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Annex - Part 8/11

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IMPACT ASSESSMENT

Accompanying the document

**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**

**establishing rules on the access of third country goods and services to the European
Union's internal market in public procurement and procedures supporting negotiations
on access of European Union goods and services to the public procurement markets of
third countries**

Annex

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ANNEX 8

ANALYSIS OF THE OPENING OF DOMESTIC PROCUREMENT MARKETS

Preliminary remarks:

As none of the countries in question has a monopoly of public television, we have considered useless to add any detail on broadcasting equipment, whose dependency is always PARTIAL and whose openness verdict is limited to the discriminatory rules applied on to goods (market)

The degree of openness is assessed by using the "openness test" as detailed in the report and its annexes. The assessment that follows and the determination of whether a specific market in a specific country is open or closed (de jure and de facto) is based on the examination of international commitments in the area of procurement, domestic (central and sub-central) legislation where available, feedback from the Commission Delegations in the respective third countries, feedback from EU industry on their practical experiences in this market, etc. For some markets and countries the Commission services acknowledge that the full range of data and information is not available.

In order to ensure a comprehensive reading of this assessment, the following categories have been used to evaluate the degree of domestic openness of each sector:

- 1: Open
- 0.5: Partially open (a priori open)
- 0: Unclear/difficult to provide a clear assessment
- 0.5: Harmed by trade barriers (a priori closed)
- 1: Closed

Also, it is important to underline that in spite of the possible full closure of certain markets through domestic measures, some EU exports succeed to bypass the latter for two reasons:

- 1- Specialisation: good and services only available from EU suppliers or service providers
- 2- Lack of uniform compliance: protectionist domestic measures are not necessarily applied on a systematic basis

As a result, in spite of the assessment hereunder, some corrections have been taken into account in the calculations of the openness of sectors:

1-Specialisation: based on the industrial analysis in Appendix 5, we have identified those sectors where protectionist domestic measures are most likely not to have any affect because of the degree of specialisation.

2-Even if a market has been considered as fully closed, a 10% default degree of openness has been included, as explained in the methodological box 6 of the Problem analysis.

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1. United States

1.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full dependency

Degree of openness

Except for the coverage of the Department of Defence under the GPA US obligations (with security exemptions), this market is not opened *de jure*. A range of domestic protectionist measures are applied such as local content requirements (up to 50%) or local establishment requirements (ie. setting up of manufacturing capacities, requirements for substantial investments). The UK is also targeted by special measures limiting its access to considered sensitive areas.

Conclusion for the purposes of the IA: Fully closed (-1)

1.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: Highly dependent

Degree of openness

Except for the coverage of the NY Port Authority and New Jersey related procurement under the GPA, the ATC equipment/airport market is not opened *de jure*. A range of domestic protectionist measures are applied such as price preferences (25% > above added value of the sector in the EU), local content requirements (up to 60%) or local establishment requirements (ie. setting up of manufacturing capacities, requirements for substantial investments).

Conclusion for the purposes of the IA: Fully closed – for ATC equipment

1.3 Postal machinery/Airport sorting systems

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: Full dependency

Degree of openness

This market is not open *de jure*. In addition, a number of domestic protectionist measures are applied such as price preferences (ie. of 15% in Rhode Island or South Dakota), local content requirements (ie. US steel in Illinois, New York, Pennsylvania, Maryland, Louisiana)or local establishment requirements

Conclusion for the purposes of the IA: Fully closed (-1)

1.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities; sea rescue vessels for coast guards

Dependency from public procurement: Full dependency

Degree of openness

This market is not open *de jure*. In addition, a number of domestic protectionist measures are applied such as price preferences (ie. of 15% in Rhode Island or South Dakota), local preferences or local establishment requirements.

Conclusion for the purposes of the IA: Fully closed (-1)

1.5 - Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways, mass transit, power, water and dredging)
- Marginal for general public works (general public buildings) -

Degree of openness

The market is opened *de jure* in the segment of general building for federal administrations and some States (ie. California, Texas, Florida, NY, etc) and partially in the segment for power (only for Federal utilities, which represent the smaller portion of that procurement segment). Other segments such as highways and mass transit, airports, water supply and waste or dredging are not opened *de jure*. A number of domestic protectionist measures are applied such as price preferences (ie. normally of 6%), preferences for local labour (ie. Florida, Illinois, Ohio) or the so-called "bid preferences" in Ohio, Texas and Florida whereby when two bidders propose the same price for the same contract, the in-state bidder will be favoured¹.

This openness assessment has also taken into consideration GATS commitments. There are no restrictions on commercial presence (Mode 3), except for dredging. For some States (DC, ID, IO, KS, ME, MS, NV, OK, SC, SD, TN, TX and WV), engineers and architects must be residents of the State in question. This can be considered as a trade barrier.

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

1.6 - Construction materials

Relevant markets: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: Partial²

¹ For this assessment it is considered this type of domestic preference will not result in a barrier to EU suppliers given the small probability of receiving exactly the same bids.

² As the same materials are used for private construction.

Degree of openness

The market is opened *de jure* in the segment of general building for federal administrations and some States (ie. California, Texas, Florida, NY, etc) and partially in the segment for power (only for Federal utilities, which represent the smaller portion of that procurement segment). Other segments such as highways and mass transit, airports, water supply and waste or dredging are not opened *de jure*. A number of domestic protectionist measures are applied such as price preferences, local content requirements (up to 50%), local manufacture requirements (up to 100%), US/State steel preferences in some States (Texas, Illinois) or the so-called "bid preferences" in Ohio, Texas and Florida.

Conclusion for the purposes of the IA: Fully closed (-1)

1.7 - Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: Highly dependent

Degree of openness

This market is not open *de jure*. A number of domestic protectionist measures are applied such as price preferences, local content requirements (up to 60%) or local establishment requirements (ie. setting up of manufacturing capacities, requirements for substantial investments).

Conclusion for the purposes of the IA: Fully closed (-1)

1.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: Highly dependent³

Degree of openness

Except for the coverage of the NY Port Authority and New Jersey related procurement under the GPA, this market is not open *de jure*. In addition, a number of domestic protectionist measures are applied such as price preferences (ie. of 15% in Rhode Island or South Dakota), local content requirements (ie. US steel in Illinois, New York, Pennsylvania, Maryland, Louisiana)or local establishment requirements

Conclusion for the purposes of the IA: Fully closed (-1)

1.9 Power generation equipment

³ Only for public buses and not for coaches.

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

Dependency from public procurement: high

- While it is difficult to provide with a percentage, a substantial share of the US utilities is local or State-owned, at least partially.
- Federal utilities like the Tennessee Valley Authority follow public procurement rules and have been opened under GPA

Degree of openness

While federal utilities are opened de jure, this is not the case for state and below State-level utilities, which represent around 81% of local level procurement. In those cases where procurement is not open de jure, there are applicable domestic protectionist measures such as preferences for labour (Florida, Illinois, Ohio), local content requirements (ie. US steel), etc.

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

We would suggest a -0.5 category taking into account the importance of States not open de jure and of the existence of domestic preferences

1.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: Full (as most of the water management and sewage activities are within the remit of local authorities, the dependency rate is assumed to be 100%)

Degree of openness

This market is not opened de jure. Any entry into this market is subject to applicable domestic protectionist measures such as preferences for labour (Florida, Illinois, Ohio), local content requirements (ie. US steel), preferences for NY businesses (in NY) etc. There are no restrictions identified on commercial presence (GATS Mode 3).

Conclusion for the purposes of the IA: Fully closed (-1)

1.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc... purchased by cities and urban agglomerations.

Dependency from public procurement: High

- As most of the environmental services are within the remit of local authorities, the dependency rate is assumed to be 100%
- Contracting authorities may either purchase this type of goods or services, or actually outsource them (through concessions)

Degree of openness

This market is not opened de jure. Any entry into this market is subject to applicable domestic protectionist measures such as preferences for labour (Florida, Illinois, Ohio), local content requirements (ie. US steel), preferences for NY businesses (in NY) etc. There are no restrictions identified on commercial presence (GATS Mode 3).

Conclusion for the purposes of the IA: Fully closed (-1)

1.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by public hospitals

Dependency from public procurement: Partial - low⁴

Degree of openness

At federal level this procurement is open de jure. For procurement at State level there are domestic measures such as preferences for products (California, Florida, Ohio, Texas), preference for US and State contractors and products (Ohio), special treatment for NY businesses (in NY), etc

Conclusion for the purposes of the IA: "Partially open (0.5)" rather than "fully open (1)" given the State level measures.

1.13 Medical equipment

Relevant market: medical equipment products purchased by US public hospitals or health authorities. Includes laboratory research equipment and precision instruments (like cyclotrons, scanners).

Dependency from public procurement: Partial - low⁵

Degree of openness

At federal level this procurement is open de jure. For procurement at State level there are domestic measures such as preferences for products (California, Florida, Ohio, Texas), preference for US and State contractors and products (Ohio), special treatment for NY businesses (in NY), etc

Conclusion for the purposes of the IA: "Partially open (0.5)" rather than "fully open (1)" given the State level measures.

1.14 Specialised textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

Dependency from public procurement: Partial

- 100% Military uniforms for defence

⁴ US/State Department of Health purchases on behalf of public hospitals. Private hospitals, which make a large chunk of the US health market, are not covered by public procurement

⁵ Idem as above

- 100% Uniforms for fire-fighting
- Uniforms for utilities (e.g. non-radio-active textiles,...) - applies for PUBLIC utilities
- Bio-textiles and other health-related uniforms - Department of Health
- Overall uniforms

Degree of openness

Some segments are open de jure (ie. purchases by Department of Health) while others no (ie. purchases by Department of Defence). In addition, domestic preferences are applicable such as local preferences for fire-fighting textiles and the "Berry amendment" which imposes a 100% local establishment requirement and 100% local content requirement for purchases by DoD of non-US textiles, food and clothing.

Conclusion for the purposes of the IA: "Harmed by trade barriers - a priori closed (-0.5)"

1.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: Partial (depends on degree of specialisation of service delivered)

Degree of openness

Several segments are opened de jure (would depend of the contracting authority). In addition application of domestic preferences. Taking into account GATS commitments, there are no restrictions for building, consulting and advertising services while several residency restrictions are possible for auditing and accounting services (although it is not possible to assess the degree of their implementation).

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

1.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management)

Dependency from public procurement: Partial (both specialised and generic services are sold to both private and public sectors)

Degree of openness

Several segments are opened de jure (would depend of the contracting authority). In addition, domestic preferences are applied. Existence of a wide range of GATS possible restrictions (although it is not possible to assess the degree of their implementation).

Conclusion for the purposes of the IA: Fully closed (-1)

1.17 Oil, gas and mining exploration equipment

Relevant market: Equipment for oil, mining and gas extraction and transport.

Dependency from public procurement: None (private sector)

Degree of openness

Not applicable

Conclusion for the purposes of the IA: Not relevant

1.18 Fixed telecom equipment

Relevant market: Telecom equipment for fixed telecom operators providing universal service-like public services.

Dependency from public procurement: Low (only possible exception for Rural Utilities Services)

Degree of openness

This market is not opened de jure. Restrictions on foreign bids on entities that have more than 20% of government capital.

Conclusion for the purposes of the IA: not relevant

1.19 Computer equipment and IT services

Relevant market: Computer equipment and software services sold government-wide; supercomputers for hospitals, universities, research centres, infrastructure, aerospace and power generation.

Dependency from public procurement: Partial for low margin products and high for specific added-value products and services

Degree of openness

Several segments are opened de jure (would depend of the contracting authority). In addition, domestic preferences are applied. No applicable GATS restrictions

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

1.20 Street lighting

Relevant market: Lighting for streets and highways

Dependency from public procurement: full dependency

Degree of openness

Limited opening de jure given existence of the "federal highways and mass transit" derogation in the GPA. Existence in addition of domestic protectionist measures such as local content requirements (up to 50%), local manufacture equipment (up to 100%), preferences for US/State made steel (Texas, Illinois) or bid preference.

Conclusion for the purposes of the IA: Fully closed (-1)

1.21 Port Equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: High

Degree of openness

Several segments are opened de jure (ie. Port Authority of NY and New Jersey) but not for local authorities or State authorities not covered by the GPA. Existence in addition of domestic protectionist measures such as local content requirements (up to 50%), local manufacture equipment (up to 100%), preferences for US/State made steel (Texas, Illinois) or bid preference.

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

2. JAPAN

2.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full dependency

Degree of openness

Although the Ministry of Defense is covered there are security exemptions. The market for the rest is not open de jure.

Conclusion for the purposes of the IA: Closed (-1)

2.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: High

- 100% for ATC equipment ("airport basic infrastructures" / MLIT)
- 100% for astronomical and space-related satellites (JAXA)
- Unknown for communication satellites
- 100% for meteorological satellites (JAXA and JMA)
- Unknown for navigation satellites

Degree of openness

For ATC equipment/airports the market is open de jure. As regards satellites, this market is not open de jure. In this area while the eligibility is systematically taken into consideration by Ministries, there are also local establishment requirements and general administrative issues related to FDI in Japan

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

2.3 Postal machinery/airport sorting systems

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: high

- 100% for postal machinery (Japan Post)
- Partial for airport sorting systems (Narita, Haneda-Int'l)

Degree of openness

This market is open de jure for public airports and Japan Post.

Conclusion for the purposes of the IA: Open (1)

2.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities

Dependency from public procurement: full dependency

Degree of openness

Open de jure for MLIT and the Tokyo Metropolitan Government but the market is not open de jure for the lower administrative levels, responsible for fire-fighting. There are also local preferences and local establishment requirements and general administrative issues related to FDI in Japan

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

2.5 Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways, mass transit, water and dredging)
- Airport terminals and power are private in Japan
- Marginal for general public works (general public buildings)

Degree of openness

While some segments of the market are open de jure (ie. general water infrastructure, national highways, general building construction for GPA covered entities), other segments are not open de jure (ie. mass transit due to the application of the operational safety clause). The latter segments will be affected also by local preferences and local establishment requirements together with complicated FDI rules.

Also, those segments open de jure are affected by registration and qualification procedures (keishin) and widespread existence of cartels in the construction market that make it very difficult to have a de facto access even in these de jure opened segments. The existence of the GPA threshold of 15 million SDR would also render very difficult for SMEs to win contracts in this area.

As regards GATS assessment, there are no restrictions on commercial presence but restrictions for architects and engineers.

Conclusion for the purposes of the IA: Closed (-1)

2.6 Construction materials

Relevant market: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: Partial (same materials used for private construction)

Degree of openness

While some segments of the market are open de jure (ie. general water infrastructure, national highways, general building construction for GPA covered entities), other segments are not open de jure (ie. mass transit due to the application of the operational safety clause). The latter segments will be affected also by local preferences and local establishment requirements together with complicated FDI rules.

Also, those segments open de jure are affected by registration and qualification procedures (keishin) and widespread existence of cartels in the construction market that make it very difficult to have a de facto access even in these de jure opened segments. The existence of the GPA threshold of 15 million SDR would also render very difficult for SMEs to win contracts in this area.

Conclusion for the purposes of the IA: Closed (-1)

2.7 Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: High

- JR East/West/Central - private operators with special or exclusive rights
- 100% for Metro networks - they are all committed in GPA
- None for Private operators

Degree of openness

This market is not open de jure. In addition the operational safety clause is widely used in this sector and there is proof of no publication of calls for tender for entities that have been committed internationally.

Conclusion for the purposes of the IA: Fully closed (-1)

2.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: Partial

- 100% for public buses purchased by city transportation bureaus
- Private operators of buses purchase their buses in the market

Degree of openness

This market is not open de jure. In addition the operational safety clause is widely used in this sector. In addition to the existence of local preferences, there is proof of no publication of calls for tender for entities that have been committed internationally.

Conclusion for the purposes of the IA: Fully closed (-1)

2.9 Power generation equipment

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

Dependency from public procurement: None (fully private sector)

Degree of openness

Not applicable

Conclusion for the purposes of the IA: Not relevant

2.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: high

- Main infrastructure (canals, dams, artificial lakes) is in the responsibility of the Japan Water Agency (covered by GPA)
- Most sewage utilities ("Bulk water supply services") - Prefectures
- Water supply services are managed by municipalities (cities)
- There are also sometimes private operators, notably for the final delivery

Degree of openness

Some segments of the market are open de jure (ie. Japan Water Agency, sewage utilities, some municipal water supply services) but others not. Even if there are cases of EU companies winning contracts in areas not open de jure, there is also proof of local preferences

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

2.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc... purchased by cities and urban agglomerations.

Dependency from public procurement: High (within remit of municipalities)

Degree of openness

This market is open de jure for the main cities but not for Tokyo for example. There are cases of local preferences. No restrictions on commercial presence (GATS Mode 3) have been identified.

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

2.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by Japanese public hospitals or health authorities

Dependency from public procurement: Partial

- Ministry of Health
- National Hospital Organisation covers purchases of main public hospitals
- Municipalities cover municipal hospitals

- University hospitals are affiliated to universities; for public universities, purchases fall within the remit of National University Corporation
- There are several private hospitals

Degree of openness

This market is open de jure for Ministry of Health and other national entities (ie. National Hospital Organisation) the main cities but not for other cities. There are cases of local preferences

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

2.13 Medical equipment

Relevant market: medical equipment products purchased by US public hospitals or health authorities. Includes laboratory research equipment and precision instruments (like cyclotrons, scanners).

Dependency from public procurement: Partial

- Ministry of Health
- National Hospital Organisation covers purchases of main public hospitals
- Municipalities cover municipal hospitals
- University hospitals are affiliated to universities; for public universities, purchases fall within the remit of National University Corporation
- There are several private hospitals

Degree of openness

This market is open de jure for Ministry of Health and other national entities (ie. Hospital Organisation) and GPA covered cities. There are cases of local preferences

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

2.14 Specialised textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

Dependency from public procurement: Partial

- 100% Military uniforms for defence
- 100% Uniforms for fire-fighting (municipalities)
- Uniforms for utilities (e.g. non-radio-active textiles,...) - private sector in Japan
- Bio-textiles and other health-related uniforms - Ministry of Health, National Hospital Organisation, National University Corporation, municipalities,...
- Overall uniforms

Degree of openness

This market is open de jure for Ministry of Health and other national entities (ie. Hospital Organisation) and GPA covered cities. There are cases of local preferences

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

2.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: Depends on the degree of specialisation of the service delivered (consulting and legal services sold to aerospace or power generation are considered highly dependent while building clearing and auditing are considered generic services sold to private and public)

Degree of openness

It depends on the type of service and of the contracting authorities as advertising and building cleaning, for example, are open de jure but not legal services or consulting. There are also local preferences.

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

2.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management)

Dependency from public procurement: Partial (both specialised and generic services are sold to both private and public sectors)

Degree of openness

This market is not open de jure. There are local preferences

Conclusion for the purposes of the IA: Closed (-1)

2.17 Oil, gas and mining exploration equipment

Relevant market: Equipment for oil, gas and mining extraction and transport. Technical surveying services.

Dependency from public procurement: No oil or gas in Japan (or transport privatised)

Degree of openness

Not applicable

Conclusion for the purposes of the IA: not appropriate

2.18 Fixed telecom equipment

Relevant market: Telecom equipment for fixed telecom operators providing universal service-like public services.

Dependency from public procurement: almost full dependency ("Last mile" systematically owned by NTT)

Degree of openness

This market is no open de jure. While the operational safety clause could be applied to date there is no proof of systematically discrimination on its basis.

Conclusion for the purposes of the IA: Open (1)

2.19 Computer equipment and IT services

Relevant market: Computer equipment and software services sold government-wide; supercomputers for hospitals, universities, research centres, infrastructure, aerospace and power generation.

Dependency from public procurement: Partial for low-margin products, High for specific added value products and services

Degree of openness

This market is open de jure.

Conclusion for the purposes of the IA: Partially open (+0.5)

2.20 Street lighting

Relevant market: Lighting for streets and highways

Dependency from public procurement: full dependency

Degree of openness

While some segments of the market are open de jure (ie. Expressway Corporations, large cities), other segments are not open de jure (ie. non GPA covered municipalities). The latter segments will be affected also by local preferences and local establishment requirements together with complicated FDI rules.

Conclusion for the purposes of the IA: Partially open (+0.5)

2.21 Port Equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: full dependency

Degree of openness

This market is open de jure (ie. GPA covers main ports)

Conclusion for the purposes of the IA: Open (1)

3. CANADA

3.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full dependency

Degree of openness

Although the Ministry of Defense is covered de jure there are security exemptions. In addition there are also protectionist measures as the IRB policy of offsets.

Conclusion for the purposes of the IA: Fully closed (-1)

3.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: High (100% for satellites while ATC equipment is fully private)

Degree of openness

The satellites related market is not opened de jure. The Federal contracting Authority gives the right to prefer Canadian contractors in services and it is unclear whether IRB policy can apply with offsets (due to defense and security).

Conclusion for the purposes of the IA: Fully closed (-1)

3.3 Postal machinery/airport sorting systems

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: Full dependency

Degree of openness

The postal machinery segment is opened de jure. Although the airport sorting systems market is not opened de jure, no discriminatory measures or practices have been identified.

Conclusion for the purposes of the IA: Open (1)

3.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure⁶. In addition, local preferences and the IRB policy of offsets apply.

Conclusion for the purposes of the IA: Fully closed (-1)

3.5 Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways, mass transit, power, water and dredging)
- Marginal for general public works (general public buildings)

Degree of openness

The segment of general building construction is open de jure. Transport related contracts (at federal, Crown corporations or sub-provincial level), water supply, dredging and power are not opened de jure. There are local establishment requirements (ie. For federal projects) and preferences to Canadian or locally-established companies. As regards assessment of GATS, in most Provinces engineers and architects must be residents.

Conclusion for the purposes of the IA: Fully closed (-1)

3.6 Construction materials

Relevant market: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: Partial (same materials used for private construction)

Degree of openness

The segment of general building construction is open de jure. Transport related contracts (at federal, Crown corporations or sub-provincial level), water supply, dredging and power are not opened de jure. There are local preferences possible.

Conclusion for the purposes of the IA: Unclear / difficult to provide clear assessment (0)

3.7 Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. While there is no proof of discriminatory measures/practices in the majority of Provinces, there are domestic preferences in important

⁶ Cities are responsible for fire-fighting and DND purchases of aircraft are not covered

markets such as Quebec or Ontario (Local content requirement - 25% minimum (local authorities can set up higher thresholds), except for locomotives)

Conclusion for the purposes of the IA: Harmed by trade barriers (-0.5)

3.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: Partial

- 100% for public buses (100% for main mass transit networks (Toronto, Montreal))
- None for coaches

Degree of openness

This market is not opened de jure. Existence of local content requirements and price preference mechanism (5%) in Ontario.

Conclusion for the purposes of the IA: Unclear / difficult to provide clear assessment (0)

3.9 Power generation equipment

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

Dependency from public procurement: High (Main utilities are either Crown Corporations such as Hydro Québec, Toronto Hydro or municipalities)

Degree of openness

This market is not opened de jure. Applicable of domestic preferences in key Provinces such as Ontario (local content requirements for renewable energy producers of up to 60%)

Conclusion for the purposes of the IA: Harmed by trade barriers (-0.5)

3.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: High (most contracts awarded at the level of Provinces/municipalities)

Degree of openness

This market is not opened de jure. Local preferences are applied widely.

Conclusion for the purposes of the IA: Fully closed (-1)

3.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc... purchased by cities and urban agglomerations.

Dependency from public procurement: High (most contracts awarded at the level of Provinces/municipalities)

Degree of openness

This market is not opened de jure. Local preferences are applied widely.

Conclusion for the purposes of the IA: Fully closed (-1)

3.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by health authorities

Dependency from public procurement: Partial

- Hospitals are part of the MASH sector, which falls under procurement rules
- There are private hospitals in Canada also
- 70% of health expenditure appears to be public-funded
- Hospitals are local and health authorities are in the Provinces

Degree of openness

This market is not opened de jure. Local preferences are applied widely.

Conclusion for the purposes of the IA: Fully closed (-1)

3.13 Medical equipment

Relevant market: medical equipment products purchased by health authorities

Dependency from public procurement: Partial

- Hospitals are part of the MASH sector, which falls under procurement rules
- There are private hospitals in Canada also
- 70% of health expenditure appears to be public-funded
- Hospitals are local and health authorities are in the Provinces

Degree of openness

This market is not opened de jure. Local preferences are applied widely.

Conclusion for the purposes of the IA: Fully closed (-1)

3.14 Specialised textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

Dependency from public procurement: Partial

- 100% Military uniforms for defence - federal
- 100% Uniforms for fire-fighting - municipalities
- Uniforms for utilities (e.g. non-radio-active textiles,...) - applies for PUBLIC utilities-hospitals (MASH)
- Overall uniforms

Degree of openness

The defense-related purchases are opened de jure while the fire-fighting/hospital related are not. Local preferences affect fire-fighting and overall uniforms purchases

Conclusion for the purposes of the IA: Unclear / difficult to provide clear assessment (0)

3.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: Partial/low (depends on degree of specialisation of the service delivered)

Degree of openness

Difficult to assess as it would depend on the type of contracting authority for building, cleaning, auditing, legal and consulting services. Advertising services are not opened de jure.. Existence of domestic preferences measures.
Several residency GATS restrictions applied for consulting, legal, engineering and auditing/accounting services

Conclusion for the purposes of the IA: Unclear / difficult to provide clear assessment (0)

3.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management)

Dependency from public procurement: Partial-low

Degree of openness

This market is not opened de jure. Domestic preferences apply

Conclusion for the purposes of the IA: Unclear / difficult to provide clear assessment (0)

3.17 Oil, gas and mining exploration equipment

Relevant market: Equipment for oil extraction and transport.

Dependency from public procurement: none (private sector)

Degree of openness

Not applicable

Conclusion for the purposes of the IA: not relevant

3.18 Fixed telecom equipment

Relevant market: Telecom equipment for fixed telecom operators providing universal service-like public services.

Dependency from public procurement: Low (private sector except in Saskatchewan)

Degree of openness
Not applicable

Conclusion for the purposes of the IA: Not relevant

3.19 Computer equipment and IT services

Relevant market: Computer equipment and software services sold government-wide; supercomputers for hospitals, universities, research centres, infrastructure, aerospace and power generation.

Dependency from public procurement: Partial for low-margin products and High for specific added-value products and services (ie supercomputers and IT applications for hospitals, universities, etc)

Degree of openness
Some segments are opened de jure depending on the type of contracting authorities. Domestic protectionist measures are applied.

Conclusion for the purposes of the IA: Unclear / difficult to provide clear assessment (0)

3.20 Street lighting

Relevant market: Lighting for streets and highways

Dependency from public procurement: full dependency

Degree of openness
This market is not opened de jure. Local preferences applied

Conclusion for the purposes of the IA: Closed (-1)

3.21 Port Equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: Full dependency⁷

Degree of openness
This market is not opened de jure. Local preferences applied

Conclusion for the purposes of the IA: Closed (-1)

⁷ Ports of Vancouver, St John, Sept Iles, Montreal, Québec, Halifax, Hamilton and Thunder Bay are in the AIT (Agreement on Internal Trade)

4. KOREA

Korea applies the principle of "reciprocity" in "international bidding" (i.e. open under the GPA). - > we interpret this as a de facto application of the general notes of the GPA. The legislation appears unclear in the area not covered by GPA, except for defence procurement and SME set asides. Foreign bidders appear to include companies that are controlled by more than 50% by a foreign shareholder.

The EU Delegation in Seoul notes that there is no systematic policy of discrimination against EU companies and that the latter have won contracts in some sectors not opened de jure to them.

4.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full dependency

Degree of openness

While the Ministry of Defense is covered by GPA commitments, there are security exemptions. There are also national protectionist measures such as local content, pre-authorisations needed to participate in a particular bid or offset

Conclusion for the purposes of the IA: Fully closed (-1)

4.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: Partial

- ATC equipment (Korea Airports Corporation and Incheon – closed to EU and to be privatised)
- 100% for astronomical and space-related satellites (Korea Aerospace Research Institute - KARI)
- 0% for communication satellites (Korea Telecom)
- 100% for meteorological satellites (Ministry of Science and Technology, KARI, Korea Meteorological Administration)
- Unknown for navigation satellites

Degree of openness

This market is not opened de jure. While their application seems rare, there are SMEs set aside applicable to this procurement market

Conclusion for the purposes of the IA: Fully closed (-1)

4.3 Postal machinery/airport sorting systems

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: High (100% for postal machinery, partial for airport sorting systems)

Degree of openness

This market is partially opened de jure (only as regards Korea Post). While their application seems rare, there are SMEs set aside applicable to this procurement market

Conclusion for the purposes of the IA: Unclear / difficult to provide clear assessment (0)

4.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities

Dependency from public procurement: Full dependency

Degree of openness

This market is open de jure to a larger extent (ie. Korean Coast Guard and larger cities)

Conclusion for the purposes of the IA: Partially open (0.5)

4.5 Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways/Korea Expressway Corporation, mass transit, water and dredging)
- Airport terminals – closed to EU and private in Korea
- Marginal for general public works (general public buildings)

Degree of openness

Some segments of this market are open de jure (ie. power, highways, general building construction, concession contracts) while others, such as mass transit related services are not. When opened de jure, the thresholds applied (ie. 15.000.000 SDRs) render very difficult the access of foreign SMEs to these contracts. In addition, local establishment requirements (ie. complex FDI rules) and local preferences are applied when not open de jure.

Conclusion for the purposes of the IA: Partially open (+0.5)

4.6 Construction materials

Relevant market: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways/Korea Expressway Corporation, mass transit, water and dredging)
- Airport terminals – closed to EU and private in Korea
- Marginal for general public works (general public buildings)

Degree of openness

Some segments of this market are open de jure (ie. power, highways, general building construction, concession contracts) while others, such as mass transit related services are not. When opened de jure, the thresholds applied (ie. 15.000.000 SDRs) render very difficult the access of foreign SMEs to these contracts. In addition, local establishment requirements (ie. complex FDI rules) and local preferences are applied when not open de jure.

Conclusion for the purposes of the IA: Partially open (+0.5)

4.7 Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. No discriminatory measures have been identified

Conclusion for the purposes of the IA: Partially open (0.5)

4.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: Partial

- 100% for public buses purchased by city transportation bureaus
- Private operators of buses purchase their buses in the market

Degree of openness

Only procurement of major cities is opened de jure.

Conclusion for the purposes of the IA: Partially open (0.5)

4.9 Power generation equipment

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

Dependency from public procurement: full dependency

Degree of openness

This market is opened de jure except for some equipment such as transformers, switches, panels or insulated wire.

Conclusion for the purposes of the IA: Partially closed (-0.5)

4.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: High

Degree of openness

Some segments of the market are open de jure (ie. Korean Water Resources Corporation or water supply services by some cities). SMEs set-asides apply to this sector.

Conclusion for the purposes of the IA: Open (1)

4.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc... purchased by cities and urban agglomerations.

Dependency from public procurement: High (at municipal level)

Degree of openness

While procurement by some cities is opened de jure, not for other key areas. SMEs set-asides apply to this sector.

Conclusion for the purposes of the IA: Unclear / difficult to provide clear assessment (0)

4.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by public hospitals

Dependency from public procurement: Partial

- Ministry of Health – underlying organisations
- Municipalities cover municipal hospitals
- University hospitals are affiliated to universities (probably covered through Ministry of Science, Education and Research)
- There are several private hospitals

Degree of openness

While procurement by central Ministries and main cities is opened de jure, not for other key areas. SMEs set-asides apply to this sector.

Conclusion for the purposes of the IA: Unclear / difficult to provide clear assessment (0)

4.13 Medical equipment

Relevant market: medical equipment products purchased by US public hospitals or health authorities. Includes laboratory research equipment and precision instruments (like cyclotrons, scanners).

Dependency from public procurement: Partial

- Ministry of Health – underlying organisations
- Municipalities cover municipal hospitals
- University hospitals are affiliated to universities (probably covered through Ministry of Science, Education and Research)
- There are several private hospitals

Degree of openness

While procurement by central Ministries and main cities is opened de jure, not for other key areas. SMEs set-asides apply to this sector.

Conclusion for the purposes of the IA: Unclear / difficult to provide clear assessment (0)

4.14 Specialised textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

Dependency from public procurement:

- 100% Military uniforms for defence
- 100% Uniforms for fire-fighting (municipalities)
- Uniforms for utilities (e.g. non-radio-active textiles,...) - KEPCO
- Bio-textiles and other health-related uniforms - Ministry of Health, Ministry of Science, Education and Research and main cities
- Overall uniforms

Degree of openness

This market is partially opened de jure (ie. Ministry of Health and GPA covered cities). The SMEs set asides apply.

Conclusion for the purposes of the IA: Unclear / difficult to provide clear assessment (0)

4.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: partial/low (depends on degree of specialisation of service delivered).

Degree of openness

Some segments are opened de jure (depends on the type of contracting authority and type of service). The SMEs set asides apply.

Conclusion for the purposes of the IA: Unclear / difficult to provide clear assessment (0)

4.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management)

Dependency from public procurement: Partial-low (both specialised and generic services are sold to both private and public sectors).

Degree of openness

This market is not opened de jure. The SMEs set asides apply.

Conclusion for the purposes of the IA: Closed (-1)

4.17 Oil, gas and mining exploration equipment

Relevant market: Equipment for oil, gas and mining extraction and transport.

Dependency from public procurement: No oil exploration. Other sectors are private

Degree of openness: not applicable

Conclusion for the purposes of the IA: not relevant

4.18 Fixed telecom equipment

Relevant market: Telecom equipment for fixed telecom operators providing universal service-like public services.

Dependency from public procurement: none

Degree of openness: not applicable

Conclusion for the purposes of the IA: not relevant

4.19 Computer equipment and IT services

Relevant market: Computer equipment and software services sold government-wide; supercomputers for hospitals, universities, research centres, infrastructure, aerospace and power generation.

Dependency from public procurement: partial for low-margin products, high for specific added-value products and services

Degree of openness

This market is open de jure. The SMEs set aside apply.

Conclusion for the purposes of the IA: Open (1)

4.20 Street lighting

Relevant market: Lighting for streets and highways

Dependency from public procurement: Partial

Degree of openness

Opened de jure for highways and general building construction, including concession contracts.

Conclusion for the purposes of the IA: Open (1)

4.21 Port Equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: High

Degree of openness

Main ports are covered through the cities.

Conclusion for the purposes of the IA: Open (1)

5. Israel

GPA apparently supersedes national procurement law and can be considered as directly applicable. In this context, what is CLOSED DE JURE internationally is CLOSED DE FACTO

However, Israel applies an offset policy of 20% on all procurement by foreign firms. This makes any procurement OPEN DE JURE as being actually CLOSED DE FACTO. In these circumstances, we considered CLOSED DE JURE resulted in CLOSED DE FACTO. Offsets have been agreed in the GPA, yet to ensure consistency with other countries, it is considered as a measure in practice for the DE FACTO assessment

5.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full dependency

Degree of openness

The defence public procurement market of Israel is not open *de jure*. The Ministry of Defence is covered, but subject to security exceptions. Where the market is not open *de jure*, national protectionist measures apply – offsets.

Conclusion for the purposes of the IA: Fully closed (-1)

5.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: Partial

- ATC equipment (Israel Airports Authority)
- 100% for all satellites (Israel Space Agency)

Degree of openness

While the Israel aerospace market is open *de jure* for Airports Authority and not for the space agency. Offsets are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

5.3 Postal machinery/Airport sorting systems

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: Full

- 100% for postal machinery (Israel Post)
- 100% for airports (Israel Airports Authority)

Degree of openness

The market is open *de jure* but offsets are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

5.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities; coast guard vessels (non-military)

Dependency from public procurement: Full

- 100% for fire-fighting (Israel Fire and Rescue Services, municipalities)

Degree of openness

This market is not open *de jure*. Offsets are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

5.5 Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways/, mass transit, water and dredging)
- Airport terminals – Israel Airports Authority
- Marginal for general public works (general public buildings)

Degree of openness

The market is open *de jure for* transport (with the exemptions of mass transit and airport terminals), for Mekhorot Water, for power (Israel Electric Corp) and highways (Ministry of Transport-National Highways Authority). For other segments the market is not open *de jure* (ie dredging) for transport, water supply, dredging and power. Offsets apply

Conclusion for the purposes of the IA: Fully closed (-1)

5.6 Construction materials

Relevant markets: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways/, mass transit, water and dredging)
- Airport terminals – Israel Airports Authority
- Marginal for general public works (general public buildings)

Degree of openness

The market is open *de jure for* transport (with the exemptions of mass transit and airport terminals), for Mekhorot Water, for power (Israel Electric Corp) and highways (Ministry of Transport-National Highways Authority). For other segments the market is not open *de jure* (ie dredging) for transport, water supply, dredging and power. Offsets apply

Conclusion for the purposes of the IA: Fully closed (-1)

5.7 Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: Full

- National Metropolitan Authority (NMA)
- Israel Railways

Degree of openness

The market is open *de jure* for Israel Railways and not for NMA. Offsets apply.

Conclusion for the purposes of the IA: Fully closed (-1)

5.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: Partial

- 100% for public buses purchased by city transportation bureaus
- Private operators of buses purchase their buses in the market

Degree of openness

The market is open *de jure* but offsets apply

Conclusion for the purposes of the IA: Fully closed (-1)

5.9 Power generation equipment

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

Dependency from public procurement: Full

Degree of openness:

The market is open *de jure* (but with explicit exclusions for HS 8504 (transformers), HS 8535 (switches), HS 8537 (panels), HS 8544 (cables) and electric motors (cf. several 8501 sub-codes). Offsets are also applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

5.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: Full

Degree of openness:

The market is open *de jure* but offsets apply.

Conclusion for the purposes of the IA: Fully closed (-1).

5.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc...purchased by cities and urban agglomerations.

Dependency from public procurement: Full

Degree of openness:

The market is open *de jure* but offsets apply

Conclusion for the purposes of the IA: Fully closed (-1).

5.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by Israel public hospitals or health authorities.

Dependency from public procurement: Partial

- Ministry of Health – underlying organisations
- Municipalities cover municipal hospitals
- University hospitals are affiliated to universities
- There are several private hospitals

Degree of openness:

The market is open *de jure* for Ministry of Health (except for specific products), Ministry of Education, main cities and not for insulin and hemi-dialysis for Ministry of Health. Offsets are also applicable.

Conclusion for the purposes of the IA: Fully closed (-1).

5.13 Medical equipment

Relevant market: medical equipment products purchased by Japanese public hospitals or health authorities. Includes laboratory research equipment and precision instruments (like cyclotrons, scanners).

Dependency from public procurement: Partial

- Ministry of Health – underlying organisations
- Municipalities cover municipal hospitals
- University hospitals are affiliated to universities
- There are several private hospitals

Degree of openness:

The market is open *de jure* for Ministry of Health, except for specific products, Ministry of Education, main cities and not for audiometers, intravenous solutions, scalpels, blood packs, syringes for Ministry of Health. Offsets are also applicable.

Conclusion for the purposes of the IA: Fully closed (-1).

5.14 Specialised Textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

Dependency from public procurement: Partial

- 100% Military uniforms for defence
- 100% Uniforms for fire-fighting (Israel Fire and Rescue Service, municipalities)
- Uniforms for utilities (e.g. non-radio-active textiles,...)
- Bio-textiles and other health-related uniforms - Ministry of Health, Ministry of Science, Education and Research and main cities
- Overall uniforms

Degree of openness:

The market is open *de jure* for Min. of Health, GPA covered cities and not for Ministry of Defence, or other cities. Offsets are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

5.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: Partial; depends on degree of specialisation of service-delivered

Degree of openness:

The market is open *de jure* (depending on the type of contracting authority) for advertising, consulting, building cleaning, engineering services, auditing/accounting, legal services - depends on the type of contracting authority. Offsets are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

5.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management).

Dependency from public procurement: Partial

Both specialised and generic services are sold to both private and public sectors. However, sums to be managed by governments are generally much higher than in the private sector.

Degree of openness:

The market is not open *de jure*. Offsets apply.

Conclusion for the purposes of the IA: Fully closed (-1)

5.17 Oil equipment

Relevant market: Equipment for oil extraction and transport. Technical surveying services.

Dependency from public procurement: none

Degree of openness: not applicable

Conclusion for the purposes of the IA: not relevant

5.18 Fixed telecom equipment

Relevant market: Telecom equipment for fixed telecom operators providing universal service-like public services.

Dependency from public procurement: none

Degree of openness: not applicable

Conclusion for the purposes of the IA: not relevant

5.19 Computer and IT services

Relevant market: Computer equipment and software services sold government-wide; supercomputers for hospitals, universities, research centres, infrastructure, aerospace and power generation.

Dependency from public procurement: PARTIAL for low-margin products, HIGH for very specific added-value products and services.

Degree of openness:

The market is open *de jure* for computer and IT services. Offsets are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

5.20 Street lightning, traffic signalling

Relevant market: lighting for streets and highways

Dependency from public procurement: Full

Degree of openness:

The market is open *de jure* for highways (Ministry of Transport-National Highways Authority) and for the main cities, but not for the rest. It is not open *de jure* for: for transport, water supply, dredging and power. Offsets are applicable.

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

5.22 Port equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: High

- 4 port authorities are covered (Haifa, Eilat, Ashod, Israel Ports Development)
- 1 port authority is not covered (Marine Trust Ltd - port of Tel Aviv)

Degree of openness:

The market is not open *de jure* for: for transport, water supply, dredging and power. Offsets are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

6. Mexico

Mexico has partly opened the procurement of the federal government and State enterprises through its free trade agreement with the EU. If the FTA does not cover a specific procurement, then the Mexican government can apply a 50% local content requirement (cf. Article 28 of the Federal Law⁸).

The procurement of States has not been opened through the FTA. The laws of the 4 main States (Mexico State, Mexico DF, Jalisco, Nuevo Leon), which cover the 3 largest agglomerations (Mexico, Guadalajara and Monterrey), have been analysed.

- Estado de Mexico, Nuevo Leon and Jalisco: national preference by definition, unless the good is not found in Mexico (article 26 of the law of Jalisco⁹, article 62 of the law of Nuevo Leon¹⁰ and article 36 of the law of Estado de Mexico¹¹).

- Mexico Federal District: The government decides whether it should undertake a national procedure (where goods need a 50% Mexican content) or an "international procedure" (where goods need a 35% Mexican content requirement¹²).

6.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full

Degree of openness

The defence public procurement market of Mexico is not open *de jure*. The Ministry of Defence is covered, but subject to security exceptions. Direct awards are possible in the defence sector.

Conclusion for the purposes of the IA: Fully closed (-1)

6.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: Full

- ATC equipment (SENEAM - Servicios a la Navegacion en el Espacio Areo Mexicano a department under the Secretaria Transportes y Comunicaciones SENEAM is not listed in the EUMEX FTA differently from overseeing body the SCT)
- Satellites are purchased either by the SCT under open procedures or by the UAM - Universidad Autonoma de Mexico (not covered)

⁸ <http://www.diputados.gob.mx/LeyesBiblio/pdf/14.pdf>

⁹ http://www.ceajalisco.gob.mx/transparencia/pdf/ley/estatal/reglamento_ley_adquisiciones.pdf

¹⁰

http://www.nl.gob.mx/pics/pages/subasta_base/Ley+de+Adquisiciones+Arrendamientos+y+Contratacion+de+Servicios+del+Estado+de+Nuevo+Leon.pdf

¹¹ http://www.mexico.compranet.gob.mx:8009/html44/ley_adq2000.html

¹² http://www.comisa.df.gob.mx/transparencia/fraccion_i/LeyAdquisicionesDF.pdf

Degree of openness

The ATC equipment/satellites market is open de jure but the situation is unclear on whether it is open for ATC equipment purchased by UAM. Certain national protectionist measures apply such as 50% local content requirement in cases of segments not opened de jure.

Conclusion for the purposes of the IA: Unclear/Difficult to provide clear assessment (0)

6.3 Postal machinery/Airport sorting systems

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: High

- 100% for postal machinery (Servicio Postal Mexicano)
- High for airport sorting systems (100% for airports like Mexico that are controlled by ASA, but not for airports like Cancun that are run by concessions)

Degree of openness

The market is open *de jure and de facto*.

Conclusion for the purposes of the IA: Fully open (1)

6.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities; sea rescue vessels of coast guard

Dependency from public procurement: Full

Degree of openness

This market is not open *de jure*. The Ministry of Defence is covered but subject to security exceptions. A number of domestic protectionist measures are applied such as a 35-50% local content requirement.

Conclusion for the purposes of the IA: Fully closed (-1)

6.5 Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: High

- 100% for infrastructure construction (highways/CAPUFE, mass transit, water and dredging)
- Airport terminals – ASA or airport concessions
- Marginal for general public works (general public buildings)

Degree of openness

Openness test

A part of the market is open *de jure*, while another part is not. Transport segments such as airport terminals (ASA) are opened *de jure*, as well as power, highway and general building construction of the federal government. On the contrary, transport, general water infrastructure and general building construction in States and dredging is not opened *de jure*. A priori there are no protectionist measures in the area of services. Mexico has not clarified whether concession contracts to the EU are open in the EUMXFTA - a priori they are closed *de jure*.

Conclusion for the purposes of the IA:

"unclear (0)

6.6 Construction materials

Relevant markets: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: High

- 100% for infrastructure construction (highways/CAPUFE, mass transit, water and dredging)
- Airport terminals – ASA or airport concessions
- Marginal for general public works (general public buildings)

Degree of openness

A part of the market is open *de jure*, while another part is not. Transport segments such as airport terminals (ASA) are opened *de jure*, as well as power, highway and general building construction of the federal government. On the contrary, transport, general water infrastructure and general building construction in States and dredging is not opened *de jure*. In these cases local content requirements (35-50%) are applied. Also, Mexico has not clarified whether concession contracts to the EU are open in the EUMXFTA - a priori they are closed *de jure*.

Conclusion for the purposes of the IA:

"unclear (0)

6.7 Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: High

- Ferrocarriles de Mexico - very small
- Urban transport networks (Metro de Mexico)

Degree of openness

The market is open *de jure* for railways and not open *de jure* for urban transport. Where it is not open *de jure*, certain national protectionist measures apply such as a local content requirement (35%-50%).

Conclusion for the purposes of the IA:

Note: "harmed by trade barriers (-0.5)

6.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: Partial

- 100% for public buses (Red de Transportes de Pasajeros Mexico DF)
- Private operators of buses purchase their buses in the market

Degree of openness

The market is not open *de jure*. Where not open *de jure*, certain national protectionist measures apply such as 35%-50% local content requirement.

Conclusion for the purposes of the IA: Fully closed (-1)

6.9 Power generation equipment

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

Dependency from public procurement: Full

Degree of openness: The market is open *de jure* and *de facto*.

Conclusion for the purposes of the IA: Fully open (1)

6.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: Full

- 100% CONAGUA
- 100% for water supply services managed by municipalities (cities)

Degree of openness:

The market is open *de jure* for CONAGUA and not open *de jure* for cities. Where it is not open *de jure*, no national protectionist measures apply to services, even at the state level. Mexico has not clarified whether concession contracts to the EU are open in the EUMXFTA – a priori they are closed *de jure*. The market is considered open *de facto*.

Conclusion for the purposes of the IA: Fully open (1)

6.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc...purchased by cities and urban agglomerations.

Dependency from public procurement: Full (mostly at municipal level)

- As most of the environmental services are within the remit of municipalities, the dependency rate is assumed to be 100%

Degree of openness:

The market is not open *de jure* for cities. Where it is not open *de jure*, no national protectionist measures apply to services, even at the state level. The market is considered open *de facto*.

Conclusion for the purposes of the IA: Open (1)

6.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by Mexican Public hospitals or health authorities.

Dependency from public procurement: Partial

- Ministry of Health – underlying organisations
- Social security (IMSS)
- There are several private hospitals

Degree of openness:

The market is open *de jure* and *de facto*.

Conclusion for the purposes of the IA: Fully open (1).

6.13 Medical equipment

Relevant market: pharmaceutical products purchased by Mexican Public hospitals or health authorities.

Dependency from public procurement: Partial

- Ministry of Health – underlying organisations
- Social security (IMSS)
- There are several private hospitals

Degree of openness:

The market is open *de jure* and *de facto*.

Conclusion for the purposes of the IA: Fully open (1).

6.14 Specialised Textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

Dependency from public procurement: Partial

- 100% Military uniforms for defence
- 100% Uniforms for fire-fighting (municipalities)
- Uniforms for utilities (e.g. non-radio-active textiles,...) - KEPCO
- Bio-textiles and other health-related uniforms - Ministry of Health, Ministry of Science, Education and Research and main cities

- Overall uniforms

Degree of openness:

The market is open *de jure* for Ministry of health and covered cities and not open *de jure* for Ministry of Defence and uncovered cities. Where it is not open *de jure*, certain national protectionist measures can apply such as 35%-50% local content requirement.

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

6.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: Partial-low; depends on degree of specialisation of service-delivered¹³

Degree of openness:

The market is not open *de jure*. No *de facto* restrictions apply to services. It is open *de facto*.

Conclusion for the purposes of the IA: Fully open (1)

6.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management).

Dependency from public procurement: Partial-low (Both specialised and generic services are sold to both private and public sectors)

Degree of openness:

The market is not open *de jure*. No *de facto* restrictions apply to services. It is closed *de facto*.

Conclusion for the purposes of the IA:

"open (1)

6.17 Oil equipment

Relevant market: Equipment for oil extraction and transport.

Dependency from public procurement: Full

Degree of openness:

The market is open *de jure* and *de facto*. The restrictions under the EUMXFTA are now over.

¹³ ie. consulting and legal services sold to aerospace or power generation are considered highly dependent, building cleaning is considered a generic service told to both private and public

Conclusion for the purposes of the IA: Fully open (1)

6.18 Fixed telecom equipment

Relevant market: Telecom equipment for fixed telecom operators providing universal service-like public services.

Dependency from public procurement: Full

Degree of openness:

The market is open *de jure* and *de facto*. The restrictions under the EUMXFTA are now over.

Conclusion for the purposes of the IA: Fully open (1)

6.19 Computer and IT services

Relevant market: Computer equipment and software services sold government-wide; supercomputers for hospitals, universities, research centres, infrastructure, aerospace and power generation.

Dependency from public procurement: Partial for low-margin products, High for very specific added-value products and services.

Degree of openness: for low-margin products, HIGH for very specific added-value products and services.

- Generic computers and IT services are sold to both private and public sector
- Supercomputers and specific IT applications for hospitals - Ministry of Health and cities
- Supercomputers and specific IT applications for universities – Ministry of Education and Science
- Supercomputers and specific IT applications for aerospace, infrastructure management, power generation - high dependence (e.g. CAPUFE,...)

IF NOT OPEN *de jure*, list of applicable "national protectionist measures":

- Local content requirement (35%-50%)

Conclusion for the purposes of the IA: Fully open (1) would depend on the assessment above

6.20 Street lightning, traffic signalling

Relevant market: lighting for streets and highways

Dependency from public procurement: Full

Degree of openness:

The market is open *de jure* for highways and not for cities. It is not open *de jure* for: transport, water supply, dredging and power. In those cases a list of applicable national protectionist measures apply such as a local content requirement (35%-50%). Mexico's concessions have not been opened to the EU.

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

6.22 Port equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: Full¹⁴

Degree of openness:

The market is not open *de jure*. A list of applicable national protectionist measures apply such as a local content requirement (35%-50%).

Conclusion for the purposes of the IA: Fully closed (-1)

¹⁴ Administraciones portuarias have been regrouped under the API is Administración Portuaria Integral and depend from Secretaria Comunicaciones y Transportes - This covers the main ports of Veracruz and Lazaro Cardenas

7. TURKEY

Overall situation:

Turkey applies a 15% price preference margin for all domestic tenderers offering services and works and for goods of domestic origin. Below threshold values only domestic bidders can participate. According to the EU Delegation in Ankara, these restrictions have only been applied in 23% of procedures.

The Turkish law is modelled on the EU Public Procurement directives, but has fallen short of regulating the procurement of private utilities

Main source for analysis: SIGMA Report 2009 and internal reports from the EU Delegation in Turkey domestic tenderers offering services and works and for goods of domestic origin; below threshold values only domestic bidders can participate

7.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full dependency

Degree of openness

Lack of clear defense procurement framework. This market is not opened de jure. European companies have been subjected to sanctions in this area for political reasons

Conclusion for the purposes of the IA: Fully closed (-1)

7.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: Full dependency (although telecommunication satellites are private)

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.3 Postal machinery/airport sorting systems

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: Partial (airport sorting system are private)

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.5 Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways, mass transit, power, water and dredging)
- Marginal for general public works (general public buildings)

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.6 Construction materials

Relevant market: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: Partial (same materials used for private construction)

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.7 Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: High

- 100% for municipal buses
- There are some private bus operators in Turkey

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.9 Power generation equipment

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

Dependency from public procurement: Partial (distribution and production is not covered by procurement rules)

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc... purchased by cities and urban agglomerations.

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by public hospitals

Dependency from public procurement: High¹⁵

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.13 Medical equipment

Relevant market: medical equipment products purchased by US public hospitals or health authorities. Includes laboratory research equipment and precision instruments (like cyclotrons, scanners).

Dependency from public procurement: High¹⁶

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.14 Specialised textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

¹⁵ According to Alsac Umit (2007) in "Use of E-Procurement in Turkey's Public Health Sector", Journal of Public Procurement › Vol. 7 Nbr. 3, September 2007, "As of the end of 2004; main public entities using public resources for health care are the Ministry of Health, state hospitals and revolving funds related to the Ministry of Health, Social securities Institution (SSI-social security organization for private sector employees and blue collar public sector employees) and hospitals related to SSI, Bag-Kur (social security institution for self employed), Emekli-Sandigi (government employees retirement fund) and hospitals related to universities, Ministry of National Defense and local authorities."

¹⁶ Idem as above.

Dependency from public procurement: Partial

- 100% Military uniforms for defence (Ministry of Defence)
- 100% Uniforms for fire-fighting (Ministry of Forestry, municipalities)
- Uniforms for utilities (e.g. non-radio-active textiles,...) - public utilities
- Bio-textiles and other health-related uniforms - Ministry of Health, local hospitals
- Overall uniforms

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: Partial (it would depend on the degree of specialisation of the service provided)

- Building-cleaning, auditing and advertising - generic services sold to private and public services; no specific dependency
- Consulting and legal services - generic services to private and public services; no specific dependency
- Consulting and legal services - specialised services sold to aerospace, infrastructure management, power generation - high dependence

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management)

Dependency from public procurement: Partial (Both specialised and generic services are sold to both private and public sectors).

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.17 Oil, gas and mining exploration equipment

Relevant market: Equipment for oil extraction and transport.

Dependency from public procurement: High (on the assumption that BOTAS - the state-owned gas and oil pipeline operator appears to fall under public procurement law)

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.18 Fixed telecom equipment

Relevant market: Telecom equipment for fixed telecom operators providing universal service-like public services.

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.19 Computer equipment and IT services

Relevant market: Computer equipment and software services sold government-wide; supercomputers for hospitals, universities, research centres, infrastructure, aerospace and power generation.

Dependency from public procurement: Partial for low-margin products, High for very specific added-value products and services (ie. supercomputers and specific IT applications for hospitals, universities, aerospace, etc)

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.20 Street lighting

Relevant market: Lighting for streets and highways

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

7.21 Port Equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: High

- Ports are owned by the Turkish State Railways

Degree of openness

This market is not opened de jure. Although there are no de jure discriminations against foreign bidders, it is subject to local preferences (up to 15%)

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

8. PEOPLE'S REPUBLIC OF CHINA

8.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full dependency

Degree of openness

Analysis not applicable due to EU export ban on defence and warlike goods.

Conclusion for the purposes of the IA: Fully closed (-1)

8.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: High

- 100% for ATC equipment (Civil Administration of China)
- 100% for astronomical and space-related satellites (China National Space Administration)
- Unknown for communication satellites (China National Space Administration)
- 100% for meteorological satellites (China National Space Administration)
- Unknown for navigation satellites (China National Space Administration)

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content thresholds (that can be of 70%). The so-called "indigenous innovation policy" affects IT products and communication goods.

Conclusion for the purposes of the IA: Fully closed (-1)

8.3 Postal machinery/airport sorting systems

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: full dependency

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content

thresholds (that can be of 70%). The so-called "indigenous innovation policy" affects IT products and communication goods.

Conclusion for the purposes of the IA: Fully closed (-1)

8.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities

Dependency from public procurement: full dependency

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied.

Conclusion for the purposes of the IA: Fully closed (-1)

8.5 Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways, mass transit, power, water and dredging)
- Marginal for general public works (general public buildings)

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content thresholds (that can be of 70%).

Conclusion for the purposes of the IA: fully closed (-1)

8.6 Construction materials

Relevant market: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: Partial (same materials are used for private construction)

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content thresholds (that can be of 70%).

Conclusion for the purposes of the IA: fully closed (-1)

8.7 Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: full dependency

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content thresholds (that can be of 70%).

Conclusion for the purposes of the IA: fully closed (-1)

8.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: High

- 100% for public buses (cities)
- None for coaches

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content thresholds (that can be of 70%).

Conclusion for the purposes of the IA: fully closed (-1)

8.9 Power generation equipment

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

Dependency from public procurement:

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content thresholds (that can be of 70%). The so-called "indigenous innovation policy" affects IT products and communication goods.

Conclusion for the purposes of the IA: fully closed (-1)

8.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: High (mostly within the remit of local authorities)

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content thresholds (that can be of 70%). In addition there is a need to find a national partner as developer to the National Energy Agency

Conclusion for the purposes of the IA: fully closed (-1)

8.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc... purchased by cities and urban agglomerations.

Dependency from public procurement: high

- As most of the environmental services are within the remit of local authorities, the dependency rate is assumed to be 100%
- Contracting authorities may either purchase this type of goods or services, or actually outsource them (through concessions)

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied.

Conclusion for the purposes of the IA: fully closed (-1)

8.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by public hospitals

Dependency from public procurement: high

- Ministry of Health
- People's Liberation Army
- Provinces, municipalities and local cities
- Individual hospitals

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied.

Conclusion for the purposes of the IA: fully closed (-1)

8.13 Medical equipment

Relevant market: medical equipment products purchased by public hospitals or health authorities. Includes laboratory research equipment and precision instruments (like cyclotrons, scanners).

Dependency from public procurement: high

- Ministry of Health
- People's Liberation Army
- Provinces, municipalities and local cities
- Individual hospitals

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied.

Conclusion for the purposes of the IA: fully closed (-1)

8.14 Specialised textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

Dependency from public procurement:

- 100% Military uniforms for defence (People's Liberation Army)
- 100% Uniforms for fire-fighting (Ministry of Public Service)
- Uniforms for utilities (e.g. non-radio-active textiles,...) -
- Bio-textiles and other health-related uniforms - Ministry of Health, local hospitals
- Overall uniforms

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied.

Conclusion for the purposes of the IA: fully closed (-1)

8.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: depends of degree of specialisation of the service delivered

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied.

Conclusion for the purposes of the IA: fully closed (-1)

8.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management)

Dependency from public procurement: partial (both specialised and generic services are sold to both private and public sectors)

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied.

Conclusion for the purposes of the IA: fully closed (-1)

8.17 Oil, gas and mining exploration equipment

Relevant market: Equipment for oil extraction and transport.

Dependency from public procurement: high

- CNOOC
- PetroChina
- China National Coal
- Shenhua Group

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content thresholds (that can be of 70%).

Conclusion for the purposes of the IA: fully closed (-1)

8.18 Fixed telecom equipment

Relevant market: Telecom equipment for fixed telecom operators providing universal service-like public services.

Dependency from public procurement: full dependency

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content thresholds (that can be of 70%). "Indigenous innovation policies" also affect IT products and communication goods.

Conclusion for the purposes of the IA: fully closed (-1)

8.19 Computer equipment and IT services

Relevant market: Computer equipment and software services sold government-wide; supercomputers for hospitals, universities, research centres, infrastructure, aerospace and power generation.

Dependency from public procurement: partial for low margin products, high for specific added value products and services

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content

thresholds (that can be of 70%). "Indigenous innovation policies" also affect IT products and communication goods.

Conclusion for the purposes of the IA: fully closed (-1)

8.20 Street lighting

Relevant market: Lighting for streets and highways

Dependency from public procurement: full dependency

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content thresholds (that can be of 70%).

Conclusion for the purposes of the IA: fully closed (-1)

8.21 Port Equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: full dependency

Degree of openness

This market is not opened de jure. There are a number of national protectionist measures. For example, the Government Procurement law gives an overall priority for domestic products made in China by Chinese-controlled firms. There are local content requirements (up to 50%) and if a product or service does not contain local content then a price preference of 20% is applied. The Bidding law includes the possibility to decide, on an ad hoc basis, local content thresholds (that can be of 70%).

Conclusion for the purposes of the IA: fully closed (-1)

9. INDIA

India has no single *corps of rules* in the area of public procurement. Our analysis is nevertheless based on the General Financial Rules 2005 (and the Defence Procurement Procedure 2008) that apply to the central government, but are used as a reference by States and by Public Sector Undertakings.

The procurement chapter of the GFRs is not extremely detailed and does not clarify precisely the access of foreign bidders to Indian public procurement market. It does however suggest that foreign bidders have to be represented by an Indian agent and that foreign goods may be procured only when the goods in question are not available in India - it is unclear whether foreign goods sold in India are covered by such measure.

9.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full dependency

Degree of openness

Although the Ministry of Defense is covered by procurement rules (with security exemptions) this market is not open de jure for EU suppliers. Also, offsets and transfers of technology are requested (ie. Buy and Make through Imported Transfer of Technology)

Conclusion for the purposes of the IA: Fully closed (-1)

9.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: Full dependency (except for communication satellites)

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.3 Postal machinery/airport sorting systems

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: High (as partial for airport sorting systems)

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.5 Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways, mass transit, water and dredging) - National Highways Authority/metros/municipalities
- Airport terminals – Airports Authority of India, concessionaires
- Marginal for general public works (general public buildings)

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.6 Construction materials

Relevant market: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways, mass transit, water and dredging) - National Highways Authority/metros/municipalities
- Airport terminals – Airports Authority of India, concessionaires
- Marginal for general public works (general public buildings)

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.7 Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: Full dependency¹⁷

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: High (private operators purchases buses in private sector)

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.9 Power generation equipment

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

¹⁷ Under Ministry of Railways

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market. In this market there are also national policies developed/currently being developed aimed at promoting domestic industry and use of domestic products.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: Full dependency (all at State/municipal level)

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc... purchased by cities and urban agglomerations.

Dependency from public procurement: Full dependency (all at State/municipal level)

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by public hospitals

Dependency from public procurement: Partial

- Ministry of Health – underlying organisations
- States cover public hospitals in States
- University hospitals are affiliated to universities (probably covered through Ministry of Science, Education and Research)

- There are several private hospitals

Degree of openness

This market is not opened de jure. India maintains a list of 102 pharmaceutical goods that are subject to a price preference in favour of pharmaceuticals produced by Indian PSUs (Dept of Chemicals and Petro chemistry OM N°50013/1/2006 (PI-IV) of 7 August 2006) Practice shows that EU suppliers manage to enter this market although while there is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.13 Medical equipment

Relevant market: medical equipment products purchased by US public hospitals or health authorities. Includes laboratory research equipment and precision instruments (like cyclotrons, scanners).

Dependency from public procurement: Partial

- Ministry of Health – underlying organisations
- States cover public hospitals in States
- University hospitals are affiliated to universities (probably covered through Ministry of Science, Education and Research)
- There are several private hospitals

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.14 Specialised textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

Dependency from public procurement: Partial

- 100% Military uniforms for defence
- 100% Uniforms for fire-fighting (municipalities)
- Uniforms for utilities (e.g. non-radio-active textiles,...) - NTPC
- Bio-textiles and other health-related uniforms - Ministry of Health, Ministry of Science, Education and Research and main cities
- Overall uniforms

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there is no proof of systematic discrimination, there are reports of

burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA:

9.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: Partial (depends on the degree of specialisation of the service delivered)

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management)

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.17 Oil, gas and mining exploration equipment

Relevant market: Equipment for oil extraction and transport.

Dependency from public procurement: Full dependency (all Public Sector Undertakings)

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.18 Fixed telecom equipment

Relevant market: Telecom equipment for fixed telecom operators providing universal service-like public services.

Dependency from public procurement: Full dependency (all Public Sector Undertakings)

Degree of openness

This market is not opened de jure. In addition security restrictions are currently being applied on Chinese telecom products and it cannot be excluded these restrictions be extended to other third countries. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.19 Computer equipment and IT services

Relevant market: Computer equipment and software services sold government-wide; supercomputers for hospitals, universities, research centres, infrastructure, aerospace and power generation.

Dependency from public procurement: Partial for low-margin products and High for specific added-value products and services (ie. supercomputers and specific IT applications for hospitals, universities, aerospace, power generation etc)

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.20 Street lighting

Relevant market: Lighting for streets and highways

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

9.21 Port Equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: Full dependency¹⁸

Degree of openness

This market is not opened de jure. Practice shows that EU suppliers manage to enter this market although while there are is no proof of systematic discrimination, there are reports of burdensome administrative and technical requirements being applied on foreign bidders which could render difficult their access to this particular market.

Conclusion for the purposes of the IA: Harmed by trade barriers - a priori closed (-0.5)

¹⁸ Under Ministry of Shipping

10. RUSSIA

Overall situation:

- We extrapolate our analysis of the Federal Law into the (future?) law governing state monopolies - the Federal Law only applies to federal, regional and local authorities.
- Russia is still not a member of WTO, and applies an average tariff of 13%¹⁹

(1) Procurement contracts

- **15% preferences margin** on specific goods (determined by Decree 427/2008 of MID²⁰) vis-à-vis their "foreign" competitors in procurement contracts (this list does not contain specific services, nor computers). The goods are labelled in the Russian NACE, the ОКБЭД.
- "Foreign products" are goods with less than 50% Russian content
- There are no **local establishment requirements**
- 10-20% of set asides in favour of Russian SMEs.

(2) Concession contracts

There are no local establishment requirements and tie-bid preferences only.

Russia has indicated that it could take measures against countries blocking Russian companies abroad.

10.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. There are also special laws that apply to the procurement of defence products with specific requirements and restrictions for foreign products and suppliers.

Conclusion for the purposes of the IA: Fully closed (-1)

10.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Fully closed (-1)

10.3 Postal machinery/airport sorting systems

¹⁹ World Bank - http://info.worldbank.org/etools/docs/library/89443/Tu_0601/Tarr.pdf

²⁰ <http://goszakaz.ru/concurs/changes/12>

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: High

- Partial for airport sorting systems (some airports like SVO or regional airports appear to follow PP procedures, others like DME/LED are fully private)
- 100% for postal machinery (Poshta Rossii)

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Fully closed (-1)

10.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Fully closed (-1)

10.5 Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways, mass transit, power, gas, water and dredging) - Avtodorozje (highways), urban transport networks (metros), power (RAO EES spin-offs, Rosatom), gas (Gazprom) and water (municipalities)
- Marginal for general public works (general public buildings)

Degree of openness

While this market is not opened de jure, no national protectionist measures have been identified that could restrict a de facto access to this market.

Conclusion for the purposes of the IA: Open (1)

10.6 Construction materials

Relevant market: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: Partial (same materials used for private construction)

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Closed (-1)

10.7 Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Closed (-1)

10.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: Full dependency (urban networks depend from cities)

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Closed (-1)

10.9 Power generation equipment

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Closed (-1)

10.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: Full (mostly at local authorities level, concessions can be awarded)

Degree of openness

While this market is not opened de jure, no national protectionist measures have been identified that could restrict a de facto access to this market.

Conclusion for the purposes of the IA: Open (1)

10.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc... purchased by cities and urban agglomerations.

Dependency from public procurement: Full (mostly at local authorities level, concessions can be awarded)

Degree of openness

While this market is not opened de jure, no national protectionist measures have been identified that could restrict a de facto access to this market.

Conclusion for the purposes of the IA: Open (1)

10.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by public hospitals

Dependency from public procurement: high

- Ministry of Health
- Municipal hospitals
- Farmatsevticheskii Logisticheski Kompleks (buys medicines for the citizens)
- Private hospitals

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Closed (-1)

10.13 Medical equipment

Relevant market: medical equipment products purchased by US public hospitals or health authorities. Includes laboratory research equipment and precision instruments (like cyclotrons, scanners).

Dependency from public procurement: high

- Ministry of Health
- Municipal hospitals
- Farmatsevticheskii Logisticheski Kompleks (buys medicines for the citizens)
- Private hospitals

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Closed (-1)

10.14 Specialised textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

Dependency from public procurement: high

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Closed (-1)

10.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: depends on degree of specialisation of services delivered²¹

Degree of openness

While this market is not opened de jure, no national protectionist measures have been identified that could restrict a de facto access to this market.

Conclusion for the purposes of the IA: Open (1)

10.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management)

Dependency from public procurement: Partial (both specialised and generic services are sold to both private and public sectors)

Degree of openness

While this market is not opened de jure, no national protectionist measures have been identified that could restrict a de facto access to this market.

Conclusion for the purposes of the IA: Open (1)

10.17 Oil, gas and mining exploration equipment

Relevant market: Equipment for oil extraction and transport.

Dependency from public procurement: Partial

- Gazprom (100%)

²¹ ie. consulting and legal services sold to aerospace or power generation highly dependent while building cleaning and advertising are generic services sold to public and private

- ROSNEFT does not appear to be covered by PP rules
- Coal companies out of PP rules

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Closed (-1)

10.18 Fixed telecom equipment

Relevant market: Telecom equipment for fixed telecom operators providing universal service-like public services.

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Closed (-1)

10.19 Computer equipment and IT services

Relevant market: Computer equipment and software services sold government-wide; supercomputers for hospitals, universities, research centres, infrastructure, aerospace and power generation.

Dependency from public procurement: Partial for low-margin products, High for specific added-value products and services

Degree of openness

While this market is not opened de jure, computers have been excluded from the price preference mechanism so no national protectionist measures have been identified that could restrict a de facto access to this market.

Conclusion for the purposes of the IA: Open (1)

10.20 Street lighting

Relevant market: Lighting for streets and highways

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Closed (-1)

10.21 Port Equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: High

- Ports of St Petersburg and Novorossiysk follow PP rules

- Port of Vladivostok appears to be private

Degree of openness

This market is not opened de jure. There are price preferences (up to 15%) that would apply.

Conclusion for the purposes of the IA: Closed (-1)

11. BRAZIL

Overall situation:

(1) Procurement contracts

We shall assume a **25% preference margin** on all goods and services in procurement contracts. Lei 8666/93 was amended by Medida Provisoria n°495 that gives the power to the Federal government to define a national preference margin in favour of Brazilian goods and services. This margin may reach up to 25% (calculated on the basis of the foreign product).

Brazil applies a **local establishment requirement**. To participate to a public procurement procedure, all participants must be established in Brazil. Foreign experience in public works is not taken into account for qualification.

There are additional specific local content requirements for Telebras and Petrobras.

(2) Concession contracts

There are no local establishment requirements and tie-bid preferences only.

11.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: Full dependency²²

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

²² 100% for ATC equipment (Ministry of Defence), for astronomical and space-related satellites (Agência Espacial Brasileira, Instituto Nacional de Pesquisa Espacial), 100% for communication satellites (Embratel), for meteorological satellites (Agência Espacial Brasileira, Instituto Nacional de Pesquisa Espacial) and for navigation satellites (Agência Espacial Brasileira, Instituto Nacional de Pesquisa Espacial)

Conclusion for the purposes of the IA: Fully closed (-1)

11.3 Postal machinery/airport sorting systems

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.5 Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways, mass transit, power, water and dredging)
- Marginal for general public works (general public buildings)

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable. These requirements do not apply in the case of concession contracts for which there is no proof of systematic discrimination of foreign bidders.

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

11.6 Construction materials

Relevant market: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: Partial (same materials used for private construction)

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.7 Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: High

- 100% for metros (Sao Paulo, Rio, BH, Brasilia, Recife, Porto Alegre)
- 100% for railway equipment (ANTT, urban railways of Sao Paulo, CBTU)

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: No (all bus services are private)

Degree of openness

Not applicable

Conclusion for the purposes of the IA:

Not relevant

11.9 Power generation equipment

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

Dependency from public procurement: Partial

- Eletrobras
- CESP
- CEMIG
- Copel
- CTEEP
- Private operators (including from abroad like Terna Brasile and Tractebel)

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: High (vast majority within the remit of local authorities)

Degree of openness

While this market is not opened de jure, there are concrete cases of municipalities or groups of municipalities having awarded concessions to EU suppliers (ie. Suez, Veolia and Aguas de Portugal)

Anyways, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable. These requirements do not apply in the case of concession contracts for which there is no proof of systematic discrimination of foreign bidders.

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

11.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc... purchased by cities and urban agglomerations.

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable. These requirements do not apply in the case of concession contracts for which there is no proof of systematic discrimination of foreign bidders.

Conclusion for the purposes of the IA: Unclear / Difficult to provide clear assessment (0)

11.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by public hospitals

Dependency from public procurement: Partial

- Ministry of Health
- Municipal hospitals
- Private hospitals

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.13 Medical equipment

Relevant market: medical equipment products purchased by US public hospitals or health authorities. Includes laboratory research equipment and precision instruments (like cyclotrons, scanners).

Dependency from public procurement: Partial

- Ministry of Health
- Municipal hospitals
- Private hospitals

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.14 Specialised textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

Dependency from public procurement: Partial

- 100% Military uniforms for defence (Ministry of Defence)
- 100% Uniforms for fire-fighting (Ministry of Defence, municipalities)
- Uniforms for utilities (e.g. non-radio-active textiles,...) - public utilities
- Bio-textiles and other health-related uniforms - Ministry of Health, local hospitals
- Overall uniforms

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: Depends on the degree of specialisation of the service delivered (ie. Building-cleaning, auditing and advertising are considered generic services sold to private and public services with no specific dependency while consulting and legal services are specialised services sold to aerospace, infrastructure management, power generation and thus with high dependence)

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders the local establishment requirements are applicable. These measures are not applied in the case of concession contracts.

Conclusion for the purposes of the IA: Fully closed (-1)

11.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management)

Dependency from public procurement: Partial (both specialised and generic services are sold to both private and public sectors)

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders the local establishment requirements are applicable. These measures are not applied in the case of concession contracts.

Conclusion for the purposes of the IA: Fully closed (-1)

11.17 Oil, gas and mining exploration equipment

Relevant market: Equipment for oil extraction and transport.

Dependency from public procurement: Full dependency²³

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.18 Fixed telecom equipment

Relevant market: Telecom equipment for fixed telecom operators providing universal service-like public services.

²³ Mining (Vale do Rio Doce) has been privatised in 1997

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.19 Computer equipment and IT services

Relevant market: Computer equipment and software services sold government-wide; supercomputers for hospitals, universities, research centres, infrastructure, aerospace and power generation.

Dependency from public procurement: Partial for low-margin products, High for specific added-value products and services

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.20 Street lighting

Relevant market: Lighting for streets and highways

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

11.21 Port Equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: High

- Ports are by law under federal administration through State companies (CODESP, CODRJ and other companhias de docas)
- Some ports are private (Tubarao)

Degree of openness

This market is not opened de jure. In addition, in case EU suppliers succeed in participate in tenders, the local content requirements (up to 25%) and the local establishment requirements are applicable.

Conclusion for the purposes of the IA: Fully closed (-1)

12. UKRAINE

Ukraine is an important bordering country for several Member States (in particular Poland). It is therefore important to analyse the situation in Ukraine. However the analysis of the Ukrainian procurement legislation has proven to be quite difficult for various reasons.

While Ukraine has committed itself to approximate its procurement legislation to the EU public procurement directives and there have been some recent legislative amendments which have taken Ukraine closer to reach that goal (e.g. establishment of an independent review body, introduction of framework agreements), the Ukrainian law is still modelled on the Uncitral Model Law.

Due to the partially different legal approach towards the definition of the entities covered (especially in terms of state-owned enterprises), the regular (and recent) changes of the scope of the Ukrainian PP law (which can be also expected in the near future) it is therefore very important to take all care before interpreting the legislation, either as a closure or as an opening.

The wide presence of state-owned companies (railways, space, medical equipment) implies that there must be important mechanisms whereby the latter have precedence in procurement procedures. We have not found any provision pointing systematically to "in-house".

Therefore, more than the analysis, what matters in Ukraine is the actual application of the rules where we do not have sufficient information for a throughout analysis.

Furthermore, the situation in Ukraine is constantly evolving: any conclusion taken today maybe altered in the very near future. The Buy Ukraine measures were withdrawn on 1 January 2011, Ukraine is asking for accession to the GPA and at the same time the EU is to conclude its FTA with Ukraine which will have substantial impact both on legislative background, scope and market access. Yet, political instability in Ukraine is currently complicating the ratification of the FTA.

In this context, we have kept the present analysis for Ukraine, but we leave it with careful caveats both for its short-term and long-term prospects. It means also that the situation of Ukraine shall have to be carefully monitored.

12.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. It is unclear whether the situation in practice has changed since then.

Conclusion for the purposes of the IA: Fully closed (-1)

12.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: High

- 100% for ATC equipment (Ukrainian State Air Traffic Service Enterprise – UkSATSE)
- 100% for space vehicles and satellites (Ukrainian Space Agency), but these activities are under the responsibility of State enterprises (e.g. Yuzhnoi Konstruktoro Biuro)
- These satellite enterprises are themselves covered by PP rules (and have PP pages)

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. It is unclear whether the situation in practice has changed since then but experience show this market is protected in practice.

Conclusion for the purposes of the IA: Fully closed (-1)

12.3 Postal machinery/airport sorting systems

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. The situation of non-discrimination should therefore be applied.

Conclusion for the purposes of the IA: Partially opened (0.5)

12.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. The situation of non-discrimination should therefore be applied.

Conclusion for the purposes of the IA: Partially opened (0.5)

12.5 Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways, mass transit, power, gas, water and dredging) – Ministry of Public Works, city administrations
- Marginal for general public works (general public buildings)

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, there are applicable and significant exemptions for special infrastructure projects (ie. European Football Championship 2012 and other sports infrastructures). The local content policy through Government Resolution of 24 June 2009 No. 647 was in force until 1 January 2011.

Conclusion for the purposes of the IA: Partially opened (0.5)

12.6 Construction materials

Relevant market: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways, mass transit, power, gas, water and dredging) – Ministry of Public Works, city administrations
- Marginal for general public works (general public buildings)

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, there are applicable and significant exemptions for special infrastructure projects (ie. European Football Championship 2012 and other sports infrastructures). These may have less impact on construction materials themselves. The local content policy through Government Resolution of 24 June 2009 No. 647 was in force until 1 January 2011.

Conclusion for the purposes of the IA: Partially opened (0.5)

12.7 Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: Full dependency²⁴

²⁴ 100% for Railways – Ukrainian State Railways, 100% for metros (KP Kiev, KP Kharkov...)
100% for tramways (city networks), but manufacturing of tramways are under the responsibility of State enterprises (e.g. Yuzhnoi Konstruktoroe Biuro, Yuzhmash), State enterprises are themselves covered by PP rules

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, it is unclear whether the exception on rail services actually applies to railway equipment

Conclusion for the purposes of the IA: Fully closed (-1)

12.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: Partial

- None for coaches
- 100% for public buses (100% for main urban transport networks), but manufacturing of buses are under the responsibility of State enterprises (e.g. Yuzhnoi Konstruktoroe Biuro, Yuzhmash)
- State enterprises are themselves covered by PP rules (and have PP pages)

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, it is unclear whether the exception on urban services actually applies to railway equipment

Conclusion for the purposes of the IA: Fully closed (-1)

12.9 Power generation equipment

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. In theory, the situation of non-discrimination should therefore be applied but the practice is still unclear. There is also the existence of "in house" preferences for some State monopolies (ie. coal and windpower) which would therefore close access to foreign bidders in some power generation segments and not in others (ie. nuclear).

Conclusion for the purposes of the IA: Partially open (0.5)

12.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. In theory, the situation of non-discrimination should therefore be applied but the practice is still unclear.

Conclusion for the purposes of the IA: Partially open (0.5)

12.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc... purchased by cities and urban agglomerations.

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. In theory, the situation of non-discrimination should therefore be applied but the practice is still unclear.

Conclusion for the purposes of the IA: Partially open (0.5)

12.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by public hospitals

Dependency from public procurement: Partial

- Ministry of Health
- Municipal hospitals
- There are also healthcare private institutions in Ukraine

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. In theory, the situation of non-discrimination should therefore be applied but the practice is still unclear.

Conclusion for the purposes of the IA: Partially open (0.5)

12.13 Medical equipment

Relevant market: medical equipment products purchased by US public hospitals or health authorities. Includes laboratory research equipment and precision instruments (like cyclotrons, scanners).

Dependency from public procurement: Partial

- Ministry of Health
- Municipal hospitals
- There are also healthcare private institutions in Ukraine

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. In theory, the situation of non-discrimination should therefore be applied but the practice is still unclear.

Conclusion for the purposes of the IA: Partially open (0.5)

12.14 Specialised textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

Dependency from public procurement: High

- 100% Military uniforms for defence – Ministry of Defence
- 100% Uniforms for fire-fighting – municipalities and Ministry of Emergency Situations
- Uniforms for utilities (e.g. non-radio-active textiles,...) – cf. electric power
- Overall uniforms

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. In theory, the situation of non-discrimination should therefore be applied but the practice is still unclear.

Conclusion for the purposes of the IA: Partially open (0.5)

12.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: Depends on the degree of specialisation of the service delivered

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. In theory, the situation of non-discrimination should therefore be applied but the practice is still unclear.

Conclusion for the purposes of the IA: Partially open (0.5)

12.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management)

Dependency from public procurement: Both specialised and generic services are sold to both private and public sectors.

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. In theory, the situation of non-discrimination should therefore be applied but the practice is still unclear.

Conclusion for the purposes of the IA: Partially open (0.5)

12.17 Oil, gas and mining exploration equipment

Relevant market: Equipment for oil extraction and transport.

Dependency from public procurement: None (Gas transmission is excluded from procurement rules, coal mining is privatised and there is no oil extraction in Ukraine).

Degree of openness

Not applicable

Conclusion for the purposes of the IA: Not appropriate

12.18 Fixed telecom equipment

Relevant market: Telecom equipment for fixed telecom operators providing universal service-like public services.

Dependency from public procurement: Full dependency

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. In theory, the situation of non-discrimination should therefore be applied but the practice is still unclear.

Conclusion for the purposes of the IA: Partially open (0.5)

12.19 Computer equipment and IT services

Relevant market: Computer equipment and software services sold government-wide; supercomputers for hospitals, universities, research centres, infrastructure, aerospace and power generation.

Dependency from public procurement: Partial for low-margin products, high for very specific added-value products and services.

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, Ukraine has set up a local content policy through Government Resolution of 24 June 2009 No. 647, which was in force until 1 January 2011. In theory, the situation of non-discrimination should therefore be applied but the practice is still unclear.

Conclusion for the purposes of the IA: Partially open (0.5)

12.20 Street lighting

Relevant market: Lighting for streets and highways

Dependency from public procurement: Partial

- 100% for infrastructure construction (highways) – Ministry of Public Works, city administrations
- Cities

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, there are applicable and significant exemptions for special infrastructure projects (ie. European Football Championship 2012 and other sports infrastructures). The local content policy through Government Resolution of 24 June 2009 No. 647 was in force until 1 January 2011.

Conclusion for the purposes of the IA: Closed (-1)

12.21 Port Equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: High (Ports are state companies, ie Odessa, Sevastopol)

Degree of openness

This market is not opened de jure. Although the Ukrainian law foresees non-discrimination, there are applicable and significant exemptions for special infrastructure projects (ie. European Football Championship 2012 and other sports infrastructures). The local content policy through Government Resolution of 24 June 2009 No. 647 was in force until 1 January 2011.

Conclusion for the purposes of the IA: Closed (-1)

13. Australia

13.1 Defence

Relevant market: defence goods for army, navy and air force

Dependency from public procurement: Full

Degree of openness

The defence public procurement market of Australia is not open *de jure*. Australia's public procurement legislation is based on guidelines, from which some procurements such as defence are exempt.

Conclusion for the purposes of the IA: Fully closed (-1)

13.2 Aerospace

Relevant market: production of satellites, ATC equipment, and navigation systems

Dependency from public procurement: Partial

- As 100% of the ACT equipment (Air Services Australia is an agency from the Ministry of Transport) is dependent on public procurement.
- There is no dependency for satellites (the work is done by the Australian Space Research Institute, a non-profit organisation).

Degree of openness

The ATC equipment/airport market is not open *de jure*. However, there is no discriminatory measure in place nor a proof of systematic discrimination of foreign bidders.

Conclusion for the purposes of the IA: Fully open (1)

13.3 Postal machinery/Airport sorting systems

Relevant market: production of postal machinery and airport sorting systems

Dependency from public procurement: Partial

- 0% for airport sorting systems as airports (which are service concessions) are not subject to procurement legislation.
- 100% dependency for postal machinery – Australia Post is a government corporation and as such is bound to certain principles of purchase. There is no evidence that these principles are discriminatory.

Degree of openness

This market is not open *de jure*. However, there is no discriminatory measure in place nor a proof of systematic discrimination of foreign bidders.

Conclusion for the purposes of the IA: Fully open (1)

13.4 Fire-fighting and sea rescue equipment and transport

Relevant market: fire-fighting vehicles/aircraft and rescue helicopters purchased by fire-fighting authorities; sea rescue vessels and helicopters

Dependency from public procurement: Full

Degree of openness

This market is not open *de jure*. No protectionist measures are applied by the federal Australian Maritime Safety Authority. A number of domestic protectionist measures are applied at state level such as: 20 % price preference for SME above \$A700.000 and an additional country industries PPM of 2.5% or 5% (Local Jobs First Plan) applied by New South Wales; local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria (Victorian Industry Participation Policy) in Victoria; Western Australia applies 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000 and price preference of 5% or 10%; many of the 500+ local governments apply price preferences. For sea rescue the market is open *de facto*, whereas for fire-fighting it is closed *de facto*.

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

13.5 Construction services

Relevant market: infrastructure construction (highways, mass transit, power, water and dredging) and general public works (general public buildings) - this also includes architectural and engineering services.

Dependency from public procurement: Partial

- Highways, metro and railways - national highways under Dept of Transportation; can involve States, public-private partnerships and local authorities
- Urban transport - States and/or local authorities
- Airports - private
- Power - private
- Water - State or local utilities (depends on the State)
- Marginal for general public works (general public buildings)

Degree of openness

The market is not open *de jure*. The federal market is open *de facto* on the basis of lack of discriminatory measures or systematic practical discrimination. The market at the level of the States and local authorities is closed *de facto*. A number of national protectionist measures are applied. Such measures include: in New South Wales – a price preference: 2.5% or 5% for SME (Local Jobs First Plan); in Victoria - local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria. (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference of 5% or 10%. In addition, many of the 500+ local governments apply price preference

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

13.6 Construction materials

Relevant markets: cement, concrete, steel, glass, and stones for public works projects.

Dependency from public procurement: Partial

The dependency is partial, as the same materials are used for private construction.

Degree of openness

The market is not open *de jure*. The federal market is open *de facto* on the basis of lack of discriminatory measures or systematic practical discrimination. The market at the level of the States and local authorities is closed *de facto*. A number of national protectionist measures are applied. Such measures include: in New South Wales – a price preference: 2.5% or 5% for SME (Local Jobs First Plan); in Victoria - local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria. (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference of 5% or 10%. In addition, many of the 500+ local governments apply price preference

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

13.7 Railway equipment (rolling stock, including trams)

Relevant market: rolling stock for trains, urban railways, metros and tramways

Dependency from public procurement: Partial

- 100% for urban railways, metros and tramways - Infrastructure Australia and States
- Railways - operators are private
- Metro of Sydney - concession to Veolia
- Freight railways are out of scope of public procurement.

Degree of openness

The market is not opened *de jure*. The federal market is open *de facto*, while the market at the level of states and local authorities is closed *de facto*. A number of domestic protectionist measures are applied such as: in New South Wales - a price preference: 2.5% or 5% for SME (Local Jobs First Plan); in Victoria – a local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria. (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference: 5% or 10%. In addition many of the 500+ local governments apply price preference.

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

13.8 Urban buses

Relevant market: public buses and coaches purchased by mass transit authorities

Dependency from public procurement: High (States and cities organise urban transport)

Degree of openness

The market is not opened *de jure*. For both state and local authorities the market is closed *de facto*. A number of domestic protectionist measures are applied such as: in New South Wales - a price preference: 2.5% or 5% for SME (Local Jobs First Plan); in Victoria – a local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria. (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference: 5% or 10%. In addition many of the 500+ local governments apply price preference.

Conclusion for the purposes of the IA: Fully closed (-1)

13.9 Power generation equipment

Relevant market: All forms of energy power generation equipment (solar panels, nuclear reactors, windmills, hydroelectric power turbines,...) purchased by utilities.

Dependency from public procurement: None (private sector)

Degree of openness: not applicable

Conclusion for the purposes of the IA: not relevant

13.10 Water management/sewage

Relevant market: Goods and services relevant to all the aspects of water management, canalisation, desalination, sewage and distribution purchased by federal and local authorities.

Dependency from public procurement: Full (100% utilities at local level)

Degree of openness:

The market is not open *de jure*. *De facto* it is closed. A number of domestic protectionist measures are applied such as: in New South Wales - a price preference: 2.5% or 5% for SME (Local Jobs First Plan); in Victoria – a local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria. (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference: 5% or 10%. In addition many of the 500+ local governments apply price preference.

Conclusion for the purposes of the IA: Fully closed (-1)

13.11 Waste management and other environmental services

Relevant market: Urban cleaning services, noise abatement, waste collection, etc...purchased by cities and urban agglomerations.

Dependency from public procurement: Full

- As most of the environmental services are within the remit of municipalities, the dependency rate is assumed to be 100%

Degree of openness:

The market is not open *de jure*. *De facto* it is closed. A number of domestic protectionist measures are applied such as: in New South Wales - a price preference: 2.5% or 5% for SME (Local Jobs First Plan); in Victoria – a local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria. (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference: 5% or 10%. In addition many of the 500+ local governments apply price preference.

Conclusion for the purposes of the IA: Fully closed (-1)

13.12 Pharmaceutical products

Relevant market: pharmaceutical products purchased by Australian Public hospitals or health authorities.

Dependency from public procurement: Partial

- State Department of Health purchases on behalf of public hospitals
- Federal Department Of Health purchases on behalf of public hospitals
- Public hospitals use procurement procedures on the State Department website
- Purchase by pharmacies and Private Hospitals are not covered by public procurement

Degree of openness:

The market is not open *de jure*. At the federal level, the market is open *de facto* while at the state or local level the market is closed *de facto*. A number of domestic protectionist measures are applied such as: in New South Wales - a price preference of 20% for SME above A\$700.000 and an additional county industries PPM of 2.5% or 5% (Local Jobs First Plan); in Victoria – a local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria. (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference: 5% or 10%. In addition many of the 500+ local governments apply price preference.

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

13.13 Medical equipment

Relevant market: medical equipment products purchased by Australian public hospitals or health authorities. Includes laboratory research equipment and precision instruments (like cyclotrons, scanners).

Dependency from public procurement: Partial

- State Department of Health purchases on behalf of public hospitals
- Federal Department Of Health purchases on behalf of public hospitals
- Public hospitals use procurement procedures on the State Department website

- Purchase by pharmacies and Private Hospitals are not covered by public procurement

Degree of openness:

The market is not open *de jure*. At the federal level, the market is open *de facto* while at the state or local level the market is closed *de facto*. A number of domestic protectionist measures are applied such as: in New South Wales - a price preference of 20% for SME above A\$700.000 and an additional county industries PPM of 2.5% or 5% (Local Jobs First Plan); in Victoria – a local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria. (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference: 5% or 10%. In addition many of the 500+ local governments apply price preference.

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

13.14 Specialised Textiles

Relevant market: Specialised textiles for defence, fire-fighting and health

Dependency from public procurement: Partial

- 100% Military uniforms for defence
- 100% Uniforms for fire-fighting (municipalities)
- Uniforms for utilities (e.g. non-radio-active textiles,...) - private
- Bio-textiles and other health-related uniforms - Ministry of Health, Ministry of Science, Education and Research and main cities - depends on the type of hospital
- Overall uniforms

Degree of openness:

The market is not open *de jure*. At the federal level, the market is open *de facto* while at the state or local level the market is closed *de facto*. A number of domestic protectionist measures are applied such as: in New South Wales - a price preference of 20% for SME above A\$700.000 and an additional county industries PPM of 2.5% or 5% (Local Jobs First Plan); in Victoria – a local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria. (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference: 5% or 10%. In addition many of the 500+ local governments apply price preference.

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

13.15 Business services (consulting, "auditing/accounting", advertising, building-cleaning and legal services)

Relevant market: Consulting services, auditing services, advertising and legal services sold government-wide.

Dependency from public procurement: Depends on degree of specialisation of service-delivered

Degree of openness:

The market is not open *de jure*. At the federal level, the market is open *de facto* while at the state and local level, as well as for advertising services the market is closed *de facto*. Advertising services are not covered by Federal Guidelines. A number of domestic protectionist measures are applied such as: in New South Wales - a price preference of 20% for SME above A\$700.000 and an additional county industries PPM of 2.5% or 5% (Local Jobs First Plan); in Victoria – a local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria. (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference: 5% or 10%. In addition many of the 500+ local governments apply price preference.

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

13.16 Financial services

Relevant market: Banking and insurance services sold government-wide. These can entail very general financial services sold government-wide to very specialised services (clearing, investment banking, portfolio management).

Dependency from public procurement: unknown

Degree of openness:

The market is not open *de jure*. At the federal level, the market is open *de facto* while at the state and local level is closed *de facto*. A number of domestic protectionist measures are applied such as: in New South Wales - a price preference of 20% for SME above A\$700.000 and an additional county industries PPM of 2.5% or 5% (Local Jobs First Plan); in Victoria – a local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria. (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference: 5% or 10%. In addition many of the 500+ local governments apply price preference.

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

13.17 Oil equipment

Not relevant – oil exploration is fully private in Australia

13.18 Fixed telecom equipment

Not relevant – telecom is private in Australia

13.19 Computer and IT services

The market is not open *de jure*. At the federal level, the market is open *de facto* while at the state and local level is closed *de facto*. A number of domestic protectionist measures are applied such as: in New South Wales - a price preference of 20% for SME above A\$700.000 and an additional county industries PPM of 2.5% or 5% (Local Jobs First Plan); in Victoria – a local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria. (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference: 5% or 10%. In addition many of the 500+ local governments apply price preference.

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

13.20 Street lightning, traffic signalling

Relevant market: Street lightning and highways

Dependency from public procurement: Partial

- Department of Infrastructure
- Cities.

Degree of openness:

The market is not open *de jure*. At the federal level, the market is open *de facto* while at the state and local level is closed *de facto*. A number of domestic protectionist measures are applied such as: in New South Wales - a price preference of 2.5% or 5% (Local Jobs First Plan); in Victoria – a local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement values above \$A750.000, as well as a price preference: 5% or 10%. In addition many of the 500+ local governments apply price preference.

Conclusion for the purposes of the IA: Unclear/difficult to provide clear assessment (0)

13.21 Port equipment

Relevant market: port equipment like cranes (container, general and general cranes)

Dependency from public procurement: Partial

- Many ports are private (Sydnet, Newcastle, Melbourne)
- The largest port (Port Hedland) is a port authority (in Western Australia)

Degree of openness:

The market is not open *de jure*. At the state and local level is closed *de facto*. A number of domestic protectionist measures are applied such as: in New South Wales - a price preference of 2.5% or 5% (Local Jobs First Plan); in Victoria – a local content requirement in tender selection above A\$3 million in metropolitan Melbourne and above A\$1 million in regional Victoria (Victorian Industry Participation Policy); in Western Australia - local content: 20% impost on the value of imported procurement content and 20% is applied to procurement

values above \$A750.000, as well as a price preference: 5% or 10%. In addition many of the 500+ local governments apply price preference.

Conclusion for the purposes of the IA: Fully closed (-1)