

CHAPTER FIVE: PROCUREMENT**Article 504: Reciprocal Non-Discrimination**

1. Subject to Article 404 (Legitimate Objectives), with respect to measures covered by this Chapter, each Party shall accord to:
 - (a) the goods and services of any other Party, including those goods and services included in construction contracts, treatment no less favourable than the best treatment it accords to its own such goods and services; and
 - (b) the suppliers of goods and services of any other Party, including those goods and services included in construction contracts, treatment no less favourable than the best treatment it accords to its own suppliers of such goods and services.
2. With respect to the Federal Government, paragraph 1 means that, subject to Article 404 (Legitimate Objectives), it shall not discriminate:
 - (a) between the goods or services of a particular Province or region, including those goods and services included in construction contracts, and those of any other Province or region; or
 - (b) between the suppliers of such goods or services of a particular Province or region and those of any other Province or region.
3. Except as otherwise provided in this Chapter, measures that are inconsistent with paragraphs 1 and 2 include, but are not limited to, the following:
 - (a) the imposition of conditions on the invitation to tender, registration requirements or qualification procedures that are based on the location of a supplier's place of business in Canada, the place in Canada where the goods are produced or the services are provided, or other like criteria;¹
 - (b) the biasing of technical specifications in favour of, or against, particular goods or services, including those goods or services included in construction contracts, or in favour of, or against, the suppliers of such goods or services for the purpose of avoiding the obligations of this Chapter;
 - (c) the timing of events in the tender process so as to prevent suppliers from submitting bids;
 - (d) the specification of quantities and delivery schedules of a scale and frequency that may reasonably be judged as deliberately designed to prevent suppliers from meeting the requirements of the procurement;
 - (e) the division of required quantities or the diversion of budgetary funds to subsidiary agencies in a manner designed to avoid the obligations of this Chapter; and

¹ This paragraph was amended by the Seventh Protocol of Amendment.

- (f) the use of price discounts or preferential margins in order to favour particular suppliers.
- (g) ²

4. No Party shall impose or consider, in the evaluation of bids or the award of contracts, local content or other economic benefits criteria that are designed to favour:

- (a) the goods and services of a particular Province or region, including those goods and services included in construction contracts; or
- (b) the suppliers of a particular Province or region of such goods or services.

5. Except as otherwise required to comply with international obligations, a Party may accord a preference for Canadian value-added, subject to the following conditions:

- (a) the preference for Canadian value-added must be no greater than 10 per cent;
- (b) the Party shall specify in the call for tenders the level of preference to be used in the evaluation of the bid; and
- (c) all qualified suppliers must be informed through the call for tenders of the existence of the preference and the rules applicable to determine the Canadian value-added.

6. Except as otherwise required to comply with international obligations, a Party may limit its tendering to Canadian goods, Canadian services or Canadian suppliers, subject to the following conditions:

- (a) the procuring Party must be satisfied that there is sufficient competition among Canadian suppliers;
- (b) all qualified suppliers must be informed through the call for tenders of the existence of the preference and the rules applicable to determine Canadian content; and
- (c) the requirement for Canadian content must be no greater than necessary to qualify the procured good or service as a Canadian good or service.³

² This paragraph was deleted by the Seventh Protocol of Amendment and paragraphs (e) and (f) amended accordingly.

³ This paragraph was amended by the Seventh Protocol of Amendment.