



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 06.02.2003
COM(2003) 56 final

Proposal for a

COUNCIL DECISION

**On a Community Position regarding the Rules of Procedure of the Joint Committee
established under the Agreement between the European Community and the Swiss
Confederation on certain aspects of government procurement**

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Agreement between the European Community and the Swiss Confederation on certain aspects of government procurement entered into force on 1 June 2002. Article 11 of that Agreement provides for the establishment of a Joint Committee on government procurement composed of representatives of the contracting Parties to be responsible for the effective implementation and operation of the Agreement. To that end, it is to exchange views and information and constitute the forum for consultations between the Parties. In particular, if the proper application of Chapter II of the Agreement so requires, the Parties are to inform each other of planned changes in their relevant legislation falling or likely to fall within the scope of the Agreement (Article 7(1)). Each Party is also to inform the other of any issue relevant to the interpretation and application of the Agreement (Article 7(2)).

The tasks and powers of the Committee include the following in particular:

- establishing the lists showing the situations in which the principle of non-discrimination is applied, with a view to assessing the functioning of Article 6, no later than five years after the entry into force of the Agreement (Article 6(3));
- the settlement of disputes submitted to it by one of the Parties (Article 10);
- the regular examination of the annexes to the Agreement and, at the request of one of the Parties, amendments to those annexes (Article 11(4)).

* * *

The draft Rules of Procedure provide for the office of Chairman to be held alternately and lays down out the secretarial functions, the holding of meetings, the composition of the delegations, the drawing-up and adoption of agendas and minutes, the adoption of acts, including by written procedure, the covering of expenses, confidentiality and the functioning of the working parties set up under the Agreement.

In the light of the above, the Council is invited to determine by Decision the position of the European Community to be adopted on the proposal for Decision No 1/2002 of the Joint Committee established under the Agreement between the European Community and the Swiss Confederation on certain aspects of government procurement. In this way, the Joint Committee will be able to adopt its Rules of Procedure in order to establish the necessary framework for its implementation and operation.

Proposal for a

COUNCIL DECISION

On a Community Position regarding the Rules of Procedure of the Joint Committee established under the Agreement between the European Community and the Swiss Confederation on certain aspects of government procurement

THE COUNCIL OF THE EUROPEAN COMMUNITY,

Having regard to the Treaty establishing the European Community,

Having regard to Decision 2002/309/EC, Euratom of the Council, and of the Commission as regards the Agreement on Scientific and Technological Cooperation, of 4 April 2002 on the conclusion of seven Agreements with the Swiss Confederation¹, and in particular Article 7(3) thereof,

Having regard to the Agreement between the European Community and the Swiss Confederation on certain aspects of government procurement², and in particular Article 11 thereof,

Having regard to the proposal from the Commission³,

Whereas:

- (1) The Agreement between the European Community and the Swiss Confederation on certain aspects of government procurement (hereinafter "the Agreement on government procurement") entered into force on 1 June 2002.
- (2) Article 11(1) of the Agreement on government procurement establishes a Joint Committee responsible for ensuring the effective implementation and operation of the Agreement.
- (3) Article 11(2) of the Agreement lays down that the Joint Committee shall adopt its Rules of Procedure.
- (4) The Community must decide on the position to be adopted in the Joint Committee with regard to the adoption of its Rules of Procedure.

¹ OJ L 114 of 30.4.2002, p. 1.

² OJ L 114 of 30.4.2002, p. 430.

³ OJ, C [...] of [...], p. [...]

HAS DECIDED AS FOLLOWS:

Sole Article

The Position of the European Community to be adopted in the Joint Committee established by Article 11 of the Agreement between the European Community and the Swiss Confederation on certain aspects of government procurement shall be based on the proposal for a decision of the Joint Committee attached to this Decision.

Done at Brussels,

*For the Council
The President*

ANNEX

DECISION No 1/2002 OF THE JOINT COMMITTEE ON GOVERNMENT PROCUREMENT ESTABLISHED UNDER THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE SWISS CONFEDERATION ON CERTAIN ASPECTS OF GOVERNMENT PROCUREMENT

of ...

on the adoption of its Rules of Procedure

(../../..)

THE JOINT COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on certain aspects of government procurement (hereinafter "the Agreement"), and in particular Article 11(2) thereof,

Whereas the Agreement entered into force on 1 June 2002,

HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:

Article 1

Chairman

The office of Chairman of the Committee shall be held alternately for a period of one calendar year by the European Community and the Swiss Confederation, hereinafter referred to as "the Parties".

Article 2

Secretariat

The Party holding the office of Chairman shall provide secretarial services for the Committee. The Chairman shall communicate to the head of the delegation not holding the office of Chairman the name and details of the person acting as secretary.

Article 3

Meetings

1. The Chairman shall determine the date and place of meetings by agreement with the head of the delegation not holding the office of Chairman.

2. If the head of the delegation not holding the office of Chairman asks for an extraordinary meeting to be held, the Chairman shall convene such a meeting within 30 days of receipt of the request.
3. Unless decided otherwise, the meetings of the Committee shall not be public.

Article 4

Delegations

1. The Parties shall appoint the heads of delegation who, outside the meetings, shall be the contact persons for all matters relating to the Agreement.
2. Before each meeting, the heads of delegation shall inform each other of the intended composition of their delegations.
3. The Committee may invite persons who are not members of the delegations to attend meetings to provide information on specific issues.

Article 5

Correspondence

All correspondence intended for the Chairman of the Committee and originating from him shall be sent to the secretariat of the Committee. The latter shall send a copy of all correspondence relating to the Agreement to the head of delegation of the Party not holding the office of Chairman, to the Swiss Mission to the EC and to the Commission of the EC.

Article 6

Agenda

1. The Chairman shall draw up the provisional agenda for each meeting. The provisional agenda shall be sent to the head of delegation of the Party not holding the office of Chairman at the latest 15 days prior to the meeting.

The provisional agenda shall include the items for which a request for their inclusion has reached the Chairman at least 21 days prior to the start of the meeting. The items shall be included in the agenda only if, where applicable, the documents relating to them have been sent to the Chairman no later than the date on which that agenda is sent.

2. The agenda shall be approved by the Committee at the start of each meeting. Items other than those listed in the provisional agenda shall be included with the agreement of the head of delegation of the Party not holding the office of Chairman.

3. With the agreement of the head of delegation of the Party not holding the office of Chairman, the Chairman may reduce the time limits set out in paragraph 1, in order to take account of the requirements of a particular case.

Article 7

Minutes

1. The secretariat shall draw up draft minutes of each meeting. The draft shall state the decisions taken, the recommendations made and the conclusions adopted. The draft minutes shall be submitted to the Committee for adoption. Once adopted by the Committee, the minutes shall be signed by the Chairman and the head of delegation of the Party not holding the office of Chairman. One original copy shall be kept by each of the Parties.
2. The draft minutes shall be drawn up within 15 working days of the meeting and shall be submitted to the Committee for adoption by the written procedure set out in Article 9. If that procedure cannot be completed, the minutes shall be adopted by the Committee at its next meeting.

Article 8

Adoption of acts

1. The recommendations and decisions of the Committee shall bear the title "Recommendation" or "Decision" followed by a serial number, the date of their adoption and an indication of their subject matter.
2. The decisions and recommendations of the Committee shall bear the signatures of the Chairman and of the head of delegation of the Party not holding the office of Chairman.
3. Each Party may decide to publish any act adopted by the Committee.

Article 9

Written procedure

1. The acts of the Committee may be adopted by written procedure when the Chairman and the head of delegation of the Party not holding the office of Chairman so agree.
2. The Party proposing the use of the written procedure shall submit the draft act to the other Party. The other Party shall reply, indicating whether it accepts or does not accept the act, whether it proposes any amendments to the draft, or whether it requests further time for reflection. If the draft is adopted, the Chairman shall finalise the decision or recommendation in accordance with Article 8.

Article 10

Expenses

Each Party shall bear the expenses it incurs in taking part in the meetings of the Committee.

Article 11

Confidentiality

The deliberations of the Committee shall be governed by professional secrecy.

Article 12

Working parties

The working parties shall work under the authority of the Committee, to which they shall submit a written report after each of their meetings. The report shall be sent to the secretariat of the Committee referred to in Article 2. They shall not be authorised to take decisions, but may only make recommendations to the Committee.

Done at ..., ../../..

*For the Joint Committee on
government procurement
The Chairman*

*The head of delegation of the Party not holding
the office of Chairman*