



**Asia-Pacific
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Government Procurement of the Korea-Peru FTA

Submitted by: Korea



**Trade Policy Dialogue on WTO-Plus Elements of
Regional Trade Agreements and Free Trade
Agreements
Arequipa, Peru
7 May 2016**

Government Procurement of the Korea-Peru FTA

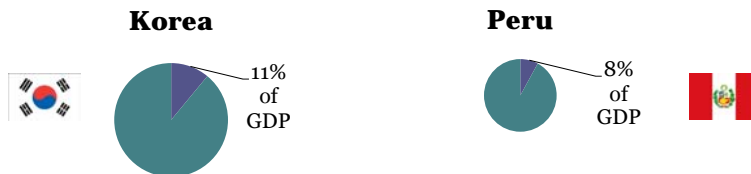
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Ministry of Trade,
Industry and Energy

General Facts

- Size of the Government Procurement market (2006)



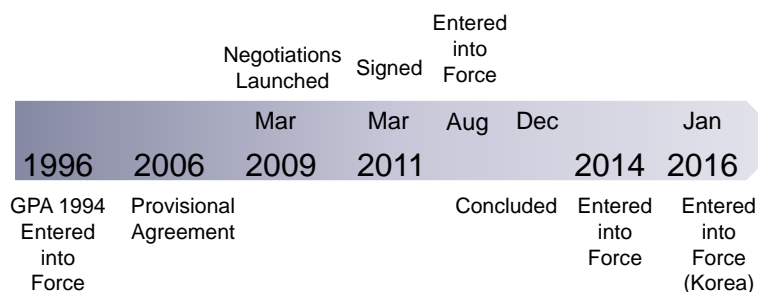
- WTO GPA 1994 and revised GPA status

- Korea: GPA 1994 (Jan 1997), revised GPA (Jan 2016)
- Peru: non-member

GPA has 17 parties covering 45 WTO members (including 8 APEC members :
Canada, Hong Kong, Japan, Korea, New Zealand, Singapore, Chinese Taipei, United States)

Timeline

Korea-Peru FTA



Revised GPA in WTO

Main Elements of Text

- **Covered Procurement** (similar to revised GPA)
 - not procured with a view to commercial sale or resale, or for use in the production or supply for commercial sale or resale
 - by any contractual means, including purchase, lease, rental, or hire purchase, with or without an option to buy
 - for which the value equals or exceeds the relevant threshold
 - that is conducted by a procuring entity

Main Elements of Text

- **General Principles** (include new rules of revised GPA*)
 - **National Treatment and Non-discrimination**
 - shall accord treatment no less favorable than domestic suppliers
 - shall not discriminate on the basis of degree of foreign affiliation or ownership
 - shall not discriminate on the basis that the goods or services are of the other Party
 - **Use of Electronic Means***
 - shall use generally available information technology systems and software
 - shall maintain mechanisms that ensure the integrity of requests for participation and tenders
 - **Prohibition of Offsets**
 - shall not seek, take account of, impose, or enforce offsets

Main Elements of Text

- **Conditions for Participation** (revised GPA*)
 - limit such conditions to those that are essential to ensure that a supplier has the legal, financial, commercial, and technical abilities
 - **shall not require** that the supplier has **previously been awarded** one or more contracts by a procuring entity of the Party*

Main Elements of Text

- **Procedural Rules** (include new rules of revised GPA*)
 - **Information on Intended Procurement**
 - **Time-Periods** (deadlines for the submission of tenders)
 - **Tendering Procedures** (open, selective, limited tendering)
 - **Electronic Auctions*** : information that the procuring entity shall provide before commencing the auction
 - **Opening of Tenders and Awarding of Contracts**
 - **Disclosure of Information**
 - **Domestic Review Procedures for Supplier Challenges**

Market Access - In General

SDR 1= approx. USD 1.4 (Apr 2016)

Thresholds		Korea	Peru
Central Government	Goods and Services	SDR 95,000 (SDR 50,000 for 5 years after effective date) * Revised GPA: SDR 130,000	SDR 95,000
	Construction Services	SDR 5 million	SDR 5 million
Local Government	Goods and Services	SDR 200,000	SDR 200,000
	Construction Services	SDR 15 million	SDR 15 million
Public Institutions	Goods	SDR 400,000	SDR 400,000
	Services	Reserved (will commit to the same level as revised GPA) * Revised GPA: SDR 400,000	SDR 400,000 (If Korea does not commit according to the revised GPA after 5 years from entry into force of the FTA, Peru will suspend its commitment.)
	Construction Services	SDR 15 million	SDR 15 million

Note: Covered entities are listed in Annex.

Market Access - BOT (Build-Operate-Transfer)

- **Thresholds : SDR 15 million**
- **General Principles**
 - National Treatment and Non-Discrimination
- **Procedural Rules**
 - Notice of Intended Contract, Award Publication
 - publicly available in an electronic medium
 - Challenge Procedures
 - an effective system for review of decisions by its competent authorities

General Exceptions

- **Essential security interests** exception
(related to arms, ammunition, or war materials, etc.)
- **Measures necessary to protect** public moral;
necessary to protect human, animal, or plant life;
necessary to protect intellectual property; or
related to goods or services of persons with
disabilities.

Specific Exceptions

Korea	Peru
<ul style="list-style-type: none"> single tendering procurement and set-asides for small and medium-sized enterprises in accordance with the specified domestic legislation 	<ul style="list-style-type: none"> procurement programs on behalf of micro and small sized enterprises
<ul style="list-style-type: none"> procurement of agricultural, fishery, and livestock products in accordance with the specified domestic legislation 	<ul style="list-style-type: none"> procurement by one Peruvian procuring entity of goods or services from another Peruvian procuring entity
<ul style="list-style-type: none"> procurement in furtherance of human feeding programs 	<ul style="list-style-type: none"> procurement of goods for food assistance programs
	<ul style="list-style-type: none"> acquisition of weavings and clothing made with alpaca and llama fibers



THANK YOU

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