

(c) Government procurement⁵²

✓ 132. Chapter 11 of the Agreement contains detailed obligations with respect to government procurement. Of the Parties, Singapore is the only Member (since October 1997) of the WTO Agreement on Government Procurement (GPA),⁵³ which covers goods and services and commits its Members to non-discrimination and national treatment obligations. Chile is an observer, while Brunei and New Zealand are not members of the GPA and therefore do not have any rights or obligations under the GPA.

✓ 133. The Chapter covers procurement of goods and services by specified government agencies (Annex 11.A) for contracts valued above the thresholds set out in Annex 11.C and which are not otherwise excluded from the scope of the Agreement (Article 11.3). It applies to procurement by any contractual means, including build-operate-transfer and public works concession contracts; Article 11.3.2 refers to exclusions, notably non-contractual agreements and purchases funded by international grants, loans or other assistance.

134. The Chapter's core principles are national treatment and non-discrimination (Article 11.4) and transparency in the conduct of government procurement. By virtue of the non-discrimination provisions in Article 11.4 suppliers from a Party may bid for contracts tendered by covered entities of the other Party, without having first to establish in the Party, or establish partnering arrangements with companies of that Party. Parties undertake to treat goods, services and suppliers of the other Parties in the same way as their own domestic goods, services and suppliers. Other general principles include the prohibition of offsets (Article 11.6), non-disclosure of information (Article 11.7), and technical specifications; the latter, where appropriate, are to be specified in terms of performance and functional requirements and be based on international standards, where applicable (Article 11.9).⁵⁴

135. The Chapter specifies detailed rules for procurement tendering and the award of contracts through open tendering, except in exceptional circumstances (Article 11.8). Provisions on transparency apply throughout the procurement process and include the publication of information on procurement measures (Article 11.8), notice of intended procurement (Article 11.12), awarding of contracts (Article 11.14), post-award information (Article 11.15), and standing lists of registered or qualified suppliers (Article 11.17). The Chapter includes a commitment to encourage the use of electronic communications in procurement including a requirement for the Parties to maintain a single electronic portal for access to information on government procurement and supply opportunities (Article 11.21). It also requires the Parties to ensure that criminal or administrative penalties exist to address corruption in government procurement and procedures for the review of complaints by suppliers (Articles 11.19 and 11.20).

✓ 136. Annexes 11A-C set out the government entities that are covered by the Chapter, the specific types of procurement and procurement arrangements that each Party has exempted from the application of the Chapter, the Parties' single electronic points of access, and the thresholds applied. The Chapter applies only to procurement by entities listed in Annex 11A with a value equal to or above certain thresholds.⁵⁵ Chile's schedule lists 20 central government entities including their

✓⁵² Chapter 11 of the Agreement is not initially applicable in respect of Brunei. In an understanding among the Parties, Brunei has been given two years from entry into force of the Agreement to negotiate and finalize its schedule to Annex 11.A (See paragraph 121).

⁵³ http://www.wto.org/english/tratop_e/gproc_e/gproc_e.htm

✓⁵⁴ Two side letters to the Agreement specify that Chile and New Zealand's procurement of goods and services may be subject to technical specifications to promote the conservation of natural resources and the environment provided that such specifications are consistent with the Chapter.

✓⁵⁵ The Parties have agreed that Brunei shall exclude the Mini Tender Board, which has a procurement value limited to B\$250,000 (SDR 110,000) or less from the Chapter.

regional offices; New Zealand's schedule contains 16 government ministries and 21 other bodies; Singapore's schedule contains 13 government ministries and ten other bodies.⁵⁶ No general exclusions on goods have been scheduled by the Parties; those applying to services are listed in Box V.1. In the case of Singapore, the services covered are on a positive list matching its GPA commitments.

Box V.1: Services excluded from government procurement liberalization under the Agreement	
Schedule of Chile	
<ul style="list-style-type: none"> All classes of financial services (as elaborated in the Common Classification System) 	
Schedule of New Zealand	
<ul style="list-style-type: none"> Procurement of research and development services Any procurement in respect of contracts for construction, refurbishment or furnishing of chanceries abroad Procurement of public health, education and welfare services 	
Schedule of Singapore	
<ul style="list-style-type: none"> Any services not contained in WTO document MTN.GSN/W/120 	
<i>Source:</i> The TPSEP Agreement	

137. Thresholds vary according to the nature of purchases (goods, services, or construction services). These are laid down in Box V.3.

Table V.3
Threshold values for government procurement

Classification	Parties to the SEP Agreement	
	Threshold value WTO GPA ^a	Threshold value SEP (SDR) ^b
Goods	SDR 130,000	50,000
Services (except construction services)	SDR 130,000	50,000
Construction	SDR 5,000,000	5,000,000

^a Applicable only to Singapore.

^b Due the exclusion of the Mini Tender Board (see footnote 55), Brunei's threshold for procurement of goods and services will be initially set, on completion of its schedule, at B\$250,000 (SDR 110,000).

(d) Labour

138. The Parties have negotiated a Memorandum of Understanding (MOU)⁵⁷ on Labour Cooperation that aims to promote better understanding of the Parties' labour systems; encourage and facilitate dialogue on labour matters; and improve working conditions and quality of work including the development and management of human capital. In support of these objectives, the Parties affirm their commitment to the principles of the ILO *Declaration on Fundamental Principles and Work and its Follow-up* (1998); agree to work to ensure their labour laws, policies and practices are in harmony with their international labour commitments; and recognize that it is inappropriate to set or use their labour laws and practices for trade protectionist purposes or to encourage trade or investment by weakening protections afforded in domestic labour laws.

⁵⁶ The range of entities committed by Singapore is narrower than the generic coverage under the ANZSCEP. As such New Zealand companies may use the treatment under each agreement as relevant.

⁵⁷ The MOU and the Agreement are directly linked through a side letter in which the Parties have reached an understanding whereby withdrawal by any of them from the MOU will result in withdrawal from the Agreement and vice versa.

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