



Summary record

The 24th meeting of the ILO Forum was held on **Tuesday, 3 October 2023**

Industrial Liaison Officers: Mr J. Visser (Netherlands, **Chair**), Mr P. Sagmeister and Dr G. Weingartner (Austria), Ms V. Huppertz and Mr P. Vanoverloop (Belgium), Ms E. Getsova and Dr B. Vachev (Bulgaria), Ms M. Penić Levada and Mr S. Marijan (Croatia), Mr A. Ioulianos (Cyprus), Ms P. Bulkova and Mr J. Spunda (Czech Republic), Mr H. Bak Jeppesen and Mr N. Zangenberg (Denmark), Mr R. Aare (Estonia), Mr S. Karppinen (Finland), Mr N. Berton (France), Dr A. Basters and Dr F. Haug (Germany), Mr N. Manthos and Prof C. Fountas (Greece), Dr D. Barna and Mr T. Kiss (Hungary), Mr S. Sarkar (India), Ms L. Hadar (Israel), Mr M. Morandin (Italy), Ms A. Pīka-Ozola (Latvia), Mr M. Vilyis (Lithuania), Mr O.-P. Nordahl (Norway), Mr K. Mansoor Hassan (Pakistan), Ms S. Wójtowicz (Poland), Mr J. Antão (Portugal), Mr G. Popeneciu (Romania), Ms A. Raičević and Mr D. Vuković (Serbia), Mr L. Vargovčík (Slovakia), Mr S. Tuma (Slovenia), Mr L. Monreal and Mr M. Moreno Ballesteros (Spain), Dr F. Engelmark (Sweden), Mr M. Hübner (Switzerland), Mr H. Kiziltoprak and Mr E. Savaş (Türkiye), Dr B. Grynyov (Ukraine), Mr H. Alabaster, Mr R. Farrow and Mr A. Silverman (United Kingdom)

CERN officials:

Ms L. Bellini-Devictor (IPT-PI), Mr J. Davison (IPT-PI), Mr C. Hartley (IPT Department Head), Ms C. Lara (IPT-PI), Mr R. Losito (ATS-DO), Mr J. Pierlot (IPT-PI), Ms V. Cox (DG-TMC, summary record)

Item	Summary
	<u>The meeting was called to order at 8.30 a.m.</u>
1.	<u>Adoption of the agenda</u> The agenda ¹ was adopted.
2.	<u>Approval of the summary record</u> The summary record of the 23rd meeting of the ILO Forum, held on 21 March 2023 (document CERN/ILF/23/draft), <u>was approved.</u>
3.	<u>Revision of the Procurement Rules</u> C. Lara presented the proposed amendments to the Procurement Rules, including the proposals to increase the thresholds for the different tendering procedures, to extend the limited tendering mechanism and to use of best value for money (BVFM) for supplies, among other proposals, and the next steps to be taken in order to implement them. During the ensuing discussion, the following points were made: <u>Proposal to increase the threshold for competitive tenders subject to Finance Committee approval</u> <ul style="list-style-type: none">• The proposed threshold of 1.5 MCHF for competitive tenders subject to approval by the Finance Committee is not an arbitrary figure: it takes into account inflation and the cost-variation index (C. Lara, in reply to R. Farrow).• Even if the threshold is increased from 750 000 CHF to 1.5 MCHF, the ILOs will continue to receive by email the tables currently presented to Finance Committee approval (C. Lara, in reply to A. Silverman).• The ILOs are always welcome to raise concerns about the work of the Procurement service and its compliance with the Procurement Rules; the Procurement service will discuss such matters internally before reporting back to the ILOs. Should the ILOs disagree with the outcomes of tenders, these cases can be brought up in the ILO Forum. It is therefore not necessary, at present, to establish a specific arbitration mechanism;

¹ The agenda and all presentations are available on Indico at <https://indico.cern.ch/event/1326911/>

however, the Procurement service remains open to discussing the matter further (C. Hartley, in reply to F. Haug).

- The aim of the proposed threshold increase is to enable the Finance Committee to devote more of its time to the discussion of larger contracts, while ensuring that the ILOs continue to receive the same information about contracts as they currently do; this does not mean that the ILOs will replace the Finance Committee (C. Hartley, in reply to a further question from F. Haug).
- It might be beneficial to establish a review committee made up of members of the ILO Forum and the Finance Committee, to be tasked with making recommendations on their approval or highlighting any potential issues before they are presented to the Finance Committee. (O.-P. Nordahl).

Proposal to increase the threshold for price enquiries

- In the future, whenever there are eligibility criteria, a specific document will be drafted by the Procurement service so ILOs can use it to inform interested companies of the eligibility criteria of a given price enquiry (C. Lara, in reply to M. Morandin).
- It will be stated in the rules that, wherever possible, for price enquiries over 200 000 CHF, a six-week bidding period should be given, whereas for those below 200 000 CHF, the bidding period will remain four weeks. It is not realistic to allow six weeks for all price enquiries; indeed, lower value price enquiries do not tend to require so much time (C. Lara, in reply to R. Farrow).
- It is important to prioritise clarity and simplicity in the proposed changes and not to introduce additional features (R. Farrow, supported by M. Morandin).

Proposal to increase the threshold for the written bid procedure

- The Procurement service may still request multiple bids for contracts below the proposed 10 000 CHF threshold, and since bidders are not informed of the number of bids requested, the risk of them increasing their prices due to a perceived lack of competition is minimal. The Procurement service will, in any case, continue to perform cost estimates and compare bids received against previous orders. If the bids received are deemed too high, a price enquiry can be issued. The aim of the proposed change is to enable the Procurement service to focus on high-value contracts (C. Lara and C. Hartley, in reply to M. Morandin).

Proposal to increase the threshold for small orders made without the intervention of the Procurement service

- The fact that 8% of individual orders were sourced from “other countries” in 2022 (compared to 11% in 2014) can be attributed to the addition of two new punch-out catalogues for electronics; (C. Lara and C. Hartley, in reply to M. Morandin).

General comments on thresholds

- Thresholds should be reviewed taking into account the specific cost-variation index for goods, consumables and supplies, not the overall cost-variation index (M. Morandin).
- Even though the Procurement service decided not to pursue the proposed limit to single-source procurement, the discussions with the ILOs on that matter should still be mentioned in the report to the Finance Committee (R. Farrow).

Proposal to extend limited tendering

- The limited tendering mechanism will be extended to include the 12 least balanced Member States, as opposed to using a fixed target, since this will boost competition, thus resulting in lower prices, and ensure that countries with an industrial return coefficient slightly above the current threshold of 0.4 are also included (C. Lara, in reply to O.-P. Nordahl).
- In cases where two invitations to tender are launched following a market survey – one open and one under limited tendering – countries entitled to limited tendering will be able to submit bids under both invitations; this will be clearly set out in the invitation-to-tender documents (C. Lara, in reply to the Chair).
- The proposed change should be presented as a revision of the limited tendering rules because the phrasing “extension of limited tendering” suggests a new category is being introduced; since the proposed modification makes limited tendering available to both very poorly balanced and poorly balanced Member States – effectively removing any

distinction between them – now would be a good time to review the original categories of very poorly balanced, poorly balanced and well balanced (R. Farrow).

- Limited tendering was particularly successful in 2022 because that year nine Member States fell into the category of very poorly balanced; in contrast, only five countries have been able to benefit from the mechanism in 2023, one of which was an Associate Member State that reached its annual ceiling. Under the proposed extension, countries will be divided into two categories: those with an industrial return coefficient below 1.0 and those with an industrial return coefficient above or equal to 1.0. Of those with a coefficient below 1.0, the 12 countries with the lowest coefficient will be eligible for limited tendering, thus broadening the scope of eligibility to include countries at risk of becoming very poorly balanced (C. Lara and C. Hartley, in reply to R. Farrow).
- The proposed extension of limited tendering does not oblige the Procurement service to contact companies in each of the 12 least balanced Member States; it has the possibility to invite fewer countries, or even to limit a tendering procedure to one country, as long as it can be sure that enough competitive proposals will be received. In any case, if the department requesting the purchase deems that the bids received are too high, then the contract will simply not be placed (C. Hartley, in reply to O.-P. Nordahl).
- This proposal has the potential to result in significant cost increases for CERN – namely, by permitting bids under limited tendering to be up to 30% higher than those submitted under open tendering and by providing for the use of limited tendering in up to 20% of all invitations to tender and price enquiries. This is unacceptable to Italy, particularly in the light of the additional contributions made by the Member States and Associate Member States to mitigate the impact of high inflation and high electricity prices in 2023 on the CERN Budget (M. Morandin, supported by J. Antão).
- The proposal to restrict limited tendering to 20% of the total number of invitations to tender or price enquiries can be removed. The proposal to allow bids under limited tendering to be worth up to 30% more than those under open tendering was envisaged with price enquiries in mind; for invitations to tender, instead of using a percentage, an upper price limit in Swiss francs could be set. Moreover, wherever possible, but particularly for tenders in which a large volume of items is required, two parallel invitations to tender will be launched, such that, for example, 70% of the total volume corresponds to the open invitation to tender and the remaining 30% to the limited tendering procedure (C. Lara, in reply to M. Morandin).
- As only one parallel invitation to tender has been carried out so far, such invitations should be closely monitored in future in order to reach a consensus on what would be an acceptable price difference between bids under the open procedure and bids under the limited procedure (J. Antão).
- This problem will, to a certain extent, resolve itself since all departments are limited by their respective budgets (A. Silverman).
- To guarantee the long-term sustainability of the Organization, it is essential to strike the right balance between, on the one hand, ensuring that Member States benefit equally from procurement and, on the other, purchasing items required as cheaply as possible. Implementing the extension of limited tendering should therefore be a priority; the percentage difference to be tolerated between limited and open tendering procedures can be reviewed at a later stage. Ensuring sufficient competition within limited tendering procedures is ultimately the key to keeping costs low, as it will prevent companies from artificially increasing their bids (C. Hartley).

Proposal to use BVFM for supplies

- Most general supply contracts will continue to be adjudicated on a lowest compliant basis. The Procurement service remains committed to expanding the use of BVFM, in particular, with a view to promoting green procurement; however, since BVFM has the potential to result in increased costs and requires significantly more time and resources to implement, it should only be used if justifiable benefits exist (C. Lara and C. Hartley, in reply to H. Bak Jeppesen).
- Sustainable procurement is not contingent on the use of BVFM; indeed, sustainability criteria are already taken into account in the standard technical specifications and adjudication formulae (C. Lara, in reply to R. Farrow).
- BVFM contracts are already adjudicated on the basis of objective, measurable parameters, and for high energy consuming products, lifetime electricity consumption is

taken into account as a matter of course. Before the invitation-to-tender documents are issued, the Procurement service determines the adjudication criteria and their weighting factors and devises a scoring mechanism, indicating the number of points corresponding to each criterion (C. Lara, in reply to O.-P. Nordahl).

- The presentation title “Use of BVFM for supplies” is misleading as it implies that it will be possible to adjudicate any supply contract on a BVFM basis, whereas what is being proposed is the expansion of the definition of a service contract. Instead, it would be preferable to establish a mechanism enabling the Procurement service to decide whether contracts are to be adjudicated on a lowest compliant or a BVFM basis, regardless of whether they are supply contracts or service contracts. This would shift the decision-making responsibility from the Finance Committee to the Procurement service. The Procurement service could send an email to the ILOs detailing the proposed adjudication basis for upcoming contracts (lowest compliant or BVFM), and the ILOs would then be able to approve or veto them (R. Farrow).
- The ILO Forum is indeed the body with the technical expertise to decide on which basis contracts should be adjudicated; in the event that a unanimous verdict cannot be reached within the ILO Forum, the decision could be taken to the Finance Committee (A. Silverman).
- It is a pity to abandon the possibility of expanding BVFM to also include supply contracts, since the ILO Forum has been discussing this for many years. It will be important to precisely define which contracts are eligible for BVFM and to consider limiting either the total value or the total number of such contracts. It would be preferable for the Procurement service to decide on the basis for adjudication (M. Morandin).
- It is very encouraging to see how much confidence ILOs have in the judgement of the Procurement service and it will take note of the proposal by the UK ILO (C. Hartley and C. Lara).
- The alignment rules will remain in place; however, it is not possible to apply alignment in the case of BVFM adjudications. Any negative impact that expanding BVFM might have on poorly balanced countries will be offset by the extension of limited tendering (C. Lara and the Chair, in reply to F. Haug).

C. Hartley enquired as to whether members could support the proposal for the Procurement service to decide which contracts were to be awarded on a lowest compliant basis and which contracts on a BVFM basis. No members voiced any opposition to the proposal.

The ILO Forum took note of the presentation by C. Lara and of the additional points made during the discussion.

4.

Catalogue of industrial events

L. Bellini-Devictor made a presentation outlining the categories of thematic events held at CERN, as well as their scheduling and frequency, and the programme of events for 2024.

- Thematic events will, in principle, be limited to two per year (L. Bellini-Devictor, in reply to O.-P. Nordahl).
- It would be helpful to hold information meetings lasting one to two hours to provide companies with more details on the main upcoming tenders; such briefings would give more context to tenders, as often the titles are unclear, and they would not be too much of a burden on the technical teams at CERN (O.-P. Nordahl).
- The Procurement service will undertake to make the titles of tenders clearer for companies. Moreover, the team is open to holding briefings, perhaps via videoconference, to provide companies with more information on specific tenders. Since they are in dialogue with companies, the ILOs will be able to inform the Procurement service of the contracts for which such briefings would be useful (C. Lara and C. Hartley).
- The ILOs are very welcome to invite individual firms to CERN (C. Lara, in reply to A. Silverman).
- The total number of Member and Associate Member States is expected to reach 36 in 2024, thus it is simply not feasible to hold a regular @CERN event for each of them. The Procurement service is willing to consider one-off events and to supplement the catalogue of events if a specific need arises or the event would be of value to CERN (C. Lara and C. Hartley, in reply to a further question from A. Silverman).

- The focus of thematic events is determined on the basis of forthcoming needs at CERN for which offers can be expected from a large number of States. The upcoming thematic event on electronics, for example, is intended to address the needs of LS3 (C. Lara, in reply to R. Farrow).
- It is important to consider niche procurement needs, such as those within the domains of ceramics and plastics; even though fewer high-value tenders are released in these areas, items are still needed on quite a regular basis, so it would be worthwhile to organise a smaller event with 10 to 15 companies (Chair).
- The ILOs are welcome to submit event proposals, which the Procurement service will review and implement, subject to needs (C. Lara).
- Since it is already known what CERN's procurement needs are likely to be over the next five years, it would be advantageous to schedule thematic events for 2024/2025 now (R. Farrow).

The ILO Forum took note of the presentations by L. Bellini-Devictor and of the additional information provided during the discussion.

5. Sustainable accelerators

R. Losito made a presentation on sustainability at CERN, outlining the activities at CERN with a direct impact on ensuring the Organization's fulfilment of the United Nations Sustainable Development Goals (SDGs), notably, measures concerning SDG 7 on affordable and clean energy, the use of renewables and CO₂-free energy at CERN, the implementation of Life Cycle Assessments, the next steps following on from the Mining the Future competition, a selection of new technologies at CERN and the flagship projects being implemented under the CERN Innovation Programme on Environmental Applications (CIPEA).

In reply to a question from J. Antão on the contract for the HL-LHC cryogenic refrigerators, C. Hartley said that he would need to check the data in order to state what the impact of taking the total cost of ownership over 10 years into consideration had been in that particular case; the adjudication criteria for each contract were determined during the start-up meeting and it was standard practice to take total cost of ownership into account.

The ILO Forum took note of the presentation by R. Losito and of the additional points made during the discussion.

6. Upcoming industrial opportunities

J. Davison presented 22 upcoming tenders for the Accelerators and Technology sector, in each case describing the components required, outlining the estimated cost range and the timeline for the market survey and the invitation to tender, and indicating the relevant contact person.

During the ensuing discussion, J. Davison provided the following additional information:

- The tender for the supply of printed circuit boards (PCBs) and PCB assembly for the Serenity Project will be split into two separate contracts, each with its own market survey (in reply to O.-P. Nordahl).
- The tender for sensors for alignment includes two different types of sensors; two separate tendering procedures will therefore be launched, though some companies may be capable of supplying both types (in reply to the Chair).
- If a procurement operation is financed by the experiment collaborations, it may in fact be possible for companies to source parts produced in non-Member States (e.g., PCBs from China). If, on the other hand, procurement is financed by the CERN Budget and conducted exclusively within Member States, companies are requested to declare the production location, and the Procurement service performs a technical audit to inspect their production facilities; indeed, production location is verified as a matter of course during the market survey phase (in reply to M. Morandin).

The ILO Forum took note of the presentation by J. Davison and of the additional information provided during the discussion.

7. Sharing ILO experience

J. Antão presented the history of Portugal's industrial engagement at CERN since his appointment as an ILO in 2019, covering the significant increase in the number of Portuguese firms appearing in the CERN supplier database, the expansion of Portugal in the "Big Science" market as a result of contracts at CERN and future plans to boost collaboration between industry and academia.

The ILO Forum took note of the presentation by J. Antão.

8. Other business

There being no other business, the Chair expressed his appreciation for the presentations that had been given and the fruitful discussions they had inspired, which would no doubt be taken on board to improve procurement at CERN and strengthen the collaboration between the Procurement service and the ILO Forum.

The meeting rose at 12.30 p.m.