



Overview of Parties' coverage commitments under the revised GPA and structure of an Appendix I offer

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The revised GPA

Protocol Amending the Agreement on Government Procurement ➔ “the Protocol”

❖ ***Annex to the Protocol*** ➔ text of the Agreement

❖ ***Appendix I*** ➔ coverage offers

❖ ***Appendix II***

❖ ***Appendix III***

❖ ***Appendix IV***

media and website address for
publication of procurement
information

Parties' coverage offers are integral parts of the Agreement. The Agreement adopts a loose-leaf system which enables the offers of a new Party to be incorporated into the Appendix I.

Structure of an Appendix I offer based on the revised GPA



- Annexes 1 (central)
 - Entities
 - thresholds
- Annexes 2 (sub-central)
 - Entities
 - thresholds
- Annexes (other)
 - Entities
 - Thresholds
- Annex 4: Goods
- Annex 5: Services
- Annex 6: Construction Services
- Annex 7: General Notes

Who? What? How much? Any exemption?



Main approaches to scheduling

List approach

- Positive List: only entities or items listed are covered.
- Negative List: everything covered except for the entities/items listed.
- Indicative List: List only illustrates coverage.
- Exhaustive List: List defines coverage

Functional/Generic approach

- Coverage determined by definition, description, function or other characteristic.
- May or may not be linked to domestic legislation
- Can be combined with indicative list approach.

- **No one approach mandated.** Parties adopt liberally a list or functional approach or a mix of both
- **Revised GPA:** further adoption of functional approach by some Parties – e.g. EU, Iceland, Norway, Switzerland



Example: list approach

FINAL APPENDIX I OFFER OF THE REPUBLIC OF ARMENIA (Authentic in the English Language only)

ANNEX 1 *Central Government Entities*

Thresholds:

Goods	SDR 130,000
Services	SDR 130,000
Construction services	SDR 5,000,000

List of Entities:

1. Administration of the President of the Republic of Armenia (RA)
2. Administration of the National Assembly of the RA
3. Administration of the Government of the RA
- ...
56. Marzpetaran of Vayots Dzor
57. Marzpetaran of Tavush

Notes to Annex 1

1. This list refers to all central government entities and subordinated organizations covered by Law on Procurement of the RA.
2. Central Bank of the RA: The Agreement does not apply to the procurement or acquisition by the Central Bank of the Republic of Armenia related to the sale, redemption and distribution of public debt, including loans and government bonds, notes and other securities.
3. Ministry of Defence of the RA, National Security Service of the RA, State Security Service of the RA and Police of the RA: For these entities, the Agreement only covers the procurement of the following categories, subject to Republic of Armenia determinations under paragraph 1 of Article III:
 - FSC 22 Railway Equipment
 - 23 Motor Vehicles, Trailers, and Cycles (except buses in 2310)
 - 24 Tractors
 - 25 Vehicular Equipment Components
 - 26 Tyres and Tubes
 - ...



Example: indicative list vs. exhaustive list

APPENDIX I COMMITMENTS OF THE EUROPEAN UNION (FINAL)

ANNEX 1

Central government entities

Supplies

Thresholds: SDR 130,000

Services

Specified in Annex 5

Thresholds: SDR 130,000

Works

Specified in Annex 6

Thresholds: SDR 5,000,000

.....

2. THE CENTRAL GOVERNMENT CONTRACTING AUTHORITIES OF EU MEMBER STATES

- (a) For the goods, services, suppliers and service providers of Liechtenstein, Switzerland, Iceland, Norway, The Netherlands with respect to Aruba, procurement by all central government contracting authorities of EU member States. The list attached is indicative.
- (b) For the goods, services, suppliers and service providers of Israel, procurement by the following central government contracting authorities.

... ..

Example: generic approach + indicative list



ANNEX 2 *Sub-Central entities*

Supplies

Thresholds: SDR 200,000

Services

Specified in Annex 5

Thresholds: SDR 200,000

Works

Specified in Annex 6

Thresholds: SDR 5,000,000

1. ALL REGIONAL OR LOCAL CONTRACTING AUTHORITIES

All contracting authorities of the administrative units as defined by Regulation 1059/2003 – NUTS Regulation.

...

2. ALL CONTRACTING AUTHORITIES WHICH ARE BODIES GOVERNED BY PUBLIC LAW AS DEFINED BY EU PROCUREMENT DIRECTIVE

A "body governed by public law" means any body:

- established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character, and
- having legal personality, and

... ..

An indicative list of contracting authorities which are bodies governed by public law is attached.



Example: generic approach

ANNEX 3

*All Other Entities which Procure in Accordance with
the Provisions of this Agreement*

Thresholds:

Goods	SDR 400,000
Services	SDR 400,000
Construction services	SDR 5,000,000

All legal persons (authorities, establishments and foundations) governed by public law, particularly:

1. State or community non-commercial (non-profit) organizations;
2. Commercial organizations with over 50 per cent of government or community shareholding;
3. Public services, including utilities sector companies, whose procurement is covered by Law on Procurement.

Note to Annex 3

This list of legal persons governed by public law shall be published in Procurement official electronic bulletin: <http://www.procurement.am>.



Thresholds (general levels in SDR)

Entities	Goods	Services	Construction Services
Annex 1	130,000	130,000	5,000,000
Annex 2	200,000	200,000	5,000,000
Annex 3	400,000	400,000	5,000,000

- Coverage commitments of covered **goods/services/construction services** by covered **entities** are only applicable to procurements above specified **thresholds**.
- Most Parties apply the general threshold levels.
- Reciprocity is the foundation of coverage commitments generally.
- Revised GPA: Some reductions in thresholds by some Parties

Party-specific threshold under GPA 1994



COUNTRY	ANNEX 1			ANNEX 2			ANNEX 3		
	Goods	Services	Construction services	Goods	Services	Construction services	Goods	Services	Construction services
Armenia	130,000	130,000	5,000,000	200,000	200,000	5,000,000	400,000	400,000	5,000,000
Canada	130,000	130,000	5,000,000	355,000	355,000	5,000,000	355,000	355,000	5,000,000
EU	130,000	130,000	5,000,000	200,000	200,000	5,000,000	400,000	400,000	5,000,000
Hong Kong, China	130,000	130,000	5,000,000	n.a	n.a	n.a	400,000	400,000	5,000,000
Iceland	130,000	130,000	5,000,000	200,000	200,000	5,000,000	400,000	400,000	5,000,000
Israel	130,000	130,000	5,000,000	250,000	250,000	5,000,000	355,000	355,000	5,000,000
Japan	130,000	130,000	4,500,000	200,000	200,000	15,000,000	130,000	130,000	4,500,000 or 15,000,000
Korea	130,000	130,000	5,000,000	200,000	200,000	15,000,000	450,000		15,000,000
Liechtenstein	130,000	130,000	5,000,000	200,000	200,000	5,000,000	400,000	400,000	5,000,000
Netherlands-Aruba	130,000	130,000	5,000,000	n.a.	n.a.	n.a.	400,000	400,000	5,000,000
Norway	130,000	130,000	5,000,000	200,000	200,000	5,000,000	400,000	400,000	5,000,000
Singapore	130,000	130,000	5,000,000	n.a	n.a	n.a	400,000	400,000	5,000,000
Switzerland	130,000	130,000	5,000,000	200,000	200,000	5,000,000	400,000	400,000	5,000,000
Chinese Taipei	130,000	130,000	5,000,000	200,000	200,000	5,000,000	400,000	400,000	5,000,000
United States	130,000	130,000	5,000,000	355,000	355,000	5,000,000	250,000 (USD) or 400,000	250,000 (USD) or 400,000	5,000,000

Higher threshold in one sector may need compensation in another sector, or may be subject to similar exclusions from another Party's offer.



Example: negative list

Notes to Annex 1

... ..

4. Department of Defense:

- (a) This Agreement **does not cover** the 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:

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)

... ...



Entity coverage

- Entity coverage specified in three Annexes
- Annex 1 – Central level entities
 - Broad coverage
- Annex 2 – Sub-central level entities
 - Some Parties do not cover all sub-central government entities.
 - Some important improvements in the renegotiations (e.g. Canada).
- Annex 3 – Other entities
 - E.g. public utilities , state-owned enterprises
 - Less comprehensive coverage than other Annexes.



Annex 4: goods

- Annex 4: goods, is **newly added** in the revised Agreement for more and clarity and certainty.
- In principle all covered unless specifically excluded (negative list approach). There is **exception regarding national security/military procurements**
- Majority of Parties: covered non-sensitive defence procurement list (e.g. Armenia, Canada, EU, Korea, Norway, Singapore, Switzerland, Chinese Taipei, US)

Example:

FINAL APPENDIX I OFFER OF THE REPUBLIC OF ARMENIA

ANNEX 4
Goods

Unless otherwise specified, this Agreement covers all goods procured by the entities included in Annexes 1 through 3.



Annex 5: services

- In most cases, comprehensive coverage based on the United Nations Provisional Central Product Classification(CPC)/ WTO services classification list.
- All Parties except US: Positive List
- US: Negative List

Example 1:

FINAL APPENDIX I OFFER OF THE REPUBLIC OF ARMENIA

ANNEX 5

Services

This Agreement covers all services, which are identified in accordance with the United Nations Provisional Central Product Classification (CPC) as contained in document MTN.GNS/W/120.



Annex 5: services

Example 2:

APPENDIX I COMMITMENTS OF THE EUROPEAN UNION
ANNEX 5
Services

This Agreement covers the following services, which are identified in accordance with the United Nations Provisional Central Product Classification (CPC) as contained in document MTN.GNS/W/120*:

<i>Subject</i>	<i>CPC Reference No.</i>
Maintenance and repair services	6112, 6122, 633, 886
Land transport services, including armoured car services, and courier services, except transport of mail	712 (except 71235), 7512, 87304
Air transport services of passengers and freight, except transport of mail	73 (except 7321)
Transport of mail by land, except rail, and by air	71235, 7321
...	...



Annex 5: services

Example 3:

FINAL APPENDIX I OFFER OF THE UNITED STATES
ANNEX 5
Services

1. Unless otherwise specified, this Agreement covers all services procured by entities included in Annexes 1 through 3.
2. This Agreement **does 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?Cl=9&Lg=1>:
 - (a) All transportation services, including Launching Services (CPC Categories 71, 72, 73, 74, 8859, 8868).
 - (b) Services associated with the management and operation of government facilities, or privately owned facilities used for governmental purposes, including federally funded research and development centers (FFRDCs).
 - (c) Public utilities services, including:
Telecommunications and ADP-related telecommunications services except enhanced (*i.e.*, value-added) telecommunications services.
 - (d) Research and Development services.

Note to Annex 5

This Agreement does not cover procurement of any service in support of military forces located overseas.



Annex 6: construction services

Most Parties have full coverage of Division 51, CPC. (Article I(c) of the revised Agreement). The US and Canada have minor exclusions.

Example:

FINAL APPENDIX I OFFER OF CANADA
ANNEX 6
Construction Services

1. Unless otherwise specified and subject to paragraph 2, this Agreement covers all construction services identified in Division 51 of the United Nations Provisional Central Product Classification (CPC) which is found at: <http://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=9&Lg=1&Co=51>.
2. This Agreement does not cover procurement of the following:
 - (a) dredging services; and
 - (b) construction services procured by or on behalf of the federal Department of Transport.



Annex 7: general notes

- This is where Parties add clarity to their offers and identify most of their exclusions or exemptions. The words “does not” are frequently used here.
- In preparing the general notes, Parties should also take into account **Article II: 3** and **Article III** of the Agreement where general exceptions are already identified. No need to repeat those exceptions in Annex 7. But some Parties still.
- Be cautious to establish exemptions. You may be retaliated by other Parties according to the principle of RECIPROCITY.
- If you decide to use exemptions, try to make them specific for the purpose of transparency and predictability.

The 2012 GPA market access deal: highlights



- Additional coverage more than **400 new entities** (in total, across Parties);
- Additional coverage of goods and services (**over 50 new services sectors**), including new coverage of **telecommunications services** by nine Parties;
- New coverage of **BOTs/public works** concessions by three Parties;
- **Full coverage of construction services** by all Parties
- **Reductions** by several Parties in the **thresholds** applied under the 1994 Agreement.
- **Deletion of country-specific derogations**

Market access: How much?



Currently:

- an estimated USD 1.6 trillion market or around 2.5% of World GDP (2008) of which approximately 75% come from the two largest GPA Parties (US and EU).

Now also agreed:

- further expansion of coverage through conclusion of re-negotiation (USD 80-100 billion per year)

➔ The benefits ... depend, in practice, on your/suppliers' interests and competitiveness.

Concluding



How to negotiate the coverage?

- No pre-determined or uniform level of coverage commitments. But there are generally applied standards.
- Coverage negotiations conducted on the basis of mutual reciprocity: Flexibility.
- Goal: a balance of market access concessions in light of the specific circumstances of each Party.

How to prepare an Appendix I offer?

- Annex 1: Central Government Entities
Generally comprehensive coverage
- Annex 2: Sub-central Government Entities
Some Parties do not cover all entities at this level
- Annex 3: Other entities
Variable coverage: public utilities, SOEs, depends on structure of economy
- Annex 4: Goods: in principle covered; defence list
- Annex 5: Services: mostly positive list; wide coverage
- Annex 6: Construction services: full coverage of CPC 51
- Annex 7: General Notes: a balancing tool

Thank you!



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