

## CHAPTER NINE

### GOVERNMENT PROCUREMENT

#### ARTICLE 9.1: GENERAL PROVISIONS

1. The Parties reaffirm their rights and obligations under the *Agreement on Government Procurement* contained in Annex 4 to the WTO Agreement (hereinafter referred to as the “GPA 1994”) and their interest in further expanding bilateral trading opportunities in each Party’s government procurement market.

2. The Parties recognise their shared interest in promoting international liberalisation of government procurement markets in the context of the rules-based international trading system. The Parties shall continue to cooperate in the review under Article XXIV:7 of the GPA 1994 and in other appropriate international fora.

3. Nothing in this Chapter shall be construed to derogate from either Party’s rights or obligations under the GPA 1994, or from an agreement which replaces it.

4. For all procurement covered by this Chapter, the Parties shall apply the provisionally agreed revised GPA text<sup>1</sup> (hereinafter referred to as the “revised GPA”), with the exception of the following:

- (a) most favoured treatment for goods, services and suppliers of any other Party (subparagraph 1(b) and paragraph 2 of Article IV of the revised GPA);
- (b) special and differential treatment for developing countries (Article V of the revised GPA);
- (c) conditions for participation (paragraph 2 of Article VIII of the revised GPA) which shall be replaced by: “shall not impose the condition that, in order for a supplier of a Party to participate in a procurement or be awarded a contract, the supplier has previously been awarded one or more contracts by a procuring entity of the other Party or that the supplier has prior work experience in the territory of that Party, except when prior works experience is essential to meet the requirements of the procurement”;
- (d) institutions (Article XXI of the revised GPA); and
- (e) final provisions (Article XXII of the revised GPA).

5. For the purposes of the application of the revised GPA under paragraph 4:

- (a) “Agreement” in the revised GPA means “Chapter,” except that “countries not

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<sup>1</sup> Contained in WTO Document negs 268(Job No[1].8274) dated 19 November 2007.

Parties to this Agreement” means “non-Parties” and “Party to the Agreement” means “Party”;

- (b) “other Parties” in the revised GPA means “the other Party”; and
- (c) “the Committee” in the revised GPA means “the Working Group”.

#### ARTICLE 9.2: SCOPE AND COVERAGE

1. The procurement covered by this Chapter shall be all procurement covered by each Party’s Annexes to the GPA 1994 and any note attached thereto, including their amendments or replacements.
2. For the purposes of this Agreement, build-operate-transfer contracts (hereinafter referred to as “BOT contracts”) and public works concessions, as defined in Annex 9, shall be subject to Annex 9.

#### ARTICLE 9.3: GOVERNMENT PROCUREMENT WORKING GROUP

The Working Group on Government Procurement established pursuant to Article 15.3.1 (Working Groups) shall meet, as mutually agreed or upon request of a Party, to:

- (a) consider issues regarding government procurement and BOT contracts or public works concessions that are referred to it by a Party;
- (b) exchange information relating to the government procurement and BOT contracts or public works concessions opportunities in each Party; and
- (c) discuss any other matters related to the operation of this Chapter.