



Council of the
European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION establishing the position to be taken on behalf of the European Union within the Committee on Government Procurement as regards the draft decision on arbitration procedures pursuant to Article XIX:8 of the Revised Agreement on Government Procurement

COUNCIL DECISION (EU) 2016/...

of ...

**establishing the position to be taken
on behalf of the European Union
within the Committee on Government Procurement
as regards the draft decision on arbitration procedures
pursuant to Article XIX:8 of the Revised Agreement
on Government Procurement**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Revised Agreement on Government Procurement ('the Revised GPA'), which entered into force on 6 April 2014, lays down a revamped legal framework applicable by the Revised GPA Parties to covered procurement. The Revised GPA provides for the possibility of the Revised GPA Parties using arbitration procedures in cases where objections regarding proposed rectification, transfer of an entity from one annex to another, withdrawal of an entity or other modification of a Party's annexes to Appendix I were raised but could not be solved through consultations.
- (2) Pursuant to Article XIX:8 of the Revised GPA, the Committee on Government Procurement is required to adopt arbitration procedures in order to facilitate the resolution of those objections.
- (3) The Revised GPA Parties have extensively discussed the possible content of such arbitration procedures as regards various options to be applied in case of objections to a proposed modification of a Party's procurement coverage. The Revised GPA Parties have been able to find a consensus on that matter.
- (4) The agreed arbitration procedures are set out in a draft decision on arbitration procedures pursuant to Article XIX:8 of the Revised GPA.

- (5) That draft decision on arbitration procedures provides for the conditions that need to be met in order to resort to the arbitration procedures and sets out rules governing the appointment of arbitrators, the participation of third Parties in arbitration procedures, the conduct of the proceedings and the arbitrators' determination.
- (6) The adoption of the draft decision on arbitration procedures is expected to make a positive contribution to the existing legal framework of the Revised GPA as it has the purpose of facilitating the resolution of objections raised regarding a proposed rectification, transfer of an entity from one annex to another, withdrawal of an entity or other modification of a Party's annexes to Appendix I to the Revised GPA.
- (7) Accordingly, it is appropriate to establish the position to be taken on behalf of the Union within the Committee on Government Procurement with regard to the draft decision on arbitration procedures,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the Union within the Committee on Government Procurement shall be to approve the adoption of the draft decision on arbitration procedures pursuant to Article XIX:8 of the Revised Agreement on Government Procurement.

The text of the draft decision on arbitration procedures is attached to this Decision.*

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council

The President

* OJ: Please attach the text of the Draft Decision in document st 7541/16.