

ARGENTINA

CENTRAL GOVERNMENT ENTITIES

Subject to the General Notes in Appendix 12-B-7, Chapter 12 applies to the procurement carried out by the Argentinian entities listed in this Appendix, if the value of the procurement estimated in conformity with Article 12.4 equals or exceeds the following thresholds:

(a) For goods and services

- (i) From the date of entry into force of this Agreement to the end of the 5th (fifth) year after its date of entry into force: SDR 800 000 (eight hundred thousand).
- (ii) From the 6th (sixth) year to the end of the 10th (tenth) year after the date of entry into force of this Agreement: SDR 500 000 (five hundred thousand).
- (iii) From the 11th (eleventh) year to the end of the 15th (fifteenth) year after the date of entry into force of this Agreement: SDR 300 000 (three hundred thousand).
- (iv) From the 16th (sixteenth) year after the date of entry into force of this Agreement onwards: SDR 130 000 (one hundred and thirty thousand).

(b) For construction services

- (i) From the date of entry into force of this Agreement to the end of the 5th (fifth) year after its date of entry into force: SDR 8 000 000 (eight million).

- (ii) From the 6th (sixth) year after the date of entry into force of this Agreement onwards:
SDR 5 000 000 (five million).

Chapter 12 applies to the Argentinian government entities listed below:

1. Central Administration¹

Chapter 12 applies to all entities of the central administration listed below, including its subordinate centralised entities (secretarías, subsecretarías, direcciones nacionales, direcciones simples y organismos desconcentrados)², unless specifically excluded:

- Presidencia de la Nación (excluding Agencia Federal de Inteligencia);
- Jefatura de Gabinete de Ministros;
- Ministerio del Interior, Obras Públicas y Vivienda;
- Ministerio de Relaciones Exteriores y Culto;
- Ministerio de Justicia y Derechos Humanos;
- Ministerio de Seguridad;
- Ministerio de Defensa;

¹ For greater certainty, central administration does not include decentralised entities or bodies, state enterprises and other entities or bodies of the national public administration.

² For greater certainty, English translation as follows: secretariats, undersecretariats, national directorates, simple directorates and deconcentrated entities or bodies.

- Ministerio de Hacienda;
- Ministerio de Producción y Trabajo;
- Ministerio de Transporte;
- Ministerio de Educación, Cultura, Ciencia y Tecnología;
- Ministerio de Salud y Desarrollo Social; and
- Ministerio de Agricultura, Ganadería y Pesca.

2. Decentralised entities

- Sindicatura General de la Nación;
- Instituto Nacional del Agua;
- Dirección Nacional del Registro Nacional de las Personas;
- Dirección Nacional de Migraciones;
- Tribunal de Tasaciones de la Nación;
- Instituto Nacional de Asuntos Indígenas;
- Instituto Nacional contra la Discriminación, la Xenofobia y el Racismo;

- Centro Internacional para la Promoción de los Derechos Humanos;
- Comisión Nacional de Valores;
- Superintendencia de Seguros de la Nación;
- Superintendencia de Servicios de Salud;
- Tribunal Fiscal de la Nación;
- Unidad de Información Financiera;
- Instituto Nacional de Tecnología Industrial;
- Instituto Nacional de la Propiedad Industrial;
- Instituto Nacional de Tecnología Agropecuaria;
- Instituto Nacional de Investigación y Desarrollo Pesquero;
- Instituto Nacional de Vitivinicultura;
- Instituto Nacional de Semillas;
- Servicio Nacional de Sanidad y Calidad Agroalimentaria;
- Instituto Nacional de Promoción Turística;
- Dirección Nacional de Vialidad;

- Comisión Nacional de Regulación del Transporte;
- Organismo Regulador del Sistema Nacional de Aeropuertos;
- Administración Nacional de Aviación Civil;
- Junta de Investigación de Accidentes de Aviación Civil;
- Servicio Geológico Minero Argentino;
- Ente Nacional Regulador del Gas;
- Ente Nacional Regulador de la Electricidad;
- Ente Nacional de Comunicaciones;
- Comisión Nacional de Evaluación y Acreditación Universitaria (CONEAU);
- Consejo Nacional de Investigaciones Científicas y Técnicas (CONICET);
- Biblioteca Nacional "Dr. Mariano Moreno";
- Instituto Nacional del Teatro;
- Fondo Nacional de las Artes;
- Superintendencia de Riesgos del Trabajo;
- Instituto Nacional Central Único Coordinador de Ablación e Implante;

- Administración Nacional de Laboratorios e Institutos de Salud Dr. Carlos Malbrán;
- Instituto Nacional de Rehabilitación Psicofísica del Sur Dr. Juan Otimio Tesone;
- Administración de Parques Nacionales;
- Instituto Nacional de Asociativismo y Economía Social; and
- Teatro Nacional Cervantes.

3. Social security institutions

- Caja de Retiros, Jubilaciones y Pensiones de la Policía Federal Argentina;
- Instituto de Ayuda Financiera para pago de Retiros y Pensiones Militares; and
- Administración Nacional de la Seguridad Social.

SUB-CENTRAL GOVERNMENT ENTITIES

Argentina shall initiate internal consultation proceedings with its provincial governments and the government of the Autonomous City of Buenos Aires, with a view to committing a satisfactory level of coverage at sub-central level. Consultations shall be conducted with the aim of engaging all the entities under such sub-central governments. Coverage shall be considered satisfactory if it encompasses sub-central governments which generate at least 65 % (sixty-five percent) of its national GDP¹.

Argentina shall conclude these consultations no later than 2 (two) years after the date of entry into force of this Agreement and shall immediately notify the European Union of the results of such consultations.

Provided that the satisfactory coverage set out under the first paragraph of this Appendix has been achieved, the Trade Council shall adopt a decision to modify this Appendix accordingly.

If consultations at sub-central level do not lead to a satisfactory outcome within the stipulated timeframe, the European Union and Argentina shall consult with a view to assessing the consequences for Chapter 12.

¹ For the purposes of calculation of satisfactory coverage, the national GDP of the year of the entry into force of this Agreement shall be used as reference, as calculated by the National Institute of Statistics and Census (INDEC) of Argentina.

OTHER ENTITIES

Chapter 12 does not cover other entities.

GOODS

Subject to the Notes to this Appendix and the General Notes in Appendix 12-B-7, Chapter 12 covers all government procurement of goods carried out by Argentinian entities listed in Appendix 12-B-1, with the exception of the goods that correspond to the Harmonized System (HS) listed below:

- 8528: Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus;
- 9403: Other furniture and parts thereof;
- 8415: Air conditioning machines; comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated;
- 940130: swivel seats with variable height adjustment;
- 4802: Uncoated paper and paperboard, of a kind used for writing, printing or other graphics purposes, and non-perforated punch-cards and punch tape paper, in rolls or rectangular (including square) sheets, of any size, other than paper of heading 48.01 or 48.03; hand-made paper and paperboard;
- 3215: Printing ink, writing or drawing ink and other inks, whether or not concentrated or solid;

- 4901: Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets.

Notes to Appendix 12-B-4:

Procurement by the following Ministries of the following goods expressed in the Harmonized System (HS) are excluded from Chapter 12:

Ministerio de Defensa and Ministerio de Seguridad:

- 61: Articles of apparel and clothing accessories, knitted or crocheted;
- 62: Articles of apparel and clothing accessories, not knitted or crocheted;
- 4203: Articles of apparel and clothing accessories, of leather or of composition leather;
- 64: Footwear, gaiters and the like, parts of such articles;
- 6506.10: Only bulletproof helmets;
- 6307.90.90: Only bulletproof vests;
- Military equipment.
- 8904: tugs and pusher craft.
- 8906: other vessels, including warships and lifeboats other than rowing boats

Ministerio de Seguridad:

- 8702: Motor vehicles for the transport of ten or more persons, including the driver;
- 8703: Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars;
- 8704: Motor vehicles for the transport of goods;
- 8705: Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete- mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological units);
- 8903: Only boats.

Ministerio de salud y desarrollo social:

- 2005: Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen other than products of heading 20.06;
- 0402: Milk and cream, concentrated or containing added sugar or other sweetening matter;
- 1006: Rice;
- 1902: Pasta, whether or not cooked or stuffed (with meat or other substance), or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni, couscous, whether or not prepared;

- 2106.90.30: alimentary complements;
- 3002.12.23: factor VIII concentrate;
- 3002.15.10: interferon beta; peginterferon alfa-2-a;
- 3002.15.20: basiliximab (DCI); bevacizumab (DCI); daclizumab (DCI); etanercept (DCI); gemtuzumab ozogamicin (DCI); oprelvekin (DCI); rituximab (DCI); trastuzumab (DCI).
- 3002.20: vaccines for human medicine;
- 3003: medicaments (excluding goods of heading 30.02, 30.05 or 30.06) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale;
- 3004: medicaments (excluding goods of heading 30.02, 30.05 or 30.06) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale;
- 3005: wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices), impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes;
- 3006: pharmaceutical goods specified in Note 4 to the corresponding HS Chapter;

- 8419.20: medical, surgical or laboratory sterilisers;
- 9018: instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments;
- 9019: mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus;
- 9021: orthopaedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability;
- 9022: apparatus based on the use of X-rays or of alpha, beta or gamma radiations, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high tension generators, control panels and desks, screens, examination or treatment tables, chairs and the like;
- 9025: hydrometers and similar floating instruments, thermometers, pyrometers, barometers, hygrometers and psychrometers, recording or not, and any combination of these instruments.

SERVICES

Subject to the General Notes in Appendix 12-B-7, Chapter 12 covers all government procurement of services listed below, carried out by the Argentinian entities listed in Appendix 12-B-1. The services listed below are identified in accordance with United Nations Provisional Central Product Classification (CPC), as contained in document MTN.GNS/W/120.

SERVICES SECTORAL CLASSIFICATION LIST

SECTORS AND SUB-SECTORS CORRESPONDING CPC

- | | | |
|----|---|-----------|
| 1. | BUSINESS SERVICES | Section B |
| A. | Professional services | |
| a. | Accounting, auditing and bookkeeping services | 862 |
| B. | Computer and related services | |
| a. | Consultancy services related to the installation of computer hardware | 841 |
| b. | Software implementation services | 842 |
| c. | Data processing services | 843 |

d.	Data base services	844
e.	Other	845+849
F.	Other business services	
a.	Advertising services	871
b.	Market research and public opinion polling services	864
c.	Management consulting service	865
d.	Services related to management consulting	866
e.	Technical testing and analysis services	8676
h.	Services incidental to mining	883+5115
m.	Related scientific and technical consulting services	8675
n.	Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment)	663+8861-8866
o.	Building-cleaning services	874
p.	Photographic services (excluding specialty photography services and motion picture processing services) (CPC 87504 and 87506)	875
q.	Packaging services	876

r.	Printing, publishing	88442
s.	Convention services	87909*

2. COMMUNICATION SERVICES

B.	Courier services	7512
C.	Telecommunication services: Does not include the provision of satellite facilities to geostationary artificial satellites in the fixed satellite services.	
a.	Voice telephone services	7521
b.	Packet-switched data transmission services	7523**
c.	Circuit-switched data transmission services	7523**
d.	Telex services	7523**
e.	Telegraph services	7522
f.	Facsimile services	7521**+7529**
g.	Private leased circuit services	7522**+7523**
h.	Electronic mail	7523**
i.	Voice mail	7523**

* The (*) indicates that the service specified is a component of a more aggregated CPC item specified elsewhere in this classification list.

** The (**) indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance (e.g. voice mail is only a component of CPC item 7523).

j.	On-line information and data base retrieval	7523**
k.	Electronic data interchange (EDI)	7523**
l.	Enhanced/value-added facsimile services, incl. Store and forward, store and retrieve	7523**
m.	Code and protocol conversion	n.a.
n.	On-line information and/or data processing (incl. transaction processing)	843**
o.	Other	

6. ENVIRONMENTAL SERVICES

A.	Sewage services	9401
B.	Refuse disposal services	9402
C.	Sanitation and similar services	9403

9. TOURISM AND TRAVEL RELATED SERVICES

A.	Hotels and restaurants (including catering services)	641-643
B.	Travel agencies and tour operators services	7471
C.	Tourist guides services	7472

CONSTRUCTION SERVICES AND WORKS CONCESSIONS

1. CONSTRUCTION SERVICES

Subject to the Notes to this Appendix and the General Notes in Appendix 12-B-7, Chapter 12 covers all government procurement of construction services listed in Division 51 of the Provisional Central Product Classification carried out by the Argentinian entities listed in Appendix 12-B-1.

2. WORKS CONCESSIONS

When awarded by entities listed in Appendix 12-B-1 and subject to the thresholds applicable to construction services contracts as specified in Appendix 12-B-1, the only articles of Chapter 12 that apply to works concessions contracts are Article 12.6 and Article 12.11.

For the purposes of this paragraph, works concessions contracts means any contractual agreement the main objective of which is to undertake the construction or rehabilitation of physical infrastructure, plants, buildings, facilities, or other government-owned works and under which a procuring entity grants to a supplier, through a contract and for a specified period of time, the temporary ownership or the right to control, operate and demand payment for the use of those works for the duration of the contract.

Note to Appendix 12-B-6:

For procurement contracts of goods in connection with a contract of construction services, including works concessions contracts, Argentina reserves the right to apply price preferences according to its law for the following goods, expressed in the Harmonized System (HS), for the following transitional periods:

- HS 8410¹ and HS 8504²: from the date of entry into force of this Agreement until the end of the 9th (ninth) year after the date of entry into force; as of the 10th (tenth) year after the date of entry into force of this Agreement no price preference shall be applied; and
- HS 8414³ and HS 8428⁴: from the date of entry into force of this Agreement until the end of the 4th (fourth) year after the date of entry into force; as of the 5th (fifth) year after the date of entry into force of this Agreement no price preference shall be applied.

¹ Hydraulic turbines, water wheels and regulators therefor.

² Electric transformers, static converters (for example, rectifiers) and inductors.

³ Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters.

⁴ Other lifting, handling, loading or unloading machinery (for example, lifts, escalators, conveyors, teleferics).

GENERAL NOTES

The following general notes apply to Chapter 12:

1. Chapter 12 shall not apply to any form of preference or advantage aimed at SMEs¹. The preference or advantage may include any price preference, the right to improve the original tender, or the exclusive right to provide a good or service. Access to the above-mentioned preferences or advantages will be equally available to enterprises of the European Union registered as micro, small and medium-sized enterprises in Argentina. For greater certainty, enterprises of the European Union can register as micro, small and medium-sized enterprises in Argentina in accordance with the requirements set out in the relevant applicable law.
2. Chapter 12 does not apply to pre-commercial government procurement aimed at promoting the development of innovative solutions for public sector needs. Pre-commercial government procurement includes the product idea, solution design, prototyping, original development and validation or testing of a limited set of first products.

Every 3 (three) years after the date of entry into force of this Agreement, Argentina shall inform the European Union about the pre-commercial government procurement carried out during that period.

¹ For greater certainty, SMEs includes micro, small and medium-sized enterprises and entrepreneurs. Argentina may define the characteristics of the companies that will be considered SMEs taking into account the specificities of the different sizes, sectors and regions of the country and based on one, some or all of the following attributes or their equivalents: employed or occupied personnel, annual sales value and value of assets applied to the production process, amongst others, in accordance with its national legislation. These characteristics shall be defined in Argentina's general laws and regulations and not in any law or regulation which exclusively applies to government procurement.

3. Chapter 12 does not apply to concessions of services.
4. Chapter 12 does not apply to public procurement of goods and services from productive establishments of family farmers or family farmers cooperatives registered in a Family Farmer National Registry carried out by the national government for the provision of food in hospitals, schools, community canteens, institutions under the national penitentiary system, armed forces and other public institutions under the national government.
5. Notwithstanding Article 12.14(5), Argentina may exclude a supplier if:
 - (a) there is a confirmed indictment against the supplier for crimes against property, or against the public administration, or against public trust and good faith, or asset laundering or other financial crimes, or for crimes set out in the Inter-American Convention against Corruption, adopted at the third plenary session, held on March 29, 1996; or
 - (b) the supplier is:
 - (i) an agent or official of Argentinian public sector; or
 - (ii) an enterprise in which such agent or official has sufficient participation so as to control the enterprise's decision-making process.

For greater certainty, in procurements under the public-private partnership regime, the reference to bankruptcy in subparagraph (a) of Article 12.14(5) includes an ongoing insolvency proceeding.

6. Argentina reserves the right to award contracts by means other than open or selective tendering procedures in the following cases:
- (a) procurement undertaken for the repair of machinery, vehicles, equipment or engines whose disarmament, transfer or prior examination is essential to determine the necessary repair and the adoption of another contracting procedure will prove to be more expensive; this exception may not be used for common maintenance repairs of such items;
 - (b) government procurement undertaken between jurisdictions and entities of the national government, or between such jurisdictions and entities and provincial or municipal entities or entities of the Government of the Autonomous City of Buenos Aires, as well as with enterprises in which Argentina has majority participation, provided that the purpose of the procurement is the provision of security, logistics or health services;
 - (c) government procurement undertaken between jurisdictions and entities of the national government and national universities; and
 - (d) for complementary works that are essential for the execution of an ongoing public work (construction services), which could not have been foreseen in the original project and could not be included in the respective contract; the value of the contracts awarded for such complementary works shall not exceed the limits set by Argentina's law, which shall in no case exceed 50 % (fifty percent) of the value of the main contract.
7. Chapter 12 does not apply to government procurement carried out outside the territory of Argentina for consumption outside that territory.

8. Notwithstanding Article 12.11 (Offsets), when the entities listed in Appendix 12-B-1 carry out government procurement covered by Chapter 12, Argentina may seek or impose, in accordance with its law, any type of offset for up to 50 % (fifty percent) of the value of the procurement, including that the awarded supplier purchases local goods and services related to the object of the procurement.

From the 11th (eleventh) year to the end of the 15th (fifteenth) year after the date of entry into force of this Agreement, Argentina may only seek or impose offsets for up to 35 % (thirty five percent) of the value of the procurement.

The limitations set out in the first and second subparagraphs of this paragraph shall not apply to procurements undertaken by the Ministerio de seguridad or the Ministerio de defensa.

From the 16th (sixteenth) year after the date of entry into force of this Agreement offsets shall not exceed 20% (twenty percent) of the value of the procurement.

Offsets shall be indicated in the notice of intended procurement, shall be specified in the tender documentation and shall be applied in the same manner among all participating suppliers.

Every 3 (three) years from the date of entry into force of this Agreement, Argentina shall inform the European Union about the use of offsets carried out during that period.

9. Notwithstanding Article 12.13(1), for procurement entities covered under Appendix 12-B-1, Argentina may apply a transitional period of up to 18 (eighteen) months from the date of entry into force of this Agreement. Those entities shall, during such transitional period, provide their notices of intended procurement through links in a gateway electronic site that is accessible free of charge.