II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 22 March 1988

amending Directive 77/62/EEC relating to the coordination of procedures on the award of public supply contracts and repealing certain provisions of Directive 80/767/EEC

(88/295/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100A thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the measures aimed at progressively establishing the internal market during the period up to 31 December 1992 need to be taken; whereas the internal market consists of an area without internal frontiers in which free circulation of goods, persons, services and capital is guaranteed;

Whereas successive European Councils, from Brussels on 29 and 30 March 1985 to London on 5 and 6 December 1986, have drawn conclusions concerning the internal market;

Whereas the White Paper on the completion of the internal market fixes in particular a timetable and an action programme for the opening up of public supply contracts;

(1) OJ No C 173, 11. 7. 1986, p. 4, OJ No C 161, 19. 6. 1987, p. 10 and OJ No C 303, 13. 11. 1987, p. 3.
(2) OJ No C 13, 18. 1. 1988, p. 66.
(3) OJ No C 68, 16. 3. 1987, p. 7.

Having regard to the report on the application of Directive 77/62/EEC (4), as last amended by the Act of Accession of Spain and Portugal and Directive 80/767/EEC (5), submitted by the Commission to the Council on 14 December 1984 in reply to the Council resolution of 21 December 1976;

Whereas it is necessary to improve and extend the scope of the Directives by increasing the transparency of procedures and practices for the award of public supply contracts, and to make possible stricter enforcement of the prohibition of restrictions on the free movement of goods, which constitutes the basis of these Directives;

Whereas it is necessary to amend these Directives in order to incorporate changes to the GATT Agreement on Government Procurement of December 1986;

Whereas it is necessary to develop the conditions of effective competition for public supply contracts and the economic, budgetary and industrial benefits which result from it;

Whereas it is necessary to that end to define the extent of the exemptions by sector in order to ensure, in view of the divergent interpretations, that the imbalances in the application of the Directives between Member States do not increase;

(4) OJ No L 13, 15. 1. 1977, p. 1.
(5) OJ No L 215, 18. 8. 1980, p. 1.

Whereas the arrangements applicable to contracts awarded by contracting authorities in the defence sector need to be clarified by reference to the provisions of the Treaty;

Whereas it is appropriate to lay down the applicable thresholds, including the GATT-related threshold, in a single provision;

Whereas the open procedure best assures the establishment of equal conditions for participating in public contracts in all the Member States; whereas it is necessary to make the use of this procedure the rule, with the use of other procedures requiring a justification and the establishment of reports relating to it;

Whereas in order to limit the use of the single-tender procedure it is appropriate to create a negotiated procedure, which already exists in the practice of certain Member States, and in addition to define the conditions where extreme urgency can be invoked and the period during which additional deliveries can be carried out;

Whereas the negotiated procedure shall be considered as exceptional and therefore only be applied in certain specified cases;

Whereas it is necessary to adapt the common rules in the technical field to the new Community policy in respect of standardization;

Whereas all the operations and procedures related to the supply activities of the contracting authorities should be made more transparent; whereas to this end it is appropriate that the public buyers make known their purchasing programmes by means of advance information notices at Community level and that contracting authorities which use non-competitive tendering should permit other potential suppliers to establish and show their interest in such purchases and that information on the conditions under which contracts have been awarded should also be made public by the same method in order to stimulate more interest and participation on the part of a greater number of suppliers at Community level in public supply contracts;

Whereas it is necessary to fix certain time limits in order to avoid delays in the transmission of advance information notices and notices on contracts awarded;

Whereas the time limits for the receipt of requests for participation and tenders in the framework of public supply contracts should be extended in order to improve access and participation by a greater number of suppliers;

Whereas it is desirable for national provisions on the award of public supply contracts in favour of regional development to be included in the Community's objectives;

Whereas the Kingdom of Spain has recently adopted internal legislation to implement Directive 77/62/EEC; whereas, since further changes at this stage would adversely affect the adaptation of the private sector in that country, it is appropriate to allow the Kingdom of Spain additional time to implement the present Directive in its entirety;

Whereas the Portuguese Republic needs a transitional period for similar reasons;

Whereas the Hellenic Republic is in the process of adapting the national law to Directive 77/62/EEC and the incorporation at this stage of further Community rules would adversely affect the public supply contract sector, in particular with regard to certain economically significant factors, such as stability, transparency and the maintenance, in the medium term, of trading conditions;

Whereas, following the conclusions of the said European Councils and of the White Paper, and having regard to the said report, Directive 77/62/EEC should be amended and certain provisions of Directive 80/767/EEC repealed,

HAS ADOPTED THIS DIRECTIVE:

TITLE I

Amendments to Directive 77/62/EEC

Article 1

Directive 77/62/EEC is hereby amended in accordance with the provisions of this Title.

Article 2

In Article 1:

1. Point (a) is replaced by the following:

   '(a) "public supply contracts" shall be contracts for pecuniary interest concluded in writing involving the purchase, lease, rental or hire purchase, with or without option to buy, of products between a supplier (a natural or legal person) and one of the contracting authorities defined in (b) below. The delivery of such products may in addition include siting and installation operations.'

2. The following points are added:

'(d) "open procedures" are those national procedures whereby all interested suppliers can present an offer;

(e) "restricted procedures" are those national procedures whereby only those suppliers invited by the contracting authorities may submit tenders;

(f) "negotiated procedures" are those national procedures whereby contracting authorities consult suppliers of their choice and negotiate the terms of the contract with one or several of them.'

Article 3

In Article 2:

1. Paragraph 1 is deleted.

2. Paragraph 2 is replaced by the following:

'2. This Directive shall not apply to:

(a) public supply contracts awarded by carriers by land, air, sea or inland waterway;

(b) public supply contracts awarded by contracting authorities in so far as those contracts concern the production, transport and distribution of drinking water or those contracting authorities whose principal activity lies in the production and distribution of energy, nor to those contracting authorities whose principal activity is to offer telecommunications services;

(c) supplies which are declared secret or when their delivery must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in the Member State concerned or when the protection of the basic interests of that State's security so require.'

Article 4

The following Article is inserted:

'*Article 2a*

Without prejudice to Articles 2, 3 and 5 (1), this Directive shall apply to all products within the meaning of Article 1 (a), including those covered by contracts awarded by contracting authorities in the field of defence, except for the products to which the provisions of Article 223 (1) (b) of the Treaty apply.'

Article 5

Article 4 is deleted.

Article 6

Article 5 is replaced by the following:

'*Article 5*

1. (a) Titles II, III and IV and Article 6 shall apply to public supply contracts:

— awarded by the contracting authorities referred to in Article 1 (b) including contracts awarded by the contracting authorities in the field of defence listed in Annex I to Directive 80/767/EEC, in so far as the products not listed in Annex II to the said Directive are concerned, provided that the estimated value net of VAT is not less than 200 000 ECU,

— awarded under the terms and conditions of Directive 80/767/EEC by the contracting authorities listed in Annex I to the said Directive and whose estimated value net of VAT is not less than 130 000 ECU; in the case of contracting authorities in the field of defence, this shall apply only to contracts involving products covered by Annex II to the said Directive;

(b) the Directive shall apply to public supply contracts for which the estimated value equals or exceeds the threshold concerned at the time of publication of the notice in accordance with Article 9 (2);

(c) the value of the thresholds in national currencies and the threshold of the GATT Agreement expressed in ECU shall in principle be revised every two years with effect from 1 January 1988. The calculation of these values shall be based on the average daily values of these currencies expressed in ECU and of the ECU expressed in SDRs over the 24 months terminating on the last day of October immediately preceding the 1 January revision. These values shall be published in the *Official Journal of the European Communities* at the beginning of November;

(d) the method of calculation laid down in subparagraph (c) shall be examined, on the Commission's initiative, by the Advisory Committee for Public Contracts, in principle two years after its initial application.

2. In the case of contracts for the lease, rental or hire purchase of products, the basis for calculating the estimated contract value shall be:

— in the case of fixed-term contracts, where their term is 12 months or less, the total contract value for its duration, or, where their term exceeds 12 months its total value including the estimated residual value,

— in the case of contracts for an indefinite period or in cases where there is doubt as to the duration of the contracts, the monthly value multiplied by 48.

3. In the case of regular supply contracts or of contracts which are to be renewed within a given time, either the aggregate cost of similar contracts concluded over the previous fiscal year or 12 months adjusted, where possible, for anticipated changes in quantity or value over the subsequent 12 months or the estimated aggregate cost during the 12 months following first delivery or during the term of the contract where this is greater than 12 months must be taken as the basis for the application of paragraph 1. The selection of the valuation method shall not be used with the intention of avoiding the application of this Article.

4. If a proposed procurement of supplies of the same type may lead to contracts being awarded at the same time in separate parts, the estimated value of the total sum of these parts must be taken as the basis for the application of paragraphs 1 and 2.

5. In the cases where a proposed procurement specifies option clauses, the basis for calculating the estimated contract value shall be the highest possible total of the purchase, lease, rental, or hire-purchase permissible, inclusive of the option clauses.

6. No procurement requirement for a given quantity of supplies may be split up with the intention of avoiding the application of this Article.'

Article 7

Article 6 is replaced by the following text:

'*Article 6*

1. In awarding public supply contracts the contracting authorities shall apply the procedures laid down in Article 1 (d), (e) and (f), adapted to this Directive, in the cases set out below.

2. The contracting authorities may award their supply contracts using the restricted procedure in justified cases.

Such justification may *inter alia* be constituted by:

— a need to maintain a balance between contract value and procedural costs,

— the specific nature of the products to be procured.

3. The contracting authorities may award their supply contracts by negotiated procedure in the case of irregular tenders in response to an open or restricted procedure or in the case of tenders which are unacceptable under national provisions that are in accordance with provisions of Title IV, in so far as the original terms for the contract are not substantially altered. The contracting authorities shall in these cases publish a tender notice unless they include in such negotiated procedures all the enterprises satisfying the criteria of Articles 20 to 24 which, during the prior open or restricted procedure, have submitted offers in accordance with the formal requirements of the tendering procedure.

4. The contracting authorities may award their supply contracts by negotiated procedure without prior publication of a tender notice in the following cases:

(a) in the absence of tenders in response to an open or restricted procedure in so far as the original terms of the contract are not substantially altered and provided that a report is communicated to the Commission;

(b) when the articles involved are manufactured purely for the purpose of research, experiment, study or development, this provision does not extend to quantity production to establish commercial viability or to recover research and development costs;

(c) when, for technical or artistic reasons, or for reasons connected with protection of exclusive rights, the goods supplied may be manufactured or delivered only by a particular supplier;

(d) in so far as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the contracting authorities, the time limits laid down for the open and restricted procedures cannot be met.

The circumstances invoked to justify extreme urgency must not in any case be attributable to the contracting authorities;

(e) for additional deliveries by the original supplier which are intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire material having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance. The length of such contracts as well as that of recurrent contracts may, as a general rule, not exceed three years.

5. In all other cases, the contracting authorities shall award their supply contracts by the open procedure.

6. In the case of restricted or negotiated procedures, the contracting authorities shall draw up a written report which shall contain the justification for the use of that procedure and shall include at least the name and address of the contracting authority, the value, quantity and nature of products purchased, the number of requests to participate received, the number of candidates invited to submit an offer and, where applicable, the number of candidates rejected and the reasons for their rejection. The report shall also indicate in the case of the use of negotiated tender procedures the circumstances referred to in paragraphs 3 and 4 above with due justification which have led to the use of these procedures.

This report, or the main features of it, shall be communicated to the Commission at its request.'

Article 8

Article 7 is replaced by the following:

'*Article 7*

1. The technical specifications defined in Annex II shall be given in the general documents or the contractual documents relating to each contract.

2. Without prejudice to the legally binding national technical rules in so far as these are compatible with Community law, such technical specifications shall be defined by the contracting authorities by reference to national standards implementing European standards, or by reference to common technical specifications.

3. A contracting authority may depart from the principle laid down in paragraph 2, if:

(a) the standards do not include provision for establishing conformity, or technical means do not exist to establish satisfactorily conformity of a product to these standards;

(b) the application of paragraph 2 would prejudice the application of Council Directive 86/361/EEC of 24 July 1986 on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment [1], or Council Decision 87/95/EEC of 22 December 1986 on standardization in the field of information technology and telecommunications [2] or other Community instruments in specific service or product areas;

(c) use of these standards would oblige the contracting authority to acquire supplies incompatible with equipment already in use or would entail disproportionate costs or disproportionate technical difficulties, but only as part of a clearly defined and recorded strategy with a view to changeover, within a determined period, to European standards or common technical specifications;

(d) the project concerned is of a genuinely innovative nature for which use of existing standards would not be appropriate.

4. Contracting authorities invoking paragraph 3 shall record, unless it is impossible, the reasons for doing so in the tender notice published in the *Official Journal of the European Communities* and in all cases shall record these reasons in their internal documentation and shall supply such information on request to Member States and to the Commission.

5. In the absence of European standards or common technical specifications, the technical specifications may be defined, without prejudice to the principles of equivalence and mutual recognition of national technical specifications, by reference to other documents. In this case it is appropriate to make reference in order of preference to:

(a) national standards implementing international standards accepted in the country of the contracting authority;

(b) other national standards of the country of the contracting authority;

(c) any other standard.

6. 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 goods of a specific make or source or of a particular process and which have the effect of favouring or eliminating certain undertakings or products. In particular, the indication of trade marks, patents, types or specific origin or production shall be prohibited; however, such an indication accompanied by the words "or equivalent" shall be authorized where the subject

of the contract cannot otherwise be described by specifications which are sufficiently precise and fully intelligible to all concerned.

(1) OJ No L 217, 5. 8. 1986, p. 21.
(2) OJ No L 36, 7. 2. 1987, p. 31.'

Article 9

Article 9 is replaced by the following:

'*Article 9*

1. The contracting authorities listed in Annex I to Directive 80/767/EEC shall make known, as from 1 January 1989, as soon as possible after the beginning of their budgetary year, by means of an indicative notice, the total procurement by product area of which the estimated value, taking into account the provisions of Article 5 of this Directive, is equal or greater than 750 000 ECU and which they envisage awarding during the coming 12 months.

The Council, acting on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, shall decide before 1 March 1990 on the extension of this obligation to the other contracting authorities covered by Article 1.

2. Contracting authorities who wish to award a public supply contract by open, restricted, or, under the conditions laid down in Article 6 (3), by negotiated procedure within the meaning of Article 1 shall make known their intention by means of a notice.

3. Contracting authorities who have awarded a contract shall make known the result by means of a notice. However, certain information on the contract award may not be published, in given cases, where release of such information would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private, or might prejudice fair competition between suppliers.

4. The notices referred to in paragraphs 1, 2 and 3 shall be sent as rapidly as possible by the most appropriate channels to the Office for Official Publications of the European Communities. In the case of the accelerated procedure referred to in Article 12 the notice shall be sent by telex, telegram or facsimile.

(a) The notice referred to in paragraph 1 shall be sent as soon as possible after the beginning of each budgetary year;

(b) the notice referred to in paragraph 3 shall be sent at the latest 48 days after the award of the contract in question.

5. The notice shall be drawn up in accordance with the models given in Annex III.

6. The notice shall be published in full in the *Official Journal of the European Communities* and in the TED data bank in their original language. A summary of the important elements of each notice shall be published in the other official languages of the Community, the original text alone being authentic.

The Office for Official Publications of the European Communities shall publish the notices not later than 12 days after their dispatch. In the case of the accelerated procedure referred to in Article 12 this period shall be reduced to five days.

7. The notice shall not be published in the Official Journals or the press of the country of the contracting authority before the date of its dispatch and it shall mention the latter date. This publication shall not contain information other than that published in the *Official Journal of the European Communities*.

8. The contracting authorities must be able to supply proof of the date of dispatch.

9. The cost of publication of the notices in the *Official Journal of the European Communities* shall be borne by the Communities. The length of the notice shall not be greater than one page of the Journal, that is to say approximately 650 words. Each edition of the *Official Journal of the European Communities* which contains one or more notices shall reproduce the model notice or notices on which the published notice or notice are based.'

Article 10

Article 10 (1) is replaced by the following:

'1. In open procedures the time limit for the receipt of tenders fixed by the contracting authorities shall not be less than 52 days from the date of dispatch of the notice.'

Article 11

Article 11 (1), (2) and (3) is replaced by the following:

'1. In restricted procedures within the meaning of Article 1 (e) and negotiated procedures within the meaning of Article 1 (f) under the conditions laid down in Article 6 (3) the time limit for the receipt of requests to

participate fixed by the contracting authorities shall not be less than 37 days from the date of dispatch of the notice.

2. The contracting authorities shall simultaneously and in writing invite all successful candidates to submit their tenders. The letter of invitation shall be accompanied by the contract documents and supporting documents.

3. In restricted procedures the time limit for receipt of offers fixed by the contracting authorities may not be less than 40 days from the date of dispatch of the written invitation.'

Article 12

Article 12 (1) is replaced by the following:

'1. Where urgency renders impracticable the time limits referred to in Article 11, the contracting authorities may fix the following time limits:

(a) a time limit for the receipt of requests to participate which shall not be less than 15 days from the date of dispatch of the notice;

(b) a time limit for the receipt of tenders which shall not be less than 10 days from the date of the invitation to tender.'

Article 13

Articles 13, 14 and 15 are deleted.

Article 14

Article 19 (1) is replaced by the following:

'1. In restricted and negotiated procedures the contracting authorities shall, on the basis of information concerning the supplier's personal position and the information and formalities necessary for an appraisal of the minimum economic and technical conditions required of him, select from among the candidates with the qualifications required by Articles 20 to 24 those whom they will invite to submit a tender or to negotiate.'

Article 15

In Article 21 (1), after 'in the Netherlands on the Handelsregister', the following is inserted: 'and in Portugal on the Registo Nacional das Pessoas Colectivas.'

Article 16

Article 26 is replaced by the following:

'*Article 26*

1. This Directive shall not prevent, until 31 December 1992, the application of existing national provisions on the award of public supply contracts which have as their objective the reduction of regional disparities and the promotion of job creation in the most disadvantaged regions and in declining industrial regions, on condition that the provisions concerned are compatible with the Treaty and with the Community's international obligations.

2. Paragraph 1 shall be without prejudice to Article 25 (4).'

Article 17

Article 29 is replaced by the following:

'*Article 29*

1. In order to allow assessment of the results of applying this Directive, Member States shall communicate a statistical report to the Commission relative to contract awards:

(a) not later than 31 October of each year for the preceding year in respect of the contracting authorities listed in Annex I to Directive 80/767/EEC;

(b) not later than 31 October 1991 and for the Hellenic Republic, the Kingdom of Spain and the Portuguese Republic 31 October 1995 and thereafter 31 October of each second year for the preceding year in respect of contracting authorities within the meaning of Article 1 of this Directive, excluding those listed in Annex I to Directive 80/767/EEC.

2. This report shall detail at least:

(a) the number and value of contracts awarded by each contracting authority above the threshold and, in the case of contracting authorities mentioned in Annex I to Directive 80/767/EEC, the value below the threshold;

(b) the number and value of contracts awarded by each contracting authority above the threshold, subdivided by procedure, product and the nationality of the supplier to whom the contract has been awarded, and in the case of negotiated procedures, subdivided in accordance with Article 6, listing the number and value of the contracts

awarded to each Member State and to third countries, and in the case of Directive 80/767/EEC, the number and value of the contracts awarded to each signatory to the GATT Agreement on Government Procurement.

3. The Commission shall determine the nature of any additional statistical information, which is required in accordance with this Directive, in consultation with the Advisory Committee for Public Contracts.'

Article 18

Annexes I, II and III to the Directive are replaced by Annexes I, II and III to this Directive.

TITLE II

Deletion of certain provisions of Directive 80/767/EEC

Article 19

Articles 2, 3, 4, 5 and 6 of Directive 80/767/EEC are deleted.

TITLE III

Final provisions

Article 20

Member States shall adopt the measures necessary to comply with this Directive by 1 January 1989 and shall forthwith inform the Commission thereof.

However, with regard to the Hellenic Republic, the Kingdom of Spain and the Portuguese Republic, 1 January 1989 shall be replaced by 1 March 1992.

Article 21

Member States shall communicate to the Commission the texts of the main provisions of national law, whether laws, regulations or administrative provisions, which they adopt to comply with this Directive.

Article 22

This Directive is addressed to the Member States.

Done at Brussels, 22 March 1988.

For the Council

The President

M. BANGEMANN

ANNEX I

LIST OF LEGAL PERSONS GOVERNED BY PUBLIC LAW AND BODIES CORRESPONDING THERETO REFERRED TO IN ARTICLE 1 (b)

I. **In all Member States:**

associations governed by public law or bodies corresponding thereto formed by regional or local authorities, e.g. 'associations de communes', 'Gemeindeverbände', etc.

II. **In Germany:**

'bundesunmittelbare Körperschaften, Anstalten und Stiftungen des öffentlichen Rechts'; the 'landesunmittelbare Körperschaften, Anstalten und Stiftungen des öffentlichen Rechts' subject to State budgetary supervision.

III. **In Belgium:**

— 'le Fonds des Routes 1955—1969' — 'Het Wegenfonds',
— 'la Régie des Voies Aériennes' — 'de Regie der Luchtwegen',
— public social assistance centres,
— church councils,
— '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'.

IV. **In Denmark:**

'andre forvaltningssubjekter'.

V. **In France:**

— administrative public bodies at national, regional, departmental and local levels,
— universities, public scientific and cultural bodies and other establishments as defined by the Law setting out guidelines for Higher Education No 68-978 of 12 November 1968.

VI. **In Ireland:**

other public authorities whose public supply contracts are subject to control by the State.

VII. **In Italy:**

— State universities, State university institutes, consortia for university development works,
— higher scientific and cultural institutes, astronomical, astrophysical, geophysical or vulcanological observatories,
— the 'Enti di riforma fondiaria',
— welfare and benevolent institutes of all kinds.

VIII. **In Greece:**

other legal persons governed by public law whose public supply contracts are subject to State control.

IX. **In Luxembourg:**

public bodies subject to control by the Government, by an association of municipal corporations or by a municipal corporation.

X. **In the Netherlands:**

— the 'Waterschappen',
— the 'instellingen van wetenschappelijk onderwijs vermeld in article 15 van de Wet op het Wetenschappelijk Onderwijs (1960)', the 'academische ziekenhuizen',
— the 'Nederlandse Centrale Organisatie voor toegepast natuurwetenschappelijk onderzoek (TNO)' and its dependent organizations.

XI. **In Spain:**

other legal persons subject to public rules for the award of contracts.

XII. **In Portugal:**

legal persons governed by public law whose public supply contracts are subject to State control.

XIII. **In the United Kingdom:**

— Education Authorities,
— Fire Authorities,
— National Health Service Authorities,
— Police Authorities,
— Commission for the New Towns,
— New Towns Corporations,
— Scottish Special Housing Association,
— Northern Ireland Housing Executive.

ANNEX II

DEFINITION OF CERTAIN TECHNICAL SPECIFICATIONS

For the purpose of this Directive:

1. *'technical specification'* means the totality of the technical requirements contained in particular in the tender documents defining the characteristics required of a product such as the level of quality, performance, safety or dimensions including the requirements applicable to the product in respect of terminology, symbols, tests and testing methods, packaging, marking and labelling which permit a material, a product or a supply to be described objectively in a manner such that it fulfils the use for which it is intended by the contracting authority;

2. 'standard' means a technical specification approved by a recognized standardizing body for repeated and continuous application, compliance with which is in principle not compulsory;

3. *'European standard'* means the standards approved by the European Committee for Standardization (CEN) or by the European Committee for Electrotechnical Standardization (CENELEC) as 'European Standards (EN)' or 'Harmonization Documents (HD)' according to the Common Rules of these organizations;

4. *'Common technical specification'* means a technical specification drawn up with a view to uniform application in all Member States of the Community.

ANNEX III

MODEL NOTICES OF SUPPLY CONTRACTS

A. Open procedures

1. Name, address and telephone, telegraphic, telex and facsimile numbers of the contracting authority.

2. (a) Award procedure chosen;

   (b) form of contract for which offers are invited.

3. (a) Place of delivery;

   (b) nature and quantity of the goods to be supplied;

   (c) indication of whether the suppliers can tender for some and/or all of the goods required;

   (d) derogation from the use of standards in accordance with Article 7.

4. Time limit for delivery, if any.

5. (a) Name and address of the service from which the relevant documents may be requested;

   (b) final date for making such requests;

   (c) where applicable, the amount and terms of payment of any sum payable for such documents.

6. (a) Final date for receipt of tenders;

   (b) address to which they must be sent;

   (c) language(s) in which they must be drawn up.

7. (a) Persons authorized to be present at the opening of tenders;

   (b) date, time and place of this opening.

8. (Where applicable) Any deposits and guarantees required.

9. The main terms concerning financing and payment and/or references to the relevant provisions.

10. Where applicable, the legal form to be taken by the grouping of suppliers winning the contract.

11. The information and formalities necessary for an appraisal of the minimum economic and technical standards required of the supplier.

12. Period during which the tenderer is bound to keep open his tender.

13. Criteria for the award of the contract. Criteria other than that of the lowest price shall be mentioned if they do not appear in the contract documents.

14. Other information.

15. Date of dispatch of the notice.

16. Date of receipt of the notice by the Office for Official Publications of the European Communities.

B. Restricted procedures

1. Name, address and telephone, telegraphic, telex and facsimile numbers of the awarding authority.

2. (a) Award procedure chosen;

   (b) where applicable, justification for use of the accelerated procedure;

   (c) form of contract for which offers are invited.

3. (a) Place of delivery;

   (b) nature and quantity of goods to be delivered;

   (c) indication of whether the supplier can tender for some and/or all of the goods required;

   (d) derogation from the use of standards in accordance with Article 7.

4. Time limit on delivery, if any.

5. Where applicable, the legal form to be assumed by the grouping of suppliers winning the contract.

6. (a) Final date for the receipt of requests to participate;

   (b) address to which they must be sent;

   (c) language(s) in which they must be drawn up.

7. Final date for the dispatch of invitations to tender.

8. Information concerning the supplier's own position, and the information and formalities necessary for an appraisal of the minimum economic and technical standards required of him.

9. Criteria for the award of the contract if these are not stated in the invitation to tender.

10. Other information.

11. Date of dispatch of the notice.

12. Date of receipt of the notice by the Office for Official Publications of the European Communities.

C. Negotiated procedures

1. Name, address and telephone, telegraphic, telex and facsimile number of the awarding authority.

2. (a) Award procedure chosen;

   (b) where applicable, justification for use of the accelerated procedure;

   (c) where applicable, form of contract for which offers are invited.

3. (a) Place of delivery;

   (b) nature and quantity of goods to be delivered;

   (c) indication of whether the suppliers can tender for some and/or all of the goods required;

   (d) derogation from the use of standards in accordance with Article 7.

4. Time limit on delivery, if any.

5. Where applicable, the legal form to be assumed by a grouping of suppliers winning the contract.

6. (a) Final date for the receipt of requests to participate;

   (b) address to which they must be sent;

   (c) language(s) in which they must be drawn up.

7. Information concerning the supplier's own position, and the information and formalities necessary for an appraisal of the minimum economic and technical standards required of him.

8. Where applicable, the names and addresses of suppliers already selected by the awarding authority.

9. Date(s) of previous publications in the *Official Journal of the European Communities*.

10. Other information.

11. Date of dispatch of the notice.

12. Date of receipt of the notice by the Office for Official Publications of the European Communities.

D. Pre-information procedures

1. Name, address and telephone, telegraphic, telex and facsimile numbers of the awarding authority and of the service from which additional information may be obtained.

2. Nature and quantity or value of the products to be supplied.

3. Estimated date of the commencement of the procedures of the award of the contract(s) (if known).

4. Other information.

5. Date of dispatch of the notice.

6. Date of receipt of the notice by the Office for Official Publications of the European Communities.

E. Contract awards

1. Name and address of awarding authority.

2. (a) Award procedure chosen;

   (b) in respect of the contracting authorities listed in Annex I to Directive 80/767/EEC, where appropriate, justification in accordance with Article 6 (3) and (4) for the use of such procedures.

3. Date of award of contract.

4. Criteria for award of contract.

5. Number of offers received.

6. Name(s) and address(es) of supplier(s).

7. Nature and quantity of goods supplied, where applicable, by supplier.

8. Price or range of prices.

9. Other information.

10. Date of publication of the tender notice in the *Official Journal of the European Communities*.

11. Date of dispatch of the notice.

12. Date of receipt of the notice by the Office for Official Publications of the European Communities.