

ANNEX XIV

REFERRED TO IN ARTICLE 6.1

GENERAL NOTES

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FREE TRADE AGREEMENT GCC -EFTA

APPENDIX 1

PUBLIC WORKS CONCESSIONS

The Parties may review the possibility of further cooperation under this Appendix.



FREE TRADE AGREEMENT GCC -EFTA

APPENDIX 2

REFERRED TO IN ARTICLE 6.8

MEANS OF PUBLICATION

PART A: GCC COUNTRIES

a. United Arab Emirates

- Publication for laws and regulations: Official Gazette
- Procurement opportunities: <http://egov.uae.gov.ae>



b. Kingdom of Bahrain

Part 1: Publication for laws, regulations, judicial decisions and administrative rulings of general application, and procedures, including standard contract clauses:

- Official Gazette

Part 2: Procurement opportunities:

<http://www.tenderboard.gov.bh>



c. Kingdom of Saudi Arabia

Part 1: publication for laws, regulations, judicial decisions and administrative rulings of general application, and procedures, including standard contract clauses:

- Official gazette, *Umm Al-Qura*.

Part 2: Notice of intended procurement (open tendering) will be published in Arabic in the following means of publication:

- Official gazette, *Umm Al-Qura*
- Two local news papers.
- On the procuring entity web site



d. Sultanate of Oman

The following information shall be included in the tender's advertisement: the authority that receives tenders, deadlines for tenders, the type of materials to be supplied and work to be carried out, tender bond, cost of the copy of tender terms and conditions, postal fees and conditions for advance payment.

Publication for laws, regulations, Judicial decisions and administrative rulings of general application, and procedures:

1. Tender Board : <http://www.tenderboard.gov.om/Eng/default.asp>, or
2. Times of Oman: (<http://www.timesofoman.com/>), or
3. Oman: (<http://www.omandaily.com/>)



e. **State of Qatar**

- Published in local newspapers.
- On the procuring entity web site.
- Central tenders committee web site: www.ctc.gov.qa



f. State of Kuwait

- Official Gazette (Kuwait alyoum)
- The official web site for Kuwait central tender committee as follows:
www.ctc.gov.kw



APPENDIX 3

REFERRED TO IN ARTICLE 6.17

TIME LIMITS

PART A: GCC COUNTRIES

a. United Arab Emirates:

A procuring entity shall prescribe time limits for tendering that allow suppliers sufficient time to prepare and submit responsive tenders, taking into account the nature and complexity of the procurement. The time limit for tendering is 30 days from the date of publication of a notice of intended procurement to the deadline for submission of tenders.



b. Kingdom of Bahrain

1. A procuring entity shall prescribe time limits for tendering that allow suppliers sufficient time to prepare and submit responsive tenders, taking into account the nature and complexity of the procurement. Except as provided for in paragraphs 2 and 3, a procuring entity shall provide no less than 40 days from the date of publication of a notice of intended procurement to the deadline for submission of tenders.

2. Under the following circumstances, a procuring entity may establish a time limit for tendering that is less than 40 days, provided that such time limit is sufficiently long to enable suppliers to prepare and submit responsive tenders and is in no case less than 10 days:

- (a) where the entity has published a separate notice, including a notice of planned procurement at least 40 days and not more than 12 months in advance, and such separate notice contains a description of the procurement; the time limits for the submission of tenders or, where appropriate, applications for participation in a procurement; and the address from which documents relating to the procurement may be obtained;
- (b) where the entity procures commercial goods or services, except that the procuring entity may not rely on this provision if it requires suppliers to satisfy conditions for participation; or
- (c) in duly substantiated cases of extreme urgency brought about by events unforeseeable by the procuring entity, such that a 40-day deadline would result in serious adverse consequences to the entity or the relevant Party.
- (d) in the case of the second or subsequent publications dealing with contracts of a recurring nature.

3. When a procuring entity publishes a notice of intended procurement in an electronic medium, the procuring entity may reduce the time limit for submission of a tender or an application for participation in procurement by up to five days. In no case shall the procuring entity reduce either time limit to less than ten days from the date on which the notice of intended procurement is published.

4. A procuring entity shall require all participating suppliers to submit tenders by a common deadline. For greater certainty, this requirement also applies where:

- (a) as a result of a need to amend information provided to suppliers during the procurement process, the procuring entity extends the time limit for qualification or tendering procedures; or
- (b) negotiations are terminated and suppliers are permitted to submit new tenders.

c. **Kingdom of Saudi Arabia**

The procuring entity shall provide no less than 30 days from the date of publication of a notice of intended procurement.



d. Sultanate of Oman:

A minimum period of 40 days shall be given for bidders in public tenders from the date of the first advertisement. The Tender Board may, upon the request of the concerned unit, reduce this period, providing that it is not less than 15 days. This does not apply to public tenders concerning annual supplies except in the case of re-tending.



e. **State of Qatar**

The procuring entity shall provide no less than 30 days from the date of publication of a notice of intended procurement. In case of urgency, the procuring entity can reduce the time limit referred to above, subject to the time limit being no less than 14 days from the date of publication of a notice of intended procurement.



f. State of Kuwait

1. Entities shall provide no less than 30 days between the date on which the notice of intended procurement is published and the final date for the submission of tenders.
2. Where an entity requires suppliers to satisfy qualification requirements in order to participate in procurement, the entity shall provide no less than 30 days between the date on which the notice of intended procurement is published and the final date to submit the requests for participation and no less than 30 days between the date of issuance of the invitation to tender and the final date for submission of tenders.
3. Shorter periods can be taken into consideration in the following cases:
 - (a) where a state of urgency duly substantiated by the procuring entity renders impracticable the periods specified in paragraph 1 and 2.
 - (b) A second or subsequent publications dealing with contracts of a recurring nature.
 - (c) Where a notice of planned procurement has been published 40 days and not more than 12 months in advance.
 - (d) Procurement of off-the-shelf goods or services.
 - (e) If a mutual agreement between the entity and the selected suppliers could be reached, the entity may fix periods other than mentioned in paragraph 1 and 2. In the absence of agreement, the entity may fix periods which shall be sufficiently long to enable responsive tendering.

APPENDIX 4

VALUE OF THRESHOLDS

1. The GCC Countries shall calculate and convert the value of the thresholds into their own national currencies using the conversion rates of their respective National Banks.
2. The EFTA States shall calculate and convert the value of the thresholds into their own national currencies using the conversion rates of their respective National Banks. The conversion rates will be the average of the daily values of the respective national currency in terms of the SDR over the two-year period preceding 1 October or 1 November of the year prior to the thresholds becoming effective. The conversion rate shall apply from 1 January of the following year.



APPENDIX 5

PUBLICATION OF NOTICES

Notice of planned procurement

1. Each Party may encourage its entities to publish, as early as possible, in each fiscal year, a notice of planned procurement containing information regarding entities' future procurement plans. Such notice should include the subject matter of the procurement and the planned date of the publication of the notice of intended procurement.



Kingdom of Saudi Arabia

In addition to the information required under article 6.14, a procuring entity shall include the following information in each notice of intended procurement:

- (a) Tender's number and its description
- (b) Classification field and price of tender documentation
- (c) The time frame and place for submitting and opening tenders

For any suppliers to be included in the Classification list:

Minimum information

- (a) Submitting classification application to Deputy ministry of Municipal and Rural Affairs for Contractors Classification with all required documentation
- (b) After completing all required information, the department of contractors classification will start classifying supplier
- (c) Deputy ministry for Contractors Classification will issue certificate of classification valid for 3 years
- (d) List of classified contracts will be available on the web site of the Deputy ministry for Contractors Classification

APPENDIX 6

ADDITIONAL NOTES

a. United Arab Emirates

1. Chapter 6 shall not cover the following procurement:
 - (a) Ministry of Interior: Chapter 6 shall not cover the procurement of the following goods:
 - Weapons
 - Fire control equipment
 - Guided missiles
 - Aircraft
 - Ships
 - Engines, turbines
 - Communications, detection, and coherent radiation
 - (b) Ministry of Foreign Affairs: Chapter 6 shall not cover procurement of goods, services, construction and operation of chanceries outside the territory of UAE.
 - (c) General Endowments Authority: Chapter 6 shall not cover any procurement related to the purchase of religious books.
2. Chapter 6 shall not cover procurement by an entity not listed in the UAE schedule in Appendix 1 of Annex XIII.
3. Chapter 6 shall not cover any procurement of goods, services or construction in connection with petroleum, gas or minerals sectors.
4. Chapter 6 shall not apply to laws, regulations or requirements governing the procurement by government agencies of financial services purchased for governmental purposes and not with a view to commercial resale or use in supply of services for commercial sale.
5. Chapter 6 shall not apply to contracts awarded or to be awarded for purposes of resale or hire to third parties provided that the contracting entity enjoys no special or exclusive rights to sell or hire the subject of such contracts and that other entities are free to sell or hire it under the same conditions as the contracting entity.
6. Where a contract to be awarded by an entity which is not covered by this Chapter, this Chapter shall not be construed to cover any good or service (including construction) component of that contract.

7. When a specific procurement may impair important national policy or national security objectives, the UAE Government may consider it necessary to deviate from the principle of national treatment in Chapter 6. A decision to this effect will be taken at the level of the Council of Ministers.

8. Chapter 6 shall not apply to any procurement made by a covered entity on behalf of a non-covered entity.

9. Nothing in Chapter 6 shall be construed to prevent a covered entity from applying restrictions that promote the general environmental quality, as long as such restrictions are not disguised barriers to international trade.

10. The Government of the UAE shall be entitled to include in tender documents provision(s) to ensure the continuous delivery of proper after sale services pursuant to its procurement laws and regulations.

11. Chapter 6 shall not apply to contracts awarded by entities listed in Appendices 1.A.a and 2.A.a of Annex XIII for the purchase of drinking water, energy, transport services, telecommunications and post from companies or entities having an exclusive right.



b. Kingdom of Bahrain

1. Government Procurement Chapter does not apply to procurement by one Bahraini government entity of a good or service obtained or acquired from another Bahraini government entity.
2. Government Procurement Chapter does not apply to any procurement made by a covered entity on behalf of non-covered entities.
3. If the government has effectively eliminated its control or influence over an entity listed in Appendices 1 and 3 of Annex XIII, the procurement of such entity will not be covered by this Chapter.
4. Chapter 6 shall not apply to contracts awarded by entities listed in Appendices 1.A.b and 3.A.b of Annex XIII for the purchase of drinking water, energy, transport services, telecommunications and post from companies or entities having an exclusive right.



c. Kingdom of Saudi Arabia

1. This Chapter shall not cover procurement by an entity not listed in the KSA schedule.
2. Nothing in this chapter shall be constructed to prevent a covered entity from applying restrictions that promote the general environmental quality, or protect the public interest as long as such restrictions are not disguised barriers to international trade.
3. This chapter shall not apply to contracts awarded for purpose of re-sale or hire to third parties, provided that the contracting entity enjoys no special or exclusive rights to sell or hire the subject of such contracts and that other entities are free to sell or hire it under the same conditions as the contracting entity.
4. When specific procurement may impair important national policy or national security objectives, or the public interest, the KSA government reserves the right to deviate from the principles of national treatment in the chapter.
5. In order to apply for tendering, each supplier¹ should obtain the necessary classification from the Deputy ministry of Municipal and Rural Affairs for Contractors Classification in sufficient time.
- 6 Chapter 6 shall not apply to contracts awarded by entities listed in Appendices 1.A.c and 2.A.c of Annex XIII for the purchase of drinking water, energy, transport services, telecommunications and post from companies or entities having an exclusive right.

¹ It includes service providers and contractors

d. Sultanate of Oman

1. The Sultanate of Oman Government reserves the right to maintain a preferential price of 10 percent for its small and medium size enterprises in government procurements, on a permanent basis.
2. Chapter 6 shall not apply to any procurement made by a covered entity on behalf of uncovered entity.
3. Chapter 6 does not apply to procurements made by a government entity of good or service obtained or acquired from another government entity.
4. Chapter 6 does not apply to procurements undertaken by a covered entity on behalf of a non-covered entity.
5. Chapter 6 does not apply to the procurement of transportation services that form a part of, or are incidental to, a procurement contract.
6. If the Sultanate of Oman government has effectively eliminated its control or influence over an entity listed in Appendix 1 in Annex XIII, the procurement of such entity will not be covered by Chapter 6.
7. Any covered entity in chapter 6 that would be privatized after the entry into force of the agreement shall be automatically excluded from the application of this chapter.
8. Nothing in Chapter 6 shall be construed to prevent government of the Sultanate of Oman from adopting or maintaining measures:
 - A) necessary to protect public morals, order , or safety;
 - B) necessary to protect human, animal, or plant life or health;
 - C) necessary to protect intellectual property.
9. Chapter 6 shall not apply to contracts awarded by entities listed in Appendices 1.A.d and 2.A.d of Annex XIII for the purchase of drinking water, energy, transport services, telecommunications and post from companies or entities having an exclusive right.

e. **State of Qatar**

Chapter 6 shall not apply to contracts awarded by entities listed in Appendices 1.A.e and 2.A.e of Annex XIII for the purchase of drinking water, energy, transport services, telecommunications and post from companies or entities having an exclusive right.



f. State of Kuwait

The following (hereunder) exceptions shall apply to any procurement made by entities stated in Annex XIII (Appendix 1 to Appendix 5):

1. National products shall have preference than foreign counterparts concerning prices by 10%. Such prices shall be calculated upon the delivery to the purchaser's warehouses. Customs fees or any other fees (based on exemption) shall be added when calculating prices for the purpose of comparison.
2. Any foreign contractor may not establish a production unit for insuring his constructive requirements of projects.
3. Chapter 6 shall not apply to any procurement goods or services or constructions obtained or acquired by a covered entity on behalf of a non-covered entity.
4. Chapter 6 does not cover the procurement of goods, materials, services or constructions for the purpose of the production or reproduction in the petroleum, gas, minerals sectors.
5. Chapter 6 shall not apply to contracts awarded by entities listed in Appendices 1.A.f and 2.A.f of Annex XIII for the purchase of drinking water, energy, transport services, telecommunications and post from companies or entities having an exclusive right.
6. Any covered entity in this chapter that would be privatized after the entry into force of the agreement shall be automatically excluded from the application of this chapter.
7. Kuwait reserves the right to impose the offset program (under decision no. 13/2005) on civil contract projects valued over the limit of ten million Kuwaiti dinars or equivalent in (SDR 23,923,450) on which companies have to invest an equivalent 35% commitment of cash contract value for the offset program.