

## 6. Government procurement

- ✓ 108. Chapter 11 on government procurement consists of 12 Articles and eight related Annexes. The Chapter's fundamental principle is national treatment in the conduct of government procurement. The Parties must immediately and unconditionally provide treatment no less favourable than that accorded to domestic goods, services and suppliers of goods and services to the other Party's goods, services and suppliers of these (Article 120.1). Other general principles are the non-application of rules of origin that are different from the rules that the Parties apply in the normal course of trade (Article 121), the prohibition of offsets (Article 123), transparency and confidentiality of information (Article 124). Challenge procedures are laid out in Article 125. A Sub-Committee on Government Procurement is established for the purposes of the effective implementation and operation of the Chapter (Article 127).
- ✓ 109. Japan applies procurement procedures under the Agreement in accordance with the provisions of the WTO Agreement on Government Procurement (GPA) (Articles II, VI-XV and XVIII). Mexico, which is not a member of the GPA, follows the procedures under the NAFTA (Articles 1002, 1007-1016).
- ✓ 110. Annex 11 lists the entities covered: 22 central government entities, and 126 other entities for Japan, and 23 federal government entities and 36 government enterprises for Mexico. Local government entities and sub-federal entities are, however, not covered (Japan includes 59 sub-central government entities under the GPA). The Parties must notify each other when government control, at the federal or central government level, over an entity is effectively eliminated (Article 129). Chapter 11 applies to all goods. However, for procurement by the Japanese Ministry of Defence and the Mexican Ministries of National Defence and Navy only the goods specified in Annex 12 are covered by the Chapter. For Mexico, applied scope and coverage are subject to the General Notes in Annex 16 which includes that, until 1 January of the ninth year following the entry into force of the Agreement, Chapter 11 does not apply to the procurement, by the Ministries of Health, National Defence and Navy, the Mexican Social Security Institute, and the Social Security and Services Institute for Government Workers, of drugs that are not currently patented in Mexico or whose Mexican patents have expired (Annex 16, Section 1.7).
- ✓ 111. For services, Annex 13 contains a positive list for each Party of the services covered. In particular, construction services covered are specified in positive lists for the Parties in Annex 14. Annex 15 indicates the applicable thresholds to Japan which vary for different groups of entities and according to the nature of purchases, such as: goods; services; construction services; and architectural, engineering and other technical services. The thresholds are the same as those under the GPA.<sup>30</sup> Mexico applies the NAFTA thresholds.

## 7. Intellectual property rights

112. The Agreement does not contain detailed intellectual property provisions, but intends to pursue cooperation in this field. Such cooperation may include the exchange of information on: increasing public awareness of intellectual property protection; improving intellectual property protection; enforcement; and automation of intellectual property administration (Article 144).

113. In Article 8 and Annex 3, the Parties confirm their obligation under the TRIPS Agreement to protect geographical indications (GI). Japan's GIs on spirits are for Iki, Kuma, Ryukyu and Satsuma

---

<sup>30</sup> GPA/W/299/Add.5 (8 February 2008). The thresholds are effective between 1 April 2008 and 31 March 2010.