



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 19 March 2014  
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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	10 March 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2014) 148 final - Annex V
Subject:	Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part - Annex V

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Delegations will find attached document COM(2014) 148 final - Annex V.

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Encl.: COM(2014) 148 final - Annex V



Brussels, 10.3.2014  
COM(2014) 148 final

ANNEX 5

ANNEX

ANNEX V

**Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part**

*to the*

**Proposal for a Council Decision**

**on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part**

ANNEX XVI  
PUBLIC PROCUREMENT

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## ANNEX XVI-A

### THRESHOLDS

1. The value thresholds mentioned in Article 142(3) of this Agreement shall be for both Parties:
    - (a) EUR 130 000 for public supply and service contracts awarded by central government authorities, except for public service contracts defined in the third indent of point (b) of Article 7 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts;
    - (b) EUR 200 000 in the case of public supply and public service contracts not covered by point a);
    - (c) EUR 5 000 000 in the case of public works contracts and concessions;
    - (d) EUR 5 000 000 in the case of works contracts in the utilities sector;
    - (e) EUR 400 000 in the case of supply and service contracts in the utilities sector.
  2. The thresholds quoted in paragraph 1 shall be adapted to reflect the thresholds applicable under Commission Regulation (EU) No 1336/2013 of 13 December 2013 amending Directives 2004/17/EC, 2004/18/EC and 2009/81/EC of the European Parliament and of the Council in respect of the application thresholds for the procedures for the awards of contract at the moment of the entry into force of this Agreement.
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Annex XVI-B

INDICATIVE TIME SCHEDULE FOR INSTITUTIONAL REFORM,  
APPROXIMATION AND MARKET ACCESS

Phase		Indicative time schedule	Market access granted to the EU by Georgia	Market access granted to Georgia by the EU	
1	Implementation of Article 143(2) and Article 144 of this Agreement Agreement of the Reform Strategy set out in Article 145 of this Agreement	Three years after the entry into force of this Agreement	Supplies for central government authorities	Supplies for central government authorities	

Phase		Indicative time schedule	Market access granted to the EU by Georgia	Market access granted to Georgia by the EU	
2	Approximation and implementation of basic elements of Directive 2004/18/EC of the European Parliament and of the Council and of Council Directive 89/665/EEC	Five years after the entry into force of this Agreement	Supplies for state, regional and local authorities and bodies governed by public law	Supplies for state, regional and local authorities and bodies governed by public law	Annexes XVI-C and XVI-D to this Agreement

Phase		Indicative time schedule	Market access granted to the EU by Georgia	Market access granted to Georgia by the EU	
3	Approximation and implementation of basic elements of Directive 2004/17/EC of the European Parliament and of the Council and of Council Directive 92/13/EEC	Six years after the entry into force of this Agreement	Supplies for all contracting entities in the utilities sector	Supplies for all contracting entities	Annexes XVI-E and XVI-F to this Agreement

Phase		Indicative time schedule	Market access granted to the EU by Georgia	Market access granted to Georgia by the EU	
4	Approximation and implementation of other elements of Directive 2004/18/EC	Seven years after the entry into force of this Agreement	Service and works contracts and concessions for all contracting authorities	Service and works contracts and concessions for all contracting authorities	Annexes XVI-G, XVI-H and XVI-I to this Agreement
5	Approximation and implementation of other elements of Directive 2004/17/EC	Eight years after the entry into force of this Agreement	Service and works contracts for all contracting entities in the utilities sector	Service and works contracts for all contracting entities in the utilities sector	Annexes XVI-J and XVI-K to this Agreement

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## ANNEX XVI-C

### BASIC ELEMENTS OF DIRECTIVE 2004/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>1</sup>

#### (PHASE 2)

#### TITLE I

##### Definitions and general principles

Article 1 Definitions (paragraphs 1, 2, 8, 9, 11(a), 11(b) and 11(d), 12, 13, 14 and 15)

Article 2 Principles of awarding contracts

Article 3 Granting of special or exclusive rights: non-discrimination clause

#### TITLE II

##### Rules on public contracts

#### CHAPTER I

##### General provisions

Article 4 Economic operators

Article 6 Confidentiality

#### CHAPTER II

##### Scope

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<sup>1</sup> Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public contracts, public supply contracts and public service contracts.

## Section 1 — Thresholds

Article 8 Contracts subsidised by more than 50 % by contracting authorities

Article 9 Methods for calculating the estimated value of public contracts, framework agreements and dynamic purchasing systems

## Section 2 — Specific situations

Article 10 Defence procurement

## Section 3 — Excluded contracts

Article 12 Contracts in the water, energy, transport and postal services sectors (only when basic rules of Directive 2004/17/EC have been approximated)

Article 13 Specific exclusions in the field of telecommunications

Article 14 Secret contracts and contracts requiring special security measures

Article 15 Contracts awarded pursuant to international rules

Article 16 Specific exclusions

Article 18 Service contracts awarded on the basis of an exclusive right

## Section 4 — Special arrangement

Article 19 Reserved contracts

## CHAPTER III

### Arrangements for public service contracts

Article 20 Service contracts listed in Annex II A

Article 21 Service contracts listed in Annex II B

Article 22 Mixed contracts including services listed in Annex II A and services listed in Annex II B

## CHAPTER IV

### Specific rules governing specifications and contract documents

Article 23 Technical specifications

Article 24 Variants

Article 25 Subcontracting

Article 26 Conditions for performance of contracts

Article 27 Obligations relating to taxes, environmental protection, employment protection provisions and working conditions

## CHAPTER V

### Procedures

Article 28 Use of open, restricted and negotiated procedures and of competitive dialogue

Article 30 Cases justifying use of the negotiated procedure with prior publication of a contract notice

Article 31 Cases justifying use of the negotiated procedure without publication of a contract notice

## CHAPTER VI

### Rules on advertising and transparency

#### Section 1 — Publication of notices

Article 35 Notices: paragraph 1 *mutatis mutandis*; paragraph 2; first, third and fourth subparagraph of paragraph 4

Article 36 Form and manner of publication of notices: paragraph 1; paragraph 7

## Section 2 — Time-limits

Article 38 Time-limits for receipt of requests to participate and for receipt of tenders

Article 39 Open procedures: specifications, additional documents and information

## Section 3 — Information content and means of transmission

Article 40 Invitations to submit a tender, participate in the dialogue or negotiate

Article 41 Informing candidates and tenderers

## Section 4 — Communication

Article 42 Rules applicable to communication

## CHAPTER VII

Conduct of the procedure

## Section 1 — General provisions

Article 44 Verification of the suitability and choice of participants and award of contracts

## Section 2 — Criteria for qualitative selection

Article 45 Personal situation of the candidate or tenderer

Article 46 Suitability to pursue the professional activity

Article 47 Economic and financial standing

Article 48 Technical and/or professional ability

Article 49 Quality assurance standards

Article 50 Environmental management standards

Article 51 Additional documentation and information

## Section 3 — Award of the contract

Article 53 Contract award criteria

Article 55 Abnormally low tenders

## ANNEXES to Directive 2004/18/EC

Annex I List of the activities referred to in Article 1(2)(b)

Annex II Services referred to in Article 1(2)(d)

Annex II A

Annex II B

- Annex V List of products referred to in Article 7 with regard to contracts awarded by contracting authorities in the field of defence
- Annex V Definition of certain technical specifications
- Annex VII Information to be included in notices
- Annex VII A Information to be included in public contract notices
- Annex X Requirements relating to equipment for the electronic receipt of tenders, requests to participate and plans and projects in design contests
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Annex XVI-D

BASIC ELEMENTS OF COUNCIL DIRECTIVE 89/665/EEC<sup>1</sup>  
AS AMENDED BY DIRECTIVE 2007/66/EC  
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>2</sup>  
(PHASE 2)

- Article 1 Scope and availability of review procedures
  - Article 2 Requirements for review procedures
  - Article 2a Standstill period
  - Article 2b Derogations from the standstill period
    - Point (b) of the first paragraph of Article 2b
  - Article 2c Time limits for applying for review
  - Article 2d Ineffectiveness
    - Paragraph 1(b)
    - Paragraph 2 and 3
  - Article 2e Infringements of this Directive and alternative penalties
  - Article 2f Time-limits
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<sup>1</sup> Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts.

<sup>2</sup> Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts.

Annex XVI-E

BASIC ELEMENTS OF DIRECTIVE 2004/17/EC  
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>1</sup>

(PHASE 3)

TITLE I

General provisions applicable to contracts and design contests

CHAPTER I

Basic terms

Article 1 Definitions (paragraphs 2, 7, 9, 11, 12 and 13)

CHAPTER II

Definition of the activities and entities covered

Section 1 - Entities

Article 2 Contracting entities

Section 2 - Activities

Article 3 Gas, heat and electricity

Article 4 Water

Article 5 Transport services

Article 6 Postal services

Article 7 Exploration for, or extraction of, oil, gas, coal or other solid fuels, as well as ports and airports

Article 9 Contracts covering several activities

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<sup>1</sup> Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.



CHAPTER III  
General principles

Article 10 Principles of awarding contracts

TITLE II  
Rules applicable to contracts

CHAPTER I  
General provisions

Article 11 Economic operators

Article 13 Confidentiality

CHAPTER II  
Thresholds and exclusion provisions

Section 1 - Thresholds

Article 16 Contract thresholds

Article 17 Methods of calculating the estimated value of contracts, framework agreements and dynamic purchasing systems

Section 2 - Contracts and concessions and contracts subject to special arrangements

Subsection 2 - Exclusions applicable to all contracting entities and to all types of contract

Article 19 Contracts awarded for purposes of resale or lease to third parties

Article 20 Contracts awarded for purposes other than the pursuit of an activity covered or for the pursuit of such an activity in a third country: paragraph 1

Article 21 Contracts which are secret or require special security measures

Article 22 Contracts awarded pursuant to international rules

Article 23 Contracts awarded to an affiliated undertaking, to a joint venture or to a contracting entity forming part of a joint venture

Subsection 3 - Exclusions applicable to all contracting entities, but to service contracts only

Article 24 Contracts relating to certain services excluded from the scope of this Directive

Article 25 Service contracts awarded on the basis of an exclusive right

Subsection 4 - Exclusions applicable to certain contracting entities only

Article 26 Contracts awarded by certain contracting entities for the purchase of water and for the supply of energy or of fuels for the production of energy

### CHAPTER III

#### Rules applicable to service contracts

Article 31 Service contracts listed in Annex XVII A

Article 32 Service contracts listed in Annex XVII B

Article 33 Mixed service contracts including services listed in Annex XVII A and services listed in Annex XVII B

## CHAPTER IV

### Specific rules governing specifications and contract documents

- Article 34 Technical specifications
- Article 35 Communication of technical specifications
- Article 36 Variants
- Article 37 Subcontracting
- Article 39 Obligations relating to taxes, environmental protection, employment protection provisions and working conditions

## CHAPTER V

### Procedures

- Article 40 (except points (i) and (l) of paragraph 3) Use of open, restricted and negotiated procedures

## CHAPTER VI

### Rules on publication and transparency

#### Section 1 - Publication of notices

- Article 41 Periodic indicative notices and notices on the existence of a system of qualification
- Article 42 Notices used as a means of calling for competition paragraphs 1 and 3
- Article 43 Contract award notices (except for second and third subparagraphs of paragraph 1)
- Article 44 Form and manner of publication of notices (except for the first subparagraph of paragraph 2 and paragraphs 4, 5 and 7)

## Section 2 - Time limits

Article 45 Time-limits for the receipt of requests to participate and for the receipt of tenders

Article 46 Open procedures: specifications, additional documents and information

Article 47 Invitations to submit a tender or to negotiate

## Section 3 - Communication and information

Article 48 Rules applicable to communication

Article 49 Information to applicants for qualification, candidates and tenderers

## CHAPTER VII

### Conduct of the procedure

Article 51 General provisions

## Section 1 - Qualification and qualitative selection

Article 52 Mutual recognition concerning administrative, technical or financial conditions, and certificates, tests and evidence

Article 54 Criteria for qualitative selection

## Section 2 - Award of the contract

Article 55 Contract award criteria

Article 57 Abnormally low tenders

ANNEXES to Directive 2004/17/EC

Annex XIII Information to be included in contract notices:

- A. Open procedures
- B. Restricted procedures
- C. Negotiated procedures

Annex XIV Information to be included in the notice on the existence of a system of qualification

Annex XV A Information to be included in the periodic indicative notice

Annex XV B Information to be included in notices of publication of a periodic notice on a buyer profile not used as a means of calling for competition

Annex XVI Information to be included in the contract award notice

Annex XVII A Services within the meaning of Article 31

Annex XVII B Services within the meaning of Article 32

Annex XX Features concerning publication

Annex XXI Definition of certain technical specifications

Annex XXIII International labour law provisions within the meaning of Article 59(4)

Annex XXIV Requirements relating to equipment for the electronic receipt of tenders, requests to participate, applications for qualification as well as plans and projects

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ANNEX XVI-F

BASIC ELEMENTS OF COUNCIL DIRECTIVE 92/13/EEC<sup>1</sup>  
AS AMENDED BY DIRECTIVE 2007/66/EC  
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>2</sup>  
(PHASE 3)

Article 1	Scope and availability of review procedures
Article 2	Requirements for review procedures
Article 2a	Standstill period
Article 2b	Derogations from the standstill period Point (b) of the first paragraph of Article 2b
Article 2c	Time limits for applying for review
Article 2d	Ineffectiveness Paragraph 1 (b) Paragraphs 2 and 3
Article 2e	Infringements of this Directive and alternative penalties
Article 2f	Time-limits

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<sup>1</sup> Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors.

<sup>2</sup> Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts.

## ANNEX XVI-G

### OTHER NON-MANDATORY ELEMENTS OF DIRECTIVE 2004/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>1</sup>

#### (PHASE 4)

The elements of Directive 2004/18/EC set out in this Annex are not mandatory but recommended for approximation. Georgia may approximate those elements within the time-frame set in Annex XVI-B.

#### TITLE I

##### Definitions and general principles

Article 1 Definitions (paragraphs: 5, 6, 7, 10 and 11(c))

#### TITLE II

##### Rules on public contracts

#### CHAPTER II

##### Scope

Section 2 — Specific situations

Article 11 Public contracts and framework agreements awarded by central purchasing bodies

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<sup>1</sup> Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.

Section 4 — Special arrangement

Article 19 Reserved contracts

## CHAPTER V

Procedures

Article 29 Competitive dialogue

Article 32 Framework agreements

Article 33 Dynamic purchasing systems

Article 34 Public works contracts: particular rules on subsidised housing schemes

## CHAPTER VI

Rules on advertising and transparency

Section 1 — Publication of notices

Article 35 Notices: paragraph 3, and subparagraphs 2 and 3 of paragraph 4



## CHAPTER VII

### Conduct of the procedure

#### Section 2 — Criteria for qualitative selection

Article 52 Official lists of approved economic operators and certification by bodies established under public or private law

#### Section 3 — Award of the contract

Article 54 Use of electronic auctions

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## ANNEX XVI-H

### OTHER MANDATORY ELEMENTS OF DIRECTIVE 2004/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>1</sup>

#### (PHASE 4)

#### TITLE I

##### Definitions and general principles

Article 1 Definitions (paragraphs: 3, 4 and 11(e))

#### TITLE II

##### Rules on public contracts

#### CHAPTER II

##### Scope

Section 3 - Excluded contracts

Article 17 Service concessions

#### TITLE III

##### Rules on public works concessions

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<sup>1</sup> Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.

## CHAPTER I

### Rules governing public works concessions

Article 56 Scope

Article 57 Exclusions from the scope (except the last paragraph)

Article 58 Publication of the notice concerning public works concessions

Article 59 Time limit

Article 60 Subcontracting

Article 61 Awarding of additional works to the concessionaire

## CHAPTER II

### Rules on contracts awarded by concessionaires which are contracting authorities

Article 62 Applicable rules

## CHAPTER III

### Rules applicable to contracts awarded by concessionaires which are not contracting authorities

Article 63 Advertising rules: threshold and exceptions

Article 64 Publication of the notice

Article 65 Time limit for the receipt of requests to participate and receipt of tenders

## TITLE IV

### Rules governing design contests

Article 66 General provisions

Article 67 Scope

Article 68 Exclusions from the scope

Article 69 Notices

Article 70 Form and manner of publication of notices of contests

Article 71 Means of communication

Article 72 Selection of competitors

Article 73 Composition of the jury

Article 74 Decisions of the jury

### ANNEXES to Directive 2004/18/EC

Annex VII B Information which must appear in public works concession notices

Annex VII C Information which must appear in works contracts notices of concessionaires who are not contracting authorities

Annex VII D Information which must appear in design contest notices

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ANNEX XVI-I

OTHER ELEMENTS OF COUNCIL DIRECTIVE 89/665/EEC<sup>1</sup>  
AS AMENDED BY DIRECTIVE 2007/66/EC  
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>2</sup>  
(PHASE 4)

- Article 2b Derogations from the standstill period  
Point (c) of the first paragraph of Article 2b
- Article 2d Ineffectiveness  
Point (c) of the first paragraph of Article 2d  
Paragraph 5
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<sup>1</sup> Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts.

<sup>2</sup> Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts.

## ANNEX XVI-J

### OTHER NON-MANDATORY ELEMENTS OF DIRECTIVE 2004/17/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>1</sup> (PHASE 5)

The elements of Directive 2004/18/EC set out in this Annex are not mandatory but recommended for approximation. Georgia may approximate these elements within the time-frame set in Annex XVI-B.

#### TITLE I

General provisions applicable to contracts and design contests

#### CHAPTER I

Basic terms

Article 1 Definitions (paragraphs 4, 5, 6 and 8)

#### TITLE II

Rules applicable to contracts

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<sup>1</sup> Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.

## CHAPTER I

### General provisions

Article 14 Framework agreements

Article 15 Dynamic purchasing systems

### Section 2 - Contracts and concessions and contracts subject to special arrangements

Subsection 5 - Contracts subject to special arrangements, provisions concerning central purchasing bodies and the general procedure in case of direct exposure to competition

Article 28 Reserved contracts

Article 29 Contracts and framework agreements awarded by central purchasing bodies

## CHAPTER V

### Procedures

Article 40 (3) (i) and (l)

## CHAPTER VI

### Rules on publication and transparency

### Section 1 - Publication of notices

Article 42 Notices used as a means of calling for competition: para 2

Article 43 Contract award notices (only for the second and the third subparagraphs of paragraph 1)

CHAPTER VII  
Conduct of the procedure

Section 2 - Award of the contract

Article 56 Use of electronic auctions

ANNEX to Directive 2004/17/EC

Annex XIII Information to be included in contract notices:

D. Simplified contract notice for use in a dynamic purchasing system

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ANNEX XVI-K

OTHER ELEMENTS OF COUNCIL DIRECTIVE 92/13/EEC<sup>1</sup>  
AS AMENDED BY DIRECTIVE 2007/66/EC  
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>2</sup>  
(PHASE 5)

- Article 2b Derogations from the standstill period  
Point (c) of the first paragraph of Article 2b
- Article 2d Ineffectiveness  
Point (c) of the first paragraph of Article 2d  
Paragraph 5
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<sup>1</sup> Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors.

<sup>2</sup> Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts.

## ANNEX XVI-L

### PROVISIONS OF DIRECTIVE 2004/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>1</sup> OUTSIDE THE SCOPE OF APPROXIMATION

The elements listed in this Annex are not subject to the process of approximation.

#### TITLE II

#### Rules on public contracts

##### CHAPTER I

##### General provisions

Article 5 Conditions relating to agreements concluded within the World Trade Organisation

##### CHAPTER VI

##### Rules on advertising and transparency

##### Section 1 — Publication of notices

Article 36 Form and manner of publication of notices: paragraphs 2, 3, 4, 5, 6 and 8

Article 37 Non-mandatory publication

##### Section 5 — Reports

Article 43 Content of reports

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<sup>1</sup> Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.

## TITLE V

### Statistical obligations, executory powers and final provisions

Article 75 Statistical obligations

Article 76 Content of statistical report

Article 77 Advisory Committee

Article 78 Revision of the thresholds

Article 79 Amendments

Article 80 Implementation

Article 81 Monitoring mechanisms

Article 82 Repeals

Article 83 Entry into force

Article 84 Addressees

ANNEXES to Directive 2004/18/EC

Annex III	List of bodies and categories of bodies governed by public law referred to in the second subparagraph of Article 1(9)
Annex IV	Central Government authorities
Annex VIII	Features concerning publication
Annex IX	Registers
Annex IX A	Public works contracts
Annex IX B	Public supply contracts
Annex IX C	Public service contracts
Annex XI	Deadlines for transposition and application (Article 80)
Annex XII	Correlation table

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## ANNEX XVI-M

### PROVISIONS OF DIRECTIVE 2004/17/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>1</sup> OUTSIDE THE SCOPE OF APPROXIMATION

The elements listed in this Annex are not subject to the process of approximation.

#### TITLE I

General provisions applicable to contracts and design contests

#### CHAPTER II

Definition of the activities and entities covered

Section 2 - Activities

Article 8 Lists of contracting entities

#### TITLE II

Rules applicable to contracts

#### CHAPTER I

General provisions

Article 12 Conditions relating to Agreements concluded within the World Trade Organisation

Section 2 - Contracts and concessions and contracts subject to special arrangements

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<sup>1</sup> Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.

Subsection 1

Article 18 Works and service concessions

Subsection 2 - Exclusions applicable to all contracting entities and to all types of contract

Article 20 Contracts awarded for purposes other than the pursuit of an activity covered or for the pursuit of such an activity in a third country: paragraph 2

Subsection 5 - Contracts subject to special arrangements, provisions concerning central purchasing bodies and the general procedure in case of direct exposure to competition

Article 27 Contracts subject to special arrangements

Article 30 Procedure for establishing whether a given activity is directly exposed to competition

#### CHAPTER IV

Specific rules governing specifications and contract documents

Article 38 Conditions for performance of contracts

## CHAPTER VI

### Rules on publication and transparency

#### Section 1 - Publication of notices

Article 44 Form and manner of publication of notices (only for the first subparagraph of paragraph 2, and for paragraphs 4, 5 and 7)

#### Section 3 - Communication and information

Article 50 Information to be stored concerning awards

## CHAPTER VII

### Conduct of the procedure

Section 3 - Tenders comprising products originating in third countries and relations with those countries

Article 58 Tenders comprising products originating in third countries

Article 59 Relations with third countries as regards service contracts

## TITLE IV

### Statistical obligations, executory powers and final provisions

- Article 67 Statistical obligations
- Article 68 Advisory Committee
- Article 69 Revision of the thresholds
- Article 70 Amendments
- Article 71 Implementation of the Directive
- Article 72 Monitoring mechanisms
- Article 73 Repeal
- Article 74 Entry into force
- Article 75 Addressees

### ANNEXES to Directive 2004/17/EC

- Annex I Contracting entities in the sectors of transport or distribution of gas or heat
- Annex II Contracting entities in the sectors of production, transport or distribution of electricity
- Annex III Contracting entities in the sectors of production, transport or distribution of drinking water
- Annex IV Contracting entities in the field of rail services
- Annex V Contracting entities in the field of urban railway, tramway, trolleybus or bus services
- Annex VI Contracting entities in the postal services sector
- Annex VII Contracting entities in the sectors of exploration for and extraction of oil or gas



Annex VIII	Contracting entities in the sectors of exploration for and extraction of coal and other solid fuels
Annex IX	Contracting entities in the field of maritime or inland port or other terminal facilities
Annex X	Contracting entities in the field of airport installations
Annex XI	List of legislation referred to in Article 30(3)
Annex XII	List of professional activities as set out in point b of Article 1(2)
Annex XXII	Summary table of the time limits laid down in Article 45
Annex XXV	Time limits for transposition and implementation
Annex XXVI	Correlation table

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ANNEX XVI-N

PROVISIONS OF COUNCIL DIRECTIVE 89/665/EEC<sup>1</sup>  
AS AMENDED BY DIRECTIVE 2007/66/EC  
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>2</sup>  
OUTSIDE THE SCOPE OF APPROXIMATION

The elements listed in this Annex are not subject to the process of approximation.

- Article 2b Derogations from the standstill period  
Point (a) of the first paragraph of Article 2b
- Article 2d Ineffectiveness  
Point (a) of the first paragraph of Article 2d  
Paragraph 4
- Article 3 Corrective Mechanisms
- Article 3a Content of the notice for voluntary ex ante transparency
- Article 3b Committee Procedure
- Article 4 Implementation
- Article 4a Review

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<sup>1</sup> Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts.

<sup>2</sup> Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts.

## ANNEX XVI-O

### PROVISIONS OF COUNCIL DIRECTIVE 92/13/EEC<sup>1</sup> AS AMENDED BY DIRECTIVE 2007/66/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL<sup>2</sup> OUTSIDE THE SCOPE OF APPROXIMATION

The elements listed in this annex are not subject to the process of approximation.

- Article 2b Derogations from the standstill period
  - Point (a) of the first paragraph of Article 2b
- Article 2d Ineffectiveness
  - Point (a) of the first paragraph of Article 2b
  - Paragraph 4
- Article 3a Content of the notice for voluntary ex ante transparency
- Article 3b Committee Procedure
- Article 8 Corrective Mechanisms
- Article 12 Implementation
- Article 12a Review

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<sup>1</sup> Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors.

<sup>2</sup> Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts.

## ANNEX XVI-P

### GEORGIA: INDICATIVE LIST OF ISSUES FOR COOPERATION

Training, in EU countries and Georgia, of Georgian officials from government bodies engaged in public procurement;

Training of suppliers interested participating in public procurement;

Exchange of information and experience on best practice and regulatory rules in the sphere of public procurement;

Enhancement of the functionality of the public procurement website and establishment of a system of public procurement monitoring;

Consultations and methodological assistance from the Union in application of modern electronic technologies in the sphere of public procurement;

Strengthening the bodies charged with guaranteeing a coherent policy in all areas related to public procurement and the independent and impartial consideration (review) of contracting authorities' decisions. (Cf. Article 143(2) of this Agreement)

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