

## Chapter 15 Government Procurement

### Article 15.1: Definitions

For the purposes of this Chapter:

- (a) **build-operate-transfer contract and public works concession contract** mean any contractual arrangement the primary purpose of which is to provide for the construction or rehabilitation of physical infrastructure, plant, buildings, facilities, or other government owned works and under which, as consideration for a supplier's execution of a contractual arrangement, a procuring entity grants the supplier, for a specified period of time, temporary ownership or a right to control and operate, and demand payment for, the use of such works for the duration of the contract;
- (b) **covered procurement** means a government procurement of goods, services including construction services, or both:
  - (i) by any contractual means, including purchase and rental or lease, with or without an option to buy , build-operate-transfer contracts and public works concessions contracts;
  - (ii) for which the value, as estimated in accordance with Article 15.5 equals or exceeds the relevant threshold specified in Annex 15-A;
  - (iii) that is conducted by a procuring entity;
  - (iv) is not excluded from coverage by this Agreement; and
  - (v) subject to the conditions specified in Annex 15-A;
- (c) **in writing or written** means any expression of information in words, numbers, or other symbols, including electronic expressions, that can be read, reproduced, and stored;
- (d) **international standard** means a standard that has been developed in conformity with the document referenced in Article 7.5 (International Standards – Technical Regulations, Standards and Conformity Assessment Procedures Chapter);
- (e) **limited tender procedure** means a procurement method where the procuring entity contacts a supplier or suppliers of its choice in accordance with Article 15.15;
- (f) **multi-use list** means a list of suppliers that a procuring entity has determined satisfy the conditions for participation in that list and that the procuring entity intends to use more than once;

- (g) **offset** means any condition or undertaking that encourages local development or improves a Party's balance of payments accounts such as the use of domestic content, the licensing of technology, investment, counter-trade and similar actions or requirements;
- (h) **open tender procedure** means those tendering procedures in which all interested suppliers may submit a tender;
- (i) **procuring entity** means an entity listed in Annex 15-A;
- (j) **publish** means to disseminate information in an electronic or paper medium that is distributed widely and is readily accessible to the general public;
- (k) **selective tender procedure** means those tendering procedures in which the procuring entity determines the suppliers that it will invite to submit tenders;
- (l) **supplier** means a person or group of persons that provides or could provide goods or services to a procuring entity; and
- (m) **technical specification** means a tendering requirement that:
  - (i) sets out the characteristics of:
    - (A) goods to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production; or
    - (B) services to be procured, or the processes or methods for their provision, including any applicable administrative provisions;
  - (ii) addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a good or service; or
  - (iii) sets out conformity assessment procedures prescribed by a procuring entity.

## **Article 15.2: Scope and Coverage**

1. This Chapter applies to any measure adopted or maintained by a Party regarding covered procurement.
2. This Chapter does not apply to:
  - (a) non-contractual agreements or any form of assistance provided by a Party, including grants, loans, equity infusions, fiscal incentives, subsidies, guarantees, cooperative agreements and sponsorship arrangements;

- (b) procurement for the direct purpose of providing foreign assistance;
- (c) procurement funded by international grants, loans or other assistance to the extent that the provision of such assistance is subject to conditions inconsistent with this Chapter;
- (d) public employment contracts;
- (e) procurement of a financial service as defined in Article 12.1(e) (Definitions – Financial Services Chapter).
- (f) procurement of goods and services by a procuring entity from another entity of the same Party, or between a procuring entity of a Party and a regional or local government of that Party, where no other supplier has been asked to tender;
- (g) procurement of goods and services outside the territory of the procuring Party, for consumption outside the territory of the procuring Party;
- (h) procurement funded by grants and/or sponsorship payments received from a person other than a procuring entity of a Party;
- (i) procurement of fiscal agency or depository services, liquidation and management services for regulated financial institutions, or services related to the sale, redemption and distribution of public debt, including loans and government bonds, notes, derivatives and other securities; or
- (j) the procurement or rental of land, existing buildings or other immovable property or rights thereon where not part of an arrangement for procurement of construction services.

### **Article 15.3: General Obligations**

1. Each Party shall ensure that its procuring entities comply with this Chapter in conducting covered procurements.
2. No procuring entity may prepare, design, or otherwise structure or divide, in any stage of the procurement, any procurement in order to avoid the obligations of this Chapter.
3. Each Party shall apply to covered procurements of goods the rules of origin that it applies in the normal course of trade to those goods.

#### **Article 15.4: National Treatment and Non-Discrimination**

1. Each Party shall accord to the goods, services and suppliers of the other Party treatment no less favourable than the most favourable treatment the Party accords to its own goods, services and suppliers.
2. Neither Party may:
  - (a) treat a locally established supplier less favourably than another locally established supplier on the basis of degree of foreign affiliation or ownership; or
  - (b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party.
3. For greater clarity, all orders under contracts awarded for covered procurement, such as framework agreements or panel arrangements shall be subject to paragraphs 1 and 2.
4. The provisions of paragraphs 1 and 2 shall not apply to measures concerning customs duties and other charges of any kind imposed on, or in connection with, importation, the method of levying such duties and charges or other import regulations, including restrictions and formalities, and measures affecting trade in services other than measures governing covered procurement.

#### **Article 15.5: Valuation of Contracts**

1. In estimating the value of a procurement for the purpose of ascertaining whether it is a covered procurement, a procuring entity shall:
  - (a) take into account all forms of remuneration, including any premiums, fees, commissions, interest, other revenue streams that may be provided for under the contract and, where the procurement provides for the possibility of option clauses, the maximum total value of the procurement, inclusive of optional purchases; and
  - (b) without prejudice to paragraph 2, where the procurement is to be conducted in multiple parts, with contracts to be awarded at the same time or over a given period to one or more suppliers, base its calculation on the total maximum value of the procurement over its entire duration.
2. In the case of procurement by lease, rental, or hire purchase of goods or services, or procurement for which a total price is not specified, a procuring entity shall estimate the value on the basis of objective criteria or apply the following basis of valuation:

- (a) in the case of a fixed-term contract:
    - (i) where the term of the contract is 12 months or less, the total estimated maximum value for its duration; or
    - (ii) where the term of the contract exceeds 12 months, the total estimated maximum value, including any estimated residual value;
  - (b) where the contract is for an indefinite period, the estimated monthly instalment multiplied by 48; and
  - (c) where it is not certain whether the contract is to be a fixed-term contract subparagraph (b) shall be used.
3. Where the total estimated maximum value of a procurement over its entire duration is not known the procurement shall be a covered procurement, unless otherwise excluded under this Agreement.

#### **Article 15.6: Prohibition of Offsets**

A Party shall not seek, take account of, impose, or enforce offsets at any stage of a covered procurement.

#### **Article 15.7: Publication of Procurement Measures**

Each Party shall promptly publish its procurement laws, regulations, procedures and policy guidelines of general application relating to covered procurements, and any changes or additions to this information.

#### **Article 15.8: Publication of Notice of Intended Procurement**

1. In an open tendering procedure, a procuring entity shall publish a notice inviting interested suppliers to submit tenders (“notice of intended procurement”) in such a way as to be readily accessible to any interested supplier of the other Party for the entire period established for tendering.
2. Each notice of intended procurement shall include a description of the intended procurement, any conditions that suppliers must fulfil to participate in the procurement, the name of the procuring entity, the address where suppliers may obtain all documents relating to the procurement and the time limits for submission of tenders.
3. Where, in a selective tendering procedure, a procuring entity publishes a notice inviting applications for participation in a procurement, that notice shall be published in such a way as to be readily accessible to any interested supplier of the other Party.

## **Article 15.9: Procurement Plans**

Each Party shall encourage its procuring entities to publish, prior to, or as early as possible in, each fiscal year, a notice regarding their procurement plans for that fiscal year that includes a description of each planned procurement and indicate the expected time of commencement of the related tender process.

## **Article 15.10: Time Limits**

1. A procuring entity shall prescribe time limits for tendering that allow sufficient time for suppliers to prepare and submit responsive tenders, taking into account the nature and complexity of the procurement and the efficient operation of the procurement process. The time allowed for the submission of tenders shall not be set with the intention of causing a competitive disadvantage for suppliers of the other Party, or suppliers offering goods or services of the other Party, in submitting tenders in accordance with the requirements set out in the tender documentation.
2. Except as provided for in paragraphs 3 and 4, a procuring entity shall provide that the final date for the submission of tenders shall not be less than 30 days:
  - (a) from the date on which the notice of intended procurement is published; or
  - (b) where the procuring entity has used selective tendering, from the date on which the entity invites suppliers to submit tenders.
3. Under the following circumstances, a procuring entity may establish a time limit for tendering that is less than 30 days, provided that such time limit is sufficiently long to enable suppliers to prepare and submit responsive tenders and is in no case less than 10 days:
  - (a) where the procuring entity published a separate notice, including a notice of planned procurement under Article 15.9 at least 30 days and not more than 12 months in advance, and such separate notice contains:
    - (i) a description of the procurement;
    - (ii) the time limits for the submission of tenders or, where appropriate, applications for participation in a procurement; and
    - (iii) the address from which documents relating to the procurement may be obtained;
  - (b) where the procuring entity procures commercial goods or services that are sold or offered for sale to, and customarily purchased and used by, non-governmental buyers for non-governmental purposes, including

goods and services with modifications customary in the commercial marketplace, as well as minor modifications not customarily available in the commercial marketplace;

- (c) in the case of second or subsequent publication of notices for procurement of a recurring nature;
- (d) where a state of urgency duly substantiated by the procuring entity renders impracticable the time limits specified in paragraph 2; or
- (e) when the intended procurement is for goods or services which can be easily and objectively specified and which reasonably imply less effort in the preparation and submission of responsive tenders.

4. A procuring entity may reduce the time limit for submission of a tender by up to five days when it:

- (a) publishes a notice of intended procurement in an electronic medium; or
- (b) in the context of a selective tendering procedure, issues an invitation to tender via an electronic medium;

and provides, to the extent practicable, the tender documentation via an electronic medium.

5. The application of paragraph 4 shall in no case result in the time limit for submissions being reduced to less than 10 days.

6. A procuring entity shall require all participating suppliers to submit tenders in accordance with a common deadline.

#### **Article 15.11: Tender Documentation**

1. A procuring entity shall provide on request to any supplier participating in a covered procurement or promptly publish, tender documentation that includes all the information necessary to permit suppliers to prepare and submit responsive tenders. The documentation shall include all criteria that the procuring entity will consider in awarding the contract.

2. Where a procuring entity, during the course of a covered procurement, modifies a notice or tender documentation provided to participating suppliers, it shall publish or transmit all such modifications in writing:

- (a) to all suppliers that are participating in the procurement at the time the notice or tender documentation is modified, if the identities of such suppliers are known, and in all other cases, in the same manner as the original information was transmitted; and

- (b) in adequate time to allow such suppliers to modify and re-submit their tenders, as appropriate.
3. A procuring entity shall promptly reply to any reasonable request for relevant information by a supplier participating in the procurement. A procuring entity may establish a reasonable time limit to request the relevant information.
  4. Procuring entities shall not provide information with regard to a specific procurement in a manner which would have the effect of giving a potential supplier an unfair advantage over competitors.

### **Article 15.12: Technical Specifications**

1. A procuring entity shall not prepare, adopt or apply any technical specification with the purpose or the effect of creating unnecessary obstacles to trade between the Parties.
2. In prescribing the technical specifications for the good or service being procured, a procuring entity shall:
  - (a) specify the technical specifications, wherever appropriate, in terms of performance and functional requirements, rather than design or descriptive characteristics; and
  - (b) base the technical specifications on relevant international standards, where such exist and are applicable to the procuring entity, except where the use of an international standard would fail to meet the procuring entity's program requirements or would impose greater burdens than the use of a recognised national standard.
3. A procuring entity shall not prescribe technical specifications that require or refer to a particular trade mark or trade name, patent, copyright, design or type, specific origin or producer or supplier, unless there is no other sufficiently precise or intelligible way of otherwise describing the procurement requirements and provided that, in such cases, words such as "or equivalent" are included in the tender documentation.
4. A procuring entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in that procurement.
5. Notwithstanding paragraph 4, a procuring entity may:
  - (a) conduct market research in developing specifications for a particular procurement; or
  - (b) allow a supplier that has been engaged to provide design or consulting services to participate in procurements related to such services;

provided it would not give any supplier an unfair advantage over other suppliers.

6. For greater clarity, this Article is not intended to preclude a procuring entity from preparing, adopting, or applying technical specifications to promote the conservation of natural resources and the environment.

### **Article 15.13: Conditions for Participation**

1. A Party shall limit any conditions for participation in a covered procurement to those that ensure the supplier's capability to fulfil the requirements of the procurement.

2. In assessing whether a supplier satisfies the conditions for participation, a Party:

- (a) shall evaluate the capabilities of a supplier on the basis of that supplier's business activities both inside and outside the territory of the Party of the procuring entity;
- (b) shall base its determination solely on the conditions that a procuring entity has specified in advance in notices or tender documentation;
- (c) may not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of that Party or that the supplier has prior work experience in the territory of that Party; and
- (d) may require prior experience where relevant to meet the requirements of the procurement.

3. Nothing in this Article shall preclude a Party from excluding a supplier from a procurement on grounds such as:

- (a) bankruptcy;
- (b) false declarations; or
- (c) significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contract.

4. Where a Party requires suppliers to register or pre-qualify before being permitted to participate in a covered procurement that Party shall ensure that a notice inviting suppliers to apply for registration or pre-qualification is published sufficiently in advance of the procurement to allow for interested suppliers, including suppliers of the other Party, to initiate and, to the extent that it is compatible with the efficient operation of the procurement process, complete the registration or qualification procedures.

5. The process of, and the time required for, registering or qualifying suppliers shall not be used in order to prevent or delay the inclusion of suppliers of the other Party on a list of suppliers or prevent such suppliers from being considered for a particular procurement.

6. A Party may establish a multi-use list provided that it publishes, annually or continuously, a notice inviting interested suppliers to apply for inclusion on the list. The notice shall include:

- (a) a description of the goods and services, or categories thereof, for which the list may be used;
- (b) the requirements to be satisfied by suppliers;
- (c) the name and address of the procuring entity or other government agency and other information necessary to contact the procuring entity and obtain all relevant documents relating to the list; and
- (d) deadlines for submission of applications for inclusion on that list, where applicable.

7. A Party that maintains a multi-use list shall include on the list all suppliers that satisfy the requirements set out in the notice referred to in paragraph 6 within a reasonably short time.

#### **Article 15.14: Tendering Procedures**

1. A procuring entity shall only use open or selective tendering procedures consistent with the provisions of this Chapter, except as provided for in Article 15.15.

2. A procuring entity may use selective tendering procedures in accordance with Article 15.4 and the procurement laws, regulations, procedures and policies of its Party.

3. To ensure effective competition under selective tendering procedures, a procuring entity shall invite tenders from the largest number of domestic suppliers and suppliers of the other Party that is consistent with the efficient operation of the procurement system. It shall select the suppliers to participate in the procedure in a fair and non-discriminatory manner.

#### **Article 15.15: Limited Tendering**

1. Provided that it does not use this provision for the purpose of avoiding competition, to protect domestic suppliers or in a manner that discriminates against suppliers of the other Party, a procuring entity may use limited tendering procedures.

2. When a procuring entity applies limited tendering it may choose, according to the nature of the procurement, not to apply Articles 15.8, 15.10, 15.11, 15.12, 15.13, 15.14, 15.16.1 and 15.16.3 to 15.16.6. A procuring entity may use limited tendering only under the following circumstances:

- (a) where, in response to a prior notice, invitation to participate, or invitation to tender:
  - (i) no tenders were submitted or no suppliers requested participation;
  - (ii) no tenders were submitted that conform to the essential requirements in the tender documentation; or
  - (iii) no suppliers satisfied the conditions for participation;and the procuring entity does not substantially modify the essential requirements of the procurement;
- (b) where, for works of art, or for reasons connected with the protection of exclusive rights, such as patents or copyrights, or proprietary information, or where there is an absence of competition for technical reasons, the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute exists;
- (c) for additional deliveries by the original supplier or its authorised agent that are intended either as replacement parts, extensions, or continuing services for existing equipment, software, services or installations, where a change of supplier would compel the procuring entity to procure goods or services not meeting requirements of interchangeability with existing equipment, software, services, or installations;
- (d) for goods purchased on a commodity market;
- (e) where a procuring entity procures a prototype or a first good or service that is intended for limited trial or developed at its request in the course of, and for, a particular contract for research, experiment, study, or original development;
- (f) where additional construction services that were not included in the initial contract but that were within the objectives of the original tender documentation have, due to unforeseen circumstances, become necessary to complete the construction services described therein. However, the total value of contracts awarded for additional construction services may not exceed 50 per cent of the amount of the initial contract;
- (g) for new construction services consisting of the repetition of similar construction services that conform to a basic project for which an

initial contract was awarded following use of open tendering or selective tendering in accordance with this Chapter, and for which the procuring entity has indicated in the notice of intended procurement concerning the initial construction service that limited tendering procedures might be used in awarding contracts for such new construction services;

- (h) for purchases made under exceptionally advantageous conditions that only arise in the very short term, such as from unusual disposals, unsolicited innovative proposals, liquidation, bankruptcy or receivership and not for routine purchases from regular suppliers;
- (i) where a contract is awarded to the winner of a design contest provided that:
  - (i) the contest has been organised in a manner that is consistent with this Chapter, and
  - (ii) the contest is judged by an independent jury with a view to a design contract being awarded to the winner; or
- (j) in so far as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseen by the procuring entity, the goods or services could not be obtained in time by means of an open or selective tendering procedure.

3. A procuring entity shall maintain a record or prepare a written report providing specific justification for any contract awarded by means other than open or selective tendering procedures, as provided for in this Article.

#### **Article 15.16: Treatment of Tenders and Awarding of Contracts**

1. A procuring entity shall receive and open all tenders under procedures that guarantee the fairness and impartiality of the procurement process.
2. A procuring entity shall treat all tenders in confidence to the extent permitted by its domestic law. In particular, it shall not provide information to particular suppliers that might prejudice fair competition between suppliers.
3. A procuring entity shall not penalise any supplier whose tender is received after the time specified for receiving tenders if the delay is due solely to mishandling on the part of the procuring entity.
4. A procuring entity shall require that in order to be considered for award, a tender must be submitted in writing and must, at the time it is submitted, conform to the essential requirements of the tender documentation.
5. Unless a procuring entity determines that it is not in the public interest to award a contract, it shall award the contract to the supplier that the procuring entity

has determined to satisfy the conditions for participation and whose tender is determined to be the most advantageous or best value for money, in accordance with the requirements and evaluation criteria specified in the notices and tender documentation.

6. A procuring entity shall not cancel a procurement or modify awarded contracts in order to avoid the obligations of this Chapter.

#### **Article 15.17: Information on Awards**

1. A procuring entity shall promptly inform suppliers participating in a tendering procedure of its contract award decision. On request, a procuring entity shall provide a supplier whose tender was not selected for award the reasons for not selecting its tender.

2. Each Party shall require its procuring entities either to promptly publish, or to publish no later than 60 days after award of a contract, a notice that includes at least the following information about the award:

- (a) the name of the procuring entity;
- (b) a description of the goods or services procured;
- (c) the value of the contract award; and
- (d) the name of the winning supplier.

3. A procuring entity shall maintain records and reports of tendering procedures relating to covered procurements, including the reports provided for in Article 15.15.3, and shall retain such records and reports for a period of at least three years.

#### **Article 15.18: Domestic Review of Supplier Challenges**

1. Each Party shall maintain at least one impartial administrative or judicial authority that is independent of its procuring entities to receive and review, in a non-discriminatory, timely, transparent and effective manner, complaints that suppliers submit, in accordance with the Party's law, relating to a covered procurement. Where such an authority is not a court it shall either be subject to judicial review or shall have procedural guarantees similar to those of a court.

2. Each Party shall make information on complaint mechanisms generally available.

#### **Article 15.19: Modifications and Rectifications**

1. A Party may modify its coverage under this Chapter provided that it:

- (a) notifies the other Party in writing and simultaneously offers acceptable compensatory adjustments to the other Party to maintain a level of coverage comparable to that existing prior to the modification, except as provided in paragraphs 2 and 3; and
  - (b) the other Party does not object in writing within 30 days of the notification.
2. Each Party may make rectifications of a purely formal nature to its coverage under this Chapter, or minor amendments to its Schedule in Annex 15-A provided that it notifies the other Party in writing and the other Party does not object in writing within 30 days of the notification. A Party that makes such a rectification or minor amendment need not provide compensatory adjustments.
3. A Party need not provide compensatory adjustments in those circumstances where the Parties agree that the proposed modification covers an entity over which a Party has effectively eliminated its control or influence. Where the Parties do not agree that such government control or influence has been effectively eliminated, the objecting Party may request further information or consultations with a view to clarifying the nature of any government control or influence and reaching agreement on the entity's continued coverage under this Chapter.
4. Where appropriate, the Joint FTA Committee shall adopt the modification, rectification or minor amendment notified by the Party concerned.

#### **Article 15.20: Confidential Information**

When a person of a Party makes available confidential information to the other Party or its procuring entities, the latter Party shall ensure that such information is kept confidential and is not used for a purpose other than that for which it was made available. However, disclosure of confidential information may occur where a Party or its procuring entities are required to make disclosure under its domestic law or where disclosure is authorised by the person that furnished the information.

#### **Article 15.21: Encouraging use of Electronic Communications in Procurement**

1. The Parties shall seek to provide opportunities for government procurement to be undertaken through the Internet or a comparable computer-based telecommunications network.
2. In order to facilitate commercial opportunities for their suppliers under this Chapter, each Party shall maintain a single electronic portal for accessing information on government procurement supply opportunities in its territory and on measures relating to government procurement.
3. The Parties shall encourage, to the extent possible, the use of electronic means for the provision of tender documents and receipt of tenders.

4. The Parties shall ensure that policies and procedures adopted for the use of electronic means in procurement:
  - (a) protect documentation from unauthorised and undetected alteration; and
  - (b) provide appropriate levels of security for data on, and passing through, the procuring entity's network.
5. Each Party shall encourage its procuring entities to publish the notices covered by Article 15.9 on a website accessible through the electronic portal referred to in paragraph 2.

#### **Article 15.22: Ensuring Integrity in Procurement Practices**

Each Party shall ensure that criminal or administrative penalties exist to address corruption in its government procurement, and that its entities have in place policies and procedures to eliminate, to the extent possible, any potential conflict of interest on the part of those engaged in or having influence over a procurement.

#### **Article 15.23: Exceptions**

1. Provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or a disguised restriction on trade between the Parties, nothing in this Chapter shall be construed to prevent a Party from adopting or maintaining measures:
  - (a) necessary to protect public morals, order or safety;
  - (b) necessary to protect human, animal, or plant life or health;
  - (c) necessary to protect intellectual property; or
  - (d) relating to goods or services of handicapped persons, of philanthropic or not for profit institutions, or of prison labour.
2. The Parties understand that subparagraph (b) includes environmental measures necessary to protect human, animal, or plant life or health.
3. Further to Article 22.2 (Security Exceptions – General Provisions and Exceptions Chapter), nothing in this Chapter shall be construed to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests relating to government procurement indispensable for national security or for national defence purposes.

#### **Article 15.24: Consultations on Government Procurement**

1. Each Party shall use the contact point referred in Chapter 19 (Transparency). The contact point shall be included in all communications between the Parties made pursuant to this Article.
2. For the purpose of this Article each Party shall reply to any request from the other party for an explanation of any matter relating to the application of this Chapter, including matters related to its procurement laws, regulations and policy guidelines.
3. The Parties shall exchange information relating to the development and use of electronic communication in government procurement systems, shall exchange statistics and other information; and shall make efforts to increase understanding of their respective government procurement systems. The Parties shall also exchange information on their respective approaches to maximise access for small and medium enterprises to the government procurement market.
4. As provided for in Article 15.19, each Party shall inform the other Party of any developments which may modify its coverage under this Chapter.

#### **Article 15.25: Further Negotiations**

On request of either Party, the Parties shall enter into negotiations with a view to extending coverage under this Chapter on a reciprocal basis, if a Party provides, through an international agreement entered into after entry into force of this Agreement, access to its procurement market for suppliers of a non-Party beyond what it provides under this Agreement to suppliers of the other Party.

## **Annex 15-A**

### **Section 1: Central Government Entities**

1. This Chapter applies to central government entities listed in each Party's Schedule to this Section where the value of the procurement is estimated, in accordance with Article 15.5, to equal or exceed the thresholds specified below:
  - (a) for procurement of goods and services:  
A\$87,000 or CLP\$35,911,000
  - (b) for procurement of construction services:  
A\$9,570,000 or CLP\$3,940,806,000
  
2. The monetary thresholds set out in paragraph 1 shall be adjusted in accordance with Section 8 of this Annex

## **Schedule of Australia**<sup>1,2</sup>

### **1. Agriculture, Fisheries and Forestry Portfolio**

Department of Agriculture, Fisheries and Forestry  
Dairy Adjustment Authority  
Biosecurity Australia

### **2. Attorney-General's Portfolio**

Attorney-General's Department  
Administrative Appeals Tribunal  
Australian Crime Commission  
Australian Customs Service  
Australian Federal Police  
AUSTRAC  
CrimTrac Agency  
Family Court of Australia  
Federal Court of Australia  
Federal Magistrates Court  
Human Rights and Equal Opportunity Commission  
Insolvency and Trustee Service Australia (ITSA)  
National Capital Authority  
National Native Title Tribunal  
Office of Parliamentary Counsel  
Office of the Director of Public Prosecutions

### **3. Broadband, Communications and the Digital Economy Portfolio**

Department of Broadband, Communications and the Digital Economy

### **4. Defence Portfolio**

Department of Defence<sup>3</sup>  
Department of Veterans' Affairs  
Defence Materiel Organisation<sup>3</sup>

### **5. Education, Employment and Workplace Relations Portfolio**

Department of Education, Employment and Workplace Relations  
Australian Industrial Registry  
Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority)  
Office of the Workplace Ombudsman  
Workplace Authority

### **6. Environment, Heritage and the Arts Portfolio**

Department of Environment, Water, Heritage and the Arts  
Bureau of Meteorology

### **7. Families, Housing, Community Services and Indigenous Affairs Portfolio**

Department of Families, Housing, Community Services and Indigenous Affairs  
Equal Opportunity for Women in the Workplace Agency

### **8. Finance and Deregulation Portfolio**

Department of Finance and Deregulation  
Australian Electoral Commission  
Australian Reward Investment Alliance<sup>4</sup>  
ComSuper

**9. Foreign Affairs and Trade Portfolio**

Department of Foreign Affairs and Trade  
AusAid  
Australian Centre for International Agricultural Research

**10. Health and Ageing Portfolio<sup>5</sup>**

Department of Health and Ageing  
Australian Radiation Protection and Nuclear Safety Agency (ARPANSA)  
National Blood Authority  
Professional Services Review Scheme

**11. Human Services Portfolio**

Department of Human Services  
Centrelink

**12. Infrastructure, Transport, Regional Development and Local Government Portfolio**

Department of Infrastructure, Transport, Regional Development and Local Government

**13. Immigration and Citizenship Portfolio**

Department of Immigration and Citizenship  
Migration Review Tribunal and Refugee Review Tribunal

**14. Innovation, Industry, Science and Research Portfolio**

Department of Innovation, Industry, Science and Research  
Australian Research Council  
IP Australia

**15. Prime Minister and Cabinet Portfolio**

Department of the Prime Minister and Cabinet  
Australian National Audit Office  
Australian Public Service Commission  
Office of the Commonwealth Ombudsman  
Office of the Inspector-General of Intelligence and Security  
Office of the Official Secretary of the Governor-General  
Office of the Privacy Commissioner  
Office of the Renewable Energy Regulator  
National Archives of Australia

**16. Resources, Energy and Tourism Portfolio**

Department of Resources, Energy and Tourism  
Geoscience Australia

**17. Treasury Portfolio**

Department of the Treasury  
Australian Bureau of Statistics  
Australian Competition and Consumer Commission  
Australian Office of Financial Management (AOFM)  
Australian Taxation Office  
Commonwealth Grants Commission  
Inspector General of Taxation  
National Competition Council  
Productivity Commission  
Royal Australian Mint

**18. Parliamentary Departments**

Department of the House of Representatives  
Department of the Senate

Department of Parliamentary Services

**Notes to the Schedule of Australia**

1. This Chapter covers only those entities subordinate to the relevant portfolio which are listed in this Schedule.
2. This Chapter does not cover the procurement of motor vehicles by any entity listed in this Section.
3. Department of Defence and Defence Materiel Organisation

(a) This Chapter does not cover the procurement of the following goods due to Article 15.23:

	Approximately equivalent to:
Weapons	FSC 10
Fire Control Equipment	FSC 12
Ammunition and Explosives	FSC 13
Guided Missiles	FSC 14
Aircraft and Airframe Structural Components	FSC 15
Aircraft Components and Accessories	FSC 16
Aircraft Launching, Landing & Ground Handling Equipment	FSC 17
Space Vehicles	FSC 18
Ships, Small Craft, Pontoons and Floating Docks	FSC 19
Ship and Marine Equipment	FSC 20
Ground Effect Vehicles, Motor Vehicles, Trailers and Cycles	FSC 23
Engines, Turbines and Components	FSC 28
Engines Accessories	FSC 29
Bearings	FSC 31
Water Purification and Sewage Treatment Equipment	FSC 46
Valves	FSC 48
Maintenance and Repair Shop Equipment	FSC 49
Prefabricated Structures and Scaffolding	FSC 54
Communication, Detection and Coherent Radiation Equipment	FSC 58
Electrical and Electronic Equipment Components	FSC 59
Fiber Optics Materials, Components, Assemblies and Accessories	FSC 60
Electric Wire, and Power and Distribution Equipment	FSC 61
Alarm, Signal and Security Detection Systems	FSC 63
Instruments and Laboratory Equipment	FSC 66
Specialty Metals	No Code

*NB:* Whether a good is included within the scope of this Note shall be determined solely according to the descriptions provided in the left column above. United States Federal Supply Codes (FSC) are provided for reference purposes only. (For a

complete listing of the United States Federal Supply Codes, to which the Australian categories are approximately equivalent, see <https://www.fbo.gov>).

(b) For Australia, this Chapter does not cover the following services, as elaborated in the Common Classification System and the WTO system of classification – MTN.GNS/W/120, due to Article 15.23. (*For a complete listing of Common Classification System, see: <http://www.sice.oas.org/trade/nafta/chap-105.asp>*):

- Design, development, integration, test, evaluation, maintenance, repair, modification, rebuilding and installation of military systems and equipment (approximately equivalent to relevant parts of U.S. Product Service Codes A & J);
- Operation of Government-owned facilities (approximately equivalent to U.S. Product Service Code M);
- Space services (AR, B4 & V3); and
- Services in support of military forces overseas.

(c) This Chapter does not cover the procurement of goods and services by, or on behalf of, the Defence Intelligence Organisation, the Defence Signals Directorate or the Defence Imagery and Geospatial Organisation.

(d) In respect of Article 15.4, the Australian Government reserves the right, pursuant to Article 15.23, to maintain the Australian Industry Involvement program and its successor programs and policies.

#### 4. Department of Finance and Deregulation

This Chapter does not cover procurement by the Australian Reward Investment Alliance of investment management, investment advisory or master custody and safekeeping services for the purposes of managing and investing the assets of Australian Government superannuation funds.

#### 5. Health and Ageing Portfolio

This Chapter does not apply to procurement of health and welfare services.

## Schedule of Chile

1. *Presidencia de la República*
2. *Ministerio de Interior*
3. *Ministerio de Relaciones Exteriores*
4. *Ministerio de Defensa Nacional*
5. *Ministerio de Hacienda*
6. *Ministerio Secretaría General de la Presidencia*
7. *Ministerio Secretaría General de Gobierno*
8. *Ministerio de Economía, Fomento y Reconstrucción*
9. *Ministerio de Minería*
10. *Ministerio de Planificación y Cooperación*
11. *Ministerio de Educación*
12. *Ministerio de Justicia*
13. *Ministerio de Trabajo y Previsión Social*
14. *Ministerio de Obras Públicas*
15. *Ministerio de Transporte y Telecomunicaciones*
16. *Ministerio de Salud*
17. *Ministerio de Vivienda y Urbanismo*
18. *Ministerio de Bienes Nacionales*
19. *Ministerio de Agricultura*
20. *Ministerio Servicio Nacional de la Mujer*
21. *Ministerio de Energía*

### *Gobiernos Regionales*

#### *Intendencia Región de Arica y Parinacota*

*Gobernación de Arica*

*Gobernación de Parinacota*

#### *Intendencia Región de Tarapacá*

*Gobernación de Iquique*

*Gobernación de Tamarugal*

#### *Intendencia Región de Antofagasta*

*Gobernación de Antofagasta*

*Gobernación de Loa*

*Gobernación de Tocopilla*

#### *Intendencia Región de Atacama*

*Gobernación de Copiapó*

*Gobernación de Huasco*

*Gobernación de Chañaral*

#### *Intendencia Región de Coquimbo*

*Gobernación de El Elqui*

*Gobernación de Limarí*  
*Gobernación de Choapa*

*Intendencia Región de Valparaíso*  
*Gobernación de Valparaíso*  
*Gobernación de Quillota*  
*Gobernación de San Antonio*  
*Gobernación de San Felipe*  
*Gobernación de Los Andes*  
*Gobernación de Petorca*  
*Gobernación de Isla de Pascua*

*Intendencia Región del Libertador Bernardo O'Higgins*  
*Gobernación de Cachapoal*  
*Gobernación de Colchagua*  
*Gobernación de Cardenal Caro*

*Intendencia Región del Maule*  
*Gobernación de Curicó*  
*Gobernación de Talca*  
*Gobernación de Linares*  
*Gobernación de Cauquenes*

*Intendencia Región del Bío Bío*  
*Gobernación de Concepción*  
*Gobernación de Ñuble*  
*Gobernación de Bío-Bío*  
*Gobernación de Arauco*

*Intendencia Región de La Araucanía*  
*Gobernación de Cautín*  
*Gobernación de Malleco*

*Intendencia Región de Los Ríos*  
*Gobernación de Valdivia*  
*Gobernación de Ranco*

*Intendencia Región de Los Lagos*  
*Gobernación de Llanquihue*  
*Gobernación de Osorno*  
*Gobernación de Chiloé*  
*Gobernación de Palena*

*Intendencia Región de Aysén del General Carlos Ibañez del Campo*  
*Gobernación de Coihaique*  
*Gobernación de Puerto Aysén*  
*Gobernación de General Carrera*  
*Gobernación de Capitán Prat*

*Intendencia Región de Magallanes y de la Antártica Chilena*

*Gobernación de Magallanes*  
*Gobernación de Última Esperanza*  
*Gobernación de Tierra del Fuego*  
*Gobernación de Antártica Chilena*

*Intendencia Región Metropolitana*  
*Gobernación de Maipo*  
*Gobernación de Cordillera*  
*Gobernación de Talagante*  
*Gobernación de Melipilla*  
*Gobernación de Chacabuco*  
*Gobernación de Santiago*

## **Section 2: Sub-Central Government Entities**

1. This Chapter applies to the sub-central government entities listed in each Party's Schedule to this Section where the value of the procurement is estimated, in accordance with Article 15.5, to equal or exceed:
  - (a) for procurement of goods and services:  
A\$679,000 or CLP\$279,557,000
  - (b) for procurement of construction services:  
A\$9,570,000 or CLP\$3,940,806,000
2. The monetary thresholds set out in paragraph 1 shall be adjusted in accordance with Section 8 of this Annex.
3. This Section covers only those entities specifically listed below.

## **Schedule of Australia**

### **Australian Capital Territory**<sup>1</sup>

ACT Auditor-General's Office  
ACT Electoral Commission  
ACT Gambling and Racing Commission  
ACT Health  
ACT Human Rights Commission  
ACT Insurance Authority  
ACT Planning and Land Authority  
ACT Planning and Land Council  
ACT Workcover  
Chief Minister's Department  
Cultural Facilities Corporation  
Department of Disability, Housing and Community Services  
Department of Education and Training  
Department of Justice and Community Safety  
Department of Treasury  
Territory and Municipal Services  
Director of Public Prosecutions  
Environment Commissioner  
Legal Aid Commission of the ACT  
National Exhibition Centre Trust  
Ombudsman of the ACT  
Independent Competition and Regulatory Commission

### **Note to the Schedule of Australia**

1. For the entities listed for the Australian Capital Territory, this Chapter does not cover the procurement of health and welfare services, education services, utility services or motor vehicles.

### **New South Wales**<sup>1,2</sup>

Department of Primary Industries  
Office of the Rural Assistance Authority  
Office of the NSW Food Authority  
Attorney General's Department  
Department of Environment and Climate Change  
Office of the Legal Aid Commission  
Office of the Director of Public Prosecutions NSW  
Department of Commerce  
Office of the Motor Accidents Authority  
Office of the WorkCover Authority  
Office for Children  
Department of Ageing, Disability and Home Care  
Department of Community Services

Aboriginal Housing Office Group of Staff  
 Department of Aboriginal Affairs  
 Department of Education and Training  
 Office of the Board of Studies  
 Department of Water and Energy  
 Department of Health  
 Office of the Health Care Complaints Commission  
 Department of Planning  
 Office of the Sydney Harbour Foreshore Authority  
 Department of Corrective Services  
 Department of Juvenile Justice  
 Ministry for Police  
 Office of the New South Wales Crime Commission  
 Office of the Police Integrity Commission  
 Office of the Community Relations Commission  
 Ombudsman's Office  
 Department of Premier and Cabinet  
 Office of the New South Wales Electoral Commission  
 The Audit Office of New South Wales  
 Department of State and Regional Development  
 Department of Lands  
 Department of Local Government  
 Department of Rural Fire Service  
 New South Wales Fire Brigades  
 State Emergency Service  
 Department of Arts, Sport and Recreation  
 Ministry of Transport  
 Office of the Sydney Olympic Park Authority  
 The Treasury  
 Tourism New South Wales Division

### **Notes to the Schedule of Australia**

1. For the entities listed for New South Wales, this Chapter does not cover the procurement of health and welfare services, education services or motor vehicles.
2. For the entities listed for New South Wales, this Chapter does not apply to procurements undertaken by a covered entity on behalf of a non-covered entity.

### **Northern Territory<sup>1</sup>**

Department of Chief Minister  
 Auditor General's Office  
 Department of the Legislative Assembly  
 Ombudsman's Office  
 Remuneration Tribunal  
 Aboriginal Areas Protection Authority  
 Department of Business, Economic and Regional Development  
 Land Development Corporation  
 Department of Primary Industry, Fisheries and Mines

Department of Local Government, Housing and Sport  
Department of Natural Resources, Environment and the Arts  
Parks and Wildlife Commission of the Northern Territory  
Strehlow Research Centre Board  
Northern Territory Employment and Training Authority  
Work Health Authority  
Department of Health and Community Services  
Health and Community Services Complaints Commission  
Department of Justice  
Northern Territory Emergency Service  
Northern Territory Fire and Rescue Service  
Police Force of the Northern Territory  
Northern Territory Licensing Commission  
Racing Commission  
Tourism NT  
Office of the Commissioner for Public Employment  
Northern Territory Treasury  
Utilities Commission of the Northern Territory

**Note to the Schedule of Australia**

1. For the entities listed for the Northern Territory, this Chapter does not cover set-asides on behalf of the Charles Darwin University pursuant to Partnership Agreements between the Northern Territory Government and Charles Darwin University.

**Queensland**<sup>1,2</sup>

Department of Justice and Attorney-General  
Public Trust Office  
Office of Fair Trading  
Department of Child Safety  
Department of Communities  
Disability Services Queensland  
Department of Emergency Services  
Queensland Ambulance Service  
Queensland Fire and Rescue Service  
Department of Infrastructure and Planning  
Department of Local Government, Sport and Recreation  
Department of Main Roads  
Department of Mines and Energy  
Department of Natural Resources and Water  
Queensland Police Service  
Department of Corrective Services  
Department of the Premier and Cabinet  
Office of the Queensland Parliamentary Counsel  
Office of the Public Service Commissioner  
Department of Primary Industries and Fisheries  
Forestry Plantations Queensland  
Department of Public Works

Department of Housing  
Environmental Protection Agency  
Department of Tourism, Regional Development and Industry  
Queensland Transport  
Department of Employment and Industrial Relations  
Treasury Department  
QSuper  
Motor Accident Insurance Commission  
Nominal Defendant  
Office of Economic and Statistical Research  
Office of State Revenue  
Queensland Office of Gaming and Regulation

### **Notes to the Schedule of Australia**

1. For the entities listed for Queensland, this Chapter does not apply to procurements by covered entities on behalf of non-covered entities.
2. For the entities listed for Queensland, this Chapter does not cover the procurement of health and welfare services, education services, government advertising and motor vehicles.

### **South Australia<sup>1</sup>**

Department of the Premier and Cabinet  
Arts SA  
Aboriginal Affairs and Reconciliation Division  
Department of Treasury and Finance  
Independent Gambling Authority  
Department of Trade and Economic Development  
Department of Primary Industries and Resources SA  
Planning SA  
Office for the Southern Suburbs  
Department of Justice  
Attorney-General's Department  
Department for Correctional Services  
Country Fire Services  
Courts Administration Authority  
South Australian Fire and Emergency Services Commission  
South Australian Metropolitan Fire Services  
South Australian Police Department  
State Electoral Office  
Auditor-General's Department  
Department of Families and Community Services  
Department of Health  
Department of Education and Children's Services  
Department of Further Education Employment, Science & Technology  
SA Tourism Commission  
Department for Environment and Heritage  
Environment Protection Authority

Department of Water, Land and Biodiversity Conservation  
Department of Transport, Energy and Infrastructure  
Office for State/Local Government Relations  
State Procurement Board

**Note to the Schedule of Australia**

1. For the entities listed for South Australia, this Chapter does not cover the procurement of health and welfare services, education services, advertising services or motor vehicles.

**Tasmania**<sup>1</sup>

Department of Education  
Department of Health and Human Services  
Department of Infrastructure, Energy and Resources  
Department of Justice  
Department of Police and Emergency Management  
Department of Premier and Cabinet  
Department of Primary Industries and Water  
Department of Economic Development and Tourism  
Department of Environment, Parks, Heritage and the Arts  
Department of Treasury and Finance  
House of Assembly  
Legislative Council  
Legislature-General  
Office of the Governor  
Tasmanian Audit Office  
Office of the Ombudsman

**Note to the Schedule of Australia**

1. For the entities listed for Tasmania, this Chapter does not cover the procurement of health and welfare services, education services or advertising services.

## **Victoria**<sup>1, 2</sup>

Department of Premier and Cabinet  
Department of Treasury and Finance  
Department of Human Services  
Department of Education and Early Childhood Development  
Department of Innovation Industry and Regional Development  
Department of Infrastructure  
Department of Sustainability and Environment  
Department of Primary Industries  
Department of Planning and Community Development  
Department of Justice  
Essential Services Commission  
Office of Police Integrity  
Office of Public Prosecutions  
Office of the Chief Commissioner of Police  
Office of the Commissioner for Environmental Sustainability  
Office of the Legal Services Commissioner  
Office of the Ombudsman  
Office of the Privacy Commissioner  
Office of the Special Investigations Monitor  
Office of the Victorian Electoral Commission  
State Services Authority  
Victorian Auditor-General's Office

### **Notes to the Schedule of Australia**

1. For the entities listed for Victoria, this Chapter does not cover the procurement of motor vehicles.
2. For the entities listed for Victoria, this Chapter does not apply to procurements by covered entities on behalf of non-covered entities.

## **Western Australia**

Department of Agriculture and Food  
Rural Business Development Corporation of Western Australia  
Department of Fisheries  
Mid West Development Commission  
Wheatbelt Development Commission  
Great Southern Development Commission  
Office of the Director of Public Prosecutions  
Office of the Information Commissioner  
Law Reform Commission of Western Australia  
Equal Opportunity Commission  
Department of Health  
Western Australian Electoral Commission  
Department for Communities  
Department for Child Protection  
Disability Services Commission

Department of Culture and the Arts  
Department of Consumer and Employment Protection  
Department of Indigenous Affairs  
Department of the Registrar, Western Australian Industrial Relations Commission  
Department of Education and Training  
Country High Schools Hostels Authority  
Curriculum Council of Western Australia  
Department of Education Services  
Botanic Gardens and Parks Authority  
Department of Water  
Department of Environment and Conservation  
Swan River Trust  
Zoological Parks Authority  
Department of Housing and Works  
State Supply Commission of Western Australia  
Department of Racing, Gaming and Liquor  
Department of Local Government and Regional Development  
Heritage Council of WA  
National Trust of Australia (WA)  
Kimberley Development Commission  
Pilbara Development Commission  
Gascoyne Development Commission  
Goldfields Esperance Development Commission  
Department for Planning and Infrastructure  
Main Roads Western Australia  
Western Australian Planning Commission  
Public Transport Authority  
Fire and Emergency Services Authority of Western Australia  
Department of Attorney General  
Department of Corrective Services  
Office of the Inspector of Custodial Services  
Western Australian Police  
Department of the Premier and Cabinet  
Governor's Establishment  
Office of the Public Sector Standards Commissioner  
Salaries and Allowances Tribunal  
Department of Industry and Resources  
Minerals and Energy Research Institute of Western Australia  
Western Australian Tourism Commission (Tourism Western Australia)  
Small Business Development Corporation  
Rottnest Island Authority  
Department of Sport and Recreation  
Western Australian Sports Centre Trust  
South West Development Commission  
Department of Treasury and Finance  
Office of Energy  
Perth International Centre for Application of Solar Energy  
Legislative Assembly  
Legislative Council  
Office of the Auditor General

Office of the Parliamentary Commissioner for Administrative Investigations  
Corruption and Crime Commission  
Parliamentary Services Department

## Schedule of Chile

1. *Municipalidad de Arica*
2. *Municipalidad de Camarones*
3. *Municipalidad de Putre*
4. *Municipalidad de General Lagos*
5. *Municipalidad de Iquique*
6. *Municipalidad de Alto Hospicio*
7. *Municipalidad de Pozo Almonte*
8. *Municipalidad de Camiña*
9. *Municipalidad de Colchane*
10. *Municipalidad de Huara*
11. *Municipalidad de Pica*
12. *Municipalidad de Antofagasta*
13. *Municipalidad de Mejillones*
14. *Municipalidad de Sierra Gorda*
15. *Municipalidad de Taltal*
16. *Municipalidad de Calama*
17. *Municipalidad de Ollagüe*
18. *Municipalidad de San Pedro de Atacama*
19. *Municipalidad de Tocopilla*
20. *Municipalidad de Maria Elena*
21. *Municipalidad de Copiapó*
22. *Municipalidad de Caldera*
23. *Municipalidad de Tierra Amarilla*
24. *Municipalidad de Chañaral*
25. *Municipalidad de Diego de Almagro*
26. *Municipalidad de Vallenar*
27. *Municipalidad de Alto del Carmen*
28. *Municipalidad de Freirina*
29. *Municipalidad de Huasco*
30. *Municipalidad de La Serena*
31. *Municipalidad de Coquimbo*
32. *Municipalidad de Andacollo*
33. *Municipalidad de La Higuera*
34. *Municipalidad de Paihuano*
35. *Municipalidad de Vicuña*
36. *Municipalidad de Illapel*
37. *Municipalidad de Canela*
38. *Municipalidad de Los Vilos*
39. *Municipalidad de Salamanca*
40. *Municipalidad de Ovalle*
41. *Municipalidad de Combarbalá*
42. *Municipalidad de Monte Patria*
43. *Municipalidad de Punitaqui*
44. *Municipalidad de Río Hurtado*
45. *Municipalidad de Valparaíso*
46. *Municipalidad de Casablanca*

47. *Municipalidad de Con – Con*
48. *Municipalidad de Juan Fernández*
49. *Municipalidad de Puchuncaví*
50. *Municipalidad de Quilpué*
51. *Municipalidad de Quintero*
52. *Municipalidad de Villa Alemana*
53. *Municipalidad de Viña del Mar*
54. *Municipalidad de Isla de Pascua*
55. *Municipalidad de Los Andes*
56. *Municipalidad de Calle Larga*
57. *Municipalidad de Rinconada*
58. *Municipalidad de San Esteban*
59. *Municipalidad de La Ligua*
60. *Municipalidad de Cabildo*
61. *Municipalidad de Papudo*
62. *Municipalidad de Petorca*
63. *Municipalidad de Zapallar*
64. *Municipalidad de Quillota*
65. *Municipalidad de La Calera*
66. *Municipalidad de Hijuelas*
67. *Municipalidad de La Cruz*
68. *Municipalidad de Limache*
69. *Municipalidad de Nogales*
70. *Municipalidad de Olmué*
71. *Municipalidad de San Antonio*
72. *Municipalidad de Algarrobo*
73. *Municipalidad de Cartagena*
74. *Municipalidad de El Quisco*
75. *Municipalidad de El Tabo*
76. *Municipalidad de Santo Domingo*
77. *Municipalidad de San Felipe*
78. *Municipalidad de Catemu*
79. *Municipalidad de Llay – Llay*
80. *Municipalidad de Panquehue*
81. *Municipalidad de Putaendo*
82. *Municipalidad de Santa María*
83. *Municipalidad de Rancagua*
84. *Municipalidad de Codegua*
85. *Municipalidad de Coinco*
86. *Municipalidad de Coltauco*
87. *Municipalidad de Doñihue*
88. *Municipalidad de Graneros*
89. *Municipalidad de Las Cabras*
90. *Municipalidad de Machalí*
91. *Municipalidad de Malloa*
92. *Municipalidad de Mostazal*
93. *Municipalidad de Olivar*
94. *Municipalidad de Peumo*
95. *Municipalidad de Pichidegua*
96. *Municipalidad de Quinta de Tilcoco*

97. *Municipalidad de Rengo*
98. *Municipalidad de Requínoa*
99. *Municipalidad de San Vicente*
100. *Municipalidad de Pichilemu*
101. *Municipalidad de La Estrella*
102. *Municipalidad de Litueche*
103. *Municipalidad de Marchihue*
104. *Municipalidad de Navidad*
105. *Municipalidad de Paredones*
106. *Municipalidad de San Fernando*
107. *Municipalidad de Chépica*
108. *Municipalidad de Chimbarongo*
109. *Municipalidad de Lolol*
110. *Municipalidad de Nancagua*
111. *Municipalidad de Palmilla*
112. *Municipalidad de Peralillo*
113. *Municipalidad de Placilla*
114. *Municipalidad de Pumanque*
115. *Municipalidad de Santa Cruz*
116. *Municipalidad de Talca*
117. *Municipalidad de Constitución*
118. *Municipalidad de Curepto*
119. *Municipalidad de Empedrado*
120. *Municipalidad de Maule*
121. *Municipalidad de Pelarco*
122. *Municipalidad de Penciahue*
123. *Municipalidad de Río Claro*
124. *Municipalidad de San Clemente*
125. *Municipalidad de San Rafael*
126. *Municipalidad de Cauquenes*
127. *Municipalidad de Chanco*
128. *Municipalidad de Pelluhue*
129. *Municipalidad de Curicó*
130. *Municipalidad de Hualañé*
131. *Municipalidad de Licantén*
132. *Municipalidad de Molina*
133. *Municipalidad de Rauco*
134. *Municipalidad de Romeral*
135. *Municipalidad de Sagrada Familia*
136. *Municipalidad de Teno*
137. *Municipalidad de Vichuquén*
138. *Municipalidad de Linares*
139. *Municipalidad de Colbún*
140. *Municipalidad de Longaví*
141. *Municipalidad de Parral*
142. *Municipalidad de Retiro*
143. *Municipalidad de San Javier*
144. *Municipalidad de Villa Alegre*
145. *Municipalidad de Yerbas Buenas*
146. *Municipalidad de Concepción*

147. *Municipalidad de Coronel*
148. *Municipalidad de Chiguayante*
149. *Municipalidad de Florida*
150. *Municipalidad de Hualqui*
151. *Municipalidad de Lota*
152. *Municipalidad de Penco*
153. *Municipalidad de San Pedro de La Paz*
154. *Municipalidad de Santa Juana*
155. *Municipalidad de Talcahuano*
156. *Municipalidad de Tomé*
157. *Municipalidad de Hualpén*
158. *Municipalidad de Lebu*
159. *Municipalidad de Arauco*
160. *Municipalidad de Cañete*
161. *Municipalidad de Contulmo*
162. *Municipalidad de Curanilahue*
163. *Municipalidad de Los Alamos*
164. *Municipalidad de Tirúa*
165. *Municipalidad de Los Angeles*
166. *Municipalidad de Antuco*
167. *Municipalidad de Cabrero*
168. *Municipalidad de Laja*
169. *Municipalidad de Mulchén*
170. *Municipalidad de Nacimiento*
171. *Municipalidad de Negrete*
172. *Municipalidad de Quilaco*
173. *Municipalidad de Quilleco*
174. *Municipalidad de San Rosendo*
175. *Municipalidad de Santa Bárbara*
176. *Municipalidad de Tucapel*
177. *Municipalidad de Yumbel*
178. *Municipalidad de Alto Bío Bío*
179. *Municipalidad de Chillán*
180. *Municipalidad de Bulnes*
181. *Municipalidad de Cobquecura*
182. *Municipalidad de Coelemu*
183. *Municipalidad de Coihueco*
184. *Municipalidad de Chillán Viejo*
185. *Municipalidad de El Carmen*
186. *Municipalidad de Ninhue*
187. *Municipalidad de Ñiquén*
188. *Municipalidad de Pemuco*
189. *Municipalidad de Pinto*
190. *Municipalidad de Portezuelo*
191. *Municipalidad de Quillón*
192. *Municipalidad de Quirihue*
193. *Municipalidad de Ranquil*
194. *Municipalidad de San Carlos*
195. *Municipalidad de San Fabián*
196. *Municipalidad de San Ignacio*

197. *Municipalidad de San Nicolás*
198. *Municipalidad de Trehuaco*
199. *Municipalidad de Yungay*
200. *Municipalidad de Temuco*
201. *Municipalidad de Carahue*
202. *Municipalidad de Cunco*
203. *Municipalidad de Curarrehue*
204. *Municipalidad de Freire*
205. *Municipalidad de Galvarino*
206. *Municipalidad de Gorbea*
207. *Municipalidad de Lautaro*
208. *Municipalidad de Loncoche*
209. *Municipalidad de Melipeuco*
210. *Municipalidad de Nueva Imperial*
211. *Municipalidad de Padre de Las Casas*
212. *Municipalidad de Perquenco*
213. *Municipalidad de Pitrufquén*
214. *Municipalidad de Pucón*
215. *Municipalidad de Saavedra*
216. *Municipalidad de Teodoro Schmidt*
217. *Municipalidad de Tolón*
218. *Municipalidad de Vilcún*
219. *Municipalidad de Villarrica*
220. *Municipalidad de Cholchol*
221. *Municipalidad de Angol*
222. *Municipalidad de Collipulli*
223. *Municipalidad de Curacautín*
224. *Municipalidad de Ercilla*
225. *Municipalidad de Lonquimay*
226. *Municipalidad de Los Sauces*
227. *Municipalidad de Lumaco*
228. *Municipalidad de Purén*
229. *Municipalidad de Renaico*
230. *Municipalidad de Traiguén*
231. *Municipalidad de Victoria*
232. *Municipalidad de Valdivia*
233. *Municipalidad de Corral*
234. *Municipalidad de Lanco*
235. *Municipalidad de Los Lagos*
236. *Municipalidad de Mafil*
237. *Municipalidad de Mariquina*
238. *Municipalidad de Paillaco*
239. *Municipalidad de Panguipulli*
240. *Municipalidad de La Unión*
241. *Municipalidad de Futrono*
242. *Municipalidad de Lago Ranco*
243. *Municipalidad de Río Bueno*
244. *Municipalidad de Puerto Montt*
245. *Municipalidad de Calbuco*
246. *Municipalidad de Cochamó*

247. *Municipalidad de Fresia*
248. *Municipalidad de Frutillar*
249. *Municipalidad de Los Muermos*
250. *Municipalidad de Llanquihue*
251. *Municipalidad de Maullín*
252. *Municipalidad de Puerto Varas*
253. *Municipalidad de Castro*
254. *Municipalidad de Ancud*
255. *Municipalidad de Chonchi*
256. *Municipalidad de Curaco de Velez*
257. *Municipalidad de Dalcahue*
258. *Municipalidad de Puqueldón*
259. *Municipalidad de Queilén*
260. *Municipalidad de Quellón*
261. *Municipalidad de Quemchi*
262. *Municipalidad de Quinchao*
263. *Municipalidad de Osorno*
264. *Municipalidad de Puerto Octay*
265. *Municipalidad de Purranque*
266. *Municipalidad de Puyehue*
267. *Municipalidad de Río Negro*
268. *Municipalidad de San Juan de La Costa*
269. *Municipalidad de San Pablo*
270. *Municipalidad de Chaitén*
271. *Municipalidad de Futaleufú*
272. *Municipalidad de Hualaihue*
273. *Municipalidad de Palena*
274. *Municipalidad de Coyhaique*
275. *Municipalidad de Lago Verde*
276. *Municipalidad de Aysén*
277. *Municipalidad de Cisnes*
278. *Municipalidad de Guaitecas*
279. *Municipalidad de Cochrane*
280. *Municipalidad de O'Higgins*
281. *Municipalidad de Tortel*
282. *Municipalidad de Chile Chico*
283. *Municipalidad de Río Ibañez*
284. *Municipalidad de Punta Arenas*
285. *Municipalidad de Laguna Blanca*
286. *Municipalidad de Río Verde*
287. *Municipalidad de San Gregorio*
288. *Municipalidad Cabo de Hornos (Ex Navarino)*
289. *Municipalidad Antártica*
290. *Municipalidad de Porvenir*
291. *Municipalidad de Primavera*
292. *Municipalidad de Timaukel*
293. *Municipalidad de Natales*
294. *Municipalidad de Torres del Paine*
295. *Municipalidad de Santiago*
296. *Municipalidad de Cerrillos*

297. *Municipalidad de Cerro Navia*
298. *Municipalidad de Conchalí*
299. *Municipalidad de El Bosque*
300. *Municipalidad de Estación Central*
301. *Municipalidad de Huechuraba*
302. *Municipalidad de Independencia*
303. *Municipalidad de La Cisterna*
304. *Municipalidad de La Florida*
305. *Municipalidad de La Granja*
306. *Municipalidad de La Pintana*
307. *Municipalidad de La Reina*
308. *Municipalidad de Las Condes*
309. *Municipalidad de Lo Barnechea*
310. *Municipalidad de Lo Espejo*
311. *Municipalidad de Lo Prado*
312. *Municipalidad de Macul*
313. *Municipalidad de Maipú*
314. *Municipalidad de Ñuñoa*
315. *Municipalidad de Pedro Aguirre Cerda*
316. *Municipalidad de Peñalolen*
317. *Municipalidad de Providencia*
318. *Municipalidad de Pudahuel*
319. *Municipalidad de Quilicura*
320. *Municipalidad de Quinta Normal*
321. *Municipalidad de Recoleta*
322. *Municipalidad de Renca*
323. *Municipalidad de San Joaquín*
324. *Municipalidad de San Miguel*
325. *Municipalidad de San Ramón*
326. *Municipalidad de Vitacura*
327. *Municipalidad de Puente Alto*
328. *Municipalidad de Pirque*
329. *Municipalidad de San José de Maipo*
330. *Municipalidad de Colina*
331. *Municipalidad de Lampa*
332. *Municipalidad de Til Til*
333. *Municipalidad de San Bernardo*
334. *Municipalidad de Buin*
335. *Municipalidad de Calera de Tango*
336. *Municipalidad de Paine*
337. *Municipalidad de Melipilla*
338. *Municipalidad de Alhué*
339. *Municipalidad de Curacaví*
340. *Municipalidad de María Pinto*
341. *Municipalidad de San Pedro*
342. *Municipalidad de Talagante*
343. *Municipalidad de El Monte*
344. *Municipalidad de Isla de Maipo*
345. *Municipalidad de Padre Hurtado*
346. *Municipalidad de Peñaflores*

### **Section 3: Other Covered Entities**

1. This Chapter applies to entities listed in each Party's Schedule to this Section where the value of the procurement is estimated, in accordance with Article 15.5, to equal or exceed:
  - (a) for procurement of goods and services:  
A\$436,000 or CLP\$ 179,558,000
  - (b) for procurement of construction services:  
A\$9,570,000 or CLP\$ 3,940,806,000
2. The monetary thresholds set out in paragraph 1 shall be adjusted in accordance with Section 8 of this Annex.
3. This Section covers only those entities specifically listed below.

## **Schedule of Australia<sup>1</sup>**

Aged Care Standards and Accreditation Agency Ltd.  
Australian Accounting Standards Board  
Australian Communications and Media Authority  
Australian Fisheries Management Authority  
Australian Institute of Criminology  
Australian Institute of Health and Welfare  
Australian Institute of Marine Science  
Australian Law Reform Commission  
Australian Maritime Safety Authority  
Australian National Maritime Museum  
Australian Nuclear Science and Technology Organisation  
Australian Pesticides and Veterinary Medicines Authority  
Australian Prudential Regulation Authority  
Australian Securities and Investments Commission  
Tourism Australia  
Australian Trade Commission (Austrade)  
Australian War Memorial<sup>2</sup>  
Comcare  
Commonwealth Scientific and Industrial Research Organisation  
Corporations and Markets Advisory Committee  
Export Finance and Insurance Corporation  
Grains Research and Development Corporation  
Great Barrier Reef Marine Park Authority  
Medicare Australia  
Land and Water Resources Research and Development Corporation  
National Gallery of Australia  
National Museum of Australia  
Reserve Bank of Australia  
Sydney Harbour Federation Trust  
The Director of National Parks

### **Notes to the Schedule of Australia**

1. For the entities listed in this schedule, this Chapter does not cover the procurement of motor vehicles.
2. This Chapter does not cover procurement of telecommunications services by the Australian War Memorial.

## **Schedule of Chile**

1. *Empresa Portuaria Arica*
2. *Empresa Portuaria Iquique*
3. *Empresa Portuaria Antofagasta*
4. *Empresa Portuaria Coquimbo*
5. *Empresa Portuaria Valparaíso*
6. *Empresa Portuaria San Antonio*
7. *Empresa Portuaria San Vicente Talcahuano*
8. *Empresa Portuaria Puerto Montt*
9. *Empresa Portuaria Chacabuco*
10. *Empresa Portuaria Austral*
11. *Aeropuertos de propiedad del Estado, dependientes de la Dirección General de Aeronáutica Civil*

## **Section 4: Goods**

This Chapter applies to all goods procured by the entities listed in Sections 1 to 3, unless otherwise specified in this Chapter, including this Annex.

## **Section 5: Services**

This Chapter applies to all services procured by the entities listed in Sections 1 to 3, unless otherwise specified in this Chapter, including this Annex.

### **Schedule of Australia**

This Chapter does not cover the procurement of research and development services, plasma fractionation services or government advertising services.

## **Section 6: Construction Services**

This Chapter applies to all construction services procured by the entities listed in Sections 1 to 3, unless otherwise specified in this Chapter, including this Annex.

### **Schedule of Australia**

For the purposes of Articles 15.13.1 and 15.13.2, Australia requires, as a condition for participation in procurement of building and construction services, compliance with the National Code of Practice for the Construction Industry and related implementation guidelines at the central and sub-central government levels, and their successor policies and guidelines. In this respect Australia shall accord to the goods, services and suppliers of Chile, treatment no less favourable than the most favourable treatment it accords to its own goods, services and suppliers.

### **Schedule of Chile**

This Chapter shall not apply to construction services intended for Easter Island (*Isla de Pascua*).

#### **Note to Section 6**

Buy national requirements on articles, supplies or materials acquired for use in construction services contracts covered by this Chapter shall not apply to goods of either Party.

## **Section 7: General Notes**

Unless otherwise specified herein, the following General Notes in each Party's Schedule apply without exception to this Chapter, including to all sections of this Annex.

### **Schedule of Australia**

This Chapter does not apply to:

- (a) any form of preference to benefit small and medium enterprises;
- (b) measures to protect national treasures of artistic, historic, or archaeological value;
- (c) measures for the health and welfare of indigenous people; and
- (d) measures for the economic and social advancement of indigenous people.

## **Section 8: Threshold Adjustment Formula**

1. The thresholds in Sections 1 to 3 shall be adjusted at two-year intervals with each adjustment taking effect on January 1, beginning January 1, 2010.
2. The thresholds shall be adjusted:
  - (a) for Australia to align with the adjusted thresholds for equivalent categories of procurement listed in Annex 15-A, Section 1 to 3 of the Australia-United States Free Trade Agreement, expressed in its national currency according to that Agreement; and
  - (b) for Chile to align with the adjusted thresholds for equivalent categories of procurement listed in Annex 9.1, Section A to C of the Chile-United States Free Trade Agreement, expressed in its national currency according to that Agreement.
3. A Party may round its calculations for adjusted thresholds covered by this section according to the following:
  - (a) for Australia, to the nearest thousand Australian Dollars; and
  - (b) for Chile, to the nearest hundred thousand Chilean Pesos.
4. The Parties shall consult if a major change in a national currency vis-à-vis Special Drawing Rights or the other currency during a year were to create a significant problem with regard to the application of the Chapter.
5. In the event that:
  - (a) Australia withdraws from the Australia-United States Free Trade Agreement pursuant to Article 23.4 of that Agreement; or
  - (b) Chile withdraws from the Chile-United States Free Trade Agreement pursuant to Article 24.4 of that Agreement; or
  - (c) The Australia-United States Free Trade Agreement or the Chile-United States Free Trade Agreement are terminated; or
  - (d) An alteration to the arrangements for determining or adjusting the thresholds referred to in paragraph 2 in either the Australia-United States Free Trade Agreement or the Chile-United States Free Trade Agreement impacts on the operation of this Chapter;

The Joint FTA Committee shall agree revised arrangements for determining or adjusting thresholds with a view to maintaining the balance between the Parties in respect of the thresholds applying to one or more categories of procurement as set out in Sections 1 to 3.

6. Each Party shall notify the other Party of the value of the newly calculated thresholds in its national currency no later than one month before the thresholds take effect.