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 paragraphs 9 and 10 of Article 9.1, to equal or exceed:

   (a) for procurement of goods and services: US$64,786; and

   (b) for procurement of construction services:

      (i) US$7,407,000; or

      (ii) for Colombia, during the three-year period following the date of entry into force of this Agreement, the higher of US$7,407,000, as adjusted in accordance with Section I of this Annex, or US$8,000,000.

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

Schedule of Colombia

Executive Branch
1. Departamento Administrativo de la Presidencia de la República
2. Ministerio del Interior y de Justicia
3. Ministerio de Relaciones Exteriores
4. Ministerio de Hacienda y Crédito Público
5. Ministerio de Defensa Nacional (Note 2)
6. Ministerio de Agricultura y Desarrollo Rural (Note 3)
7. Ministerio de Protección Social (Note 4)
8. Ministerio de Minas y Energía (Note 5)
9. Ministerio de Comercio, Industria y Turismo
10. Ministerio de Educación Nacional
11. Ministerio de Ambiente, Vivienda y Desarrollo Territorial
12. Ministerio de Comunicaciones
13. Ministerio del Transporte (Note 6)
14. Ministerio de Cultura
15. Departamento Nacional de Planeación
16. Departamento Administrativo de Seguridad
17. Departamento Administrativo de la Función Pública
18. Departamento Administrativo Nacional de Estadísticas
19. Departamento Administrativo Nacional de Economía Solidaria
Legislative Branch
20. Senado de la República
21. Cámara de Representantes

Judicial Branch
22. Consejo Superior de la Judicatura
23. Fiscalía General de la Nación

Control Agencies
24. Contraloría General de la República
25. Auditoría General de la República
26. Procuraduría General de la Nación
27. Defensoría del Pueblo

Electoral Organization
28. Registraduría Nacional del Estado Civil (Note 7)

Notes to Schedule of Colombia

1. Unless otherwise specified herein, this Chapter applies to the “superintendencias”, “unidades administrativas especiales”, and “establecimientos públicos” of the entities listed in Colombia’s Schedule in this Section.

2. **Ministerio de Defensa Nacional**: This Chapter does not cover the procurement of goods classified under Section 2 (food products, beverages and tobacco; textiles, apparel and leather products) of the United Nations Central Product Classification 1.0 (CPC version 1.0) for the Comando General de las Fuerzas Armadas, Ejército Nacional, Armada Nacional, Fuerza Aérea Colombiana, and the Policía Nacional.

3. **Ministerio de Agricultura y Desarrollo Rural**: This Chapter does not cover the procurement of food, agricultural raw materials or inputs, and live animals related to agricultural support programs and food assistance.

4. **Ministerio de Protección Social**: This Chapter does not cover the procurement by the Instituto Colombiano de Bienestar Familiar (ICBF) of goods classified under Section 2 (food products, beverages and tobacco; textiles, apparel and leather products) of the CPC version 1.0 for social assistance programs.

5. **Ministerio de Minas y Energía**: This Chapter does not cover the procurement of nuclear materials and technology by the Instituto Colombiano de Geología y Minería (INGEOMINAS).

6. **Ministerio del Transporte**: This Chapter does not cover procurement by the Unidad Administrativa Especial de Aeronáutica Civil (AEROCIVIL).

7. **Registraduría Nacional del Estado Civil**: This Chapter does not cover procurement for the
preparation and conduct of elections.

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
Federal Prison Industries, Inc.
Federal Reserve System
Federal Retirement Thrift Investment Board
Federal Trade Commission
General Services Administration (Note 8)
Government National Mortgage Association
Holocaust Memorial Council
Inter-American Foundation
Merit Systems Protection Board
National Aeronautics and Space Administration (NASA)
National Archives and Records Administration
National Capital Planning Commission
National Commission on Libraries and Information Science
National Council on Disability
National Credit Union Administration
National Foundation on the Arts and the Humanities
National Labor Relations Board
National Mediation Board
National Science Foundation
National Transportation Safety Board
Nuclear Regulatory Commission
Occupational Safety and Health Review Commission
Office of Government Ethics
Office of the Nuclear Waste Negotiator
Office of Personnel Management
Office of Special Counsel
Office of Thrift Supervision
Overseas Private Investment Corporation
Peace Corps
Railroad Retirement Board
Securities and Exchange Commission
Selective Service System
Small Business Administration
Smithsonian Institution
Susquehanna River Basin Commission
United States Agency for International Development
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 the United States’ Schedule in this Section.

2. Department of Agriculture: This Chapter does not cover the procurement of agricultural goods made in furtherance of agricultural support programs or human feeding programs.
3. **Department of Commerce**: This Chapter does not cover shipbuilding activities of the U.S. National Oceanic and Atmospheric Administration (NOAA).

4. **Department of Defense**:

   (a) This Chapter does not cover the procurement of the goods listed below (for complete listing of U.S. Federal Supply Classification, see http://www.fedbizopps.gov/classCodes1html):

   - 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, flagstaffs, 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)

   (ii) “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
(b) The goods in the following FSC categories are not generally covered by this Chapter due to application of Article 22.2 (Essential Security):

- 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

5. **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.

6. **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.

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

8. **General Services Administration**: This Chapter does not cover procurement of the goods in the following FSC categories:

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

**Section B: Sub-Central Level of Government Entities**

1. This Chapter applies to the entities of the sub-central level of government listed in each Party’s Schedule to this Section where the value of the procurement is estimated, in accordance with paragraphs 9 and 10 of Article 9.1, to equal or exceed:
(a) for procurement of goods and services, US$ 526,000; and

(b) for procurement of construction services:

(i) US$ 7,407,000; or

(ii) for Colombia, during the three-year period following the date of entry into force of this Agreement, the higher of US$7,407,000, as adjusted in accordance with Section I of this Annex, or US$8,000,000.

The monetary thresholds set out in subparagraphs (a) and (b)(i) 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 each Party’s Schedule to this Section (paragraph 2 and 3 of the Schedule of Colombia and paragraphs 7 and 8 of the Schedule of the United States).

3. For purposes of this Section:

(a) “participating state” means a state listed in the Schedule of the United States;

(b) “participating Gobernación” means a Gobernación listed in the Schedule of Colombia; and

(c) “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.

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

Schedule of Colombia

1. Gobernación del Departamento de Amazonas
2. Gobernación del Departamento de Antioquia
3. Gobernación del Departamento de Arauca
4. Gobernación del Departamento de Atlántico
5. Gobernación del Departamento de Bolívar
6. Gobernación del Departamento de Boyacá
7. Gobernación del Departamento de Caldas
8. Gobernación del Departamento de Caquetá
9. Gobernación del Departamento de Casanare
10. Gobernación del Departamento de Cauca
11. Gobernación del Departamento de César
12. Gobernación del Departamento de Choco
13. Gobernación del Departamento de Córdoba
14. Gobernación del Departamento de Cundinamarca  
15. Gobernación del Departamento de Guainía  
16. Gobernación del Departamento de Guaviare  
17. Gobernación del Departamento de Huila  
18. Gobernación del Departamento de La Guajira  
19. Gobernación del Departamento de Magdalena  
20. Gobernación del Departamento de Meta  
21. Gobernación del Departamento de Nariño  
22. Gobernación del Departamento de Norte de Santander  
23. Gobernación del Departamento de Putumayo  
24. Gobernación del Departamento de Quindío  
25. Gobernación del Departamento de Risaralda  
26. Gobernación del Departamento de San Andrés y Providencia  
27. Gobernación del Departamento de Santander  
28. Gobernación del Departamento de Sucre  
29. Gobernación del Departamento de Tolima  
30. Gobernación del Departamento de Valle  
31. Gobernación del Departamento de Vaupés  
32. Gobernación del Departamento de Vichada

Notes to the Schedule of Colombia

1. This Chapter does not cover:

   (a) Procurements of food, agricultural raw materials/inputs, and live animals related to 
       agricultural support programs and food assistance;

   (b) Procurements of goods classified under Section 2 (food products, beverages and tobacco; 
       textiles, apparel and leather products) of the CPC version 1.0 for social assistance 
       programs; or

   (c) Procurements made by a covered entity on behalf of a non-covered entity at a different 
       level of government.

2. A participating Gobernación may deny the benefits of this Section to a supplier of the United 
   States unless the supplier meets one or more of the conditions set out in subparagraphs (a) through (c).

   a. Procurement of Goods:

      (i) The supplier is offering to supply a good of the United States, as determined 
          under Article 9.2.4 of this Chapter, and 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

      (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(s) if the production or assembly in the participating state(s) accounts for 51 percent or more of the value of the good.

b. Procurement of Services Other Than Construction Services:

(i) The supplier is offering to supply a service, other than a construction service, and 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

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

c. Procurement of Construction Services: The supplier is offering to supply construction services, and 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.

3. A participating Gobernación shall allow a supplier to self-certify that it meets one or more of the conditions set out in paragraph 2. If the participating Gobernación considers the certification to be erroneous or unsubstantiated, it shall, after consultations with the supplier, permit the supplier to challenge that determination in accordance with Article 9.11 of this Chapter.

Schedule of the United States

Arkansas
Executive branch agencies, including universities
For the entities listed for Arkansas, this Chapter does not cover procurement by the Office of Fish and Game or of 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
Public authorities and public benefit corporations
1. For the entities listed for New York, this Chapter does not cover procurement by 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
For the entities listed for Puerto Rico, this Chapter does not cover the procurement of construction services.

Texas
Texas Building and Procurement Commission
For the entity listed for Texas, 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.
This Chapter does not cover any procurement made by a covered entity on behalf of a non-covered entity at a different level of government.

This Chapter does not apply to restrictions attached to Federal funds for mass transit and highway projects.

This Chapter does not apply to the procurement of printing services.

A procuring entity of a participating state may deny the benefits of this Section to a supplier of Colombia unless it meets one or more of the conditions set out in subparagraphs (a) through (c).

a. Procurement of Goods:
   (i) The supplier is offering to supply a good of Colombia, as determined under Article 9.2.4 of this Chapter, and has a principal place of business in a participating Gobernación or is directly or indirectly owned or controlled by an enterprise with a principal place of business in a participating Gobernación; or
   (ii) The supplier is offering to supply a good that is substantially produced or assembled in one or more participating Gobernación. A good shall be considered to be substantially produced or assembled in a participating Gobernación(s) if the production or assembly in the participating Gobernación(s) accounts for 51 percent or more of the value of the good.

b. Procurement of Services Other Than Construction Services:
   (i) The supplier is offering to supply a service, other than a construction service, and the supplier has a principal place of business in a participating Gobernación or is directly or indirectly owned or controlled by an enterprise with a principal place of business in a participating Gobernación; or
   (ii) The supplier is offering to supply a service, other than a construction service, that is substantially performed within a participating Gobernación(s). A service, other than a construction service, shall be considered to be substantially performed in a participating Gobernación(s) if the performance of the service in the participating Gobernación(s) accounts for 51 percent or more of the value of the service.

c. Procurement of Construction Services: The supplier is offering to supply construction services, and the supplier has a principal place of business in a participating Gobernación or is directly or indirectly owned or controlled by an enterprise with a principal place of business in a participating Gobernación.

A procuring entity of a participating state shall allow a supplier to self-certify that it meets the
conditions set out in paragraph 7. If the procuring entity of a participating state considers the certification to be erroneous or unsubstantiated, the state shall, after consultations with the supplier, permit the supplier to challenge that determination in accordance with Article 9.11 of this Chapter.

Section C: Other Covered 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 paragraphs 9 and 10 of Article 9.1, to equal or exceed:

   (a) for procurement of goods and services:

      (i) by List A entities, US$250,000 or

      (ii) by List B entities, US$593,000; and

   (b) for procurement of construction services by List A and List B entities:

      (i) US$7,407,000; or

      (ii) for Colombia, during the three-year period following the date of entry into force of this Agreement, the higher of US$7,407,000, as adjusted in accordance with Section I of this Annex, or US$8,000,000.

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

2. Unless otherwise specified herein, this Chapter covers only the entities listed in this Section.

Schedule of Colombia

List A

1. Agencia Logistica de las Fuerzas Militares (Note 1)
2. Fondo Rotatorio de la Policía Nacional (Note 1)
3. Fondo Rotatorio del Departamento Administrativo de Seguridad (Note 1)
4. Instituto de Casas Fiscales del Ejercito
5. Dirección de Impuestos y Aduanas Nacionales (DIAN)
6. Instituto Colombiano del Deporte (COLDEPORTES)
7. Instituto Colombiano Para el Desarrollo de la Ciencia y la Tecnología Francisco José de Caldas (COLCIENCIAS)
8. Instituto Colombiano para el Fomento de la Educación Superior (ICFES)
9. Instituto Nacional Penitenciario y Carcelario (INPEC)
10. Servicio Nacional de Aprendizaje (SENA)
11. Comisión de Regulación de Energía y Gas (CREG)
12. Unidad de Planeación Minero Energética (UPME)
13. Administración Postal Nacional (ADPOSTAL)
14. Caja de Previsión Social de Comunicaciones (CAPRECOM)
15. Caja Nacional de Previsión Social (CAJANAL)
16. Empresa Territorial para la Salud (ETESA)
17. Imprenta Nacional de Colombia
18. Industria Militar (INDUMIL)
19. Instituto de Seguros Sociales (ISS)
20. Radio Televisión Nacional de Colombia (RTVC)
21. Servicio Aéreo a Territorios Nacionales (SATENA)
22. Empresa Colombiana de Petroleos, S.A. (ECOPETROL) (Notes 2 through 6)

Notes to Schedule of Colombia

1. Agencia Logística de las Fuerzas Militares, Fondo Rotatorio de la Policía Nacional, and Fondo Rotatorio del Departamento Administrativo de Seguridad: This Chapter does not cover procurement of goods classified under Section 2 (food products, beverages and tobacco; textiles, apparel and leather products) of the CPC version 1.0 by the entities listed for the Comando General de las Fuerzas Armadas, Ejército Nacional, Armada Nacional, Fuerza Aérea Colombiana, and the Policía Nacional.

2. Empresa Colombiana de Petroleos, S.A. (ECOPETROL): ECOPETROL shall apply the procedures in this Chapter or equivalent procedures in the conduct of its procurement. This Chapter does not cover the procurement of the following services:
   (a) CPC 632 Food serving services
   (b) CPC 642 Road transport services
   (c) CPC 852 Investigation and surveillance services
   (d) CPC 82211 Financial auditing services
   (e) CPC 712 Investment banking services
   (f) CPC 713 Insurance and pension services (excluding reinsurance services), except compulsory social security services
   (g) CPC 715 Services auxiliary to financial intermediation other than to insurance and pensions

3. The minimum 40-day time period set out in Article 9.5.2 shall not apply to ECOPETROL. ECOPETROL shall provide suppliers sufficient time to prepare and submit responsive tenders, taking into account the nature and complexity of the procurement. However, ECOPETROL shall in no case provide for less than ten business days from the date on which the notice of intended procurement is published to the final date for the submission of tenders.

4. For greater certainty, Article 9.7.1(c) does not preclude ECOPETROL’s requirement of relevant prior experience as a condition for participation in a procurement where essential to meet the requirements of the procurement.
5. Notwithstanding Article 9.8.1(c), ECOPETROL may use limited tendering in accordance with Article 9.8 for additional deliveries of a good or service that is intended either as a replacement part, extension, or continuing service for existing equipment, software, services or installations, where a change in the good or service would compel ECOPETROL to procure a good or a service that does not meet requirements of interchangeability with existing equipment, software, services, or installations.

6. When, under Colombian Law, ECOPETROL:

   (a) is no longer subject to the requirements of the government procurement law of Colombia (the Estatuto de Contratación Pública or any successor law), and

   (b) is required to conduct its procurement under private law, in a transparent manner, and in accordance with commercial considerations,

Colombia shall notify the United States and provide relevant documentation verifying that ECOPETROL meets the conditions set out in subparagraphs (a) and (b). Colombia shall also certify that ECOPETROL will comply with the conditions for a Special Covered Entity. Unless the United States notifies Colombia of any concern regarding the documentation within 30 days of its receipt, the Parties shall modify the relevant sections of the Annex to move ECOPETROL from Section C to Section D.

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 Schedule of the United States

1. The Rural Utilities Service shall:

   (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.

Section D: Special Covered Entities

1. For purposes of this Chapter, a Special Covered Entity is an entity of the Government of Colombia that:

   (a) is not subject to the requirements of the government procurement law of Colombia (the Estatuto de Contratación Pública or any successor law); and

   (b) conducts its procurement under private law, in a transparent manner, in accordance with commercial considerations, and without any control or influence by the Government of Colombia.¹

2. This Section applies to the following Special Covered Entities of the Government of Colombia:

   (a) Interconexion Electrica S.A. (ISA)
   (b) ISAGEN
   (c) Colombia Telecomunicaciones

Notes

1. The only provisions of this Chapter that apply to the Special Covered Entities listed in this Section are paragraphs 1 and 2 of Article 9.2.

Section E: Goods

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

¹ For greater certainty, appointment of any member of the Board of Directors of an entity by the President of Colombia or by another Colombian government official or entity, ownership of a majority or all of the shares of an entity by the Government of Colombia, or auditing requirements related to the entity, do not constitute “control or influence by the Government of Colombia” with respect to the entity’s procurement.
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.

Schedule of Colombia

This Chapter does not cover the procurement of the following services, as elaborated in the Central Product Classification Version 1.0. (For complete listing of Central Product Classification Version 1.0, see http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=3):

1. Research and Development Services
   Division 81 Research and development services
   Group 835 Scientific and other technical services
   Data processing (8596) and trade fair and exhibition organization (8597), required for carrying out scientific and technological activities

2. Engineering and Architectural Services
   Class 8321 Architectural services.
   Class 8334 Engineering design services
   Class 8335 Engineering services during the construction and installation phase

3. Utilities
   Division 69 Electricity distribution services; gas and water distribution services through mains
   Division 94 Sewer and refuse disposal, sanitation, and other environmental protection services
   Basic telecommunication services (not including value-added telecommunication services)

4. Social Services
   Division 91 Public administration and other services for the general public; compulsory social security services
   Division 92 Education services
   Group 931 Human health services

5. Printing Services

6. Production of television programs
   Subclass 96121 Motion picture, video and television program production services

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
A. **Research and Development**
   All classes

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 purchased in support of military forces overseas.

**Section G: Construction Services**

This Chapter applies to all construction 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.

**Schedule of Colombia**

Notwithstanding any other provision of this Chapter, a procuring entity of Colombia, in a procurement of construction services for the construction, maintenance, or rehabilitation of roads and highways, may apply a condition relating to the hiring of local personnel in rural areas in order to promote employment and improve living conditions in such areas.

**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 Colombia**

1. This Chapter does not apply to the procurements of goods or services by a Colombian entity from another Colombian entity.

2. This Chapter does not apply to the renting or acquisition of real estate.

3. This Chapter does not apply to set-asides of procurements below $125,000 on behalf of Micro, Small and Medium-sized Companies (MIPYMES). The set-asides include any form of preference, such as the exclusive right to provide a good or a service and measures conducive to facilitate the transfer of technology and sub-contracting.

4. This Chapter does not apply to procurements under programs of reintegration to civil life as a result of peace processes, to aid to persons displaced due to violence, to support those living in conflict zones, and general programs resulting from the resolution of the armed conflict.

5. This Chapter does not apply to procurements by the missions of the foreign service of the Republic of Colombia exclusively for their operation and management.

6. This Chapter does not apply to the procurement of goods required to conduct research and development services.
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. Where a contract is to be awarded by an entity that is not listed in Section A, B or C, this Chapter shall not be construed to cover any good or service component of that contract.

3. 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. The thresholds shall be adjusted at two-year intervals with each adjustment taking effect on January 1, beginning on January 1, 2008.

2. With regard to the threshold for procurement of goods and services in Section A, the United States shall calculate the U.S. dollar value for each threshold every two years, based on the U.S. inflation rate measured by the Producer Price Index for Finished Goods published by the U.S. Bureau of Labor Statistics, using the two-year period that ends on October 31 in the year prior to the adjustment taking effect, and using the following formula:

\[ T_0 \times (1 + \Pi_i) = T_1 \]

- \( T_0 \) = threshold value at base period
- \( \Pi_i \) = accumulated U.S. inflation rate for the \( i^{th} \) two-year period
- \( T_1 \) = new threshold value

3. The thresholds for procurement of goods and services by entities in Section B and List B entities in Section C and for procurement of construction services in 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 adjustments of these thresholds for purposes of paragraph 1 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) 355,000 SDRs for goods and services for Section B entities;
- (b) 400,000 SDRs for goods and services for Section C, List B entities, paragraph 1(a)(ii); and
(c) 5 million SDRs for construction services for Section A, B, and C entities.

4. The United States shall notify Colombia of the adjusted threshold values in December of the year before the adjusted thresholds take effect.

5. Colombia shall:

   (a) convert the adjusted threshold values notified by the United States under paragraph 3 into Colombian pesos based on the official conversion rate of its central bank, using the average of the daily values of its currency in terms of the U.S. dollar over the two-year period ending September 30 of the year in which the United States notifies the adjusted threshold; and

   (b) promptly notify the United States of the value in its currency of the adjusted thresholds.

6. The Parties shall consult if any major change in a national currency vis-à-vis the other currency creates a significant problem with regard to the application of this Chapter.