

Venezuela

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IV. TRADE POLICIES AND PRACTICES BY MEASURE

(2) Measures Directly Affecting Imports

(xvii) Government procurement

93. As stated in Chapter II, Venezuela is not a signatory of the WTO Agreement on Government Procurement.

94. The conditions affecting public procurement are laid out in the Law of Tenders (*Ley de Licitaciones*) and consequent regulations.¹ The law covers the granting of public works contracts² and the purchase of goods and services by all public entities (including those at federal or municipal level) as well as enterprises where the State has capital participation of 50 per cent or more (e.g. PDVSA).³

95. The legislation provides for transparency through the publishing of information on pre-selection, offers and final decisions in the local press. Each entity covered by the legislation maintains a permanent Bidding Office/Committee (*Comisión de Licitación*) which is responsible for procurement. Ministries and Government agencies are obliged to make their purchase of electronic data processing equipment and services through (the Central Office of Statistics and Informatics (*Oficina Central de Estadísticas e Informática*, OCEI), which acts as the central government procurement agency for these items. Apart from this case, there is no Central Government purchasing agency.

96. Three procedures are available: public or open bidding (*licitación general*), selective tendering (*licitación selectiva*)⁴, and direct purchase or contracting (*adjudicación directa*). The contract or purchase value determines which procedure must be used (Table IV.4). Waivers from normal Government procurement procedures can be granted only by the President, but no information was made available on the extent to which this waiver has been used.

Table IV.4
Government procurement procedures by value, 1995
(US\$ thousand)

Procedures	Procurement of goods or services (value)	Public work contracts (value)
Open bidding	More than 58.8 (or Bs10 million)	More than 176.5 (or Bs30 million)
Selective tendering	More than 5.9 (or Bs1 million) up to 58.8 (or Bs10 million)	More than 58.8 (or Bs10 million) up to 176.5 (or Bs30 million)
Direct purchase or contracts	Up to 5.9 (or Bs1 million)	Up to 58.8 (or Bs10 million)

Source: Government of Venezuela.

¹Law of Tenders, 20 July 1990, Official Gazette 34528, 10 August 1990; regulated by Decree 1906, 17 October 1991, Official Gazette 34830, 30 October 1991.

²In April 1994 detailed provisions were introduced for public works contracts (Presidential Decree 138, 20 April 1994).

³Article 74 of the Law of Tenders refers specifically to PDVSA.

⁴For selective tenders, at least five suppliers, chosen by the purchasing entity, must be invited and a minimum of three offers has to be received, or the process may be declared null and void.

97. Interested firms must comply with registration requirements. Although there is no central procurement agency, the Central Office of Statistics and Informatics (OCEI) maintains the National Registry of Contractors (*Sistema Nacional de Registro de Contratistas*). PDVSA keeps its own registries: the Unified Suppliers Registry and the Unified Contractors Registry. Registration requirements may be waived up to preselection stage, either when tenders are opened at international level for the purchase of goods or services or construction projects, or when the value of the contracts falls below Bs100,000 (US\$588).

98. The Law of Tenders permits, but does not require, a variety of preferences based on local production, content, investment, technology transfer, domestic standards compliance (the NORVEN stamp), etc., between offers that are within a reasonable range.

99. According to a recently released annual report of the State Comptroller, in 1994 only nine per cent of contracts were placed after a process of competitive tender.⁵ According to Government data, between 1990 and 1994 PDVSA's average annual purchases amounted to about US\$2.1 trillion, out of which around 43.7 per cent was of domestic origin, 46.9 per cent directly imported from abroad, and the rest was supplied by local representatives of foreign manufacturers.

⁵The Economist, 10 June 1995, p.50.