

PART IV

GOVERNMENT PROCUREMENT

CHAPTER 15

GOVERNMENT PROCUREMENT

Article 15.1: Definitions

For purposes of this Chapter:

entity means an entity of a Party covered in Annex 15.1;

government procurement means the process by which a government, through any contractual means, obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale, or use in the production or supply of goods or services for commercial sale or resale;

offsets means those conditions imposed or considered by an entity prior to, or in the course of its procurement process, that encourage local development or improve its Party's balance of payments accounts by means of requirements of local content, licensing of technology, investment, counter-trade or similar requirements;

open tendering procedures means those procedures whereby any interested supplier may submit a tender;

privatisation means a process by means of which a public entity is no longer subject to government control, whether by public tender of the shares of that entity or otherwise, as contemplated in the respective Party's legislation in force;

public works concession and **build-operate-transfer contract** means a contract of the same type as the public works procurement contract, except for the fact that the remuneration for the works to be carried out consists either solely of the right to exploit the construction or in such a right together with a payment;

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

technical specifications means a specification, which lays down the characteristics of the products or services to be procured, such as quality, performance, safety and dimensions, symbols, terminology, packaging, marking and labelling, or the processes and methods for their production and requirements relating to conformity assessment procedures prescribed by procuring entities; and

tenderer means a supplier who has submitted a tender.

Article 15.2: Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party relating to procurement by an entity, by any contractual means, including purchase and

rental or lease, with or without an option to buy, subject to the conditions specified in Annexes 15.1 and 15.2. For purposes of this Chapter, public works concession and build-operate-transfer contracts shall be considered as procurement.

2. This Chapter does not apply to:

- (a) non-contractual agreements or any form of assistance provided by a Party or a state enterprise, including grants, loans, fiscal incentives, subsidies, guarantees, cooperative agreements, government provision of goods and services to persons or to state, regional or local governments, and purchases for the direct purpose of providing foreign assistance;
- (b) 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;
- (c) hiring of government employees and hiring of entities' other long-term staff and personnel, and related employment measures; and
- (d) financial services.

3. Neither Party may prepare, design or otherwise structure any procurement contract in order to avoid the obligations under this Chapter.

Article 15.3: National Treatment and Non-Discrimination

1. Each Party shall ensure that the procurement of its entities covered by this Chapter takes place in a transparent, reasonable and non-discriminatory manner, treating any supplier of either Party equally and ensuring the principle of open and effective competition.

2. With respect to any laws, regulations, procedures and practices regarding government procurement covered by this Chapter, each Party shall grant the goods, services and suppliers of the other Party a treatment no less favourable than that accorded by it to domestic goods, services and suppliers.

3. With respect to any laws, regulations, procedures and practices regarding government procurement covered by this Chapter, each Party shall ensure:

- (a) that its entities do not treat a locally-established supplier less favourably than any other locally-established supplier on the basis of the degree of foreign affiliation to, or ownership by, a person of the other Party; and
- (b) that its entities do not discriminate against a locally-established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party.

4. This Article shall not apply to measures concerning customs duties or other charges of any kind imposed on, or in connection with importation, the method of levying such duties and charges, other import regulations, including restrictions and formalities, nor to measures affecting trade in services other than measures specifically governing procurement covered by this Chapter.

Article 15.4: Prohibition of Offsets

Each Party shall ensure that its entities do not, in the qualification and selection of suppliers, goods or services, in the evaluation of bids or in the award of

contracts, consider, seek or impose offsets.

Article 15.5: Transparency

1. Each Party shall promptly publish any law, regulation, judicial decision and administrative ruling of general application and procedure, including standard contract clauses, regarding procurement covered by this Chapter, in the appropriate publications, including officially designated electronic media.
2. Each Party shall promptly publish in the same manner as in paragraph 1 any modification to such measures therein.

Article 15.6: Tendering Procedures

1. Entities shall award their public contracts by open tendering procedures according to their respective domestic procedures, in compliance with this Chapter and in a non-discriminatory manner.
2. Provided that the tendering procedure is not used to avoid competition or to protect domestic suppliers, entities shall be allowed to award contracts by means other than an open tendering procedure in the following circumstances and subject to the following conditions, where applicable:
 - (a) in the absence of tenders that conform to the essential requirements in the tender documentation provided in a prior tendering procedure, including any conditions for participation, provided that the requirements of the initial procurement are not substantially modified in the contract as awarded;
 - (b) where, for works of art, or for reasons connected with the protection of exclusive rights, such as patents, copyrights or proprietary information or in the 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 that are intended either as replacement parts, extensions, or continuing services for existing equipment, software, services or installations, where a change of supplier would compel the entity to procure goods or services not meeting requirements of interchangeability with existing equipment, software, services, or installations;
 - (d) for quoted goods purchased on a commodity market and for purchases of goods made under exceptionally advantageous conditions, which only arise in the very short term in the case of unusual disposals, and not for routine purchases from regular suppliers;
 - (e) when an entity procures prototypes or a first good or service which are developed at its request in the course of, and for, a particular contract for research, experiment, study or original development;
 - (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 per cent of the amount of the main contract; or
 - (g) insofar 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 under an open tendering procedure and the use of such

procedure would result in serious injury to the entity, the entity's program responsibilities or the responsible Party. This exception may not be used as a result of a lack of advance planning or concerns relating to the amount of funds available to an entity within a particular period of time.

3. 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 2, the entities shall maintain a record or prepare a written report providing specific justification for the contract.

Article 15.7: Conditions for Suppliers' Participation in Procurement

1. Where an entity requires suppliers to satisfy registration, qualification, or any other requirements or 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. Each Party shall ensure that any conditions for participation in a procurement are limited to those that are essential to ensure that the potential supplier has the legal, technical and financial abilities to fulfill the requirements and technical specifications of the procurement and that qualification decisions are based solely on the conditions for participation that have been specified in advance in notices or tender documentation.

3. Entities shall be allowed to establish a publicly available list of suppliers qualified to participate in procurements. 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 relevant procedures and shall allow such supplier to participate in the procurement, provided there is sufficient time to complete the procedures within the time period established for tendering.

4. Entities shall not impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by an entity of that Party or that the supplier has prior work experience in the territory of that Party.

Article 15.8: Publication of Advance Notices

1. For each contract covered by this Chapter, entities shall publish in advance a notice inviting interested suppliers to submit tenders for that contract, except as provided for in Article 15.6.2.

2. The information in each advance notice of intended procurement shall include a description of the intended procurement, any conditions that suppliers must fulfill to participate in the procurement, the name of the entity, the address where all documents relating to the procurement may be obtained and the time limits for submission of tenders.

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 through a single point of access specified in Annex 15.2.

Article 15.9: Tender Documentation

1. Tender documentation provided to suppliers shall contain all information necessary to permit them to submit responsive tenders.
2. Where contracting entities do not offer free direct access to the entire tender documents and any supporting documents by electronic means, entities shall make promptly available the tender documentation at the request of any supplier of the Parties.

Article 15.10: Time-Limits

1. Time-limits established by the entities during a procurement process shall be sufficiently long to enable suppliers to prepare and submit responsive tenders, in relation to the nature and complexity of the procurement.
2. Notwithstanding paragraph 1, entities shall establish no less than ten days between the date on which the advance notice of intended procurement is published and the final date for the submission of tenders.

Article 15.11: Technical Specifications

1. Technical specifications shall be set out in the notices, tender documents or additional documents.
2. Each Party shall ensure that its entities do not prepare, adopt or apply any technical specifications with a view to, or with the effect of, creating unnecessary obstacles to trade between the Parties.
3. Technical specifications prescribed by entities shall:
 - (a) be in terms of performance and functional requirements, rather than design or descriptive characteristics; and
 - (b) be based on international standards, where they exist or, in absence of such standards, on national technical regulations 3), recognised national standards 4) or building codes.

3) For the purpose of this Chapter, a technical regulation is a document, which lays down characteristics of a product or a service or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, service, process or production method.,

4) For the purpose of this Chapter, a standard is a document approved by a recognised body, that provides, for common and repeated use, rules, guidelines or characteristics for products or services or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling

requirements as they apply to a product, service, process or production method.

4. Paragraph 3 does not apply when the entity may objectively demonstrate that the use of technical specifications referred to in that paragraph would be ineffective or inappropriate for the fulfillment of the legitimate objectives pursued.

5. In all cases, entities shall consider bids which do not comply with the technical specifications but meet the essential requirements thereof and are fit for the purpose intended. The reference to technical specifications in the tender documents must include words such as "or equivalent".

6. There shall be no requirement or reference to a particular trademark or trade name, patent, design or type, specific origin, producer or supplier, unless there is no sufficiently precise or intelligible way of describing the procurement requirements and provided that words, such as "or equivalent", are included in the tender documentation.

7. The tenderer shall have the burden of proof to demonstrate that its bid meets the essential requirements.

Article 15.12: Awarding of Contracts

1. To be considered for award, a tender must, at the time of opening, conform to the essential requirements of the notices or tender documentation and be submitted by a tenderer who complies with the conditions for participation.

2. Unless an entity determines that it is not in the public interest to award a contract, entities shall award the contract to the tenderer who has been determined to be fully capable of undertaking the contract and whose tender is determined to be the most advantageous in terms of the requirements and evaluation criteria set forth in the tender documentation.

3. Each Party shall ensure that its entities provide for effective dissemination of the results of government procurement processes.

Article 15.13: Bid Challenges

1. Entities shall accord impartial and timely consideration to any complaints from suppliers regarding an alleged breach of this Chapter in the context of a procurement procedure.

2. Each Party shall provide non-discriminatory, timely, transparent and effective procedures enabling suppliers to challenge alleged breaches of this Chapter, arising in the context of procurements in which they have, or have had, an interest.

3. Challenges shall be heard by an impartial and independent reviewing authority. A reviewing authority which is not a court shall either be subject to judicial review or shall have procedural guarantees similar to those of a court.

4. Challenge procedures shall provide for, if appropriate, correction of the

breach of this Chapter or, in the absence of such correction, compensation for the loss or damages suffered, which may be limited to costs for tender preparation and protest.

Article 15.14: Information Technology and Cooperation

1. The Parties shall, to the extent possible, endeavour to use electronic means of communication to permit efficient dissemination of information on government procurement, particularly as regards tender opportunities offered by entities, while respecting the principles of transparency and non-discrimination.
2. The Parties shall endeavour to provide each other with technical cooperation and assistance through the development of training programs with a view to achieving a better understanding of their respective government procurement systems and statistics, as well as a better access to their respective markets.

Article 15.15: Modifications to Coverage

1. A Party may modify its coverage under this Chapter, provided that it:
 - (a) notifies the other Party of the modification; and
 - (b) provides the other Party, 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 Party where the modification by a Party of its coverage under this Chapter concerns:
 - (a) rectifications of a purely formal nature and minor amendments to Annex 15.1; or
 - (b) one or more covered entities on which government control or influence has been effectively eliminated as a result of privatisation.
3. Where appropriate, the Commission shall by decision modify the relevant Annex to reflect the modification notified by the Party concerned.

Article 15.16: Further Negotiations

In the case that either Party offers, in the future, a non-Party additional advantages with regard to the government procurement market access coverage agreed under this Chapter, it shall agree, upon request of the other Party, to enter into negotiations with a view to extending coverage under this Chapter on a reciprocal basis.

Article 15.17: Government Procurement Working Group

Upon request of a Party, the Parties shall convene a Government Procurement Working Group to address issues related to the implementation of this Chapter. Such issues may include:

- (a) bilateral cooperation relating to the development and use of electronic

- (b) communications in government procurement systems;
- (c) exchange of statistics and other information needed for monitoring procurement conducted by the Parties and the results of the application of this Chapter; and
- (c) exploration of potential interest in further negotiations aimed at further broadening of the scope of market access commitments under this Chapter.

Annex 15.1
Coverage on Government Procurement

Appendix 1
Entities at Central Level

1. Thresholds

Supplies

Specified in Appendix 4
 Thresholds SDR 50,000

Services

Specified in Appendix 5
 Thresholds SDR 50,000

Construction Services

Specified in Appendix 6
 Thresholds SDR 5,000,000

2. Chile's List of Entities

Presidencia de la Republica
 (Office of the President of the Republic)

Ministerio del Interior
 (Ministry of the Interior)

Subsecretaria de Interior

(Vice-Ministry of the Interior)

Subsecretaria de Desarrollo Regional

(Office of the Vice-Minister for Regional Development)

Oficina Nacional de Emergencia (ONEMI)

(Bureau for National Emergencies)

Direccion de Seguridad Publica e Informacion

(Directorate for Public Security and Information)

Comite Nacional Control de Estupefacientes (CONACE)

(National Narcotics Control Committee)

Servicio Electoral

(Electoral Bureau)

Fondo Nacional

(National Fund)

Ministerio de Relaciones Exteriores
 (Ministry of Foreign Affairs)

Subsecretaria de Relaciones Exteriores
(Vice-Ministry of Foreign Affairs)
Direccion General de Relaciones Economicas Internacionales
(General Directorate for International Economic Affairs)
Instituto Antartico Chileno (INACH)
(Chilean Institute for the Antarctica)
Direccion de Fronteras y Limites (DIFROL)
(Administration of Borders and Frontiers)

**Ministerio de Defensa Nacional
(Ministry of National Defense)**

Subsecretaria de Guerra
(Vice-Ministry of Army Affairs)
Subsecretaria de Marina
(Vice-Ministry of Navy Affairs)
Subsecretaria de Aviacion
(Vice-Ministry of the Air Force Affairs)
Subsecretaria de Carabineros
(Vice-Ministry of Military Police Affairs)
Subsecretaria de Investigaciones
(Vice-Ministry of Investigative Police)
Direccion Administrativa del Ministerio de Defensa Nacional
(Administrative Directorate of the Ministry of National Defense)
Direccion de Aeronautica Civil
(Civil Aeronautics Directorate)
Direccion General de Movilizacion Nacional
(General National Mobilization Directorate)
Academia Nacional de Estudios Politicos y Estrategicos (ANEPE)
(National Academy of Political and Strategic Studies)
Direccion General de Defensa Civil
(General Directorate for Civil Defense)

Ministerio de Hacienda

(Ministry of Finance)
Subsecretaria de Hacienda
(Vice-Ministry of Finance)
Direccion de Presupuestos
(Budget Directorate)
Servicio de Impuestos Internos (SII)
(Internal Revenue Service)
Tesoreria General de la Republica
(General Treasury of the Republic)
Servicio Nacional de Aduanas
(National Customs Service)
Casa de Moneda
(National Mint)
Direccion de Aprovisionamiento del Estado (Chilecompra)
(Government Procurement Directorate)
Superintendencia de Bancos e Instituciones Financieras
(Superintendency of Banks and Financial Institutions)
Superintendencia de Valores y Seguros
(Superintendency of Stock Corporations and Insurance Companies)

Ministerio Secretaria General de la Presidencia

(Ministry of the General Secretariat of the President' s Office)

Subsecretaria General de La Presidencia

(General Vice-Ministry of the President' s Office)

Comision Nacional del Medio Ambiente (CONAMA)

(National Environmental Commission)

Ministerio Secretaria General de Gobierno

(Ministry of the General Secretariat of Government)

Subsecretaria General de Gobierno

(Vice-Ministry of the General Secretariat of Government)

Instituto Nacional del Deporte (IND)

(National Sports Institute)

Division de Organizaciones Sociales (DOS)

(Social Organizations Department)

Secretaria de Comunicacion y Cultura (SECC)

(Secretariat of Communication and Culture)

Ministerio de Economia, Fomento, Reconstruccion y Energia

(Ministry of Economic Affairs, Development, Reconstruction and Energy)

Subsecretaria de Economia

(Vice-Ministry of Economic Affairs)

Subsecretaria de Pesca

(Vice-Ministry of Fishing)

Secretaria Ejecutiva Comision Nacional de Energia

(Executive Secretariat of the National Energy Commission)

Comite de Inversiones Extranjeras

(Foreign Investments Committee)

Servicio Nacional del Consumidor (SERNAC)

(National Consumers Bureau)

Fiscalia Nacional Economica

(National Competitiveness Enforcement Department)

Instituto Nacional de Estadisticas (INE)

(National Statistics Institute)

Servicio Nacional de Pesca (SERNAPESCA)

(National Fisheries Bureau)

Servicio Nacional de Turismo (SERNATUR)

(National Tourism Bureau)

Superintendencia de Electricidad y Combustible

(Superintendency for Electricity and Fuel)

Centro de Informacion de Recursos Naturales (CIREN)

(Center for Information on Natural Resources)

Corporacion de Investigaciones Tecnologicas (INTEC)

(Corporation on Technological Research)

Instituto de Fomento Pesquero (IFOP)

(Fisheries Development Institute)

Instituto Forestal

(Forestry Institute)

Instituto Nacional de Normalizacion (INN)

(National Standards Institute)

Servicio de Cooperacion Tecnica (SERCOTEC)

(Technical Cooperation Bureau)

Fondo Nacional de Desarrollo Tecnologico y Productivo

(National Technology and Production Development Fund)

Corporacion de Fomento de la Produccion (CORFO)

(Chilean Economic Development Agency)

Ministerio de Mineria

(Ministry of Mining)

Subsecretaria de Mineria

(Vice-Ministry of Mining)

Comision Chilena de Energia Nuclear (CCHEN)

(Chilean Nuclear Energy Commission)

Comision Chilena del Cobre (COCHILCO)

(Chilean Copper Commission)

Comision Nacional de Energia

(National Energy Commission)

Servicio Nacional de Geologia y Mineria (SERNAGEOMIN)

(National Geology and Mining Bureau)

Ministerio de Planificacion y Cooperacion

(Ministry of Planning and Cooperation)

Subsecretaria de Planificacion y Cooperacion

(Vice-Ministry of Planning and Cooperation)

Corporacion Nacional Desarrollo Indigena (CONADI)

(National Corporation for the Development of Indigenous Peoples)

Fondo de Solidaridad e Inversion Social (FOSIS)

(Social Solidarity and Investment Fund)

Fondo Nacional de la Discapacidad (FONADIS)

(National Fund for Disabilities)

Instituto Nacional de la Juventud (INJUV)

(National Institute for Young People)

Agencia de Cooperacion Internacional (AGCI)

(International Cooperation Agency)

Ministerio de Educacion

(Ministry of Education)

Subsecretaria de Educacion

(Vice-Ministry of Education)

Comision Nacional de Investigacion Cientifica y Tecnologica (CONICYT)

(National Commission for Scientific an Technological Research)

Direccion de Bibliotecas, Archivos Museos (DIBAM)

(Directorate for Libraries, Archives and Museums)

Junta Nacional de Auxilio Escolar y Becas (JUNAEB)

(National Educational Assistance and Scholarships Board)

Junta Nacional de Jardines Infantiles (JUNJI)

(National Board for Nursery Schools)

Consejo Nacional del Libro y la Lectura

(National Council for Books and Reading)

Consejo de Calificacion Cinematografica

(Cinema Films Assessment Council)

Fondo de Desarrollo de las Artes y la Cultura (FONDART)

(Fund for the Development of Arts and Culture)

Ministerio de Justicia

(Ministry of Justice)

Subsecretaria de Justicia

(Vice-Ministry of Justice)

Corporaciones de Asistencia Judicial

(Legal Aid Corporations)
Servicio Registro Civil e Identificacion
(Civil Registry and Identification Bureau)
Fiscalia Nacional de Quiebras
(National Bankruptcy Bureau)
Servicio Medico Legal
(National Forensic Service)
Servicio Nacional de Menores (SENAM)
(National Bureau for Minors)
Direccion Nacional de Gendarmeria
(National Directorate of Prison Wardens)

Ministerio de Trabajo y Prevision Social
(Ministry of Labor and Social Welfare)
Subsecretaria del Trabajo
(Vice-Ministry of Labor)
Subsecretaria de Prevision Social
(Vice-Ministry of Social Welfare)
Direccion del Trabajo
(Directorate of Labor)
Direccion General del Credito Prendario
(General Directorate of Chattel-Secured Loans)
Instituto de Normalizacion Previsional (INP)
(National Pension Fund System)
Servicio Nacional de Capacitacion y Empleo (SENCE)
(National Training and Employment Bureau)
Superintendencia de Administradoras de Fondos de Pensiones
(Superintendency of Private Pension Fund Administrating Agencies)
Superintendencia de Seguridad Social
(Superintendency of Social Welfare)
Fondo Nacional de Pensiones Asistenciales
(National Fund for Social Aid Pensions)

Ministerio de Obras Publicas
(Ministry of Public Works)
Subsecretaria de Obras Publicas
(Vice-Ministry of Public Works)
Direccion General de Obras Publicas
(General Directorate of Public Works)
Direccion de y Ejecucion de Obras Publicas
(Administration and Implementation of Public Works)
Direccion de Servicios de Concesiones
(Administration of Concession Services)
Direccion de Aeropuertos
(Administration of Airports)
Direccion de Arquitectura
(Administration of Architecture)
Direccion Obras Portuarias
(Administration of Port Works)
Direccion de Planeamiento
(Administration of Planning)
Direccion Obras Hidraulicas
(Administration of Hydraulic Works)
Direccion Vialidad

(Highway and Road Administration)
Direccion Contabilidad y Finanzas
(Administration of Accounting and Finances)
Instituto Nacional de Hidraulica
(National Hydraulics Institute)
Superintendencia Servicios Sanitarios
(Superintendence of Sanitation Service)

Ministerio de Transporte y Telecomunicaciones
(Ministry of Transport and Telecommunications)

Subsecretaria de Transportes
(Vice-Ministry of Transport)
Subsecretaria de Telecomunicaciones
(Vice-Ministry of Telecommunications)
Junta Aeronautica Civil
(Civil Aviation Board)
Centro Control y Certificacion Vehicular (3CV)
(Center for Vehicle Control and Certification)
Comision Nacional de Seguridad de Transito (CONASET)
(National Commission for Traffic Security)
Unidad Operativa Control de Transito (UOCT)
(Traffic Control Operative Unit)

Ministerio de Salud

(Ministry of Health)

Subsecretaria de Salud
(Vice-Ministry of Health)
Central de Abastecimientos del Sistema Nacional Servicios de Salud
(CENABAST)
(Central Procurement for the National Health Services)
Fondo Nacional de Salud (FONASA)
(National Health-Care Fund)
Instituto de Salud Publica (ISP)
(Public Health Institute)
Superintendencia de ISAPRES
(Superintendency of Private Medical Insurance Companies)
Servicio de Salud Arica
(Arica Public Health Care Service)
Servicio de Salud Iquique
(Iquique Public Health Care Service)
Servicio de Salud Antofagasta
(Antofagasta Public Health Care Service)
Servicio de Salud Atacama
(Atacama Public Health Care Service)
Servicio de Salud Coquimbo
(Coquimbo Public Health Care Service)
Servicio de Salud Valparaiso-San Antonio
(Valparaiso-San Antonio Public Health Care Service)
Servicio de Salud Vina del Mar-Quillota
(Vina del Mar-Quillota Public Health Care Service)
Servicio de Salud Aconcagua
(Aconcagua Public Health Care Service)
Servicio de Salud Libertador General Bernardo O' Higgins
(Libertador General Bernardo O' Higgins Public Health Care Service)

Servicio de Salud Maule
(Maule Public Health Care Service)
Servicio de Salud Nuble
(Nuble Public Health Care Service)
Servicio de Salud Concepcion
(Concepcion Public Health Care Service)
Servicio de Salud Talcahuano
(Talcahuano Public Health Care Service)
Servicio de Salud Bío-Bío
(Bío-Bío Public Health Care Service)
Servicio de Salud Arauco
(Arauco Public Health Care Service)
Servicio de Salud Araucania Norte
(Araucania Norte Public Health Care Service)
Servicio de Salud Araucania Sur
(Araucania Sur Public Health Care Service)
Servicio de Salud Valdivia
(Valdivia Public Health Care Service)
Servicio de Salud Osorno
(Osorno Public Health Care Service)
Servicio de Salud Llanquihue-Chiloe-Palena
(Llanquihue-Chiloe-Palena Public Health Care Service)
Servicio de Salud Aysen
(Aysen Public Health Care Service)
Servicio de Salud Magallanes
(Magallanes Public Health Care Service)
Servicio de Salud Metropolitano Oriente
(East Metropolitan Area Public Health Care Service)
Servicio de Salud Metropolitano Central
(Central Metropolitan Area Public Health Care Service)
Servicio de Salud Metropolitano Sur
(South Metropolitan Area Public Health Care Service)
Servicio de Salud Metropolitano Norte
(North Metropolitan Area Public Health Care Service)
Servicio de Salud Metropolitano Occidente
(West Metropolitan Area Public Health Care Service)
Servicio de Salud Metropolitano Sur-Oriente
(South-East Metropolitan Public Health Care Service)
Servicio de Salud Metropolitano del Ambiente
(Metropolitan Environmental Public Health Care Service)

Ministerio de la Vivienda y Urbanismo
(Ministry of Housing and Urban Planning)
Subsecretaría de Vivienda
(Vice-Ministry of Housing)
Parque Metropolitano de Santiago
(Santiago Metropolitan Park)
Servicios Regionales de Vivienda y Urbanismo
(Regional Housing and Urban Planning Services)

Ministerio de Bienes Nacionales
(Ministry of National Assets)
Subsecretaría de Bienes Nacionales
(Vice-Ministry of National Assets)

Ministerio de Agricultura

(Ministry of Agriculture)

Subsecretaria de Agricultura

(Vice-Ministry of Agriculture)

Comision Nacional de Riego (CNR)

(National Irrigation Commission)

Corporacion Nacional Forestal (CONAF)

(National Forestry Corporation)

Instituto de Desarrollo Agropecuario (INDAP)

(Agriculture and Livestock Development Institute)

Oficina de Estudios y Politicas Agricolas (ODEPA)

(Bureau of Agrarian Studies and Agricultural Policy)

Servicio Agricola y Ganadero (SAG)

(Agriculture and Livestock Service)

Instituto Investigaciones Agropecuarias (INIA)

(Agriculture and Livestock Research Institute)

Ministerio Servicio Nacional de la Mujer

(Ministry of the National Bureau for Women)

Subsecretaria Nacional de la Mujer

(Vice-Ministry of the National Bureau for Women)

Gobiernos Regionales

(Regional Governments)

Intendencia I Region

(Intendancy Region I)

Gobernacion de Arica

(Governor' s Office ? Arica)

Gobernacion de Parinacota

(Governor' s Office - Parinacota)

Gobernacion de Iquique

(Governor' s Office - Iquique)

Intendencia II Region

(Intendancy Region II)

Gobernacion de Antofagasta

(Governor' s Office - Antofagasta)

Gobernacion de El Loa

(Governor' s Office - El Loa)

Gobernacion de Tocopilla

(Governor' s Office - Tocopilla)

Intendencia III Region

(Intendancy Region III)

Gobernacion de Chanaral

(Governor' s Office - Chanaral)

Gobernacion de Copiapo

(Governor' s Office - Copiapo)

Intendencia IV Region

(Intendancy Region IV)

Gobernacion de Huasco

(Governor' s Office - Huasco)

Gobernacion de El Elqui

(Governor' s Office - El Elqui)

Gobernacion de Limari

(Governor's Office - Limari)
Gobernacion de Choapa
(Governor's Office - Choapa)
Intendencia V Region
(Intendancy Region V)
Gobernacion de Petorca
(Governor's Office - Petorca)
Gobernacion de Valparaiso
(Governor's Office - Valparaiso)
Gobernacion de San Felipe de Aconcagua
(Governor's Office - San Felipe de Aconcagua)
Gobernacion de Los Andes
(Governor's Office - Los Andes)
Gobernacion de Quillota
(Governor's Office - Quillota)
Gobernacion de San Antonio
(Governor's Office - San Antonio)
Gobernacion de Isla de Pascua
(Governor's Office - Isla de Pascua)
Intendencia VI Region
(Intendancy Region VI)
Gobernacion de Cachapoal
(Governor's Office - Cachapoal)
Gobernacion de Colchagua
(Governor's Office - Colchagua)
Gobernacion de Cardenal Caro
(Governor's Office - Cardenal Caro)
Intendencia VII Region
(Intendancy Region VII)
Gobernacion de Curico
(Governor's Office - Curico)
Gobernacion de Talca
(Governor's Office - Talca)
Gobernacion de Linares
(Governor's Office - Linares)
Gobernacion de Cauquenes
(Governor's Office - Cauquenes)
Intendencia VIII Region
(Intendancy Region VIII)
Gobernacion de Nuble
(Governor's Office - Nuble)
Gobernacion de Bio-Bio
(Governor's Office - Bio-Bio)
Gobernacion de Concepcion
(Governor's Office - Concepcion)
Gobernacion de Arauco
(Governor's Office - Arauco)
Intendencia IX Region
(Intendancy Region IX)
Gobernacion de Malleco
(Governor's Office - Malleco)
Gobernacion de Cautin
(Governor's Office - Cautin)
Intendencia X Region

(Intendancy Region X)
Gobernacion de Valdivia
(Governor' s Office - Valdivia)
Gobernacion de Osorno
(Governor' s Office - Osorno)
Gobernacion de Llanquihue
(Governor' s Office - Llanquihue)
Gobernacion de Chiloe
(Governor' s Office - Chiloe)
Gobernacion de Palena
(Governor' s Office - Palena)
Intendencia XI Region
(Intendancy Region XI)
Gobernacion de Coihaique
(Governor' s Office - Coihaique)
Gobernacion de Aysen
(Governor' s Office - Aysen)
Gobernacion de General Carrera
(Governor' s Office - General Carrera)
Intendencia XII Region
(Intendancy Region XII)
Gobernacion de Capitan Prat
(Governor' s Office - Capitan Prat)
Gobernacion de Ultima Esperanza
(Governor' s Office - Ultima Esperanza)
Gobernacion de Magallanes
(Governor' s Office - Magallanes)
Gobernacion de Tierra del Fuego
(Governor' s Office - Tierra del Fuego)
Gobernacion de Antartica Chilena
(Governor' s Office - Antartica Chilena)
Intendencia Region Metropolitana
(Intendancy Metropolitan Region)
Gobernacion de Chacabuco
(Governor' s Office - Chacabuco)
Gobernacion de Cordillera
(Governor' s Office - Cordillera)
Gobernacion de Maipo
(Governor' s Office - Maipo)
Gobernacion de Talagante
(Governor' s Office - Talagante)
Gobernacion de Melipilla
(Governor' s Office - Melipilla)
Gobernacion de Santiago
(Governor' s Office - Santiago)

3. Korea' s List of Entities

Board of Audit and Inspection
Office of the Prime Minister
Ministry of Planning and Budget
Ministry of Legislation
Ministry of Patriots and Veterans Affairs
Ministry of Finance and Economy

Ministry of Education and Human Resources Development
Ministry of Unification
Ministry of Foreign Affairs and Trade
Ministry of Justice
Ministry of National Defense
Ministry of Government Administration and Home Affairs
Ministry of Science and Technology
Ministry of Culture and Tourism
Ministry of Agriculture and Forestry
Ministry of Commerce, Industry and Energy
Ministry of Information and Communications
Ministry of Health and Welfare
Ministry of Environment
Ministry of Labor
Ministry of Gender Equality
Ministry of Construction and Transportation
Ministry of Maritime Affairs and Fisheries
Government Information Agency
Fair Trade Commission
Financial Supervisory Commission
Civil Service Commission
National Tax Service
Korea Customs Service
Public Procurement Service (limited to purchases for entities in this list only. Regarding procurement for entities in Appendix 2 and Appendix 3, the coverages and thresholds for such entities thereunder shall be applied.)
National Statistical Office
Supreme Public Prosecutors' Office
Military Manpower Administration
National Police Agency (except purchases for the purpose of maintaining public order)
Korea Meteorological Administration
Cultural Properties Administration
Rural Development Administration
Korea Forest Service
Small and Medium Business Administration
Korean Intellectual Property Office
Food and Drug Administration
Korea National Railroad Administration
National Maritime Police Agency (except purchases for the purpose of maintaining public order)

4. Notes to Appendix 1

For Chile:

The above central government entities include their subordinate linear organizations, regional and sub-regional subdivisions, provided that they do not have an industrial or commercial character.

For Korea:

1. The above central government entities include their subordinate linear organizations, regional and sub-regional subdivisions, provided that they do not

have an industrial or commercial character.

2. This Appendix does not apply to the single tendering procurement including set-asides for small and medium-sized businesses according to the Act Relating to Contracts to which the State is a Party and its Presidential Decree. After the Administrator of the Small and Medium Business Administration designates specific goods to be purchased from small and medium-sized business, Korea will notify Chile of the addition to the existing list of goods annually.

3. The Defense Logistics Agency shall be considered as part of the Ministry of National Defense (MND). Subject to the decision of the Korean government under the provisions of the General Notes, for purchases by the MND, this Agreement will apply to the following FSC categories only, and for services and construction services listed in Appendices 5 and 6, it will apply only to those areas which are not related to national security and defense.

FSC Description

- 2510 Vehicular cab, body and frame structural components
- 2520 Vehicular power transmission components
- 2540 Vehicular furniture and accessories
- 2590 Miscellaneous vehicular components
- 2610 Tires and tubes, pneumatic, nonaircraft
- 2910 Engine fuel system components, nonaircraft
- 2920 Engine electrical system components, nonaircraft
- 2930 Engine cooling system components, nonaircraft
- 2940 Engine air and oil filters, strainers and cleaners, nonaircraft
- 2990 Miscellaneous engine accessories, nonaircraft
- 3020 Gears, pulleys, sprockets and transmission chain
- 3416 Lathes
- 3417 Milling machines
- 3510 Laundry and dry cleaning equipment
- 4110 Refrigeration equipment
- 4230 Decontaminating and impregnating equipment
- 4520 Space heating equipment and domestic water heaters
- 4940 Miscellaneous maintenance and repair shop specialized equipment
- 5120 Hand tools, nonedged, nonpowered
- 5410 Prefabricated and portable buildings
- 5530 Plywood and veneer
- 5660 Fencing, fences and gates
- 5945 Relays and solenoids
- 5965 Headsets, handsets, microphones and speakers
- 5985 Antennae, waveguide and related equipment
- 5995 Cable, cord and wire assemblies: communication equipment
- 6505 Drugs and biologicals
- 6220 Electric vehicular lights and fixtures
- 6840 Pest control agents disinfectants
- 6850 Miscellaneous chemical, specialties
- 7310 Food cooking, baking and serving equipment
- 7320 Kitchen equipment and appliances
- 7330 Kitchen hand tools and utensils
- 7350 Tableware
- 7360 Sets, kits, outfits, and modules food preparation and serving

7530 Stationery and record forms
7920 Brooms, brushes, mops and sponges
7930 Cleaning and polishing compounds and preparations
8110 Drums and cans
9150 Oils and greases: cutting, lubricating and hydraulic
9310 Paper and paperboard

Appendix 2 Entities at Subcentral Level

1. Thresholds

Supplies

Specified in Appendix 4
Thresholds SDR 200,000

Services

Specified in Appendix 5
Thresholds SDR 200,000

Construction Services

Specified in Appendix 6
Thresholds SDR 15,000,000

2. Chile has no commitments regarding this Appendix.

3. Korea's List of Entities

Seoul Metropolitan Government
City of Busan
City of Daegu
City of Incheon
City of Gwangju
City of Daejon
Kyonggi-do
Gangwon-do
Chungcheongbuk-do
Chungcheongnam-do
Gyeongsangbuk-do
Gyeongsangnam-do
Jeollabuk-do
Jeollanam-do
Jeju-do

4. Notes to Appendix 2

For Korea:

1. The above sub-central administrative government entities include their subordinate organizations under direct control and offices as prescribed in the Local Autonomy Law of the Korea.
2. This Appendix does not apply to the single tendering procurement including set-asides for small and medium-sized businesses according to the Local Finance Law and its Presidential Decree. After the Administrator of the Small and Medium Business Administration designates specific goods to be purchased from small and medium-sized business, Korea will notify Chile of the addition to the existing list of goods annually.

**Appendix 3
All Other Entities**

1. Thresholds

Supplies

Specified in Appendix 4
Thresholds SDR 450,000

Construction Services

Specified in Appendix 6
Thresholds SDR 15,000,000

2. Chile's List Of Entities

Empresa Portuaria Arica
Empresa Portuaria Iquique
Empresa Portuaria Antofagasta
Empresa Portuaria Coquimbo
Empresa Portuaria Valparaiso
Empresa Portuaria San Antonio
Empresa Portuaria San Vicente-Talcahuano
Empresa Portuaria Puerto Montt
Empresa Portuaria Chacabuco
Empresa Portuaria Austral
Aeropuertos de Propiedad del Estado, Dependientes de la Dirección de Aeronáutica Civil

3. Korea's List of Entities

Korea Development Bank
Industrial Bank of Korea
Kookmin Bank
Korea Minting and Security Printing Corporation
Korea Electric Power Corporation (except purchases of products in the categories of HS Nos. 8504, 8535, 8537 and 8544)
Korea Coal Corporation

Korea Resources Corporation
Korea National Oil Corporation
Korea Trade-Investment Promotion Agency
Korea Highway Corporation
Korea National Housing Corporation
Korea Water Resources Corporation
Korea Land Corporation
Korea Agricultural and Rural Infrastructure Corporation
Agricultural and Fishery Marketing Corporation
Korea National Tourism Organization
Korea Labor Welfare Corporation
Korea Gas Corporation

4. Notes to Appendix 3

For Chile:

This Appendix covers all other public undertakings, over which the public authorities may exercise directly or indirectly a dominant influence, which have as one of their activities any of those referred to below or any combination thereof:

- (a) the provision of airport or other terminal facilities to carriers by air, and
- (b) the provision of maritime or inland port or other terminal facilities to carriers by sea or inland waterway,
provided that they do not have an industrial or commercial character.

For Korea:

1. This Appendix does not apply to the single tendering procurement including set-asides for small and medium-sized businesses according to the Government Invested Enterprise Management Law and Accounting Regulations on Government Invested Enterprise. After the Administrator of the Small and Medium Business Administration designates specific goods to be purchased from small and medium-sized business, Korea will notify Chile of the addition to the existing list of goods annually.

2. This Appendix covers all other public undertakings, over which the public authorities may exercise, directly or indirectly, a dominant influence, which have as one of their activities any of those referred to below or any combination thereof:

- (a) the provision of airport or other terminal facilities to carriers by air, and
- (b) the provision of maritime or inland port or other terminal facilities to carriers by sea or inland waterway,
provided that they do not have an industrial or commercial character.

Appendix 4

Supplies

Subject to the General Notes, the governments of Korea and Chile shall cover all supplies unless otherwise specified in Appendices 1 to 3.

Neither Party has any Notes to this Appendix.

Appendix 5 Services

For the purpose of this Chapter and without prejudice to Article 15.2, no services of the WTO Universal List of Services (WTO/MTN.GNS/W/120) shall be excluded.

Appendix 6 Construction Services

For the purpose of this Chapter and without prejudice to Article 15.2, no construction services under the division of the CPC concerning construction work are excluded.

Appendix 7 General Notes

1. Nothing in this Agreement shall be construed to prevent a 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 defence purposes.

2. Subject to the requirement that such measures under paragraph 1 are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent a Party from imposing or enforcing measures, which is necessary to protect public morals, order or safety, human, animal or plant life or health or intellectual property, or which relates to the products or services of handicapped persons, of philanthropic institutions or of prison labour.

3. Korea understands that selective tendering procedures are a category of open tendering procedures and that they are procedures whereby only the suppliers satisfying qualifications requirements established by the entities, listed in Appendices 1 to 3, are invited to submit a tender.

Annex 15.2 Government Procurement Implementation

Appendix 1

*(Referred to in Article 15.8.3)
Means of Publication*

For Chile:

Diario Oficial de la Republica de Chile
<http://www.chilecompra.cl>

For Korea:

Official Gazette of Korea
<http://www.g2b.go.kr/>

Appendix 2
Value of Thresholds

1. In calculating the value of a contract, entities shall include any procurement for which the value of the procurement is estimated to be below the relevant values specified in the Parties' respective Appendices to Annex 15.1 of this Chapter. Entities shall include in such an estimate the maximum total estimated value of the procurement and any resulting contracts over the duration of such contracts, taking into account all options, premiums, fees, commissions, interest and other revenue streams or forms of remuneration, provided for in such contracts.
2. Each Party shall publish the value of the thresholds under this Chapter expressed in the corresponding national currency.
3. For Korea, the calculation of these values shall be based on the average of the daily values of the Special Drawing Rights (SDR) to Korean won exchange rate over the 24 months preceding October 1 or November 1 of the year prior to the thresholds in national currency becomes effective, which will be from January 1.
4. For Chile, the calculation of these values shall be based on the average of the daily values of the SDR to Chilean peso exchange rate over the 24 months terminating on the last day of August preceding the revision with effect from January 1.
5. The value of the thresholds thus revised shall, where necessary, be rounded down to the nearest ten thousand Chilean peso and ten million Korean won.