

WT/TPR/S/28, 7 August 1998

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81. Chile has not adopted the WTO Plurilateral Agreement on Government Procurement.

82. Since the previous review in 1991, there have been no major changes regarding public procurement in Chile; the exception is procurement in the area of public works, where new legislation has been passed. Chile lacks a single procurement system or procedure for the public sector. In general, public procurement should observe the principles of non-discrimination, efficiency, transparency and integrity embodied in constitutional and legal standards. The Office of the Comptroller-General, an independent agency, is responsible for ensuring that these principles are observed. Public entities and municipalities (local governments) are responsible for their own procurement and, according to the authorities, more autonomy has been granted to these entities. According to the authorities, state-owned enterprises that are run on a commercial basis, determine their own procurement policies and purchase independently, from national or foreign sources, applying the same criteria as used by private enterprises. Two State institutions, the State Directorate of Procurement (DAE)¹, and the National Health Supplies Centre (CENABAS) are in charge of acquiring, storing and distributing movable goods (*bienes muebles*) necessary for the functioning of the Public Administration. The Directorate will purchase a domestically produced good rather than a foreign good, if the national good is of equal price and quality to the foreign one.² The authorities noted that it is not mandatory for public entities to purchase from these two institutions; only 2-3 per cent of total public procurement was undertaken by the DAE in the past three years.

83. The method of purchasing (public or private tender, or direct purchase) is determined according to the value of the contract and the buyer (Table III.10). However, direct purchasing is allowed, whatever the value of the contract, in an emergency situation, when products have to be bought, or imported from an exclusive supplier.³ According to the Chilean Civil Code, foreigners are allowed to participate in public tenders without any restrictions.⁴

Table III.10
Public purchasing procedures according to value of purchase

	Public tender	Private tender	Direct purchase
Public service	Higher than US\$150.000	Less than US\$150.000	Less than US\$10.000
Municipalities	Higher than US\$10.000	Less than US\$10.000	

Source: Government of Chile (November 1996).

84. Given the decentralization of public purchases the Chilean authorities were unable to supply the Secretariat with detailed data regarding total public sector purchases or imports. The most recent

¹Law No. 353, *Ley Orgánica de la Dirección de Aprovisionamiento del Estado* (1960).

²Article 3, Law No. 353, *Ley Orgánica de la Dirección de Aprovisionamiento del Estado* (1960).

³Law No. 353, *Ley Orgánica de la Dirección de Aprovisionamiento del Estado* (1960).

⁴Article 57, *Código Civil Chileno*, 29 October 1993.

data show that, in 1994, central government purchases alone amounted to some US\$2.5 billion, of which roughly 56 per cent was spent on construction, 26 per cent on other services and 18 per cent on goods.