II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 24 February 1997

concerning the conclusion of two Agreements between the European Community and the State of Israel on, respectively, procurement by telecommunications operators and government procurement

(97/474/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 113, 66, 57 (2) in conjunction with Article 228 (3), first sentence, and Article 228 (4) thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Whereas the Agreements between the European Community and the State of Israel on, respectively, procurement by telecommunications operators and government procurement should be approved;

Whereas these agreements concern public procurements to award contracts for goods, works and other services; whereas such other services cannot be reduced to the sole hypothesis of transfrontier services; whereas in its judgment of 7 March 1996 the Court of Justice of the European Community indicated that, in the present state of Community law, Article 113 of the Treaty establishing the European Community is not sufficient to base a Council Decision to conclude an agreement which concerns, on an independent basis, the provision of services whose nature cannot be considered as merely transfrontier; whereas it is therefore appropriate to base this Decision also on Article 66 of the said Treaty, in conjunction with Article 57 (2), which provides the procedural requirement necessary for its application;

Whereas it is appropriate for the Council to authorize the Commission, in consultation with a special committee to be appointed by the Council, to approve modifications, on behalf of the Community, to Annexes I and II to the first of the abovementioned Agreements; whereas, however, such authorization will be limited, as far as Annex I is concerned, to the modifications resulting from the application of the procedure of Article 8 of Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sector [3] and, as far as Annex II is concerned, to the results of future negotiations within the framework of the 1996 Government Procurement Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the State of Israel on procurement by telecommunications operators and the Agreement between the said parties on government procurement are hereby approved on behalf of the Community.

The texts of the Agreements are attached to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person empowered to sign the Agreements in order to bind the Community.

[1] OJ No C 162, 6. 6. 1996, p. 10.
[2] OJ No C 33, 3. 2. 1997, p. 117.
[3] OJ No L 199, 9. 8. 1993, p. 84.

Article 3

The Commission is hereby authorized to approve, on behalf of the Community, modifications to Annexes I and II to the Agreement on procurement by telecommunications operators referred to in Article 1.

The Commission shall be assisted in this task by a special committee appointed by the Council.

The authorization referred to in the first subparagraph shall be limited, as far as Annex I is concerned, to the modifications that will be necessary if the procedures laid down in Article 8 of Directive 93/38/EEC were to be applied and, as far as Annex II is concerned, to the results of future negotiations to be conducted in the framework of the 1996 Governement Procurement Agreement.

Done at Brussels, 24 February 1997.

For the Council

The President

H. VAN MIERLO