

CHAPTER SEVENTEEN GOVERNMENT PROCUREMENT

ARTICLE 17.1: GENERAL PROVISIONS

1. The Parties reaffirm their rights and obligations under the GPA and their interest in further expanding bilateral trading opportunities in each Party's government procurement market.
2. The Parties recognize their shared interest in promoting international liberalization 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 and on procurement matters in APEC and other appropriate international fora.
3. Nothing in this Chapter shall be construed to derogate from either Party's rights or obligations with respect to the other Party under the GPA.
4. The Parties confirm their desire and determination to apply the *APEC Non-Binding Principles on Government Procurement*, as appropriate, to all their government procurement that is outside the scope of the GPA and this Chapter.

ARTICLE 17.2: SCOPE AND COVERAGE

1. This Chapter applies to any measure regarding covered procurement.
2. For purposes of this Chapter, **covered procurement** means procurement for governmental purposes:
 - (a) of goods, services, or any combination thereof:
 - (i) as specified in a Party's Schedule to Annex 17-A; and
 - (ii) not procured with a view to commercial sale or resale, or for use in the production or supply of goods or services for commercial sale or resale;
 - (b) by any contractual means, including purchase; lease; rental or hire purchase, with or without an option to buy; build-operate-transfer contracts; and public works concession contracts;
 - (c) for which the value equals or exceeds the relevant threshold provided for in Annex 17-A;
 - (d) by a procuring entity; and
 - (e) that is not otherwise excluded from coverage under paragraph 3 or Annex 17-A.
3. This Chapter does not apply to:

- (a) non-contractual agreements or any form of assistance that a Party provides, including cooperative agreements, grants, loans, equity infusions, guarantees, and fiscal incentives;
- (b) the procurement or acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions, or services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes and other securities; or
- (c) procurement conducted for the specific purpose of providing international assistance, including development aid.

4. For greater certainty relating to the procurement of digital products as defined in Article 15.9 (Definitions):

- (a) covered procurement includes the procurement of digital products; and
- (b) no provision of Chapter Fifteen (Electronic Commerce) shall be construed as imposing obligations on a Party with respect to the procurement of digital products.

5. The provisions of this Chapter do not affect the rights and obligations provided for in Chapters Two (National Treatment and Market Access for Goods), Eleven (Investment), Twelve (Cross-Border Trade in Services), and Thirteen (Financial Services).

ARTICLE 17.3: INCORPORATION OF GPA PROVISIONS

1. For all covered procurement, the Parties shall apply Appendices II through IV of the GPA, and the following articles of the GPA, *mutatis mutandis*:

Article I:3	Application to Non-listed Entities
Article II	Valuation of Contracts
Article III	National Treatment and Non-discrimination
Article IV:1	Rules of Origin
Article VI	Technical Specifications
Article VII	Tendering Procedures
Article VIII	Qualification of Suppliers
Article IX	Invitation to Participate Regarding Intended Procurement
Article X	Selection Procedures
Article XI:4	Time-Limits for Delivery
Article XII	Tender Documentation
Article XIII	Submission, Receipt and Opening of Tenders and Awarding of Contracts
Article XIV	Negotiation
Article XV	Limited Tendering
Article XVI:1	Offsets
Article XVIII	Information and Review as Regards Obligations of Entities

Article XIX:1 through 4	Information and Review as Regards Obligations of Parties
Article XX	Challenge Procedures
Article XXIII	Exceptions to the Agreement

To that end, these GPA articles and appendices are incorporated into and made a part of this Chapter, *mutatis mutandis*.

2. For purposes of the incorporation of the GPA under paragraph 1, the term:

- (a) “Agreement” in the GPA means “Chapter,” except that “countries not Parties to this Agreement” means “non-Parties” and “Party to the Agreement” in GPA Article III:2(b) means “Party;”
- (b) “Appendix I” in the GPA means “Annex 17-A;”
- (c) “Annex 1” in the GPA means “Section A of Annex 17-A;”
- (d) “Annex 4” in the GPA means “Section C of Annex 17-A;”
- (e) “Annex 5” in the GPA means “Section D of Annex 17-A;”
- (f) “any other Party” in GPA Article III:1(b) means “a non-Party;”
- (g) “other Parties” in the GPA means “the other Party;”
- (h) “products” in the GPA means “goods;” and
- (i) “among suppliers of other Parties or” in GPA Article VIII shall not be incorporated.

3. The Parties recognize that on December 8, 2006, the WTO Committee on Government Procurement provisionally approved the text of the revised GPA. Further to Article 24.3 (Amendment of the WTO Agreement), at such time as the revised GPA enters into force for both Parties, the Parties shall promptly incorporate by reference the appropriate provisions of the revised GPA in place of the provisions in paragraph 1.

4. If the GPA is further amended or is superseded by another agreement, the Parties shall, consistent with Article 24.2 (Amendments), amend this Chapter, as appropriate, after consultations.

ARTICLE 17.4: GENERAL PRINCIPLES

Use of Electronic Means

1. When conducting covered procurement by electronic means, a procuring entity shall:

- (a) ensure that the procurement is conducted using information technology systems and software, including those related to authentication and encryption of information, that are generally available and interoperable

with other generally available information technology systems and software; and

- (b) maintain mechanisms that ensure the integrity of requests for participation and tenders, including establishment of the time of receipt and the prevention of inappropriate access.

Valuation

2. For greater certainty with regard to Article II of the GPA, in estimating the value of a procurement for the purpose of ascertaining whether it is a covered procurement, a procuring entity shall include the estimated maximum total value of the procurement over its entire duration, whether awarded to one or more suppliers, taking into account all forms of remuneration, including premiums, fees, commissions, interest, and other revenue streams that may be provided for in the procurement.

ARTICLE 17.5: CONDITIONS FOR PARTICIPATION

1. A procuring entity shall limit any conditions for participation in a procurement to those that are essential to ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to undertake the relevant procurement.

2. In assessing whether a supplier satisfies the conditions for participation, a procuring entity:

- (a) shall evaluate the supplier's financial capacity and commercial and technical abilities on the basis of that supplier's business activities outside the territory of the Party of the procuring entity, as well as its business activities, if any, inside the territory of the Party of the procuring entity;
- (b) shall not impose the condition that, in order for a supplier 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 that Party or that the supplier has prior work experience in the territory of that Party; and
- (c) shall base its determination of whether a supplier has satisfied the conditions for participation solely on the conditions that the procuring entity has specified in advance in notices or tender documentation.

3. A procuring entity may exclude a supplier on grounds such as:

- (a) bankruptcy;
- (b) false declarations;
- (c) significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contract or contracts;
- (d) final judgments in respect of serious crimes or other serious offenses; and

- (e) failure to pay taxes.

ARTICLE 17.6: PUBLICATION OF NOTICES

Notice of Intended Procurement

1. For each covered procurement, a procuring entity shall publish a notice of intended procurement in accordance with Article IX of the GPA, in the appropriate electronic medium, except in the circumstances described in Article XV of the GPA.

Notice of Planned Procurement

2. Each Party shall encourage its procuring entities to publish, as early as possible in each fiscal year, a notice regarding their future procurement plans. The notice should include the subject matter of the procurement and the planned date of the publication of the notice of intended procurement and, to the extent possible, be published in an electronic medium listed in each Party's Appendix II to the GPA.

ARTICLE 17.7: TECHNICAL SPECIFICATIONS

For greater certainty, a Party, including its procuring entities, may, in accordance with Article VI of the GPA, prepare, adopt, or apply technical specifications:

- (a) to promote the conservation of natural resources or protect the environment; or
- (b) to require a supplier to comply with generally applicable laws regarding
 - (i) fundamental principles and rights at work; and
 - (ii) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health,

in the territory in which the good is produced or the service is performed.

ARTICLE 17.8: TIME-PERIODS

General

1. A procuring entity shall, consistent with its own reasonable needs, provide sufficient time for suppliers to prepare and submit requests for participation and responsive tenders, taking into account such factors as:

- (a) the nature and complexity of the procurement;
- (b) the extent of subcontracting anticipated; and
- (c) the time for transmitting tenders from foreign as well as domestic points where electronic means are not used.

Such time-periods, including any extension of the time-periods, shall be common for all interested or participating suppliers.

Deadlines

2. A procuring entity that uses selective tendering shall establish that the final date for the submission of requests for participation shall not, in principle, be less than 25 days from the date of publication of the notice of intended procurement. Where a state of urgency duly substantiated by the procuring entity renders this time-period impracticable, the time-period may be reduced to not less than 10 days.

3. Except as provided for in paragraphs 4 and 5, a procuring entity shall establish that the final date for the submission of tenders shall not be less than 40 days from the date on which:

- (a) in the case of open tendering, the notice of intended procurement is published; or
- (b) in the case of selective tendering, the entity notifies suppliers that they will be invited to submit tenders, whether or not it uses a multi-use list.

4. A procuring entity may reduce the time-period for tendering set out in paragraph 3 to not less than 10 days where:

- (a) the procuring entity published a notice of planned procurement under Article IX:7 of the GPA at least 40 days and not more than 12 months in advance of the publication of the notice of intended procurement, and the notice of planned procurement contains:
 - (i) a description of the procurement;
 - (ii) the approximate final dates for the submission of tenders or requests for participation;
 - (iii) a statement that interested suppliers should express their interest in the procurement to the procuring entity;
 - (iv) the address from which documents relating to the procurement may be obtained; and
 - (v) as much of the information that is required under Article IX:6 of the GPA for the notice of intended procurement, as is available;
- (b) the procuring entity, for procurements of a recurring nature, indicates in an initial notice of intended procurement that subsequent notices will provide time-periods for tendering based on this paragraph; or
- (c) a state of urgency duly substantiated by the procuring entity renders such time-period impracticable.

5. A procuring entity may reduce the time-period for tendering set out in paragraph 3 by five days for each one of the following circumstances:

- (a) the notice of intended procurement is published by electronic means;
- (b) all the tender documentation is made available by electronic means from the date of the publication of the notice of intended procurement; and
- (c) the tenders can be received by electronic means by the procuring entity.

6. The use of paragraph 5, in conjunction with paragraph 4, shall in no case result in the reduction of the time-period for tendering set out in paragraph 3 to less than ten days from the date on which the notice of intended procurement is published.

7. Notwithstanding any other time-period in this Article, where a procuring entity purchases commercial goods or services, it may reduce the time-period for tendering set out in paragraph 3 to not less than 13 days, provided that it publishes by electronic means, at the same time, both the notice of intended procurement and the tender documentation. Where the entity also accepts tenders for commercial goods and services by electronic means, it may reduce the time period set out in paragraph 3 to not less than ten days.

ARTICLE 17.9: MODIFICATIONS AND RECTIFICATIONS TO COVERAGE

1. A Party shall notify the other Party of any proposed rectification of Annex 17-A, withdrawal of an entity from Annex 17-A, or other modification of Annex 17-A (referred to generally in this Article as “modification”). The Party proposing the modification (modifying Party) shall include in the notification:

- (a) for any proposed withdrawal of an entity from Annex 17-A in the exercise of its rights on the grounds that government control or influence over the entity’s covered procurement has been effectively eliminated, evidence that such government control or influence has been effectively eliminated; or
- (b) for any other proposed modification, information as to the likely consequences of the change for the mutually agreed coverage provided under this Chapter.

2. Where the other Party objects to the proposed modification, it shall notify the modifying Party of its objection within 30 days of the notification of the proposed modification and include the reasons for its objection.

3. The Parties shall seek to resolve any objection through consultations. In such consultations, the Parties shall consider the proposed modification and, in the case of a notification under paragraph 1(b), any claim for compensatory adjustments, with a view to maintaining a balance of rights and obligations and a comparable level of mutually agreed coverage provided in this Chapter prior to such notification.

4. If a Party proposes a modification pursuant to paragraph 1(b), the modifying Party shall offer to the other Party appropriate compensatory adjustments, where such adjustments are necessary to maintain a level of coverage comparable to that which was

existing prior to the modification. Such modification shall become effective if the other Party does not notify the modifying Party of any objection to the proposed modification within 30 days of the notification. A Party need not provide compensatory adjustments where the Parties agree that the proposed modification covers a procuring entity over which a Party has effectively eliminated its control or influence over the entity's covered procurement.

5. The Joint Committee shall adopt any proposed modification only where the other Party:
 - (a) does not object in writing to the proposed modification within 30 days of the notification provided under paragraph 1; or
 - (b) submits to the modifying Party a written notice withdrawing the objection.

ARTICLE 17.10: GOVERNMENT PROCUREMENT WORKING GROUP

1. The Parties shall establish a Working Group on Government Procurement comprising representatives of each Party.
2. The Working Group shall meet, as mutually agreed or upon request of a Party, to:
 - (a) consider issues regarding government procurement that a Party refers to it, including issues related to information technology; and
 - (b) exchange information relating to the government procurement opportunities in each Party.

ARTICLE 17.11: DEFINITIONS

For purposes of this Chapter:

APEC means Asia Pacific Economic Cooperation;

build-operate-transfer contract and **public works concession contract** mean any contractual arrangement the primary purpose of which is to provide for the construction or rehabilitation of physical infrastructure, plant, buildings, facilities, or other government-owned works and under which, as consideration for a supplier's execution of a contractual arrangement, a procuring entity grants to the supplier, for a specified period of time, temporary ownership or a right to control and operate, and demand payment for the use of, such works for the duration of the contract;

commercial goods or services means goods or services of a type generally sold or offered for sale in the commercial marketplace to, and customarily purchased by, non-governmental buyers for non-governmental purposes;

GPA means *WTO Agreement on Government Procurement*, done at Marrakesh, April 15, 1994; and

procuring entity means an entity covered under Section A of Annex 17-A.

ANNEX 17-A
GOVERNMENT PROCUREMENT

Section A: Central Level Government Entities

This Chapter applies to the entities of the central level of government listed in each Party's Schedule to this Section where the value of the procurement is estimated, in accordance with Article II of the GPA and Article 17.4.2, to equal or exceed:

- (a) for procurement of goods and services: 100,000 U.S. dollars with respect to the United States and 100 million Korean won with respect to Korea, to be adjusted, as necessary, based on consultations between the Parties; and
- (b) for procurement of construction services: 5,000,000 Special Drawing Rights (SDRs) (7.4 billion Korean won or 7,407,000 U.S. dollars), to be converted into each Party's national currency in accordance with the *Modalities for Notifying Threshold Figures in National Currencies*, Annex 3 to the *Decisions on Procedural Matters under the Agreement on Government Procurement (1994)* (GPA/1).

Schedule of Korea

1. Board of Audit and Inspection
2. Office of the Prime Minister
3. Office for Government Policy Coordination
4. Ministry of Gender Equality and Family
5. Ministry of Finance and Economy
6. Ministry of Planning and Budget
7. Financial Supervisory Commission
8. Ministry of Unification
9. Ministry of Government Administration and Home Affairs
10. Civil Service Commission
11. Ministry of Science and Technology
12. Government Information Agency
13. Ministry of Government Legislation
14. Ministry of Patriots and Veterans Affairs
15. Ministry of Foreign Affairs and Trade
16. Ministry of Justice
17. Ministry of National Defense (Note 2)
18. Ministry of Education and Human Resources Development
19. Ministry of Culture and Tourism
20. Cultural Heritage Administration
21. Ministry of Agriculture and Forestry
22. Ministry of Commerce, Industry and Energy
23. Ministry of Health and Welfare
24. Korea Food and Drug Administration
25. Ministry of Labor
26. Ministry of Construction and Transportation
27. Ministry of Maritime Affairs and Fisheries

28. Ministry of Information and Communications
29. Ministry of Environment
30. Public Procurement Service (Note 3)
31. National Tax Service
32. Customs Service
33. National Statistical Office
34. Korea Meteorological Administration
35. National Police Agency (Note 4)
36. Supreme Prosecutors' Office
37. Military Manpower Administration
38. Rural Development Administration
39. Forest Service
40. Korean Intellectual Property Office
41. Small and Medium Business Administration
42. Korea Coast Guard (Note 4)
43. National Emergency Management Agency
44. Defense Acquisition Program Administration (Note 2)
45. National Youth Commission
46. National Human Rights Commission of Korea
47. Korean Broadcasting Commission
48. Korea Independent Commission Against Corruption
49. Presidential Commission on Small and Medium Enterprises
50. Fair Trade Commission
51. The Ombudsman of Korea

Notes to Korean Schedule

1. The above central government entities include their subordinate linear organizations, special local administrative organs, and attached organs as prescribed in Korea's *Government Organization Act*.

2. Ministry of National Defense and Defense Acquisition Program Administration: Subject to the decision of the Korean Government under the provisions of Article XXIII:1 of the GPA, for the purchases of the Ministry of National Defense and the Defense Acquisition Program Administration, this Chapter will generally apply to the following FSC categories only, and for services and construction services listed in Section C and Section D, it will apply only to those areas which are not related to national security and defense.

FSC 2510	Vehicular cab, body, and frame structural components
FSC 2520	Vehicular power transmission components
FSC 2540	Vehicular furniture and accessories
FSC 2590	Miscellaneous vehicular components
FSC 2610	Tires and tubes, pneumatic, nonaircraft
FSC 2910	Engine fuel system components, nonaircraft
FSC 2920	Engine electrical system components, nonaircraft
FSC 2930	Engine cooling system components, nonaircraft
FSC 2940	Engine air and oil filters, strainers and cleaners, nonaircraft
FSC 2990	Miscellaneous engine accessories, nonaircraft
FSC 3020	Gears, pulleys, sprockets and transmission chain

FSC 3416	Lathes
FSC 3417	Milling machines
FSC 3510	Laundry and dry cleaning equipment
FSC 4110	Refrigeration equipment
FSC 4230	Decontaminating and impregnating equipment
FSC 4520	Space heating equipment and domestic water heaters
FSC 4940	Miscellaneous maintenance and repair shop specialized equipment
FSC 5120	Hand tools, nonedged, nonpowered
FSC 5410	Prefabricated and portable buildings
FSC 5530	Plywood and veneer
FSC 5660	Fencing, fences and gates
FSC 5945	Relays and solenoids
FSC 5965	Headsets, handsets, microphones and speakers
FSC 5985	Antennae, waveguide, and related equipment
FSC 5995	Cable, cord, and wire assemblies: communication equipment
FSC 6220	Electric vehicular lights and fixtures
FSC 6505	Drugs and biologicals
FSC 6840	Pest control agents disinfectants
FSC 6850	Miscellaneous chemical, specialties
FSC 7310	Food cooking, baking, and serving equipment
FSC 7320	Kitchen equipment and appliances
FSC 7330	Kitchen hand tools and utensils
FSC 7350	Table ware
FSC 7360	Sets, kits, outfits, and modules food preparation and serving
FSC 7530	Stationery and record forms
FSC 7920	Brooms, brushes, mops, and sponges
FSC 7930	Cleaning and polishing compounds and preparations
FSC 8110	Drums and cans
FSC 9150	Oils and greases: cutting, lubricating, and hydraulic
FSC 9310	Paper and paperboard

3. Public Procurement Service: This Chapter covers only those procurements carried out by the Public Procurement Service for the entities listed in this Section.

4. National Police Agency and Korea Coast Guard: This Chapter does not cover procurements for the purpose of maintaining public order, as provided in Article XXIII of the GPA.

5. This Chapter does not cover the procurement of agricultural, fishery and livestock products in accordance with the *Foodgrain Management Law*, the *Law Concerning Marketing and Price Stabilization of Agricultural and Fishery Products*, and the *Livestock Law*.

Schedule of the United States

1. Advisory Commission on Intergovernmental Relations
2. Africa Development Foundation
3. Alaska Natural Gas Transportation System
4. American Battle Monuments Commission
5. Appalachian Regional Commission

6. Broadcasting Board of Governors
7. Commission of Fine Arts
8. Commission on Civil Rights
9. Commodity Futures Trading Commission
10. Consumer Product Safety Commission
11. Corporation for National and Community Service
12. Delaware River Basin Commission
13. Department of Agriculture (Note 2)
14. Department of Commerce (Note 3)
15. Department of Defense (Note 4)
16. Department of Education
17. Department of Energy (Note 5)
18. Department of Health and Human Services
19. Department of Homeland Security (Note 6)
20. Department of Housing and Urban Development
21. Department of the Interior, including the Bureau of Reclamation
22. Department of Justice
23. Department of Labor
24. Department of State
25. Department of Transportation (Note 7)
26. Department of the Treasury
27. Department of Veterans Affairs
28. Environmental Protection Agency
29. Equal Employment Opportunity Commission
30. Executive Office of the President
31. Export-Import Bank of the United States
32. Farm Credit Administration
33. Federal Communications Commission
34. Federal Crop Insurance Corporation
35. Federal Deposit Insurance Corporation
36. Federal Election Commission
37. Federal Home Loan Mortgage Corporation
38. Federal Housing Finance Board
39. Federal Maritime Commission
40. Federal Mediation and Conciliation Service
41. Federal Mine Safety and Health Review Commission
42. Federal Prison Industries, Inc.
43. Federal Reserve System
44. Federal Retirement Thrift Investment Board
45. Federal Trade Commission
46. General Services Administration (Note 8)
47. Government National Mortgage Association
48. Holocaust Memorial Council
49. Inter-American Foundation
50. Merit Systems Protection Board
51. National Aeronautics and Space Administration (NASA)
52. National Archives and Records Administration
53. National Capital Planning Commission
54. National Commission on Libraries and Information Science
55. National Council on Disability

56. National Credit Union Administration
57. National Foundation on the Arts and the Humanities
58. National Labor Relations Board
59. National Mediation Board
60. National Science Foundation
61. National Transportation Safety Board
62. Nuclear Regulatory Commission
63. Occupational Safety and Health Review Commission
64. Office of Government Ethics
65. Office of the Nuclear Waste Negotiator
66. Office of Personnel Management
67. Office of Special Counsel
68. Office of Thrift Supervision
69. Overseas Private Investment Corporation
70. Peace Corps
71. Railroad Retirement Board
72. Securities and Exchange Commission
73. Selective Service System
74. Small Business Administration
75. Smithsonian Institution
76. Social Security Administration
77. Susquehanna River Basin Commission
78. United States Agency for International Development
79. United States International Trade Commission

Notes to United States Schedule

1. Unless otherwise specified herein, this Chapter applies to all agencies subordinate to the entities listed in this Section.
2. Department of Agriculture: This Chapter does not cover the procurement of any agricultural good made in furtherance of an agricultural support program or a human feeding program.
3. Department of Commerce: This Chapter does not cover the procurement of any good or service related to the shipbuilding activities of the National Oceanic and Atmospheric Administration (NOAA).
4. Department of Defense:
 - (a) This Chapter does not cover the procurement of any good described in any Federal Supply Code classification listed below (for complete listing of U.S. Federal Supply Classification, see <http://www.fedbizopps.gov/classCodes1.html>):

FSC 19	Ships, Small Craft, Pontoons, and Floating Docks (the part of this classification defined as naval vessels or major components of the hull or superstructure thereof)
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FSC 20	Ship and Marine Equipment (the part of this classification defined as naval vessels or major components of the hull or superstructure thereof)
FSC 2310	Passenger Motor Vehicles (only buses)
FSC 51	Hand Tools
FSC 52	Measuring Tools
FSC 83	Textiles, Leather, Furs, Apparel, Shoes, Tents, and Flags (all elements other than pins, needles, sewing kits, flagstuffs, flagpoles, and flagstaff trucks)
FSC 84	Clothing, Individual Equipment, and Insignia (all elements other than sub-class 8460 - luggage)
FSC 89	Subsistence (all elements other than sub-class 8975 - tobacco products)

(b) This Chapter does not cover the procurement of any specialty metal or any good containing one or more specialty metals. **Specialty metal** means:

- (i) steel for which the maximum alloy content exceeds one or more of the following levels: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent;
- (ii) steel that contains more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium;
- (iii) a metal alloy consisting of a nickel, iron-nickel, or cobalt base alloy that contains a total of other alloying metals (except iron) in excess of 10 percent;
- (iv) titanium or a titanium alloy; or
- (v) zirconium or a zirconium base alloy.

(c) The Chapter generally does not cover the procurement of any good described in any of the following FSC classifications, due to the application of Article XXIII:1 of the GPA:

FSC 10	Weapons
FSC 11	Nuclear Ordnance
FSC 12	Fire Control Equipment
FSC 13	Ammunitions and Explosives
FSC 14	Guided Missiles
FSC 15	Aircraft and Airframe Structural Components
FSC 16	Aircraft Components and Accessories
FSC 17	Aircraft Launching, Landing, and Ground Handling Equipment
FSC 18	Space Vehicles
FSC 19	Ships, Small Craft, Pontoons, and Floating Docks
FSC 20	Ship and Marine Equipment
FSC 2350	Combat, Assault & Tactical Vehicles, Tracked

FSC 28	Engines, Turbines, and Components
FSC 31	Bearings
FSC 58	Communications, Detection, and Coherent Radiation
FSC 59	Electrical and Electronic Equipment Components
FSC 60	Fiber Optics Materials, Components, Assemblies, and Accessories
FSC 8140	Ammunition & Nuclear Ordnance Boxes, Packages & Special Containers
FSC 95	Metal Bars, Sheets, and Shapes

5. Department of Energy: Due to the application of Article XXIII:1 of the GPA, this Chapter does not cover the procurement of:

- (a) any good or service made to support the safeguarding of nuclear materials or technology, where the Department of Energy conducts the procurement under the authority of the *Atomic Energy Act*; or
- (b) any oil purchase related to the Strategic Petroleum Reserve.

6. Department of Homeland Security:

- (a) This Chapter does not cover procurement by the Transportation Security Administration.
- (b) The essential security considerations applicable to the Department of Defense are equally applicable to the U.S. Coast Guard.

7. Department of Transportation: This Chapter does not cover procurement by the Federal Aviation Administration.

8. General Services Administration: This Chapter does not cover the procurement of any good described in any of the following FSC classifications:

FSC 51	Hand Tools
FSC 52	Measuring Tools
FSC 7340	Cutlery and Flatware

Section B: Goods

This Chapter applies to the procurement of any good by the entities listed in Section A, unless otherwise specified in this Chapter.

Section C: Services

This Chapter applies to the procurement of all services covered under each Party's Annex 4 of Appendix I of the GPA.

Section D: Construction Services

This Chapter applies to the procurement of all construction services under CPC 51 procured by the entities listed in Section A, unless otherwise specified in this Chapter.

Section E: General Notes

Unless otherwise specified herein, the following General Notes in each Party's Schedule apply without exception to this Chapter, including to all sections of this Annex.

Schedule of Korea

1. This Chapter does not apply to procurement in furtherance of human feeding programs.
2. This Chapter does not apply to:
 - (a) the single tendering procurement and 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; or
 - (b) set asides for small-and medium-sized businesses according to the *Act on Private Participation in Infrastructure*.

Schedule of the United States

1. This Chapter does not apply to any set-aside on behalf of small or minority-owned businesses. A set-aside may include any form of preference, such as the exclusive right to provide a good or service, or any price preference.
2. This Chapter does not apply to the governmental provision of goods and services to persons or governmental authorities not specifically covered under this Annex.
3. Where a contract to be awarded by an entity is not covered by this Chapter, this Chapter shall not be construed to cover any good or service component of that contract.