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**Opening government procurement to international competition in the
Asia-Pacific region: Impact of the Transpacific Partnership.**

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Abstract:

The Trans-Pacific Partnership ('TPP') is the world's largest regional trade agreement. As a complex multi-theme agreement, among many other issues, the TPP also covers government procurement. While the TPP on the whole will not bring about a Copernican revolution in terms actual trade liberalisation and market access, the TPP procurement chapter will, however, bring about a huge change in terms of opening TPP parties' government procurement markets to foreign competition.

Prior to the TPP, among the TPP parties, only the US, Canada Japan and Singapore have been long-standing parties to the WTO Government procurement Agreement ('GPA'). Apart from that, the scope of other public-procurement-liberalising international trade commitments has been very limited in South-East Asia region and among TPP-signatories from South America, with only North American TPP-signatories having their public procurement markets previously integrated under the North American Free Trade Agreement ('NAFTA'). Public-procurement-relevant commitments within the Association of Southeast Asian Nations ('ASEAN') have been very limited and unclear whereas procurement rules agreed by members of the Asia-Pacific Economic Co-operation ('APEC') have been non-binding only. A larger scale liberalisation of public procurement markets in the Transpacific dimension did not gain a momentum until (i) the conclusion of the Trans-Pacific Strategic Economic Partnership ('TSEP' or 'P4') being the TPP's predecessor, and (ii) subsequent proliferation of the bilateral trade agreements directly preceding the conclusion of the TPP.

Procedural provisions imposed by the TPP procurement chapter virtually copy provisions of the GPA with minor modifications only, and this convergence implies that also the determination of the TPP procurement chapter's coverage in principle emulates solutions of the GPA model (with lists of covered procurers, goods, services and construction services as well as value-thresholds, along averaged scope of country-specific commitments). Major deficiencies of the TPP procurement chapter's coverage can be seen in some countries' refusal to cover sub-central procurers (in the case of Malaysia, Mexico, New Zealand, United States and Vietnam) and utilities services (in the case of Canada Mexico, Vietnam) as well as in extremely long transition period (in some cases in excess of twenty years) for decreasing contract-value-thresholds of the TPP procurement chapter's application to standard levels (in the case of Malaysia and Vietnam).

In terms of allowed non-commercial considerations in public procurement process, the TPP procurement chapter greenlights the pursuit of sustainability-related goals to an even greater extent than under the GPA. At the same time, country-specific derogations accommodate extensive traditional industrial/protectionist policies, for example by allowing significant set-asides from obligations under the TPP procurement chapter (in the case of Mexico and Vietnam).