

Annex VI - General notes

Part A - General notes and derogations governing Mexico's offer set out in Annex I through V

Section 1 Transitional provisions

Notwithstanding any other provision of this Chapter, Annexes 1 through 5 are subject to the following transitional provisions:

Pemex, CFE and non-energy construction

1. Mexico may set aside from the obligations of this Chapter for each calendar year following the entry into force of this Agreement the respective percentage specified in paragraph 2 of:

- (a) the total value of procurement contracts for goods and services and any combination thereof and construction services procured by Pemex in the year that are above the thresholds set out in Annex V;
- (b) the total value of procurement contracts for goods and services and any combination thereof and construction services procured by CFE in the year that are above the thresholds set out in Annex V; and
- (c) the total value of procurement contracts for construction services procured in the year that are above the thresholds set out in Annex V, excluding procurement contracts for construction services procured by Pemex and CFE.

2. The percentages referred to in paragraph 1 are as follows:

Year 1	Year 2	Year 3	Year 4	Year 5
45%	40%	35%	35%	35%
Year 6	Year 7	Year 8 and thereafter		
30%	30%	0%		

3. The value of procurement contracts that are financed by loans from regional and multilateral financial institutions shall not be included in the calculation of the total value of procurement contracts under paragraphs 1 and 2. Procurement contracts that are financed by such loans shall also not be subject to any restrictions set out in this Chapter.

4. Mexico shall ensure that the total value of the procurement contracts under any single FSC class (or other classification system agreed by the Parties) that are set aside by Pemex or CFE under paragraphs 1 and 2 for any calendar year does not exceed 15 per cent of the total value of the procurement contracts that may be set aside by Pemex or CFE for that year.

5. Mexico shall ensure that after 31 December of the fourth year following the entry into force of this Chapter, Pemex and CFE each shall make all reasonable efforts to assure that the total value of procurement contracts under any single FSC class (or other classification system as agreed by the Parties) that are set aside by Pemex or CFE under paragraphs 1 and 2 for any year does not exceed 50 per cent of the total value of all Pemex or CFE procurement contracts under that FSC class (or other classification system as agreed by the Parties) for that year.

Pharmaceuticals

6. Until 1 January of the eighth year following its entry into force, this Chapter shall not apply to the procurement by the Secretaría de Salud, IMSS, ISSSTE, Secretaría de la Defensa Nacional and the Secretaría de Marina of drugs that are not currently patented in Mexico or whose Mexican patents have expired. Nothing in this paragraph shall prejudice protection of intellectual property rights.

Section 2 Permanent provisions

1. This Chapter does not apply to procurements made:
 - (a) with a view to commercial resale by government owned retail stores;
 - (b) pursuant to loans from regional or multilateral financial institutions to the extent that different procedures are imposed by such institutions (except for national content requirements);
 - (c) by one entity from another entity of Mexico; or
 - (d) for the purchase of water and for the supply of energy or of fuels for the production of energy.
 - (e) by Secretaría de Salud, IMSS, ISSSTE, Secretaría de la Defensa Nacional and the Secretaría de Marina of the following goods:
 - (i) Insulin and infusion pumps
 - (ii) Audiometers
 - (iii) Medical dressings (bandages, adhesive tapes excluding gauze bandages and gauze pads)
 - (iv) Intravenous solution
 - (v) Administration sets for transfusion
 - (vi) Scalp vein sets
 - (vii) Hemi-dialysis and blood lines (not covering blood derivatives)

- (viii) Blood packs (not covering blood derivatives)
 - (ix) Syringe needles
 - (f) by Petróleos Mexicanos (PEMEX) and Comisión Federal de Electricidad (CFE), of the following goods:
 - (i) Cables for electricity (H.S. 8544)
 - (ii) Electro-mechanic meters (EX. H.S.9028)
 - (iii) Transformers (H.S. 8504)
 - (iv) Disconnectors and switchers (H.S. 8535-8537)
 - (v) Electric motors (H.S. 8501)
 - (g) by Secretaría de Comunicaciones y Transportes (SCT) of cables.
- 2. This Chapter does not apply to public utility services (including telecommunication, transmission, water and energy services).
- 3. This Chapter does not apply to any transportation services including: land transportation (CPC 71); water transport (CPC 72); air transport (CPC 73); supporting and auxiliary transport (CPC 74); post and telecommunication (CPC 75); repair services of other transport equipment, on a fee or contractual basis (CPC 8868).
- 4. This Chapter does not apply to the procurement of transportation services that form a part of, or are incidental to, a procurement contract.
- 5. This Chapter does not apply to financial services; research and development services; and management and operation contracts awarded to federally funded research and development centres or related to carrying out government, sponsored research programs.
- 6. Notwithstanding any other provision in this Chapter, Mexico may set aside procurement contracts from the obligations of this Chapter, subject to the following:
 - (a) the total value of the contracts set aside may not exceed the Mexican peso equivalent of:
 - (i) 1.0 billion United States dollars, in each year until 31 December of the seventh year following the entry into force of this Agreement, which may be allocated by all entities except Pemex and CFE;
 - (ii) 1.8 billion United States dollars, in each year beginning 1 January of the eighth year following the entry into force of this Agreement, which may be allocated by all entities;

- (b) no entity subject to sub-paragraph (a) may set aside contracts in any year of a value of more than 20 per cent of the total value of contracts that may be set aside for that year.
- (c) the total value of the contracts set aside by Pemex or CFE may not exceed the Mexican peso equivalent of 720 million United States dollars in each calendar year, beginning 1 January of the eighth year following the entry into force of this Agreement.
- (d) For the administration of the set asides under this Annex, Mexico will apply the same criteria and treatment as applied to North American Free Trade Agreement members, except as otherwise provided in this Annex.

7. Beginning one year after the date of entry into force of this Agreement, the dollar values referred to in paragraph 6 shall be adjusted annually for cumulative inflation from the date of entry into force of this Agreement, based on the implicit price deflator for the United States Gross Domestic Product (USGDP) or any successor index published by the Council of Economic Advisors in "Economic Indicators".

The dollar values adjusted for cumulative inflation up to January of each year following 2000 shall be equal to the original dollar values multiplied by the ratio of:

- (a) the implicit USGDP price deflator or any successor index published by the Council of Economic Advisors in "Economic Indicators", current as of January of that year, to
- (b) the implicit USGDP price deflator or any successor index published by the Council of Economic Advisors in "Economic Indicators", current as of the date of entry into force of this Chapter,

provided that the price deflators under subparagraph (a) and (b) have the same base year. The resulting adjusted dollar values shall be rounded to the nearest million dollars.

8. The national security exception provided for in Article 6-18 of this Chapter covers procurements made in support of safeguarding nuclear materials or technology.

9. Notwithstanding any other provision of this Chapter, an entity may impose a local content requirement of no more than:

- (a) 40 per cent, for labour-intensive turnkey or major integrated projects;
or
- (b) 25 per cent, for capital-intensive turnkey or major integrated projects.

For purposes of this paragraph, a ‘turnkey or major integrated project’ means, in general, a construction, supply or installation project undertaken by a person pursuant to a right granted by an entity with respect to which:

- (a) the prime contractor is vested with the authority to select the general contractors or subcontractors;
 - (b) neither the Government of Mexico nor its entities fund the project;
 - (c) the person bears the risks associated with non-performance; and
 - (d) the facility will be operated by an entity or through a procurement contract of that entity.
10. Notwithstanding the thresholds set out in Annex V, Article 6-02 applies to any procurement from locally-established suppliers of oil and gas field supplies or equipment by Pemex at any project site where it performs works.
 11. In the event that Mexico exceeds in any given year the total value of contracts it may set aside for that year in accordance with paragraph 6 or paragraphs 1,2, and 4 of section 1, Mexico shall consult with Israel with a view to agreement on compensation in the form of additional procurement opportunities during the following year. The consultations shall be without prejudice to the rights of any Party under Chapter X (Institutional Provisions and Dispute Settlement Procedures).
 12. Nothing in this Chapter shall be construed to require Pemex to enter into risk-sharing contracts.

Part B - General notes and derogations governing Israel’s offer set out in Annex I to V

1. This Chapter shall not apply to contracts awarded for purposes of re-sale or hire to third parties, provided that the contracting entity enjoys no special or exclusive right to sell or hire the subject of such contracts and other entities are free to sell or hire it under the same conditions as the contracting entity.
2. This Chapter shall not apply to contracts for the purchase of water and for the supply of energy and of fuels for the production of energy.
3. This Chapter shall not apply to the acquisition or rental of land, buildings or other immovable property, or concerning rights thereon.
4. Notwithstanding any other provision of this Chapter, Israel may operate provisions which require the limited incorporation of domestic content, offset procurement or transfer of technology, in the form of objective and

clearly defined conditions for participation in procedures for the award of contracts. This shall be done under the following terms:

- (i) Israel shall ensure that its entities indicate the existence of such conditions in their tender notices and specify them clearly in the contract documents.
- (ii) Suppliers will not be required to purchase goods that are not offered on competitive terms, including price and quality, or to take any action which is not justified from a commercial standpoint.
- (iii) Offsets in any form may be required up to 35 percent of the contract going down to 30 per cent on January 1, 2001 and to 20 percent on January 1, 2005 and thereafter.
- (iv) For the administration of the offset under this Annex, Israel will apply the same criteria and treatment as applied to the WTO Government Procurement Agreement members, except as otherwise provided in this Annex.

5. This Chapter does not apply to procurement made by an entity from any other government entity.