

GENERAL AGREEMENT ON TARIFFS AND TRADE

ACCORD GENERAL SUR LES TARIFS DOUANIERS ET LE COMMERCE

ACUERDO GENERAL SOBRE ARANCELES ADUANEROS Y COMERCIO

GPR/74/Add.11

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AGREEMENT ON GOVERNMENT PROCUREMENT

Addendum

Attached is a copy of Switzerland's Annexes to Appendix I of the Agreement on Government Procurement.

ACCORD RELATIF AUX MARCHES PUBLICS

Addendum

On trouvera ci-joint copie des annexes de la Suisse figurant à l'Appendice I de l'Accord relatif aux marchés publics.

ACUERDO SOBRE COMPRAS DEL SECTOR PÚBLICO

Addendum

Adjuntos figuran los anexos del Apéndice I del Acuerdo sobre Compras del Sector Público correspondientes a Suiza.

Switzerland reserves the right to make technical changes to this offer and to correct any errors, omissions or inaccuracies prior to 15 April 1994.

ANNEX 1

Central Government Entities which Procure in Accordance
With the Provisions of this Agreement

SWITZERLAND

<u>Supplies</u>	<u>Threshold:</u>	130,000 SDR
<u>Services</u> (specified in Annex 4)	<u>Threshold:</u>	130,000 SDR
<u>Construction services</u> (specified in Annex 5)	<u>Threshold:</u>	5,000,000 SDR

List of Entities of all Swiss Federal Ministries:

Office central fédéral des imprimés et
du matériel

Bibliothèque centrale du Parlement et
de l'administration fédérale

Office des constructions fédérales

Ecole polytechnique fédérale Zurich

Ecole polytechnique fédérale Lausanne

Institut Paul Scherrer

Institut fédéral de recherches forestières

Institut pour l'étude de la neige et des
avalanches

Institut suisse de météorologie

Institut fédéral pour l'aménagement,
l'épuration et la protection des eaux

Office fédéral de la santé publique

Bibliothèque nationale suisse

Office fédéral de la protection civile¹

Administration fédérale des douanes¹

Régie fédérale des alcools

Monnaie

Office fédéral de métrologie

Office fédéral de l'agriculture

Office fédéral de l'aviation civile

Office fédéral de l'économie des eaux

Groupement de l'armement¹

Entreprise des postes²

Office fédéral de l'environnement, des
forêts et du paysage (BUWAL) = (Service
hydrologique et géologique national already
covered)

Laboratoire fédéral d'essai des matériaux et
de recherche (EMPA)

Office fédéral de génie et des fortifications
(BAGF)¹

Office fédéral des troupes de transmission
(BAUEM)¹

Office fédéral des affaires sanitaires de
l'armée (BASAN)¹

Commissariat central des guerres (OKK)¹

Etat major du groupement de l'instruction
(Stab GA)¹

Intendance du matériel de guerre (KMV)¹

¹Pour les produits des offices du Département fédéral de la défense mentionnés, voir liste des matériels civils de la défense et de la protection civile en annexe. (L'Administration fédérale des douanes seulement en ce qui est du gardes-frontières et les douaniers.)

²As far as they are not in competition with other undertakings to which this Agreement does not apply

Office fédéral de la topographie (L+T)

Ecole fédérale de sport, Macolin (ESSM)

Office fédéral des aérodromes militaires,
Dübendorf (BAMF)¹

Office vétérinaire fédéral (BVET)

Gouvernement de la Principauté du
Liechtenstein

NOTE TO ANNEX 1

The Agreement shall not apply to contracts awarded by contracting authorities in the field of drinking water, energy, transport or telecommunications.

ANNEX 2

Government Entities which Procure in Accordance
With the Provisions of this Agreement³

SWITZERLAND

<u>Supplies</u>	<u>Threshold:</u>	200,000 SDR
<u>Services</u> (specified in Annex 4)	<u>Threshold:</u>	200,000 SDR
<u>Construction Services</u> (specified in Annex 5)	<u>Threshold:</u>	5,000,000 SDR

List of Entities:

Authorities and bodies governed by public law and not having an industrial or commercial character established at cantonal level in all cantons of Switzerland:

Appenzell (Inner-/Ausserrhoden)

Aargau

Basel (Stadt/Land)

Bern

Fribourg

Glarus

Genève

Graubünden

Jura

Neuchâtel

Luzern

Schaffhausen

³As far as the cantons procure defense products: voir liste des matériels civils de la défense et de la protection civile en annexe.

Schwyz

Solothurn

Sankt Gallen

Tessin

Thurgau

Vaud

Wallis

Unterwalden (Nidwalden/Obwalden)

Uri

Zug

Zürich

NOTE TO ANNEX 2

The Agreement shall not apply to contracts awarded by contracting authorities in connection with activities in the field of drinking water, energy, transport or telecommunications.

ANNEX 3

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

SWITZERLAND

<u>Supplies</u>	<u>Threshold:</u>	400,000 SDR
<u>Services</u>	<u>Threshold:</u>	400,000 SDR
<u>Works</u> (specified in Annex 5)	<u>Threshold:</u>	5,000,000 SDR

List of Entities:

The contracting entities which are public authorities⁴ or public undertakings⁵ and which have as at least one of their activities any of those referred to below:

⁴Public authorities means the State, regional or local authorities, bodies governed by public law, or associations formed by one or more of such authorities or bodies governed by public law. A body is considered to be governed by public law where it:

- is established for the specific purpose of meeting needs in the general interest, not being of an industrial or commercial nature,
- has legal personality and
- is financed for the most part by the State, or regional or local authorities, or other bodies governed by public law, or is subject to management supervision by those bodies, or has an administrative, managerial or supervisory board more than half of whose members are appointed by the State, regional or local authorities, or other bodies governed by public law.

⁵Public undertakings means any undertaking over which the public authorities may exercise directly or indirectly a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it. A dominant influence on the part of the public authorities shall be presumed when these authorities, directly or indirectly, in relation to an undertaking:

- hold the majority of the undertaking's subscribed capital, or
- control the majority of the votes attaching to shares issued by the undertaking, or
- can appoint more than half of the members of the undertaking's administrative, managerial or supervisory body.

1. the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of drinking water or the supply of drinking water to such networks (as specified under title I);
2. the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of electricity or the supply of electricity to such networks (as specified under title II);
3. the operation of fixed networks providing a service to the public in the field of transport by urban railway, automated systems, tramway, trolleybus, bus or cable (as specified under title III);
4. the exploitation of a geographical area for the purpose of the provision of airport or other terminal facilities to carriers by air (as specified under title IV);
5. the exploitation of a geographical area for the purpose of the provision of inland port or other terminal facilities to carriers by sea or inland waterway (as specified under title V).

I. Production, transport or distribution of drinking water

Public authorities and public undertakings producing, transporting and distributing drinking water. Such public authorities and public undertakings are operating under local or cantonal legislation or under individual agreements based thereupon.

for example:

- Wasserverbund Regio Bern AG
- Hardwasser AG
- Gruppenwasserversorgung Liechtensteiner Oberland
- Gruppenwasserversorgung Liechtensteiner Unterland.

II. Production, transport or distribution of electricity

Public authorities and public undertakings for the transport and distribution of electricity operating on the basis of authorizations for expropriation pursuant to "loi fédérale du 24 juin 1902 concernant les installations à faible et à fort courant auxquelles le droit d'expropriation a été accordé".

Public authorities and public undertakings producing electricity pursuant to "loi fédérale du 22 décembre 1916 sur l'utilisation des forces hydrauliques et à la loi fédérale du 23 décembre 1959 sur l'utilisation pacifique de l'énergie atomique et la protection contre les radiations".

for example:

- Bernische Kraftwerke AG

- Nordostschweizerische Kraftwerke AG
- Liechtensteinische Kraftwerke.

III. Contracting entities in the field of urban railway, automated systems, tramway, trolleybus, bus or cable services

- Schweizerische Post-, Telefon- und Telegrafbetriebe (PTT).

Public authorities and public undertakings providing tramway services pursuant to Article 2, paragraph 1 of the "loi fédérale du 20 décembre 1957 sur les chemins de fer".

Public authorities and public undertakings for the public transport providing services pursuant to Article 4, paragraph 1 of the "loi fédérale du 29 mars 1950 sur les entreprises de trolleybus".

Public authorities and public undertakings doing scheduled commercial passenger transport pursuant to Article 1, paragraph 1 lit. a, and Article 3, paragraph 1 of the "loi fédérale du 2 octobre 1924 sur les services des postes".

for example:

- Transports publics Genevois
- Verkehrsbetriebe Zürich

IV. Contracting entities in the field of airport facilities

Airports operated by virtue of a licence pursuant to Article 37 of the "loi fédérale du 21 décembre 1948 sur la navigation aérienne" as far as they are public authorities and public undertakings.

for example:

- Flughafen Zürich-Kloten
- Aéroport de Genève-Cointrin
- Aérodrome Civil de Sion

V. Contracting entities in the field of inland port or other terminal facilities

- Rheinhäfen beider Basel: for the Canton of Basel set up to the "loi du 13 novembre 1919 concernant l'administration des installations portuaires rhénanes de la ville de Bâle; pour le Canton de Bâle-campagne est déterminante la loi du 26 octobre 1936 sur la mise en place d'installations portuaires, de voies ferroviaires et de routes sur le "Sternenfeld" à Birsfelden, et dans l' "Au" à Muttenz.

NOTES TO ANNEX 3

This Agreement shall not apply:

1. to contracts which the contracting entity awards for the purpose other than the pursuit of their activities as described in this Annex;
2. 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;
3. to contracts for the purchase of water;
4. to contracts of contracting entities other than a public authority exercising the supply of drinking water or electricity to networks which provide a service to the public, if they produce these services by themselves and consume them for the purpose of carrying out other activities than those described under this Annex. Furthermore, the supply to the public network depends only on the entity's own consumption and has not exceeded 30 per cent of the entity's total production of drinking water or energy, having regard to the average for the preceding three years;
5. to contracts for the supply of energy or of fuels for the production of energy;
6. to contracts of contracting entities exercising activities in the bus transportation sector where other entities are free to offer the same services in the same geographical area and under substantially the same conditions.

ANNEX 4

Services

SWITZERLAND

Of the Universal List of Services, as contained in document MTN.GNS/W/120, the following services are included:

<u>Subject:</u>	<u>CPC</u>
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
Telecommunications services	752 ⁶
Financial services	ex 81
(a) Insurance services	812, 814
(b) Banking and investment services ⁷	
Computer and related services	84
Accounting, auditing and bookkeeping services	862
Market research and public opinion polling services	864
Management consulting services and related services	865, 866 ⁸
Architectural services; engineering services and integrated engineering services, urban planning and landscape architectural services; related scientific and technical consulting services; technical testing and analysis services	867

⁶Except voice telephony, telex, radiotelephony, paging and satellite services.

⁷Except contracts for financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments, and Central Bank services.

⁸Except arbitration and conciliation services.

Advertising services	871
Building-cleaning services and property management services	874, 82201-82206
Publishing and printing services on a fee or contract basis	88442
Sewage and refuse disposal; sanitation and similar services	94

NOTES TO ANNEX 4

The Agreement shall not apply to:

1. service contracts awarded to an entity which is itself a procuring entity listed in Annexes 1 or 2 on the basis of an exclusive right which it enjoys pursuant to a published law, regulation or administrative provision;
2. service contracts which a contracting entity awards to an affiliated undertaking or which are awarded by a joint venture formed by a number of contracting entities for the purpose of carrying out an activity within the meaning of Annex 3 or to an undertaking which is affiliated with one of these contracting entities. At least 80 per cent of the average turnover of that undertaking for the preceding three years has to derive from the provision of such services to undertakings with which it is affiliated. Where more than one undertaking affiliated with the contracting entity provides the same service, the total turnover deriving from the provision of services by those undertakings shall be taken into account;
3. contracts for the acquisition or rental, by whatever means, of land, existing buildings, or other immovable property or concerning rights thereon;
4. contracts of employment;
5. contracts for the acquisition, development, production or co-production of programme material by broadcasters and contracts for broadcasting time.

ANNEX 5
Construction Services
SWITZERLAND

Specifications on covered construction services

Definition:

A construction services contract is a contract which has as its objective the realization by whatever means of civil or building works, in the sense of Division 51 of the Central Product Classification.

List of Division 51, CPC:

General construction work for buildings	512
General construction work for civil engineering	513
Installation and assembly work	514+516
Building completion and finishing work	517
Other	511+515+518

Threshold:

5,000,000

Liste des matériaux civils

Chapitre 25: Sel; soufre; terres et pierres; plâtres; chaux et ciments

Chapitre 26: Minerais métallurgiques, scories et endres

Chapitre 27: Combustibles minéraux, huiles minérales et produits de leur distillation; matières bitumineuses; cires minérales

Chapitre 28: Produits chimiques inorganiques; composés inorganiques ou organiques de métaux précieux, d'éléments radioactifs, de métaux des terres rares et d'isotopes

à l'exception de:

ex 28.09: explosifs
ex 28.13: explosifs
ex 28.14: gaz lacrymogènes
ex 28.28: explosifs
ex 28.32: explosifs
ex 28.39: explosifs
ex 28.50: produits toxicologiques
ex 28.51: produits toxicologiques
ex 28.54: explosifs

Chapitre 29: Produits chimiques organiques

à l'exception de:

ex 29.03: explosifs
ex 29.04: explosifs
ex 29.07: explosifs
ex 29.08: explosifs
ex 29.11: explosifs
ex 29.12: explosifs
ex 29.13: produits toxicologiques
ex 29.14: produits toxicologiques
ex 29.15: produits toxicologiques
ex 29.21: produits toxicologiques
ex 29.22: produits toxicologiques
ex 29.23: produits toxicologiques
ex 29.26: explosifs
ex 29.27: produits toxicologiques
ex 29.29: explosifs

Chapitre 30: Produits pharmaceutiques

Chapitre 31: Engrais

Chapitre 32: Extraits tannants et trinctoriaux; tanis et leurs dérivés; matières colorantes, couleurs, peintures, vernis et teintures, mastics, encres

- Chapitre 33: Huiles essentielles et résinoïdes; produits de parfumerie ou de toilette et cosmétiques
- Chapitre 34: Savons, produits organiques tensio-actifs, préparations pour lessives, préparations lubrifiantes, cires artificielles, cires préparées, produits d'entretien, bougies et articles similaires, pâtes à modeler et "cires pour l'art dentaire"
- Chapitre 35: Matières albuminoïdes; colles, enzymes
- Chapitre 36: Poudres et explosifs; articles de pyrotechnie; allumettes; alliages pyrophoriques; matières inflammables
- à l'exception de:
- ex 36.01: poudres
ex 36.02: explosifs préparés
ex 36.04: détonnants
ex 36.08: explosifs
- Chapitre 37: Produits photographiques et cinématographiques
- Chapitre 38: Produits divers des industries chimiques
- à l'exception de:
- ex 38.19: produits toxicologiques
- Chapitre 39: Matières plastiques artificielles, éthers et esters de la cellulose, résines artificielles et ouvrages en ces matières
- à l'exception de:
- ex 39.09: explosifs
- Chapitre 40: Caoutchouc naturel ou synthétique, Factice pour Caoutchouc et Ouvrages en Caoutchouc
- à l'exception de:
- ex 40.11: pneus
- Chapitre 43: Pelleteries et fourrures, pelleteries factices
- Chapitre 44: Bois, charbon de bois et ouvrages en bois
- Chapitre 45: Liège et ouvrages en liège
- Chapitre 46: Ouvrages de sparterie et de vannerie
- Chapitre 47: Matières servant à la fabrication du papier
- Chapitre 48: Papiers et cartons; ouvrages en pâtes de cellulose, en papier et en carton

- Chapitre 49:** Articles de librairie et produits des arts graphiques
- Chapitre 65:** Coiffures et parties de coiffures
- Chapitre 66:** Parapluies, parasols, cannes, fouets, cravaches et leurs parties
- Chapitre 67:** Plumes et duvet apprêtés et articles en plumes ou en duvet; fleurs artificielles; ouvrages en cheveux
- Chapitre 68:** Ouvrages en pierres, plâtre, ciment, amiante, mica et matières analogues
- Chapitre 69:** Produits céramiques
- Chapitre 70:** Verre et ouvrages en verre
- Chapitre 71:** Perles fines, pierres gemmes et similaires, métaux précieux, plaqués ou doublés de métaux précieux et ouvrages en ces matières; bijouterie de fantaisie
- Chapitre 73:** Fonte, fer et acier
- Chapitre 74:** Cuivre
- Chapitre 75:** Nickel
- Chapitre 76:** Aluminium
- Chapitre 77:** Magnésium, beryllium (glucinium)
- Chapitre 78:** Plomb
- Chapitre 79:** Zinc
- Chapitre 80:** Etain
- Chapitre 81:** Autres métaux communs
- Chapitre 82:** Outillage; articles de coutellerie et couverts de table, en métaux communs
- Chapitre 83:** Ouvrages divers en métaux communs
- Chapitre 84:** Chaudières, machines, appareils et engins mécaniques
- Chapitre 85:** Machines et appareils électriques et objets servants à des usages électroniques
- à l'exception de:**
- ex 85.03: Piles électriques
ex 85.13: Télécommunications
ex 85.15: Appareils de transmission

Chapitre 86: Véhicules et matériaux pour voies ferrées; appareils de signalisation non électriques pour voies de communication

à l'exception de:

ex 86.02: Locomotives blindées
ex 86.03: Autres locoblindés
ex 86.05: Wagons blindés
ex 86.06: Wagons ateliers
ex 86.07: Wagons

Chapitre 87: Voitures automobiles, tracteurs, cycles et autres véhicules terrestres

à l'exception de:

87.08: Cars et automobiles blindés
ex 87.02: Camions lourds
ex 87.09: Motocycles
ex 87.14: Remorques

Chapitre 88: Navigation aérienne

à l'exception de:

ex 88.02: Avions

Chapitre 89: Navigation maritime et fluviale

Chapitre 90: Instruments et appareils d'optique, de rotographie et de cinématographie, de mesure, de vérification, de précision; instruments et appareils médico-chirurgicaux;

à l'exception de:

ex 90.05: Jumelles
ex 90.13: Instruments divers, lasers
ex 90.14: Télémètres
ex 90.28: Instruments de mesure électrique ou électronique

Chapitre 91: Horlogerie

Chapitre 92: Instruments de musique; appareils d'enregistrement ou de reproduction du son; appareils d'enregistrement ou de reproduction des images et du son en télévision; parties et accessoires de ces instruments et appareils

Chapitre 93: Armes et munitions

à l'exception de:

ex 93.01: Armes blanches
ex 93.02: Pistolets
ex 93.03: Armes de guerre
ex 93.04: Armes à feu

ex 93.05: Autres armes
ex 93.07: Projectiles et munitions

- Chapitre 94: Meubles; mobilier médico-chirurgical; articles de literie et similaires
- Chapitre 95: Matières à tailler et à mouler, à l'état travaillé (y compris les ouvrages)
- Chapitre 96: Ouvrages de brosseerie et pinceaux, balais, houppes et articles de tamiserie
- Chapitre 98: Ouvrages divers

GENERAL NOTES AND DEROGATIONS FROM THE PROVISIONS OF ARTICLE III

1. Switzerland will not extend the benefits of this Agreement:

- as regards the award of contracts by entities listed in Annex 2 to the suppliers and service providers of Canada and the USA
- as regards the award of contracts by entities listed in Annex 3 in the following sectors:
 - water: to the suppliers and service providers of Canada and the USA
 - electricity: to the suppliers and service providers of Canada, Hong Kong, Japan and the USA
 - airports: to the suppliers and service providers of Canada, Korea and the USA
 - ports: to the suppliers and service providers of Canada and the USA
 - urban transport: to the suppliers and service providers of Canada, Israel, Japan, Korea and the USA

until such time as Switzerland has accepted that the Parties concerned give comparable and effective access for Swiss undertakings to the relevant markets;

- to service providers of Parties which do not include service contracts for the relevant entities in Annexes 1 to 3 and the relevant service category under Annexes 4 and 5 in their own coverage.

2. The provisions of Article XX shall not apply to suppliers and service providers of:

- Israel, Japan and Korea in contesting the award of contracts by bodies governed by public law and not having an industrial or commercial character established at cantonal level listed in Annex 2, until such time as Switzerland accepts that they have completed coverage of sub-central entities;
- Canada, Japan, Korea and the USA in contesting the award of contracts to a supplier or service provider of Parties other than those mentioned, which are small or medium-sized enterprises under the relevant provisions of Swiss law, until such time as Switzerland accepts that they no longer operate discriminatory measures in favour of certain domestic small and minority businesses;
- Israel, Japan and Korea in contesting the award of contracts by Swiss entities, whose value is less than the threshold applied for the same category of contracts awarded by these Parties.

3. Until such time as Switzerland has accepted that the Parties concerned provide access for Swiss suppliers and service providers to their own markets, Switzerland will not extend the benefits of this Agreement to suppliers and service providers of:

- Canada, as regards procurement of FSC 36, 70 and 74 (special industry machinery; general purpose automatic data processing equipment, software, supplies and support equipment (except 7010 ADPE configurations); office machines, visible record equipment and ADP equipment);
 - Canada, as regards procurement of FSC 58 (communications, protection and coherent radiation equipment) and the USA as regards air traffic control equipment;
 - Korea and Israel as regards procurement by entities listed in Annex 3, paragraph (B) as regards procurement of HS Nos 8504, 8535, 8537 and 8544 (electrical transformers, plugs, switches and insulated cables); and for Israel, HS Nos 8501, 8536 and 902830;
 - Canada and the USA as regards contracts for good or service components of contracts which, although awarded by an entity covered by this Agreement, are not themselves subject to this Agreement.
4. The Agreement shall not apply to contracts awarded under:
- an international agreement and intended for the joint implementation or exploitation of a project by signatory States;
 - the particular procedure of an international organization.