

## CHAPTER 11

### GOVERNMENT PROCUREMENT

#### Article 11.1: Definitions

For the purposes of this Chapter:

**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, the entity grants to 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;

**entity** means an entity listed in Annex 11.A;

**government procurement** or **procurement** means the process by which entities purchase goods and services;

**measures relating to government procurement** means any law, regulation, policy, or procedure of general application relating to government procurement;

**offsets** means conditions used to encouraged local development or improve the balance of payments accounts by means of domestic content, licensing of technology, investment requirements, counter-trade or similar requirements;

**publish** means to disseminate information in an electronic or paper medium that is distributed widely and is readily accessible to the general public;

**supplier** means a natural or legal person of a Party that provides or could provide goods or services to an entity;

**technical specification** means a tendering requirement that:

- (a) sets out the characteristics of:
  - (i) goods to be procured, such as quality, performance, safety and dimensions, or the process and methods for their production, or
  - (ii) services to be procured, or the processes or methods for their provision, including any applicable administrative provisions;

- (b) addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a good or service; or
- (c) sets out conformity assessment procedures prescribed by an entity.

### **Article 11.2: Objectives**

The objectives of this Chapter are to recognise the importance of conducting government procurement in accordance with the fundamental principles of transparency, value for money, open and effective competition, fair dealing, accountability and due process, and non-discrimination.

### **Article 11.3: Scope**

1. This Chapter applies to measures adopted or maintained by a Party relating to government procurement 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:

- (a) by entities listed in Annex 11.A, and their successors other than those subsequently corporatised, commercialised or privatised;
- (b) in which the contract has a value not less than the relevant threshold converted into respective currencies as set out in Annex 11.C; and
- (c) subject to any other conditions specified in the Annexes.

2. This Chapter does not apply to:

- (a) the purchase or acquisition of goods and services by an entity of a Party from another entity of that Party, except where tenders are called, in which case this Chapter shall apply;
- (b) non-contractual agreements, or any form of assistance to persons or governmental authorities, including foreign assistance, grants, loans, equity infusions, fiscal incentives, subsidies, guarantees, cooperative agreements, sponsorship arrangements and governmental provision of goods and services;
- (c) purchases funded by international grants, loans or other assistance, where the provision of such assistance is subject to conditions inconsistent with the provisions of this Chapter;

- (d) procurement of goods and services (including construction) outside the territory of the procuring Party, for consumption outside the territory of the procuring Party;
- (e) acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions, and sale and distribution services for government debt; or
- (f) hiring of government employees or other long-term staff and personnel, and related employment measures.

3. Each Party shall ensure that its entities shall not prepare, design or otherwise structure or divide, at any stage of the procurement, any procurement in order to avoid the obligations of this Chapter.

#### **Article 11.4: National Treatment and Non-Discrimination**

1. With respect to any measures regarding government procurement covered by this Chapter, each Party shall grant to goods, services and suppliers of the other Parties treatment no less favourable than that accorded by it to domestic goods, services and suppliers.

2. With respect to any measures regarding government procurement covered by this Chapter, no Party shall allow its entities to:

- (a) treat a locally established supplier less favourably than another locally established supplier on the basis of the degree of foreign affiliation to, or ownership by a person of, another Party; or
- (b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier are goods or services of another Party.

3. A Party shall not discriminate in favour of any enterprise, whether or not the Party is a shareholder in that enterprise.

4. This Article shall not apply to measures concerning customs duties and charges of any kind imposed on or in connection with importation, the method of levying such duties and charges, other import regulations, or to measures affecting trade in services other than measures specifically governing procurement covered by this Chapter.

### **Article 11.5: Rules of Origin**

For the sole purpose of determining customs duties applicable to goods imported for purposes of government procurement, the Parties shall apply the same rules of origin that are used to determine customs duties applicable to imports of goods for other purposes.

### **Article 11.6: Prohibition of Offsets**

Each Party shall ensure that its entities do not consider, seek or impose offsets at any stage of a procurement.

### **Article 11.7: Non-Disclosure of Information**

1. The Parties, their entities and their review authorities shall not, except to the extent required by law, disclose confidential information that would prejudice legitimate commercial interests of a particular supplier or might prejudice fair competition between suppliers without the written authorisation of the supplier that provided the information.

2. Nothing in this Chapter shall be construed as requiring a Party or its entities to disclose confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest.

### **Article 11.8: Publication of Information on Procurement Measures**

Each Party shall promptly publish:

- (a) its measures relating to government procurement covered by this Chapter; and
- (b) any modifications to such measures in the same manner as the original publication.

### **Article 11.9: Technical Specifications**

1. Each Party shall ensure that its entities do not prepare, adopt or apply any technical specification with the purpose or the effect of creating unnecessary obstacles to trade among the Parties.

2. Any technical specifications prescribed by an entity shall, where appropriate:

- (a) be specified in terms of performance and functional requirements, rather than design or descriptive characteristics; and
- (b) be based on international standards, where applicable, or otherwise on national technical regulations, recognised national standards, or building codes.

3. Each Party shall ensure that its entities do not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, design or type, specific origin or producer or supplier, unless there is no sufficiently precise or intelligible way of describing the procurement requirements and provided that, in such cases, words such as "or equivalent" are included in the tender documentation.

4. Each Party shall ensure that an entity shall not seek or accept advice to 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, if to do so would prejudice fair competition.

#### **Article 11.10: Valuation of Contracts**

In calculating the value of contracts for the purposes of implementing this Chapter entities shall base their valuation on the maximum total estimated value of the procurement over its entire duration including optional purchases, premiums, fees, commissions, interests and revenue streams or other forms of remuneration provided for in such contracts.

#### **Article 11.11: Tendering Procedures**

Except as provided for in Article 11.18 entities shall award contracts by means of open tendering procedures, in the course of which any interested supplier may submit a tender or apply to meet conditions for participation in a procurement.<sup>1</sup>

#### **Article 11.12: Notice of Intended Procurement**

1. For each procurement covered by this Chapter, entities shall publish in advance a notice of intended procurement inviting interested suppliers to submit a

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<sup>1</sup> The Parties understand that further procurements under contracts, which are awarded consistently with this Chapter, in particular Article 11.10, that provide that goods and services will be available to entities on the same terms and conditions as the original contract are considered consistent with this Chapter.

tender or apply to meet conditions for participation in the procurement, except as provided for in Article 11.18.

2. The information in each notice of intended procurement shall include a description of the intended procurement; any conditions that suppliers must fulfil to participate in the procurement, including the time limits for submission of tenders; and contact details for obtaining of all relevant documents.

3. Entities shall publish the notices in a timely manner through means which offer the widest possible and non-discriminatory access to the interested suppliers of the Parties. These means shall be accessible free of charge, during the entire period established for tendering, through a single electronic point of access specified in Annex 11.B.

4. Where an entity, during the course of a procurement, modifies the criteria referred to in the notice of intended procurement, it shall publish or transmit all such modifications in writing:

- (a) to all suppliers that are participating in the procurement at the time the criteria are 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 resubmit their tenders, as appropriate.

5. Each notice of intended procurement under Paragraph 1 shall be published sufficiently in advance to provide interested suppliers of all Parties with a reasonable period of time in light of the nature, circumstances and complexity of the procurement, to obtain the full tender documentation and to prepare and submit responsive tenders by the closing date, or to apply for participation in the procurement where applicable.

6. Notwithstanding Paragraph 5, entities shall provide no less than 10 days between the date on which the notice of intended procurement is published and the final date for the submission of tenders.

#### **Article 11.13: Tender Documentation**

1. Tender documentation provided to suppliers shall contain all information necessary to permit them to prepare and submit responsive tenders, including the essential requirements and evaluation criteria for the award of the procurement contract.

2. Where contracting entities do not offer direct access to the entire tender documents and any supporting documents by electronic means, entities shall promptly make available the tender documentation at the request of any supplier of the Parties.

3. An entity shall endeavour to reply promptly to any reasonable request for explanation or relevant information made by a supplier, provided that such information does not give that supplier an advantage over its competitors in the procedure for the award of the contract. The explanation or information provided to a supplier may be provided to all suppliers that are invited to tender.

4. Where an entity, during the course of a procurement, modifies the essential requirements and evaluation criteria of the tender documentation, it shall publish or transmit all such modifications in writing:

- (a) to all suppliers who have requested tender documentation at the time the criteria are modified, and in the same manner the original information was transmitted; and
- (b) in adequate time to allow such suppliers to modify and resubmit their tenders, as appropriate.

#### **Article 11.14: Awarding of Contracts**

1. The Parties shall ensure that its entities receive, open and evaluate all tenders under procedures that guarantee the fairness and impartiality of the procurement process.

2. To be considered for award, a tender must, at the time of opening, conform to the essential requirements of the notice of intended procurement or tender documentation and be submitted by a supplier who complies with the conditions for participation.

3. Unless an entity determines that it is not in the public interest to award a contract, it shall award the contract to the supplier that has been determined to be fully capable of undertaking the contract and whose tender is determined to offer the best value for money or be the most advantageous in terms of the essential requirements and evaluation criteria set forth in the tender documentation.

4. An entity shall not cancel a procurement covered by this Chapter, or terminate or modify awarded contracts in order to circumvent the requirements of this Chapter.

#### **Article 11.15: Post-Award Information**

1. Entities shall promptly publish or inform suppliers that have submitted a tender of the contract award decision.
2. Entities shall, on request from an unsuccessful supplier, promptly provide pertinent information concerning reasons for the rejection of its tender or the relative advantages of the tender the entity selected.
3. Entities shall, promptly after the award of a contract for a procurement covered by this Chapter, publish a notice containing at least the following information:
  - (a) the name and address of the successful supplier;
  - (b) a description of the goods or services supplied; and
  - (c) the value of the contract award.

#### **Article 11.16: Conditions for Participation**

1. Where an entity requires suppliers to satisfy registration, qualification, or any other conditions before being permitted to participate in a procurement, each Party shall ensure that a notice inviting suppliers to apply for registration, qualification or demonstration of the suppliers' satisfaction of any other conditions for participation is published sufficiently in advance for interested suppliers to prepare and submit responsive applications and for entities to evaluate and make their determinations based on such applications.
2. Entities shall consider for a particular procurement those suppliers of another Party that request to participate in the procurement and that are not yet registered or qualified, provided there is sufficient time to complete the registration or qualification procedures before the award of the contract.
3. Any conditions for participation in the procurement, including financial guarantees, technical qualifications and information necessary for establishing the financial, commercial and technical capacity of suppliers, as well as the verification of qualifications, shall be limited to those which are essential to ensure the firm's capability to fulfil the contract in question. The financial, commercial and technical capacity of a supplier shall be judged both on the basis of that supplier's global business activity and its activity in the territory of the procuring entity, taking due account of the legal relationship between the supply organisations.
4. Nothing in this Article shall preclude an entity from excluding a supplier from a procurement on grounds such as bankruptcy, liquidation or insolvency, false

declarations relating to a procurement, or significant deficiency in the performance of any obligation under a prior contract.

#### **Article 11.17: Lists of Registered or Qualified Suppliers**

1. An entity may establish for continuing use a list of suppliers registered or qualified to participate in procurements. A current updated list of registered or qualified suppliers shall be publicly available. The entity shall ensure that suppliers may apply for participation in the list of registered or qualified suppliers at any time, and that all qualifying applicants are included within a reasonable period of time, taking into account the conditions for participation and the need for verification. Where an entity requires suppliers to qualify for such a list before being permitted to participate in a procurement, and a supplier that has not previously satisfied such requirements or conditions submits an application, the entity shall promptly start the registration or qualification procedures and shall allow such supplier to participate in the procurement, provided there is sufficient time to complete the registration or procurement procedures within the time period established for the award.

2. The entity shall publish annually or otherwise make available continuously in electronic form a notice inviting interested suppliers to apply for inclusion on the list. The notice shall include:

- (a) a description of the goods and services for which the list of suppliers may be used; and
- (b) the conditions to be satisfied by suppliers for inclusion on the list of registered or qualified suppliers.

3. Entities shall notify qualified suppliers of the termination of, or of their removal from a list of registered or qualified suppliers and state the reason for this action.

#### **Article 11.18: Exceptions to Open Tendering**

1. Provided that the tendering procedure is not used to avoid competition or to protect domestic suppliers, entities may award contracts by means other than open tendering procedures in any of the following circumstances:

- (a) where, in response to a prior notice, invitation to participate, or invitation to tender under open tendering procedures
  - (i) no tenders were submitted,

(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 entity does not substantially modify the essential requirements of the procurement in the contract as awarded;

- (b) where, for works of art, or for reasons connected with the protection of exclusive rights, such as patents or copyrights, 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 which are intended either as replacement parts, extensions or continuing services for or upgrades of 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, or conditions under original supplier warranties;
- (d) for goods purchased on a commodity market;
- (e) when an entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development. When such contracts have been fulfilled, subsequent procurements of such goods or services shall be subject to the principles and procedures laid down in this Chapter;
- (f) when additional construction services which were not included in the initial contract but which were within the objectives of the original tender documentation have, due to unforeseeable circumstances, become necessary to complete the construction services described therein, provided that the total value of contracts awarded for additional construction services does not exceed 50 percent of the amount of the main contract;
- (g) in so far as it is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the entity, the goods or services could not be obtained in time by means of an open tendering procedure, and the use of such procedure would result in serious injury to the entity, the entity's programme responsibilities or the Party. For purposes of this Subparagraph, lack of advance planning by an entity or

its concerns relating to the amount of funds available to it do not constitute unforeseeable events;

- (h) for purchases made under exceptionally advantageous conditions that only arise in the very short term, including public auction or unusual disposals, such as those resulting from liquidation, bankruptcy or receivership. This provision is not intended to cover routine purchases from regular suppliers; or
- (i) in the case of a contract awarded to the winner of a design contest provided that the contest has been organised in a manner which is consistent with the principles of this Chapter and that the contest is judged by an independent jury with a view to a design contract being awarded to the winner.

2. The Parties shall ensure that, whenever it is necessary for entities to resort to a procedure other than open tendering procedures based on the circumstances set forth in Paragraph 1, the entities shall maintain a record or prepare a written report providing specific justification for the contract.

#### **Article 11.19: 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 any potential conflict of interest on the part of those engaged in or having influence over a procurement.

#### **Article 11.20: Domestic Review of Supplier Complaints**

1. Each Party shall ensure that its entities accord impartial and timely consideration to any complaints from suppliers regarding an alleged breach of measures implementing this Chapter arising in the context of a procurement in which they have, or have had, an interest. Where appropriate, a Party may encourage suppliers to seek clarification from its entities with a view to facilitating the resolution of any such complaints.

2. Each Party shall provide suppliers of any one of the other Parties with non-discriminatory, timely, transparent and effective access to an administrative or judicial body competent to hear or review complaints of alleged breaches of the procuring Party's laws, regulations, procedures and practices regarding procurement in the context of procurements in which they have, or have had, an interest.

3. Each Party shall make information on complaint mechanisms generally available.
4. Compensation for any breach of measures implementing this Chapter may be limited to the costs for tender preparation reasonably incurred by the supplier for the purpose of the procurement.

**Article 11.21: 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 access, to comprehensive information on government procurement supply opportunities in its territory, and information on measures relating to government procurement shall be available. The contact point or points from whom suppliers can obtain information on government procurement shall either be specified in Annex 11.B, or be set out in the information on the single electronic portal.
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 endeavour to ensure policies and procedures for the use of electronic means in procurement are adopted that:
  - (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 entities to publish as early as possible in the fiscal year information regarding the entities' indicative procurement plans in the electronic portal referred to in Paragraph 2.

**Article 11.22: Exceptions**

1. Nothing in this Chapter shall be construed to prevent any Party from taking any action or not disclosing any information which it considers necessary for the protection of its essential security interests relating to the procurement of arms, ammunition or war materials, or to procurement indispensable for national security or for national defence purposes.

2. Subject to the requirement 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.

3. The Parties understand that Subparagraph 2(b) includes environmental measures necessary to protect human, animal or plant life or health.

#### **Article 11.23: Modifications and Rectifications of Annexes**

1. A Party may modify its coverage under this Chapter in conformity with Article 17.2 (*Functions of the Commission*), provided that it:

- (a) notifies the other Parties of the modification; and
- (b) provides the other Parties, within 30 days following the date of such notification, appropriate compensatory adjustments to its coverage in order to maintain a level of coverage comparable to that existing prior to the modification.

2. Notwithstanding Subparagraph 1(b), no compensatory adjustments shall be provided to the other Parties where the modification by a Party of its coverage under this Chapter concerns:

- (a) the situation where the business or commercial operations or functions of any of its entities or part thereof are constituted or established as an enterprise with a legal entity separate and distinct from the government of a Party, regardless of whether or not the government holds any shares or interest in such a legal entity; or
- (b) rectifications of a purely formal nature and minor amendments to Annex 11.A or Annex 11.B, including those under Subparagraph (a), made through an Implementing Arrangement in accordance with Article 17.2 (*Functions of the Commission*).

## Annex 11.A

### List of Entities and Covered Goods and Services

#### CHILE

##### A. *List of Entities*

1. Presidencia de la República (Office of the President of the Republic)
2. Ministerio de Interior (Ministry of the Interior)
3. Ministerio de Relaciones Exteriores (Ministry of Foreign Affairs)
4. Ministerio de Defensa Nacional (Ministry of National Defense)
5. Ministerio de Hacienda (Ministry of Finance)
6. Ministerio Secretaría General de la Presidencia (Ministry of the General Secretariat of the President's Office)
7. Ministerio Secretaría General de Gobierno (Ministry of the General Secretariat of Government)
8. Ministerio de Economía, Fomento, Reconstrucción y Energía (Ministry of Economic Affairs, Development, Reconstruction and Energy)
9. Ministerio de Minería (Ministry of Mining)
10. Ministerio de Planificación y Cooperación (Ministry of Planning and Cooperation)
11. Ministerio de Educación (Ministry of Education)
12. Ministerio de Justicia (Ministry of Justice)
13. Ministerio de Trabajo y Previsión Social (Ministry of Labour and Social Welfare)
14. Ministerio de Obras Públicas (Ministry of Public Works)
15. Ministerio de Transporte y Telecomunicaciones (Ministry of Transport and Telecommunications)
16. Ministerio de Salud (Ministry of Health)
17. Ministerio de la Vivienda y Urbanismo (Ministry of Housing and Urban Planning)
18. Ministerio de Bienes Nacionales (Ministry of National Assets)
19. Ministerio de Agricultura (Ministry of Agriculture)
20. Ministerio Servicio Nacional de la Mujer (Ministry of the National Bureau for Women)

#### Gobiernos Regionales (Regional Governments)

Intendencia I Región  
(Intendancy Region I)  
Gobernación de Arica

(Governor's Office – Arica)  
Gobernación de Parinacota  
(Governor's Office - Parinacota)  
Gobernación de Iquique  
(Governor's Office - Iquique)  
Intendencia II Región  
(Intendancy Region II)  
Gobernación de Antofagasta  
(Governor's Office - Antofagasta)  
Gobernación de El Loa  
(Governor's Office - El Loa)  
Gobernación de Tocopilla  
(Governor's Office - Tocopilla)  
Intendencia III Región  
(Intendancy Region III)  
Gobernación de Chañaral  
(Governor's Office - Chañaral)  
Gobernación de Copiapó  
(Governor's Office - Copiapó)  
Intendencia IV Región  
(Intendancy Region IV)  
Gobernación de Huasco  
(Governor's Office - Huasco)  
Gobernación de El Elqui  
(Governor's Office - El Elqui)  
Gobernación de Limarí  
(Governor's Office - Limarí)  
Gobernación de Choapa  
(Governor's Office - Choapa)  
Intendencia V Región  
(Intendancy Region V)  
Gobernación de Petorca  
(Governor's Office - Petorca)  
Gobernación de Valparaíso  
(Governor's Office - Valparaiso)  
Gobernación de San Felipe de Aconcagua  
(Governor's Office - San Felipe de Aconcagua)  
Gobernación de Los Andes  
(Governor's Office - Los Andes)  
Gobernación de Quillota  
(Governor's Office - Quillota)  
Gobernación de San Antonio  
(Governor's Office - San Antonio)  
Gobernación de Isla de Pascua  
(Governor's Office - Isla de Pascua)  
Intendencia VI Región

(Intendancy Region VI)  
Gobernación de Cachapoal  
(Governor's Office - Cachapoal)  
Gobernación de Colchagua  
(Governor's Office - Colchagua)  
Gobernación de Cardenal Caro  
(Governor's Office - Cardenal Caro)  
Intendencia VII Región  
(Intendancy Region VII)  
Gobernación de Curicó  
(Governor's Office - Curicó)  
Gobernación de Talca  
(Governor's Office - Talca)  
Gobernación de Linares  
(Governor's Office - Linares)  
Gobernación de Cauquenes  
(Governor's Office - Cauquenes)  
Intendencia VIII Región  
(Intendancy Region VIII)  
Gobernación de Ñuble  
(Governor's Office - Ñuble)  
Gobernación de Bío-Bío  
(Governor's Office - Bío-Bío)  
Gobernación de Concepción  
(Governor's Office - Concepción)  
Gobernación de Arauco  
(Governor's Office - Arauco)  
Intendencia IX Región  
(Intendancy Region IX)  
Gobernación de Malleco  
(Governor's Office - Malleco)  
Gobernación de Cautín  
(Governor's Office - Cautín)  
Intendencia X Región  
(Intendancy Region X)  
Gobernación de Valdivia  
(Governor's Office - Valdivia)  
Gobernación de Osorno  
(Governor's Office - Osorno)  
Gobernación de Llanquihue  
(Governor's Office - Llanquihue)  
Gobernación de Chiloé  
(Governor's Office - Chiloé)  
Gobernación de Palena  
(Governor's Office - Palena)  
Intendencia XI Región

(Intendancy Region XI)  
Gobernación de Coihaique  
(Governor's Office - Coihaique)  
Gobernación de Aysén  
(Governor's Office - Aysén)  
Gobernación de General Carrera  
(Governor's Office - General Carrera)  
Intendencia XII Región  
(Intendancy Region XII)  
Gobernación de Capitán Prat  
(Governor's Office - Capitán Prat)  
Gobernación de Ultima Esperanza  
(Governor's Office - Ultima Esperanza)  
Gobernación de Magallanes  
(Governor's Office - Magallanes)  
Gobernación de Tierra del Fuego  
(Governor's Office - Tierra del Fuego)  
Gobernación de Antártica Chilena  
(Governor's Office - Antártica Chilena)  
Intendencia Región Metropolitana  
(Intendancy Metropolitan Region)  
Gobernación de Chacabuco  
(Governor's Office - Chacabuco)  
Gobernación de Cordillera  
(Governor's Office - Cordillera)  
Gobernación de Maipo  
(Governor's Office - Maipo)  
Gobernación de Talagante  
(Governor's Office - Talagante)  
Gobernación de Melipilla  
(Governor's Office - Melipilla)  
Gobernación de Santiago  
(Governor's Office - Santiago)

***Note to Section A:***

Chapter 11 shall not apply to any procurement made by a listed entity on behalf of a non-listed entity.

***B. Covered Goods and Services***

**1. Goods**

Chapter 11 applies to all goods procured by the entities listed in Section A.

2. Services

Chapter 11 applies to all services procured by the entities listed in Section A, except all classes of financial services (as elaborated in the Common Classification System), which are excluded.

3. Construction Services

Chapter 11 applies to all construction services procured by the entities listed in Section A.

## NEW ZEALAND

### *A. List of Entities*

Archives New Zealand  
Crown Law Office  
Department of Building and Housing  
Department of Child, Youth and Family Services  
Department of Conservation  
Department of Corrections  
Department of Internal Affairs  
Department of Labour  
Department of the Prime Minister and Cabinet  
Education Review Office  
Government Communications Security Bureau  
Inland Revenue Department  
Land Information New Zealand  
Ministry of Agriculture and Forestry  
Ministry for Culture and Heritage  
Ministry of Defence  
Ministry of Economic Development  
Ministry of Education  
Ministry for the Environment  
Ministry of Fisheries  
Ministry of Foreign Affairs and Trade  
Ministry of Health  
Ministry of Justice  
Ministry of Maori Development  
Ministry of Pacific Island Affairs  
Ministry of Research, Science and Technology  
Ministry of Social Development  
Ministry of Transport  
Ministry of Women's Affairs  
National Library of New Zealand  
New Zealand Customs Service  
New Zealand Defence Force  
New Zealand Police  
Serious Fraud Office  
State Services Commission  
Statistics New Zealand  
The Treasury

### *Note to Section A:*

Chapter 11 shall not apply to any procurement made by a listed entity on behalf of a non-listed entity.

**B. Covered Goods and Services**

1. Goods

Chapter 11 applies to all goods procured by the entities listed in Section A.

2. Services

Chapter 11 applies to all services procured by the entities listed in Section A, except the following:

- (a) procurement of research and development services;<sup>2</sup>
- (b) any procurement in respect of contracts for construction, refurbishment or furnishing of chanceries abroad;<sup>3</sup> and
- (c) procurement of public health, education and welfare services.<sup>4</sup>

3. Construction Services

Chapter 11 applies to all construction services procured by the entities listed in Section A, except for procurement covered by Paragraph 2(b) above.

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<sup>2</sup> As defined in WTO document MTN.GNS/W/120 (CPC 851-853).

<sup>3</sup> As regards construction services, this refers to WTO document MTN.GNS/W/120 sector heading "Construction and Related Engineering Services".

<sup>4</sup> Refers to procurement, for provision to the public, of services classified in WTO document MTN.GNS/W/120 under the sector headings "Educational Services" and "Health Related and Social Services", and CPC item 913.

## SINGAPORE

### A. *List of Entities*

Auditor-General's Office  
Attorney-General's Chambers  
Cabinet Office  
Istana  
Judicature  
Ministry of Transport  
Ministry of Community Development and Sports  
Ministry of Education  
Ministry of Environment  
Ministry of Finance  
Ministry of Foreign Affairs  
Ministry of Health  
Ministry of Home Affairs  
Ministry of Information, Communications and the Arts  
Ministry of Manpower  
Ministry of Law  
Ministry of National Development  
Ministry of Trade and Industry  
Parliament  
Presidential Councils  
Prime Minister's Office  
Public Service Commission  
Ministry of Defence

This Agreement will generally apply to purchases by the Singapore Ministry of Defence of the following *Federal Supply Classification* (FSC) categories of the United States of America (others being excluded) subject to the Government of Singapore's determinations under the provisions of Article 11.22.

<i>FSC</i>	<i>Description</i>
22	Railway Equipment
23	Ground Effect Vehicles, Motor Vehicles, Trailers and Cycles
24	Tractors
25	Vehicular Equipment Components
26	Tires and Tubes
29	Engine Accessories
30	Mechanical Power Transmission Equipment
31	Bearings
32	Woodworking Machinery and Equipment
34	Metalworking Machinery

35	Service and Trade Equipment
36	Special Industry Machinery
37	Agricultural Machinery and Equipment
38	Construction, Mining, Excavating and Highway Maintenance Equipment
39	Materials Handling Equipment
40	Rope, Cable, Chain and Fittings
41	Refrigeration, Air Conditioning and Air Circulating Equipment
42	Fire Fighting, Rescue and Safety Equipment
43	Pumps and Compressors
44	Furnace, Steam Plant and Drying Equipment
45	Plumbing, Heating and Sanitation Equipment
46	Water Purification and Sewage Treatment Equipment
47	Pipe, Tubing, Hose and Fittings
48	Valves
51	Handtools
52	Measuring Tools
53	Hardware and Abrasives
54	Prefabricated Structures and Scaffolding
55	Lumber, Millwork, Plywood and Veneer
56	Construction and Building Materials
61	Electric Wire, and Power and Distribution Equipment
62	Lighting, Fixtures and Lamps
63	Alarm, Signal and Security Detection Systems
65	Medical, Dental and Veterinary Equipment and Supplies
67	Photographic Equipment
68	Chemicals and Chemical Products
69	Training Aids and Devices
70	General Purpose Automatic Data Processing Equipment, Software, Supplies and Support Equipment
71	Furniture
72	Household and Commercial Furnishings and Appliances
73	Food Preparation and Serving Equipment
74	Office Machines, Text Processing Systems and Visible Record Equipment
75	Office Supplies and Devices
76	Books, Maps and other Publications
77	Musical Instruments, Phonographs and Home-Type Radios
78	Recreational and Athletic Equipment
79	Cleaning Equipment and Supplies
80	Brushes, Paints, Sealers and Adhesives
81	Containers, Packaging and Packing Supplies
83	Textiles, Leather, Furs, Apparel and Shoe Findings, Tents and Flags
84	Clothing, Individual Equipment, and Insignia
85	Toiletries
87	Agricultural Supplies

88	Live Animals
89	Subsistence
91	Fuels, Lubricants, Oils and Waxes
93	Non-metallic Fabricated Materials
94	Non-metallic Crude Materials
95	Metal Bars, Sheets and Shapes
96	Ores, Minerals, and their Primary Products
99	Miscellaneous

***Note to Section A:***

Chapter 11 shall not apply to any procurement made by a listed entity on behalf of a non-listed entity.

***B. Covered Goods and Services***

1. Goods

Chapter 11 applies to all goods procured by the entities listed in Section A.

2. Services (Other than construction services)

The following services are contained in WTO document MTN.GNS/W/120 are offered (others being excluded):

<i>CPC</i>	<i>Description</i>
862	Accounting, Auditing and Book-keeping Services
8671	Architectural Services
865	Management Consulting Services
874	Building-Cleaning Services
641-643	Hotels and Restaurants (incl. catering)
74710	Travel Agencies and Tour Operators
7472	Tourist Guide Services
843	Data Processing Services
844	Database Services
932	Veterinary Services
84100	Consultancy Services Related to the Installation of Computer Hardware
84210	Systems and Software Consulting Services
87905	Translation and Interpretation Services
7523	Electronic Mail
7523	Voice Mail
7523	On-Line Information and Database Retrieval
7523	Electronic Data Interchange

96112	Motion Picture or Video Tape Production Services
96113	Motion Picture or Video Tape Distribution Services
96121	Motion Picture Projection Services
96122	Video Tape Projection Services
96311	Library Services
8672	Engineering Services
7512	Courier Services
-	Biotechnology Services
-	Exhibition Services
-	Commercial Market Research
-	Interior Design Services, Excluding Architecture
-	Professional, Advisory and Consulting Services Relating to Agriculture, Forestry, Fishing and Mining, Including Oilfield Services

C. Construction Services

The following construction services in the sense of Division 51 of the CPC as contained in WTO document MTN.GNS/W/120 are offered (others being excluded):

*List of construction services offered:*

<i>CPC</i>	<i>Description</i>
512	General construction work for buildings
513	General construction work for civil engineering
514, 516	Installation and assembly work
517	Building completion and finishing work
511, 515, 518	Others

**Notes to Section B:**

1. Chapter 11 shall not apply to any procurement in respect of:
  - (a) construction contracts for chanceries abroad and headquarters buildings made by the Ministry of Foreign Affairs; and
  - (b) contracts made by the Internal Security Department, Criminal Investigation Department, Security Branch and Central Narcotics Bureau of the Ministry of Home Affairs as well as procurement that have security considerations made by the Ministry.
2. The offer regarding services and construction services is subject to the limitations and conditions specified in the Government of Singapore's offer under the GATS negotiations.

## **Annex 11.B**

### ***Single Electronic Point of Access***

#### **For Chile:**

<http://www.chilecompra.cl>

#### **For New Zealand:**

<http://www.gets.govt.nz>

#### **For Singapore:**

<http://www.gebiz.gov.sg>

### ***Contact Point***

#### **For Brunei Darussalam:**

State Tender Board (STB)  
Ministry of Finance  
Commonwealth Drive  
Brunei Darussalam BB 3910

#### **For New Zealand:**

Regulatory and Competition Policy Branch  
Ministry of Economic Development  
Level 8, 33 Bowen Street  
PO Box 1473  
Wellington, New Zealand

#### **For Singapore:**

Expenditure & Procurement Policies Unit  
Ministry of Finance  
100, High Street  
Singapore 179434

## **Annex 11.C**

### **Thresholds**

Goods	Threshold : SDR 50,000
Services	Threshold : SDR 50,000
Construction	Threshold : SDR 5,000,000

Thresholds shall be converted to the respective national currencies in accordance with the following provisions:

1. Each Party shall calculate and publish the value of the thresholds under this Chapter expressed in the corresponding national currency. These calculations will be based on the conversion rates published by the IMF in its monthly "International Financial Statistics".
2. The conversion rates shall be the average of the daily values of the respective national currency in terms of the SDR over the two years preceding 1 September, 1 October or 1 November of the year prior to the thresholds in national currency becoming effective which will be from 1 January.
3. Thresholds expressed in national currencies will be fixed for two years, ie calendar years, for all Parties.