

notifications of new or changed SPS regulations and 22 emergency notifications. During the same period, New Zealand made 40 notifications (including 1 relating to both Article 2.9 and 5.6) under the WTO Agreement on Technical Barriers to Trade.

**(x) Government procurement**

**(a) Features**

63. Since its previous Review, New Zealand's government procurement policy principles have mainly been: best value for money "over whole life"; open and effective competition; full and fair opportunity for domestic suppliers; improving business capacities including e-commerce capability; and recognition of New Zealand's international trade obligations and interests.<sup>42</sup> In 2008, a sixth principle was added, requiring sustainably produced goods and services wherever possible, having regard to the economic, social, and environmental effects over their lifecycle. New Zealand endorsed the APEC Non-Binding Principles on Government Procurement as revised in 2006 incorporating the 2004 APEC Transparency Standards on Government Procurement.<sup>43</sup>

64. There is no general legislation or regulation in place on government procurement. In this regard, public-sector entities are expected to act like private companies to achieve best value for money in their purchasing decisions. Although there is no centralized purchasing agency, all purchasing decisions taken by government agencies are subject to guidelines issued by the Ministry of Economic Development, last revised in August 2007.<sup>44</sup> In 2006, Cabinet endorsed the Mandatory Rules for Procurement by Departments, which apply to central government departments, the New Zealand Police, and the New Zealand Defence Force for purchases at or above NZ\$100,000 for goods and services, and at or above NZ\$10 million for construction services.<sup>45</sup> The mandatory rules establish open tendering as the normal procedure. Standards and targets have been introduced for core government departments in the categories of timber, wood products and paper, travel, and light fittings, aimed at improving sustainable business practice and procuring more environmentally friendly products. In May 2007, it was agreed that a single procurement policy be extended to agencies beyond core departments; the authorities are developing plans for the progressive implementation of the single procurement policy across the state sector, commencing 2008/09.

65. New Zealand does not gather procurement data on a regular basis due to the decentralized nature of purchasing, and because this is not considered a priority. As detailed data are not available, the size of New Zealand's government procurement market is difficult to estimate but OECD averages suggest that it is in the range of NZ\$14 billion to NZ\$20 billion per annum, that is, 7.9% to 11.2% of GDP (2007/08).

66. Since December 2008, New Zealand has been an observer to the WTO plurilateral agreement on Government Procurement (GPA). As procurement is deregulated and decentralized, in the past New Zealand has argued that joining the GPA would involve increased administrative and transaction costs by requiring re-regulation of what it sees as its already open and non-discriminatory procurement regime. Although this argument lost significance following the introduction of the

<sup>42</sup> Ministry of Economic Development online information. Viewed at: [http://www.med.govt.nz/templates/ContentTopicSummary\\_\\_\\_29393.aspx](http://www.med.govt.nz/templates/ContentTopicSummary___29393.aspx) [3 July 2008].

<sup>43</sup> These principles are: value for money, open and effective competition, fair dealing, accountability and due process, and non-discrimination.

<sup>44</sup> Ministry of Economic Development (2007).

<sup>45</sup> APEC Secretariat online information, *Government Procurement Resources - New Zealand*. Viewed at: [http://www.apec.org/apec/apec\\_groups/committee\\_on\\_trade/government\\_procurement/resources/new\\_zealand.html](http://www.apec.org/apec/apec_groups/committee_on_trade/government_procurement/resources/new_zealand.html) [3 July 2008].

Mandatory Rules for Procurement by Departments, this position is being kept under review in light of developments in procurement and trade policy. Nonetheless, New Zealand has participated in the Working Group on Transparency in Government Procurement and in the Working Party on GATS Rules on the issue of government procurement in services.

67. Under the Australia-New Zealand Government Procurement Agreement (ANZGPA), a single government procurement market is maintained for both countries; a five-yearly review of the agreement was signed off in 2007 and resulted in renewal with some changes for clarification and a new reference to ensure that government procurement using e-commerce methods remains consistent with the agreement. The agreement is administered by the Australian Procurement and Construction Council (APCC), in which New Zealand has full participation rights. New Zealand is also a member of the 2005 Trans-Pacific Strategic Economic Partnership (TPSEP) Agreement with Brunei, Chile, and Singapore (also known as the P4 Free Trade Agreement) which includes a chapter on government procurement ensuring, *inter alia*, national treatment to suppliers originating in these countries.<sup>46</sup>

(b) Procedures

68. Procurement is usually carried out either by an open call for tender or by selective (closed) tender following an open call for registration of interest. In determining procedures to be followed, agencies are required to be guided by the procurement policy framework set out above and by the Auditor General's good practice guide last updated in June 2008.<sup>47</sup> Government agencies usually have discretion to publish their purchasing requirements through any channels thought to be appropriate, such as commercial print media or electronically. Under the Mandatory Rules for Procurement by Departments, notices of tenders for procurements valued at or above NZ\$100,000 for goods and services, and NZ\$10 million for construction services, must be published on Government Electronic Tenders Service (GETS). GETS, which is operated by the Ministry of Economic Development, is increasingly becoming the "one-stop shop" for centralized advertising of government tender opportunities, contract award notices, and forward procurement plans by a wide range of agencies. It would appear that a large proportion of purchasing is carried out through open tenders, although no data are available on the exact proportion. However, in some cases, where large and complex purchases are involved, agencies may issue tenders selectively to certain companies or identify potential suppliers through a staged process. In New Zealand's devolved regime, procurement management procedures, including any thresholds, are a matter of autonomous decision by individual agencies. Value thresholds therefore vary from agency to agency, but should be consistent with the Mandatory Rules for Procurement by Departments, where applicable.

69. More routine supplies may be purchased through regular contracts with an established list of suppliers. The list is established through registration of interest; according to the authorities, many agencies find it cost effective to purchase under period supply contracts of standing offers arranged with suppliers by commercial supply broking companies.

70. The New Zealand Government has well established historical relations with the formerly state-owned company GSB Supplycorp Ltd, which establishes and maintains supply contracts with many central and local government agencies on an open tender basis; GSB Supplycorp Ltd manages contracts and procurement processes in excess of NZ\$460 million. Serco Supply initiates, operates, and monitors local purchase contracts under a franchise agreement with Supplycorp.<sup>48</sup> Government departments using these companies, or any other third party acting as an agent to conduct or manage

<sup>46</sup> Ministry of Foreign Affairs and Trade (2005d), Chapter 11: Government Procurement.

<sup>47</sup> Comptroller and Auditor General (2008).

<sup>48</sup> WTO (2003).

their procurement process, must apply the government procurement policy, including the Mandatory Rules for Procurement by Departments, where appropriate.

71. The 2001 post-award transparency guidelines and rules for publication of contract award notices have been superseded by the Mandatory Rules for Procurement by Departments. As of May 2006, departments are required to promptly publish or inform suppliers that have submitted tenders of the contract award decision and to publish a post award notice on GETS.<sup>49</sup>

72. Under its bilateral and plurilateral agreements, New Zealand is committed not to discriminate between suppliers of goods and services in New Zealand, Australia, Brunei Darussalam, Chile, and Singapore.<sup>50</sup> Public-sector agencies are required not to give preference or weighting to local content in itself<sup>51</sup>, but may consider any practical and commercial advantages of domestic supply in making procurement decisions. To provide further assurance that purchasers are according full and fair opportunity to domestic suppliers, since May 2007, Departments have been required to include in their internal documentation basic reasons, with senior management sign-off, justifying the rejection of any New Zealand tender for contracts at or above NZ\$100,000. The Industry Capability Network New Zealand (ICN NZ)<sup>52</sup>, with its free sourcing service, helps domestic and Australian private and state-owned enterprises, government departments and bodies to identify major procurement opportunities that can be fulfilled through competitive local supply of goods and services that are currently or would otherwise be imported.

**(xi) Local content**

73. New Zealand does not maintain any local-content requirements. However, tariff concessions may be granted to importers and manufacturers if they can demonstrate that the domestic content of the locally produced "suitable alternative" product is not less than 25% of its ex-factory cost of production (section (2)(iii)(e) above).

**(xii) State trading**

74. New Zealand does not operate state-trading companies for imports, but it has one for kiwi exports (section (3)(v)).

**(3) MEASURES DIRECTLY AFFECTING EXPORTS**

**(i) Procedures**

75. All exporters are required under Section 49 of the Customs and Excise Act 1996 to lodge an export document with the New Zealand Customs Service. As from 1 March 2004, all export entries must be lodged and cleared electronically prior to goods being loaded for export. To lodge entries electronically, traders may either install EDI (Electronic Data Interchange) software, or use the New Zealand Customs Service Online Declarations website. Information required includes details

<sup>49</sup> Ministry of Economic Development online information. Viewed at: [http://www.med.govt.nz/templates/MultipageDocumentPage\\_\\_\\_19689.aspx](http://www.med.govt.nz/templates/MultipageDocumentPage___19689.aspx) [7 July 2008].

<sup>50</sup> For Singapore, a value threshold of SDR 50,000 applies, equivalent to NZ\$131,860 (as of 13 January 2009).

<sup>51</sup> APEC Secretariat online information, *Government Procurement Resources - New Zealand*. Viewed at: [http://www.apec.org/apec/apec\\_groups/committee\\_on\\_trade/government\\_procurement/resources/new\\_zealand.html](http://www.apec.org/apec/apec_groups/committee_on_trade/government_procurement/resources/new_zealand.html) [3 July 2008].

<sup>52</sup> ICN New Zealand is an operating unit within New Zealand Trade & Enterprise (NZTE), the Government's national economic development agency; until June 2004 it was known as New Zealand Industrial Supplies Office (NZISO).