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Annex 9.1

Section A: Central Level of Government Entities

1. 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 paragraph 1 of Section I, to equal or exceed for procurement of:

- (a) goods and services: US\$193,000; and
- (b) construction services: US\$7,407,000.

The monetary thresholds set out in this Section shall be adjusted in accordance with Section I of this Annex.

2. Unless otherwise specified, this Chapter covers all agencies subordinate to the entities listed in each Party's Schedule.

Schedule of Panama

- 1. Asamblea Legislativa
- 2. Contraloría General de la República
- 3. Ministerio de Comercio e Industrias
- 4. Ministerio de Desarrollo Agropecuario (Note 1)
- 5. Ministerio de Economía y Finanzas
- 6. Ministerio de Educación (Note 2)
- 7. Ministerio de Gobierno y Justicia (Note 3)
- 8. Ministerio de la Juventud, la Mujer, la Niñez y la Familia
- 9. Ministerio de Obras Públicas
- 10. Ministerio de la Presidencia (Notes 3 and 4)
- 11. Ministerio de Relaciones Exteriores
- 12. Ministerio de Salud (Note 5)
- 13. Ministerio de Trabajo y Desarrollo Laboral
- 14. Ministerio de Vivienda
- 15. Ministerio Público (Note 6)
- 16. Órgano Judicial

Notes to the Schedule of Panama

- 1. Ministerio de Desarrollo Agropecuario: This Chapter does not cover the procurement of agricultural products linked to agricultural development and support and food aid programs.
- 2. Ministerio de Educación: This Chapter does not cover the procurement of goods classified under Divisions of the United Nations Central Product Classification (CPC) Ver. 1.0, listed below:
 - 21 Meat, fish, fruit, vegetables, oils and fats
 - 22 Dairy products

Draft as of January 19, 2007
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- 23 Grain mill products, starches and starch products; other food products
 - 24 Beverages
 - 26 Yarn and thread; woven and tufted textile fabrics
 - 27 Textile articles other than apparel
 - 28 Knitted or crocheted fabrics; wearing apparel
 - 29 Leather and leather products; footwear.
3. Ministerio de Gobierno y Justicia and Ministerio de la Presidencia: This Chapter does not cover the procurement of goods and services, listed below, by or on behalf of Policía Nacional, Servicio Aéreo Nacional, Servicio Marítimo Nacional, Dirección Institucional en Asuntos de Seguridad Pública, and Departamento Nacional de Corrección of the Ministerio de Gobierno y Justicia or the Servicio de Protección Institucional of the Ministerio de la Presidencia:
- (a) classified under Divisions of the United Nations Central Product Classification (CPC) Ver. 1.0:
 - 21 Meat, fish, fruit, vegetables, oils and fats
 - 22 Dairy products
 - 23 Grain mill products, starches and starch products; other food products
 - 24 Beverages
 - 26 Yarn and thread; woven and tufted textile fabrics
 - 27 Textile articles other than apparel
 - 28 Knitted or crocheted fabrics; wearing apparel
 - 29 Leather and leather products; footwear
 - 431 Engines and turbines and parts thereof
 - 447 Weapons and ammunition and parts thereof
 - 491 Motor vehicles, parts and accessories thereof
 - 496 Aircraft and spacecraft, and parts thereof;
 - (b) the procurement of food serving services (hot meals).
4. Ministerio de la Presidencia: This Chapter does not cover the procurement of goods and services by, or on behalf of Secretaria del Consejo de Seguridad Pública, the Defensa Nacional, or the Fondo de Inversión Social.
5. Ministerio de Salud: This Chapter does not cover the following:
- (a) procurement made in furtherance of public health protection programs, including treatment of HIV/AIDS, Tuberculosis, Malaria, Meningitis, Disease of Chagas, Leishmaniasis or other epidemics; or
 - (b) procurement of vaccines for the prevention of Tuberculosis, Polio, Diphtheria, Whooping Cough, Tetanus, Measles, Mumps, Rubella, Meningitis (Meningococcica), Pneumococcus, Human Rabies, Chickenpox, Influenza, Hepatitis A, Hepatitis B, Disease for H. Influenza type B, and Yellow fever that are purchased through or from

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a not-for-profit international organization such as WHO and UNICEF, pursuant to an agreement or arrangement.

6. **Ministerio Público:** This Chapter does not cover the procurement of goods and services, listed below, by or on behalf of the Policía Técnica Judicial:
 - (a) Classified under Divisions of the United Nations Central Product Classification (CPC) Ver. 1.0:
 - 21 - Meat, fish, fruit, vegetables, oils and fats
 - 22 - Dairy products
 - 23 - Grain mill products, starches and starch products; other food products
 - 24 - Beverages
 - 447 - Weapons and ammunition and parts thereof
 - 491 - Motor vehicles, parts and accessories thereof; and
 - (b) the procurement of food serving services (hot meals).
7. This Chapter does not cover procurement for the issuance of currency, coinage, tax or postage stamps.
8. Exceptions to coverage set forth in Section H apply to this Section.

Schedule of the United States

1. Advisory Commission on Intergovernmental Relations
2. African Development Foundation
3. Alaska Natural Gas Transportation System
4. American Battle Monuments Commission
5. Appalachian Regional Commission
6. Broadcasting Board of Governors
7. Commission on Civil Rights
8. Commission of Fine Arts
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 1*)
14. Department of Commerce (*Note 2*)
15. Department of Defense (*Note 3*)
16. Department of Education
17. Department of Energy (*Note 4*)
18. Department of Health and Human Services
19. Department of Homeland Security (*Note 5*)
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

Draft as of January 19, 2007
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24. Department of State
25. Department of Transportation (*Note 6*)
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 7*)
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 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

Draft as of January 19, 2007
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- 70. Peace Corps
- 71. Railroad Retirement Board
- 72. Securities and Exchange Commission
- 73. Selective Service System
- 74. Small Business Administration
- 75. Smithsonian Institution
- 76. Susquehanna River Basin Commission
- 77. United States Agency for International Development (*Note 8*)
- 78. United States International Trade Commission

Notes to the Schedule of the United States

- 1. Department of Agriculture: The Chapter does not cover the procurement of agricultural goods made in furtherance of agricultural support programs or human feeding programs.
- 2. Department of Commerce: This Chapter does not cover shipbuilding activities of the U.S. National Oceanic and Atmospheric Administration (NOAA).
- 3. Department of Defense: This Chapter does not cover the procurement of the goods listed below (*for complete listing of U.S. Federal Supply Classification, see www.scrantonrtg.com/secrc/fsc-codes/fsc.html*):
 - (a) FSC 11 Nuclear Ordnance
 - FSC 18 Space Vehicles
 - 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)
 - 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 2350 Combat, Assault & Tactical Vehicles, Tracked
 - FSC 51 Hand Tools
 - FSC 52 Measuring Tools
 - FSC 60 Fiber Optics Materials, Components, Assemblies, and Accessories
 - FSC 8140 Ammunition & Nuclear Ordnance Boxes, Packages & Special Containers
 - 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)

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- (b) “Specialty metals,” defined as steels melted in steel manufacturing facilities located in the United States or its possessions, where the maximum alloy content exceeds one or more of the following limits, must be used in products purchased by the Department of Defense: (1) manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent; or which contains more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten or vanadium; (2) metal alloys consisting of nickel, iron-nickel and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10 per cent; (3) titanium and titanium alloys; or (4) zirconium base alloys; and
- (c) The goods in the following FSC categories are not generally covered by this Chapter due to application of Article__ [*national security exception*]:
- | | |
|--------|--|
| FSC 10 | Weapons |
| 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 19 | Ships, Small Craft, Pontoons, and Floating Docks |
| FSC 20 | Ship and Marine Equipment |
| FSC 28 | Engines, Turbines, and Components |
| FSC 31 | Bearings |
| FSC 58 | Communications, Detection, and Coherent Radiation |
| FSC 59 | Electrical and Electronic Equipment Components |
| FSC 95 | Metal Bars, Sheets, and Shapes |
4. Department of Energy: This Chapter does not cover national security procurements made in support of safeguarding nuclear materials or technology and entered into under the authority of the *Atomic Energy Act*, or oil purchases related to the Strategic Petroleum Reserve.
5. Department of Homeland Security:
- (a) This Chapter does not cover procurement by the Transportation Security Administration.
- (b) The national security considerations applicable to the Department of Defense are equally applicable to the U.S. Coast Guard.
6. Department of Transportation: This Chapter does not cover procurement by the Federal Aviation Administration.
7. General Services Administration: This Chapter does not cover procurement of the goods in the following FSC categories:
- | | |
|--------|------------|
| FSC 51 | Hand Tools |
|--------|------------|

Draft as of January 19, 2007
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FSC 52 Measuring Tools
FSC 7340 Cutlery and Flatware

Section B: Sub-Central Level of Government Entities

1. This Chapter applies to the sub-central government entities listed in each Party's Schedule to this Section where the value of the procurement is estimated, in accordance with Section I, to equal or exceed:

- (a) for procurement of goods and services: US \$526,000; and
- (b) for procurement of construction services: US \$7,407,000.

The monetary thresholds set out in subparagraphs (a) and (b) shall be adjusted in accordance with Section I of this Annex.

2. Within two years after the entry into force of this Agreement, the Parties shall consider and, if appropriate, address any issues that have arisen with regard to the implementation of the denial of benefits provisions in the Schedules to this Section.

3. For a period of one year following the entry into force of this Agreement, the Parties shall continue to consult with their respective sub-central entities with a view to obtaining commitments from such entities, on a voluntary and reciprocal basis, to cover their procurement under this Chapter.

Schedule of Panama

PROVINCIA	DISTRITO
Bocas del Toro	Bocas del Toro Cab. Chiriquí Grande Changuinola
Coclé	Aguadulce Antón La Pintada Nata Ola Penonomé
Colón	Colón cab. Chagres Donoso Portobelo Santa Isabel
Chiriquí	Alanje Barú

Draft as of January 19, 2007
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	Boqueron Boquete Bugaba David Dolega Gualaca Remedios Renacimiento San Lorenzo Tole San Felix
Darién	Chepigana Pinogana
Herrera	Chitre Las Minas Los Pozos Ocu Parita Pesé Santa Maria
Los Santos	Guarare Las Tablas Los Santos Cab. Macaracas Pedasí Pocri Tonosí
Panamá	Arraiján Balboa Capira Chame Chepo Chiman La Chorrera Panamá San Carlos San Miguelito Taboga
Veraguas	Atalaya Calobre Cañazas

Draft as of January 19, 2007
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	La Mesa
	Las Palmas
	Montijo
	Río De Jesús
	San Francisco
	Santa Fé
	Santiago
	Soná
	Mariato
Comarca Emberá	Cemáco
	Sambu
Comarca Ngobe	Nurum
Bugle	Kankintú
	Besiko
	Mirono
	Kusapin
	Muna
	Nole Duima

Notes of Panama

1. A sub-central governmental unit listed above (a “participating unit”) may deny the benefits of this section to a supplier of the United States unless it meets one of the applicable conditions set out below.

a. Procurement of Goods:

- (i) The supplier is offering to supply a good of the United States, as determined under Article 9.2.3 of this Chapter [General Principles], and has a principal place of business in a state listed in the Schedule of the United States (a “participating state”) or is directly or indirectly owned or controlled by an enterprise with a principal place of business in a participating state; or
- (ii) The supplier is offering to supply a good that is substantially produced or assembled in one or more participating states. A good shall be considered to be substantially produced or assembled in a participating state or states if the production or assembly in the participating state or states accounts for 51 percent or more of the value of the good.

b. Procurement of Services Other Than Construction Services:

- (i) If the supplier is offering to supply a service, other than a construction service, the supplier has a principal place of business in a participating state or is directly or indirectly owned or controlled by an enterprise with a principal place of business in a participating state; or

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- (ii) The supplier is offering to supply a service, other than a construction service, that is substantially performed within a participating state or states. A service, other than a construction service, shall be considered to be substantially performed in a participating states or states if the performance of the service in the participating state or states accounts for 51 percent or more of the value of the service.

c. Procurement of Construction Services:

If the supplier is offering to supply construction services, the supplier has a principal place of business in a participating state or is directly or indirectly owned or controlled by an enterprise with a principal place of business in a participating state.

2. For purposes of paragraph 1, “principal place of business” means the headquarters or main office of an enterprise, or any other place where the enterprise's business is managed, conducted, or operated.

3. A participating unit shall allow a supplier to self-certify that it meets the conditions set out in paragraph 1. If the unit considers the certification to be erroneous or unsubstantiated, the unit shall, after consultations with the supplier, permit the supplier to challenge that determination in accordance with Article 9.15 of this Chapter (*Domestic Review Procedures*).

Schedule of the United States

This Chapter covers procurement only by those entities listed in this Schedule.

Arkansas

Executive branch agencies, including universities

This Chapter does not cover procurement by the Office of Fish and Game or construction services.

Colorado

Executive branch agencies

Florida*

Executive Branch Agencies

Illinois*

Department of Central Management Services

Mississippi

Department of Finance and Administration

For the entity listed for Mississippi, this Chapter does not cover the procurement of services.

New York*

State agencies

State university system

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Public authorities and public benefit corporations

1. For the entities listed for New York, this Chapter does not cover public authorities and public benefit corporations with multi-state mandates.
2. For the entities listed for New York, this Chapter does not cover the procurement of transit cars, buses, or related equipment.

Puerto Rico

Department of State
Department of Justice
Department of the Treasury
Department of Economic Development and Commerce
Department of Labor and Human Resources
Department of Natural and Environmental Resources
Department of Consumer Affairs
Department of Sports and Recreation

This Chapter does not cover the procurement of construction services.

Texas

Texas Building and Procurement Commission

This Chapter does not apply to preferences for: (1) motor vehicles; (2) travel agents located in Texas; or (3) rubberized asphalt paving made from scrap tires by a Texas facility.

Utah

Executive branch agencies

Notes to the Schedule of the United States

1. For the states marked by an asterisk (*), indicating pre-existing restrictions, this Chapter does not cover the procurement of construction-grade steel (including requirements on subcontracts), motor vehicles, or coal.
2. This Chapter does not apply to preferences or restrictions associated with programs promoting the development of distressed areas, or businesses owned by minorities, disabled veterans, or women.
3. Nothing in this Annex shall be construed to prevent any state entity from applying restrictions that promote the general environmental quality in that state, as long as such restrictions are not disguised barriers to international trade.
4. This Chapter does not cover any procurement made by a covered entity on behalf of non-covered entities at a different level of government.
5. This Chapter does not apply to restrictions attached to Federal funds for mass transit and highway projects.

Draft as of January 19, 2007
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6. This Chapter does not apply to the procurement of printing services.

7. A procuring entity of a state listed above (a “participating state”) may deny the benefits of this section to a supplier of Panama unless it meets one of the applicable conditions set out below.

a. Procurement of Goods:

- (i) The supplier is offering to supply a good of Panama, as determined under Article 9.2.3 of this Chapter [General Principles], and has a principal place of business in a sub-central governmental unit listed in the Schedule of Panama (a “participating unit”) or is directly or indirectly owned or controlled by an enterprise with a principal place of business in a participating unit; or
- (ii) The supplier is offering to supply a good that is substantially produced or assembled in one or more participating units. A good shall be considered to be substantially produced or assembled in a participating unit or units if the production or assembly in the participating unit or units accounts for 51 percent or more of the value of the good.

b. Procurement of Services Other Than Construction Services:

- (i) If the supplier is offering to supply a service, other than a construction service, the supplier has a principal place of business in a participating unit or is directly or indirectly owned or controlled by an enterprise with a principal place of business in a participating unit; or
- (ii) The supplier is offering to supply a service, other than a construction service, that is substantially performed within a participating unit or units. A service, other than a construction service, shall be considered to be substantially performed in a participating unit or units if the performance of the service in the participating unit or units accounts for 51 percent or more of the value of the service.

c. Procurement of Construction Services:

If the supplier is offering to supply construction services, the supplier has a principal place of business in a participating unit or is directly or indirectly owned or controlled by an enterprise with a principal place of business in a participating unit.

8. For purposes of paragraph 7, “principal place of business” means the headquarters or main office of an enterprise, or any other place where the enterprise's business is managed, conducted or operated.

9. A participating state shall allow a supplier to self-certify that it meets the conditions set out in paragraph 7. If the state considers the certification to be erroneous or unsubstantiated, the

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state shall, after consultations with the supplier, permit the supplier to challenge that determination in accordance with Article 9.15 of this Chapter (*Domestic Review Procedures*).

Section C: Other Government Entities

1. This Chapter applies to the other covered entities listed in each Party's Schedule to this Section where the value of the procurement is estimated, in accordance with paragraph 1 of Section I, to equal or exceed for procurement of:

- (a) goods and services of:
 - (i) List A entities, US\$250,000; or
 - (ii) List B entities, US\$593,000; and
- (b) construction services for List A and List B entities: US\$7,407,000.

The monetary thresholds set out in subparagraphs (a)(ii) and (b) shall be adjusted in accordance with Section I of this Annex.

2. Unless otherwise specified, this Chapter covers all agencies subordinate to the entities listed in each Party's Schedule.

Schedule of Panama

List A:

1. Autoridad de Aeronáutica Civil
2. Autoridad de la Micro Pequeña y Mediana Empresa
3. Autoridad de la Región Interoceánica
4. Autoridad del Tránsito y Transporte Terrestre (note 1)
5. Autoridad Marítima de Panamá
6. Autoridad Nacional del Ambiente
7. Banco de Desarrollo Agropecuario
8. Bingos Nacionales
9. Comisión de Libre Competencia y Asuntos del Consumidor
10. Comisión Nacional de Valores
11. Defensoría del Pueblo
12. Ente Regulador de los Servicios Públicos
13. Instituto de Investigación Agropecuaria
14. Instituto de Mercadeo Agropecuario
15. Instituto de Seguro Agropecuario
16. Instituto Nacional de Cultura
17. Instituto Nacional de Deportes
18. Instituto Nacional de Formación Profesional
19. Instituto Panameño Autónomo Cooperativo
20. Instituto Panameño de Habilitación Especial
21. Instituto Panameño de Turismo
22. Instituto para la Formación y Aprovechamiento de Recursos Humanos
23. Registro Público de Panamá

Draft as of January 19, 2007
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24. Sistema de Ahorro y Capitalización de Pensiones (SIACAP)
25. Superintendencia de Bancos
26. Universidad Autónoma de Chiriquí
27. Universidad Especializada de las Américas
28. Universidad Tecnológica de Panamá
29. Zona Libre de Colón
30. Empresa de Transmisión Eléctrica
31. Instituto de Acueductos y Alcantarillados Nacionales

Notes to the Schedule of Panama

1. Autoridad del Tránsito y Transporte Terrestre: This Chapter does not cover: the procurement of license plates or identification stickers for motor vehicles and bicycles.
2. Exceptions to coverage set forth in Section H apply to this Section.

Schedule of the United States

List A:

1. Tennessee Valley Authority
2. Bonneville Power Administration
3. Western Area Power Administration
4. Southeastern Power Administration
5. Southwestern Power Administration
6. St. Lawrence Seaway Development Corporation

List B:

Rural Utilities Service (*Note 1*)

Notes to the Schedule of the United States

1. The Rural Utilities Service agrees to:
 - (a) waive federal buy national requirements imposed as conditions of funding for all power generation projects; and
 - (b) apply procurement procedures equivalent to the procedures in the WTO Agreement on Government Procurement and national treatment to funded projects exceeding the thresholds specified above.

For greater certainty, this Chapter does not apply to any other aspect of procurement by the Rural Utilities Service, including any restrictions the Rural Utilities Service places on financing for telecommunications projects.

2. With respect to procurement by entities listed in this Section, this Chapter does not apply to restrictions attached to Federal funds for airport projects.

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Section D: Autoridad Del Canal De Panamá

This Chapter applies to procurements by the Autoridad del Canal de Panamá where the value of the procurement is estimated, in accordance with Section I of this Annex, to equal or exceed the following relevant threshold:

- (a) Goods and services: US\$ 593,000; and
- (b) Construction services: US\$ 12,000,000 for 12 years after entry into force of this Agreement, and then US\$ 10.3 million.

The monetary thresholds set out in this Section shall be adjusted in accordance with Section I of this Annex.

Unless otherwise specified within this Section, this Chapter covers all agencies subordinate to this entity.

Notes to this Section

1. This Chapter shall not apply to procurement measures of the Autoridad del Canal de Panamá designed to promote micro, small and medium enterprises, in accordance with the following:

- (a) A “micro, small and medium enterprise” is defined, for purposes of this Annex, as a business that has 100 or fewer employees and total annual sales of no more than US\$2.5 million;
- (b) The Autoridad del Canal de Panamá may award Panamanian micro, small and medium enterprises a price preference that shall not exceed ten percent in tenders covered by this Chapter;
- (c) Further to Article 9.3, the Republic of Panamá shall notify the United States of the establishment of any price preference program initiated under sub-paragraph (b); and
- (d) The price preference shall be clearly described in the notice of intended procurement or notice inviting suppliers to participate in the procurement and relevant tender documentation.

2. Notwithstanding any other provision of this Chapter, for each of the 12 full fiscal years following the entry into force of this Agreement, the Autoridad del Canal de Panamá may, at its discretion, set aside from the obligations of this Chapter procurement contracts for goods, services, and construction services subject to the following:

- (a) the set-asides are for Panamanian nationals or suppliers owned and controlled by Panamanian nationals;

Draft as of January 19, 2007

Subject to legal review for accuracy, clarity, and consistency.

- (b) the set asides provided for in this paragraph may be applied only when the total value of the Autoridad del Canal de Panamá's procurement for a fiscal year exceeds US\$200 million;
- (c) the total value of the procurement contracts that the Autoridad del Canal de Panamá sets aside pursuant to this paragraph in each fiscal year may not exceed 10 percent of the total value of its procurement contracts for goods and services, and any combination thereof, and construction services awarded in the fiscal year that are:
 - (i) covered by the Chapter; and
 - (ii) in excess of the US\$200 million base for the fiscal year;
- (d) the total value of procurement contracts under any single CPC 1.0 section that may be set aside under this paragraph in any fiscal year may not exceed 20 percent of the total value of the procurement contracts that may be set aside under this paragraph for that year;
- (e) in the event that the total value of the procurement contracts set aside by the Autoridad del Canal de Panamá exceeds in any given fiscal year the level permitted under this paragraph, the Parties, in conjunction with the Autoridad del Canal de Panamá, shall consult with a view to agreement on adjustment in the form of the reduction of set-asides during the following fiscal year;
- (f) where a procurement contract will be set aside pursuant to this paragraph, that information shall be clearly indicated in the notice of intended procurement or notice inviting suppliers to participate in the procurement and relevant tender documentation;
- (g) if the Autoridad del Canal de Panamá proposes to apply set-asides after the 12-year period referenced in this paragraph, it shall so inform the Parties in the 9th year in which the set asides may be applied. The Parties, in conjunction with the Autoridad del Canal de Panamá, shall consult regarding the proposal to extend the time for application of set-asides, and, if they agree, the Autoridad del Canal de Panamá, may continue to apply set asides pursuant to this paragraph in the additional period agreed upon; and
- (h) an annual report shall be prepared with sufficient detail to establish that the set-asides have been applied in accordance with this paragraph.

3. The minimum 40-day time period set out in Article 9.5.1 shall not apply to the Autoridad del Canal de Panamá. The Autoridad del Canal de Panamá shall provide suppliers sufficient time to prepare and submit responsive tenders, taking into account the nature and complexity of the procurement. However, the Autoridad del Canal de Panamá shall in no case provide for less than five business days from the date on which the notice of intended procurement is published on the Internet to the final date for the submission of tenders.

Draft as of January 19, 2007
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4. Article 9.15.2 shall not apply to the Autoridad del Canal de Panamá.
5. Notwithstanding Article 9.15.6(a), the Autoridad del Canal de Panamá shall provide no less than five business days for suppliers to prepare and submit written challenges, with the understanding that the period shall commence on the first business day that follows the publication of the announcement of the contract award on the Internet.
6. The procurements of the Autoridad del Canal de Panamá shall be excluded from the application of Annex 20.2 (Nullification or Impairment) of Chapter 20 (Dispute Settlement).

Exceptions to coverage set forth in Section H apply to this Section.

Section E: Goods

This Chapter applies to all goods procured by the entities listed in Sections A through D for each Party, subject to the Notes to the respective Sections and the General Notes of each Party.

Section F: Services

This Chapter applies to all services procured by the entities listed in Sections A through D, subject to the Notes to the respective Sections, the General Notes, and the Notes to this Section, except for the services excluded in the Schedules of each Party. All services covered by this Section are subject to the existing measures listed in each Party's Schedules to Annex [] [(Investment), [] (Services), and [] (Financial Services)].

Schedule of Panama

This Chapter does not cover the procurement of the following services, as elaborated in the **United Nations Central Product Classification (CPC version 1.0)**.

Code	CCP version 1.0. Description
64	Land transport services
66	Air transport services.
6751	Bus station services.
6781	Travel agency and tour operator services.
68111	Postal services related to letters
68112	Postal services related to parcels
68113	Post office counter services

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68119	Other postal services
6911	Electricity transmission and distribution services
692	Water distribution services through mains
81	Research and development services.
91	Public administration and other services to the community as a whole; compulsory social security services.
92	Education Services.
93	Health and social services.
9692	Gambling and betting services.
D304	ADP Telecommunications and Transmission Services, except for those services classified as “enhanced or value-added services.” For the purposes of this provision, the procurement of “ADP Telecommunications and Transmission Services” does not include the ownership or furnishing of facilities for the transmission of voice or data
D305	Teleprocessing and Timesharing Services
D316	Telecommunications Network Management Services.
D317	Automated News Services, Data Services or Other Information Services.
D399	Other ADP and Telecommunications Services.
M	Operation of Government-Owned Facilities

Notes to the Schedule of Panama

Exceptions to coverage set forth in Section G apply to this Section.

Schedule of the United States

This Chapter does not cover the procurement of the following services, as elaborated in the Common Classification System (*for complete listing of Common Classification System, see <http://www.sice.oas.org/trade/nafta/chap-105.asp>*):

- A. **Research and Development**
All classes

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- D. Information Processing and Related Telecommunications Services**
D304 ADP Telecommunications and Transmission Services, except for those services classified as “enhanced or value-added services.” For the purposes of this provision, the procurement of “ADP Telecommunications and Transmission Services” does not include the ownership or furnishing of facilities for the transmission of voice or data services.
D305 ADP Teleprocessing and Timesharing Services
D316 Telecommunications Network Management Services
D317 Automated News Services, Data Services or Other Information Services
D399 Other ADP and Telecommunications Services
- J. Maintenance, Repair, Modification, Rebuilding and Installation of Goods/Equipment**
J019 Maintenance, Repair, Modification, Rebuilding and Installation of Equipment Related to Ships
J998 Non-nuclear Ship Repair
- M. Operation of Government-Owned Facilities:** All facilities operated by the Department of Defense, Department of Energy and the National Aeronautics and Space Administration; and for all entities:
M180 Research and Development facilities
- S. Utilities:** All Classes
- V. Transportation, Travel and Relocation Services:** All Classes except V503 Travel Agent Services

Notes to the Schedule of the United States

1. This Chapter does not cover the procurement of any service in support of military forces overseas.

Section G: Construction Services

This Chapter applies to all construction services procured by the entities listed in Sections through D, subject to the Notes to the respective Sections and the General Notes. [All services covered by this Section are subject to the existing measures listed in each Party’s Schedules to Annex [] (Investment), [] (Services), and [] (Financial Services)].

Schedule of Panama

This Chapter does not cover the procurement of dredging services.

Note to the Schedule of Panama

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Exceptions to coverage set forth in Section H apply to this Section.

Schedule of the United States

This Chapter does not cover the procurement of dredging services.

Section H: 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 Panama

This Chapter shall not apply to:

1. Procurements made under the system of concessions granted by the State, others than public works concession contracts.
2. Procurement measures designed to promote micro, small and medium enterprises, in accordance with the following:
 - (a) A "micro, small and medium enterprise" is defined, for purposes of this Annex, as a business that has 100 or fewer employees and total annual sales of no more than US\$2.5 million;
 - (b) The Republic of Panama may award its micro, small and medium enterprises a price preference, for a period of up to five years, that shall not exceed ten percent in tenders covered by this Chapter;
 - (c) Further to Article 9.3, the Republic of Panama shall notify the United States of the establishment of any price preference program initiated under sub-paragraph (b);
 - (d) The price preference shall be clearly described in the notice of intended procurement or notice inviting suppliers to participate in the procurement and relevant tender documentation;
 - (e) If, before the end of the five-year period referred to in subparagraph (b), the Republic of Panama proposes to extend the price preference program, the Parties shall consult to determine whether there is a need to extend the price preference program, and if they agree that there is such a need, to determine the terms and conditions of the extension; and
 - (f) If following the entry into force of this Agreement, the Republic of Panama proposes to implement a procurement measure that is intended to provide an exclusive right for its micro, small and medium enterprises to provide a good or service covered by this Agreement, the Republic of Panama shall consult with the United States, and if both Parties agree on the need, terms and conditions for such a measure, the Republic of Panama may implement the measure.

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3. Procurements of agricultural products linked to agricultural development and support and food aid programs.
4. Procurements made by a Panamanian entity to another Panamanian entity.
5. Procurement of transportation services that form a part of, or are incidental to, a procurement contract.

Schedule of the United States

1. This Chapter does not apply to set asides on behalf of small or minority businesses. Set-asides include any form of preference, such as the exclusive right to provide a good or service and price preferences.
2. This Chapter does not apply to the procurement of transportation services that form a part of, or are incidental to, a procurement contract.

Section I: Threshold Adjustment Formula

1. In calculating the value of a contract for the purpose of ascertaining whether a procurement is covered by this Chapter, a procuring entity shall include the maximum total estimated value of the procurement over its entire duration, taking into account all options, premiums, fees, commissions, interest, and other revenue streams, or other forms of remuneration provided for in such contracts.
2. The thresholds in Sections A through D shall be adjusted at two-year intervals with each adjustment taking effect on January 1, beginning on January 1, 2008.
3. The thresholds for goods and services for Section A entities and List B entities in Section C and construction services for Sections A through C are conversions into U.S. dollars of the thresholds listed in the U.S. Appendix 1 to the World Trade Organization Agreement on Government Procurement, which are set out in Special Drawing Rights (SDRs) and listed below. Every two years, the United States shall calculate the adjustment of these thresholds, based on an average of the daily conversion rates of the U.S. dollar in terms of SDRs published by the IMF in its monthly "International Financial Statistics," for the two-year period preceding October 1 or November 1 of the year before the adjusted thresholds are to take effect:
 - (a) 130,000 SDRs for goods and services for Section A entities;
 - (b) 355,000 SDRs for goods and services for Section B entities;
 - (c) 400,000 SDRs for goods and services for Section C List B entities; and
 - (d) 5 million SDRs for construction services.
4. The United States shall notify Panama of the adjusted threshold values by December 15 of the year before the adjusted thresholds take effect.

Section J: Transition Mechanisms

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Panama shall make best efforts to comply with the obligations listed in its Schedule to this Section during the two years following the date of entry into force of this Agreement. The Notes to Panama's Schedule shall apply during this two-year period. Thereafter, Panama shall fully comply with these obligations.

Schedule of Panama

1. Article 9.5.1 (40 days time limit for the tendering process) (Note 1)
2. Article 9.13 (establishment and maintenance of systems that declare a supplier ineligible for participation) (Note 2)

Notes

1. Article 9.5.1: For the tendering process set out in Article 9.5.1, Panama shall provide at least 30 (thirty) days for suppliers to submit tenders following the publication of the notice of intended procurement.
2. Article 9.13: Panama shall not adopt any measure that weakens its current practice with respect to Article 9.13.