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NATIONAL INDEPENDENT AGENCIES

**SECTIONS 2.2.1 AND 2.2.3 OF THE COMMISSION COMMUNICATION
"PUBLIC PROCUREMENT IN THE EUROPEAN UNION"**

[COM (98) 143]

UNICE POSITION PAPER

The Commission encourages Member States to establish independent agencies to identify interpretation problems, to ensure a speedy informal solution to market access problems and to help settle disputes on a national level.

UNICE recognises the need for a more efficient and harmonious application of the public procurement directives throughout the European Union. Market access may be obstructed by national rules and procedures that are difficult to penetrate. It is furthermore acknowledged that, in many countries, the time and resources required for the established court procedures together with the often sensitive nature of the supplier-customer relationship may discourage aggrieved tenderers from taking action against even manifest infringements of the directives.

In order to remedy this situation the following functions need to be available on a national level:

- readily available information on national rules and procedures;
- effective surveillance of contracting authorities' adherence to the rules; and
- recourse to speedy mediation by an independent party in conflicts between procurer and tenderer.

Such functions could possibly be performed in some member states by an independent agency. However, these tasks could also be divided among several government or even private bodies. Given the differences in national legal systems and procurement practices, maximum flexibility as to the organisational set up is more likely to yield the desired results. Certain countries already have institutions which perform the functions indicated above, whereas others could easily incorporate them into existing structures. Cooperation on such functions between member states should also be encouraged.