

# The Trade and Co-operation Agreement



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## Key Documents

- [The UK-EU Trade and Cooperation Agreement](#) (“**TCA**”)
  - Title VI (Public Procurement)
  - Annex 25 (Public Procurement)
- [WTO Government Procurement Agreement](#) (“**GPA**”)
  - Annexes of the EU and UK

## Scope

- Art 276 TCA:

### **Objective**

*The objective of this Title is to guarantee each Party's suppliers access to increased opportunities to participate in public procurement procedures and to enhance the transparency of public procurement procedures.*

## Scope

- Art 277(1) Incorporation of specific provisions GPA outlined in Section A Annex 25. Those are
  - Articles I (definitions), II (scope and coverage) and III (Security and General exceptions)
  - IV.1.a, (no less favourable treatment to parties for procurement of domestic goods, services and supplies)
  - IV.2 to IV.7 (treatment of local suppliers with foreign affiliation, electronic means of procurement, conduct of procurement, rules of origin, offsets, and other measures)
  - VI to XV (information on the system, notices, conditions of participation, qualification of suppliers, tech specs, time periods, negotiations, limited tender, electronic auctions and treatment of tenders and award of contracts)

## Scope

- XVI.1 to XVI.3 (transparency of information provided to suppliers, of awards, and maintaining documents for 3 years)
  - XVII (disclosure of information)
  - XVIII (domestic review procedures).
- Covered Procurement (Ch. 2)
  - Procurement “beyond covered procurement” (Ch.3).

## Covered procurement

- What is covered procurement?
  - Art II GPA
  - Section B Annex 25, adds: Utilities, Hotel and Restaurant Services, Food service services, Beverage serving services, Telecommunication related services, Real estate services, Other business services, Education services.
  - Explicitly does not cover: human health services, administrative healthcare services and supply of nursing or medical personnel.

## Covered Procurement

- Art. 278: Use of electronic means to widest extent practicable
- Art. 279: electronic publication of all procurement notices
- Art 280: no need to supply supporting evidence showing not excluded unless necessary to ensure proper conduct
- Art 281: where prior experience necessary cannot require it to be in Party's territory
- Art 282: If supplier registration system maintained, suppliers can request registration at any time
- Art 283: sufficient suppliers in selective tendering
- Art 284: if abnormally low tender, procuring entity may ask if subsidies taken into account.
- Art 285: Environmental, social and labour considerations

## Covered Procurement

- Art. 286: Domestic Review procedures
  - GPA Art XVIII requires creation of impartial administrative authority.
  - Rapid interim measures
  - Delay in contract if award challenged
  - Party *may* provide for standstill periods and challenge periods.
  - “Corrective action” may include
    - Removal of offending specifications
    - Repetition of procedure
    - Setting aside or termination of contract
    - Other measures
  - Compensation may be awarded.



## Other matters

- Beyond covered procurement (Ch 3)
  - “No less favourable treatment”
  - This is subject to the security and general exceptions of Art III GPA.
- Modification and rectifications of market access commitments (Ch 4)

# Thank you for listening

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