised on the last day of the transition period, including procedures using dynamic purchasing systems as well as procedures for which the call for competition takes the form of a prior information notice or periodic indicative notice or a notice on the existence of a qualification system; and
 - b in respect of the procedures referred to in Article 29(2), (3) and (4) of Directive 2009/81/EC, Article 33(2) to (5) of Directive 2014/24/EU and Article 51(2) of Directive 2014/25/EU which relate to the performance of the following framework agreements concluded by contracting authorities or contracting entities from the Member States or the United Kingdom, including the award of contracts based on such framework agreements:
 - (i) framework agreements concluded before the end of the transition period that have neither expired nor been terminated on the last day of the transition period; or
 - (ii) framework agreements concluded after the end of the transition period in accordance with a procedure that falls under point (a) of this paragraph.
- 2 Without prejudice to the application of any restriction in accordance with Union law, the non-discrimination principle shall be complied with by contracting authorities and contracting entities with regard to tenderers or, as applicable, persons who are otherwise entitled to submit applications, from the Member States and the United Kingdom in relation to the procedures referred to in paragraph 1.
- 3 A procedure referred to in paragraph 1 shall be considered to have been launched when a call for competition or any other invitation to submit applications has been made in accordance with the relevant rules. Where the relevant rules allow for the use of procedures that do not require the use of a call for competition or other invitations to submit applications, the procedure shall be considered to have been launched when the contracting authority or contracting entity contacted economic operators in relation to the specific procedure.

- 4 A procedure referred to in paragraph 1 shall be considered finalised:
- a upon publication of a contract award notice in accordance with the relevant rules or, where those rules do not require the publication of a contract award notice, upon conclusion of the relevant contract; or
 - b upon informing tenderers or persons otherwise entitled to submit applications, as the case may be, of the reasons why the contract was not awarded, if the contracting authority or contracting entity decided not to award a contract.
- 5 This Article shall not affect Union or United Kingdom rules on customs, the movement of goods, the provision of services, the recognition of professional qualifications or intellectual property.