

## ANNEX 15-A

### SCHEDULE OF THE UNITED STATES

#### SECTION A: Central Government Entities

##### *Thresholds:*

1. Chapter 15 (Government Procurement) shall apply to the entities of the central level of government listed in this Section where the value of the procurement is estimated, in accordance with Article 15.2.8 (Scope) and Article 15.2.9, to equal or exceed:

- (a) for procurement of goods and services: 130,000 SDRs; and
- (b) for procurement of construction services: 5,000,000 SDRs.

The thresholds set out in this paragraph shall be adjusted in accordance with Section H of this Schedule.

2. Unless otherwise specified herein, Chapter 15 (Government Procurement) shall apply to all agencies subordinate to the entities listed in this Section.

##### *List of Entities:*

- 1. Advisory Council on Historic Preservation
- 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 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. Court Services and Offender Supervision Agency for the District of Columbia
- 13. Delaware River Basin Commission
- 14. Denali Commission
- 15. Department of Agriculture (Note 1)
- 16. Department of Commerce (Note 2)
- 17. Department of Defense (Note 3)

18. Department of Education
19. Department of Energy (Note 4)
20. Department of Health and Human Services
21. Department of Homeland Security (Note 5)
22. Department of Housing and Urban Development
23. Department of the Interior, including the Bureau of Reclamation
24. Department of Justice
25. Department of Labor
26. Department of State
27. Department of Transportation (Note 6)
28. Department of the Treasury
29. Department of Veterans Affairs
30. Environmental Protection Agency
31. Equal Employment Opportunity Commission
32. Executive Office of the President
33. Export-Import Bank of the United States
34. Farm Credit Administration
35. Federal Communications Commission
36. Federal Crop Insurance Corporation
37. Federal Deposit Insurance Corporation
38. Federal Election Commission
39. Federal Energy Regulatory Commission
40. Federal Home Loan Mortgage Corporation
41. Federal Housing Finance Agency
42. Federal Labor Relations Authority
43. Federal Maritime Commission
44. Federal Mediation and Conciliation Service
45. Federal Mine Safety and Health Review Commission
46. Federal Prison Industries, Inc.
47. Federal Reserve System
48. Federal Retirement Thrift Investment Board
49. Federal Trade Commission
50. General Services Administration (Note 7)
51. Government National Mortgage Association
52. Holocaust Memorial Council
53. Inter-American Foundation
54. Merit Systems Protection Board
55. Millennium Challenge Corporation
56. National Aeronautics and Space Administration
57. National Archives and Records Administration
58. National Assessment Governing Board
59. National Capital Planning Commission
60. National Council on Disability
61. National Credit Union Administration
62. National Endowment for the Arts
63. National Endowment for the Humanities
64. National Foundation on the Arts and the Humanities

65. National Labor Relations Board
66. National Mediation Board
67. National Science Foundation
68. National Transportation Safety Board
69. Nuclear Regulatory Commission
70. Occupational Safety and Health Review Commission
71. Office of Government Ethics
72. Office of Personnel Management
73. Office of Special Counsel
74. Overseas Private Investment Corporation
75. Peace Corps
76. Railroad Retirement Board
77. Securities and Exchange Commission
78. Selective Service System
79. Small Business Administration
80. Smithsonian Institution
81. Social Security Administration
82. Susquehanna River Basin Commission
83. U.S. Marine Mammal Commission
84. United States Access Board
85. United States Agency for International Development
86. United States International Trade Commission

## Notes to Section A

1. Department of Agriculture: Chapter 15 (Government Procurement) shall not cover procurement of any agricultural good made in furtherance of an agricultural support program or a human feeding program.
2. Department of Commerce: Chapter 15 (Government Procurement) shall not cover procurement of any good or service related to the shipbuilding activities of the U.S. National Oceanic and Atmospheric Administration.
3. Department of Defense:
  - (a) Chapter 15 (Government Procurement) shall not cover procurement of any good described in any Federal Supply Code classification (for complete listing of U.S. Federal Supply Classification, see any of the following Federal Supply Code (FSC), which can be found in the Product Code Section of the Federal Procurement Data System Product and Service Code Manual at <https://www.acquisition.gov>) listed below:

<i>FSC</i>	<i>Description</i>
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)

(b) Chapter 15 (Government Procurement) shall not cover 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 per cent; silicon, 0.60 per cent; or copper, 0.60 per cent;
- (ii) steel that contains more than 0.25 per cent 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 per cent;
- (iv) titanium or a titanium alloy; or
- (v) zirconium or a zirconium base alloy.

(c) Chapter 15 (Government Procurement) generally shall not cover procurement of any good described in any of the following FSC classifications, due to the application of Article 29.2 (Security Exceptions):

<i>FSC</i>	<i>Description</i>
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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: Due to the application of Article 29.2 (Security Exceptions), Chapter 15 (Government Procurement) shall not cover procurement of:

- (a) any good or service that supports 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.

5. Department of Homeland Security:

- (a) Chapter 15 (Government Procurement) shall not cover procurement by the Transportation Security Administration of FSC 83 (Textiles, Leather, Furs, Apparel, Shoes, Tents and Flags) and FSC 84 (Clothing, Individual Equipment and Insignia).
- (b) The national security considerations applicable to the Department of Defense shall apply equally to the U.S. Coast Guard.

6. Department of Transportation: Chapter 15 (Government Procurement) shall not cover procurement by the Federal Aviation Administration.

7. General Services Administration: Chapter 15 (Government Procurement) shall not cover procurement of any good in any of the following FSC classifications:

<i>FSC</i>	<i>Description</i>
FSC 51	Hand Tools
FSC 52	Measuring Tools
FSC 7340	Cutlery and Flatware

8. For goods and services including construction services of Japan and suppliers of such goods and services, Chapter 15 (Government Procurement) shall not cover procurement by the National Aeronautics and Space Administration.

9. For goods and services, including construction services, of Viet Nam and suppliers of such goods and services, Chapter 15 (Government Procurement) shall apply only to the following entities for the Department of Defense:

Department of Defense Education Activity  
Defense Commissary Agency

The United States is prepared to amend this Note at such time as coverage with respect to the Ministry of National Defense can be resolved with Viet Nam.

**SECTION B: Sub-Central Government Entities**

None.

## **SECTION C: Other Entities**

### *Thresholds:*

1. Chapter 15 (Government Procurement) shall apply to the other covered entities listed in this Section where the value of the procurement is estimated, in accordance with Article 15.2.8 (Scope) and Article 15.2.9, to equal or exceed:

- (a) for procurement of goods and services: US\$250,000; and
- (b) for procurement of construction services: 5,000,000 SDRs

The monetary threshold set out in subparagraph (b) shall be adjusted in accordance with Section H of this Schedule.

2. Unless otherwise specified herein, Chapter 15 (Government Procurement) shall apply only to the entities listed in this Section.

### *List of Entities:*

- 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
- 7. Rural Utilities Service (Note 1)

### **Notes to Section C**

1. The Rural Utilities Service shall not impose any domestic purchase requirement as a condition of its financing of any power generation or telecommunication project that exceeds the thresholds specified above. The Rural Utilities Service undertakes no other commitments with respect to its financing of power generation and telecommunications projects.

2. For goods and services, including construction services, of Malaysia and suppliers of such goods and services, Chapter 15 (Government Procurement) shall not cover procurement by entities listed in this Section that are responsible for the generation or distribution of electricity, including the commitment with respect to financing provided by the Rural Utilities Service of power generation projects described in Note 1 to this Section.



## **SECTION D: Goods**

Chapter 15 (Government Procurement) shall cover all goods procured by the entities listed in Sections A and C, subject to the Notes to the respective Sections and the General Notes.

## SECTION E: Services

Chapter 15 (Government Procurement) shall cover all services procured by the entities listed in Sections A and C, subject to the Notes to the respective Sections, the General Notes and the Notes to this Section, except for the services excluded in the Schedule of a Party.

### Notes to Section E

1. Chapter 15 (Government Procurement) shall not cover procurement of any of the following services, as identified in accordance with the Provisional Central Product Classification (CPC), which is found at: <http://unstats.un.org/unsd/cr/registry/regcst.asp?C1=9&Lg=1>:

- (a) All transportation services, including Launching Services (CPC Categories 71, 72, 73, 74, 8859, 8868).
- (b) 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 listed in Sections A and C of this Schedule, Research and Development facilities.
- (c) Public utilities services, except enhanced (*i.e.*, value-added) telecommunications services; and
- (d) Research and development.

2. Chapter 15 (Government Procurement) shall not cover procurement of any service in support of military forces located overseas.

## **SECTION F: Construction Services**

Chapter 15 (Government Procurement) shall cover all construction services procured by the entities listed in Sections A and C, listed in Division 51 of the Provisional Central Product Classification (CPC), which is found at: <http://unstats.un.org/unsd/cr/registry/regcs.asp?C1=9&Lg=51>, subject to the Notes to the respective Sections, the General Notes and the Notes to this Section, except for the construction services excluded in the Schedule of a Party.

### **Note to Section F**

Chapter 15 (Government Procurement) shall not cover procurement of dredging services.

## **SECTION G: General Notes**

Unless otherwise specified herein, the following General Notes shall apply without exception to Chapter 15 (Government Procurement), including to all sections of this Schedule.

1. Chapter 15 (Government Procurement) shall not apply to any set-aside on behalf of a small- or minority-owned business. 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. Except as specified otherwise in this Schedule, Chapter 15 (Government Procurement) shall not apply to non-contractual agreements or any form of government assistance, including governmental provision of goods and services to persons or governmental authorities not specifically covered under this Schedule.
3. Where a contract is to be awarded by an entity that is not covered by Chapter 15 (Government Procurement), Chapter 15 shall not be construed to cover any good or service component of that contract.
4. Chapter 15 (Government Procurement) shall not cover procurement of transportation services that form a part of, or are incidental to, a procurement contract.

## **SECTION H: Threshold Adjustment Formula**

1. Any threshold denominated in Special Drawing Rights (SDRs) shall be adjusted in every even-numbered year, with each adjustment taking effect on January 1, beginning on January 1 of the first even-numbered year after the date of entry into force of this Agreement for the United States.
2. The adjustments shall be 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.
3. The Parties shall consult if any major change in a national currency relative to SDRs or another Party's currency creates a significant problem with regard to the application of Chapter 15 (Government Procurement).

## **SECTION I: Procurement Information**

Publications utilised by the United States for the publication of notices of intended procurement and of post-award notices and the publication annually of information on permanent lists of qualified suppliers in the case of selective tendering procedures:

Federal Business Opportunities (<http://www.fedbizopps.gov>)

Laws, regulations, judicial decisions, administrative rulings and procedures regarding government procurement for entities listed in Section A are published on the following websites:

US Federal Laws (primarily US Code Titles 10 and 41):  
<http://www.gpo.gov/fdsys/browse/collectionUScode.action?collectionCode=USCODE>

Federal Acquisition Regulation (FAR): <http://www.acquisition.gov/far/index.html>

Agency Supplemental Regulations:  
[http://www.acquisition.gov/agency\\_supp\\_regs.asp](http://www.acquisition.gov/agency_supp_regs.asp)

Federal Register: <https://www.federalregister.gov/>

Federal Government Procurement Policies:  
<http://www.whitehouse.gov/omb/procurement/>

Bid Protest Decisions of Government Accountability Office:  
<http://www.gao.gov/legal/bidprotest.html>

US Civilian Board of Contract Appeals Decisions: <http://www.cbca.gsa.gov/>

Judicial Decisions:

US Court of Federal Claims (jurisdiction includes claims related to government contracts, including bid protests): <http://www.uscfc.uscourts.gov/>

US Court of Appeals for the Federal Circuit (jurisdiction includes appeals from the US Civilian Boards of Contract Appeals): <http://www.caafc.uscourts.gov/>

Laws, judicial decisions, administrative rulings and procedures regarding government procurement for entities listed in Section C are available directly from the listed entities.

## **SECTION J: Transitional Measures**

None.