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Draft revised text of the Model Law

Note by the Secretariat

1. This note sets out in annex I a table of content of the draft revised Model Law as emanated from the work of the nineteenth session of UNCITRAL Working Group I (Procurement) (Vienna, 1-5 November 2010) (the “draft revised Model Law”), showing also concordance between the articles of the draft revised Model Law and the provisions of the 1994 UNCITRAL Model Law on Procurement of Goods, Construction and Services (the “1994 Model Law”).
2. This note sets out in annex II a table of concordance between the articles of the 1994 Model Law and the provisions of the draft revised Model Law.
3. The draft revised Model Law is contained in addenda 1 to 8 to this note.



Annex I

Table of contents of the draft revised Model Law, showing also concordance between the articles of the draft revised Model Law and the provisions of the 1994 Model Law

Article of the draft revised Model Law	Relevant provisions of the 1994 Model Law where applicable
Preamble	Preamble
Chapter I. GENERAL PROVISIONS Articles 1-25	Chapter I. GENERAL PROVISIONS
Article 1. Scope of application	Article 1. Scope of application
Article 2. Definitions	Article 2. Definitions
Article 3. International obligations of this State relating to procurement (and intergovernmental agreements within (this State))	Article 3. International obligations of this State relating to procurement [and intergovernmental agreements within (this State)]
Article 4. Procurement regulations	Article 4. Procurement regulations
Article 5. Publication of legal texts	Article 5. Public accessibility of legal texts
Article 6. Information on possible forthcoming procurement (new provisions)	
Article 7. Communications in procurement	Article 9. Form of communications
Article 8. Participation by suppliers or contractors	Article 8. Participation by suppliers or contractors
Article 9. Qualifications of suppliers and contractors	Article 6. Qualifications of suppliers and contractors Article 10. Rules concerning documentary evidence provided by suppliers or contractors
Article 10. Rules concerning description of the subject matter of the procurement, and the terms and conditions of the procurement contract or framework agreement	Article 16. Rules concerning description of goods, construction or services
Article 11. Rules concerning evaluation criteria and procedures (new provisions based on the 1994 text)	Articles 27 (e), 34 (4), 38 (m), 39 and 48 (3)

Article of the draft revised Model Law	Relevant provisions of the 1994 Model Law where applicable
Article 12. Rules concerning estimation of the value of procurement (new provisions)	
Article 13. Rules concerning the language of documents	Article 17. Language Article 29. Language of tenders
Article 14. Rules concerning the manner, place and deadline for presenting applications to pre-qualify or applications for pre-selection or for presenting submissions (new provisions based on the 1994 text)	Articles 7 (3) (a) (iv) and 30 (1) to (4)
Article 15. Clarifications and modifications of solicitation documents	Article 28. Clarifications and modifications of solicitation documents
Article 16. Tender securities	Article 32. Tender securities
Article 17. Pre-qualification proceedings	Article 7. Pre-qualification proceedings Also provisions related to pre-qualification of articles 23, 24 and 25
Article 18. Cancellation of the procurement	Article 12. Rejection of all tenders, proposals, offers or quotations
Article 19. Rejection of abnormally low submissions (new provisions)	
Article 20. Exclusion of a supplier or contractor from the procurement proceedings on the grounds of inducements from the supplier or contractor, an unfair competitive advantage or conflicts of interest	Article 15. Inducements from suppliers or contractors
Article 21. Acceptance of the successful submission and entry into force of the procurement contract	Article 13. Entry into force of the procurement contract Article 36. Acceptance of tender and entry into force of procurement contract
Article 22. Public notice of awards of procurement contract and framework agreement	Article 14. Public notice of procurement contract awards
Article 23. Confidentiality	Articles 45, 48 (7) and 49 (3)

Article of the draft revised Model Law	Relevant provisions of the 1994 Model Law where applicable
Article 24. Documentary record of procurement proceedings	Article 11. Record of procurement proceedings
Article 25. Code of conduct (new provisions)	
Chapter II. METHODS OF PROCUREMENT AND THEIR CONDITIONS FOR USE. SOLICITATION AND NOTICES OF THE PROCUREMENT Articles 26-34	Chapter II. METHODS OF PROCUREMENT AND THEIR CONDITIONS FOR USE
Section I. METHODS OF PROCUREMENT AND THEIR CONDITIONS FOR USE Articles 26-31	
Article 26. Methods of procurement (new provisions)	
Article 27. General rules applicable to the selection of a procurement method	Article 18. Methods of procurement
Article 28. Conditions for use of methods of procurement under chapter IV of this Law (restricted tendering, request for quotations and request for proposals without negotiation)	Articles 20 and 21
Article 29. Conditions for use of methods of procurement under chapter V of this Law (two-stage tendering, request for proposals with dialogue, request for proposals with consecutive negotiations, competitive negotiations and single-source procurement)	Articles 19 and 22
Article 30. Conditions for use of an electronic reverse auction (new provisions)	
Article 31. Conditions for use of a framework agreement procedure (new provisions)	

Article of the draft revised Model Law	Relevant provisions of the 1994 Model Law where applicable
Section II. SOLICITATION AND NOTICES OF THE PROCUREMENT Articles 32-34 (new provisions based on the relevant provisions of the 1994 Model Law)	
Article 32. Solicitation in open tendering, two-stage tendering and in procurement by means of an electronic reverse auction	Article 24. Procedures for soliciting tenders or applications to pre-qualify
Article 33. Solicitation in restricted tendering, request for quotations, competitive negotiations and single-source procurement. Requirement for an advance notice of the procurement	Articles 47 (1) and (2), 49 (1), 50 (1) and 51
Article 34. Solicitation in request for proposals proceedings	Articles 37 and 48 (1) and (2)
Chapter III. OPEN TENDERING Articles 35-43	Chapter III. TENDERING PROCEEDINGS
Article 35. Procedures for soliciting tenders	Article 24. Procedures for soliciting tenders or applications to pre-qualify
Article 36. Contents of invitation to tender	Article 25. Contents of invitation to tender and invitation to pre-qualify (para. (1))
Article 37. Provision of solicitation documents	Article 26. Provision of solicitation documents
Article 38. Contents of solicitation documents	Article 27. Contents of solicitation documents
Article 39. Presentation of tenders	Article 30. Submission of tenders (paras. (5) and (6))
Article 40. Period of effectiveness of tenders; modification and withdrawal of tenders	Article 31. Period of effectiveness of tenders; modification and withdrawal of tenders
Article 41. Opening of tenders	Article 33. Opening of tenders
Article 42. Examination and evaluation of tenders	Article 34. Examination, evaluation and comparison of tenders
Article 43. Prohibition of negotiations with suppliers or contractors	Article 35. Prohibition of negotiations with suppliers or contractors

Article of the draft revised Model Law	Relevant provisions of the 1994 Model Law where applicable
Chapter IV. PROCEDURES FOR RESTRICTED TENDERING, REQUEST FOR QUOTATIONS AND REQUEST FOR PROPOSALS WITHOUT NEGOTIATION Articles 44-46	Chapter IV, article 42 and other relevant provisions; and chapter V, articles 47 and 50
Article 44. Restricted tendering	Article 47. Restricted tendering
Article 45. Request for quotations	Article 50. Request for quotations
Article 46. Request for proposals without negotiation	Article 42. Selection procedure without negotiation, and other relevant provisions of chapter IV. Principal method for procurement of services
Chapter V. PROCEDURES FOR TWO-STAGE TENDERING, REQUEST FOR PROPOSALS WITH DIALOGUE, REQUEST FOR PROPOSALS WITH CONSECUTIVE NEGOTIATIONS, COMPETITIVE NEGOTIATIONS AND SINGLE-SOURCE PROCUREMENT Articles 47-51	Chapter IV, articles 43 and 44 and other relevant provisions; chapter V, articles 46, 48, 49 and 51
Article 47. Two-stage tendering	Article 46. Two-stage tendering
Article 48. Request for proposals with dialogue	Article 43. Selection procedure with simultaneous negotiations Article 48. Request for proposals
Article 49. Request for proposals with consecutive negotiations	Article 44. Selection procedure with consecutive negotiations
Article 50. Competitive negotiations	Article 49. Competitive negotiation
Article 51. Single-source procurement	Article 51. Single-source procurement
Chapter VI. ELECTRONIC REVERSE AUCTIONS Articles 52-56 (new provisions)	
Article 52. Procedures for soliciting participation in procurement by means of an electronic reverse auction	

Article of the draft revised Model Law	Relevant provisions of the 1994 Model Law where applicable
Article 53. Procedures for soliciting participation in procurement proceedings involving an electronic reverse auction as a phase preceding the award of the procurement contract	
Article 54. Registration for the electronic reverse auction and timing of holding of the auction	
Article 55. Requirements during the electronic reverse auction	
Article 56. Requirements after the electronic reverse auction	
Chapter VII. FRAMEWORK AGREEMENTS PROCEDURES Articles 57-62 (new provisions)	
Article 57. Award of a closed framework agreement	
Article 58. Requirements of closed framework agreements	
Article 59. Establishment of an open framework agreement	
Article 60. Requirements of open framework agreements	
Article 61. Second stage of a framework agreement procedure	
Article 62. No material change during the operation of a framework agreement	
Chapter VIII. CHALLENGES AND APPEALS Articles 63-69	Chapter VI. Review
Article 63. Right to challenge and appeal	Article 52. Right to review
Article 64. Effect of an application for reconsideration or review or an appeal (new provisions)	

Article of the draft revised Model Law	Relevant provisions of the 1994 Model Law where applicable
Article 65. Application for reconsideration before the procuring entity	Article 53. Review by procuring entity (or by approving authority); Article 55. Certain rules applicable to review proceedings under article 53 [and article 54], paras. (1) and (3); and Article 56. Suspension of procurement proceedings
Article 66. Application for review or an appeal before an independent body	Article 54. Administrative review; Article 55. Certain rules applicable to review proceedings under article 53 [and article 54], paras. (1) and (3); and Article 56. Suspension of procurement proceedings
Article 67. Rights of participants in challenge or appeal proceedings	Article 55. Certain rules applicable to review proceedings under article 53 [and article 54], para. (2)
Article 68. Confidentiality in challenge and appeal proceedings	Article 55. Certain rules applicable to review proceedings under article 53 [and article 54] (para. (3), last sentence)
Article 69. Judicial review	Article 57. Judicial review

Annex II

Table of concordance between the articles of the 1994 Model Law and the provisions of the draft revised Model Law

Article of the 1994 Model Law	Relevant provisions of the draft revised Model Law
Chapter I. GENERAL PROVISIONS	Chapter I. GENERAL PROVISIONS
Article 1. Scope of application	Article 1. Scope of application
Article 2. Definitions	Article 2. Definitions
Article 3. International obligations of this State relating to procurement [and intergovernmental agreements within (this State)]	Article 3. International obligations of this State relating to procurement (and intergovernmental agreements within (this State))
Article 4. Procurement regulations	Article 4. Procurement regulations
Article 5. Public accessibility of legal texts	Article 5. Publication of legal texts
Article 6. Qualifications of suppliers and contractors	Article 9. Qualifications of suppliers and contractors
Article 7. Pre-qualification proceedings Article 7 (3) (a) (iv)	Article 17. Pre-qualification proceedings Article 14. Rules concerning the manner, place and deadline for presenting applications to pre-qualify or applications for pre-selection or for presenting submissions
Article 8. Participation by suppliers or contractors	Article 8. Participation by suppliers or contractors
Article 9. Form of communications	Article 7. Communications in procurement
Article 10. Rules concerning documentary evidence provided by suppliers or contractors	Article 9. Qualifications of suppliers and contractors (para. (7))
Article 11. Record of procurement proceedings	Article 24. Documentary record of procurement proceedings
Article 12. Rejection of all tenders, proposals, offers or quotations	Article 18. Cancellation of the procurement
Article 13. Entry into force of the procurement contract	Article 21. Acceptance of the successful submission and entry into force of the procurement contract
Article 14. Public notice of procurement contract awards	Article 22. Public notice of awards of procurement contract and framework agreement

Article of the 1994 Model Law	Relevant provisions of the draft revised Model Law
Article 15. Inducements from suppliers or contractors	Article 20. Exclusion of a supplier or contractor from the procurement proceedings on the grounds of inducements from the supplier or contractor, an unfair competitive advantage or conflicts of interest
Article 16. Rules concerning description of goods, construction or services	Article 10. Rules concerning description of the subject matter of the procurement, and the terms and conditions of the procurement contract or framework agreement
Article 17. Language	Article 13. Rules concerning the language of documents
Chapter II. METHODS OF PROCUREMENT AND THEIR CONDITIONS FOR USE	Chapter II. METHODS OF PROCUREMENT AND THEIR CONDITIONS FOR USE. SOLICITATION AND NOTICES OF THE PROCUREMENT
Article 18. Methods of procurement	Article 27. General rules applicable to the selection of a procurement method
Article 19. Conditions for use of two-stage tendering, request for proposals or competitive negotiation	Article 29. Conditions for use of methods of procurement under chapter V of this Law (two-stage tendering, request for proposals with dialogue, request for proposals with consecutive negotiations, competitive negotiations and single-source procurement)
Article 20. Conditions for use of restricted tendering	Article 28. Conditions for use of methods of procurement under chapter IV of this Law (restricted tendering, request for quotations and request for proposals without negotiation)
Article 21. Conditions for use of request for quotations	Article 28. Conditions for use of methods of procurement under chapter IV of this Law (restricted tendering, request for quotations and request for proposals without negotiation)
Article 22. Conditions for use of single-source procurement	Article 29. Conditions for use of methods of procurement under chapter V of this Law (two-stage tendering, request for proposals with dialogue, request for proposals with consecutive negotiations, competitive negotiations and single-source procurement)

Article of the 1994 Model Law	Relevant provisions of the draft revised Model Law
Chapter III. TENDERING PROCEEDINGS	Chapter III. OPEN TENDERING
Section I. SOLICITATION OF TENDERS AND OF APPLICATIONS TO PRE-QUALIFY	Section I. SOLICITATION OF TENDERS
Article 23. Domestic tendering	Article 32. Solicitation in open tendering, two-stage tendering and in procurement by means of an electronic reverse auction (para. (4))
Provisions related to pre-qualification in: Article 24. Procedures for soliciting tenders or applications to pre-qualify and Article 25. Contents of invitation to tender and invitation to pre-qualify, Other provisions from these articles	Article 17. Pre-qualification proceedings Article 35. Procedures for soliciting tenders Article 36. Contents of invitation to tender
Article 26. Provision of solicitation documents	Article 37. Provision of solicitation documents
Article 27. Contents of solicitation documents	Article 38. Contents of solicitation documents
Articles 28. Clarifications and modifications of solicitation documents	Article 15. Clarifications and modifications of solicitation documents
Section II. SUBMISSION OF TENDERS	Section II. PRESENTATION OF TENDERS
Article 29. Language of tenders	Article 13. Rules concerning the language of documents
Article 30. Submission of tenders Paragraphs (1) to (4) Paragraphs (5) and (6)	Article 14. Rules concerning the manner, place and deadline for presenting applications to pre-qualify or applications for pre-selection or for presenting submissions Article 39. Presentation of tenders

Article of the 1994 Model Law	Relevant provisions of the draft revised Model Law
Article 31. Period of effectiveness of tenders; modification and withdrawal of tenders	Article 40. Period of effectiveness of tenders; modification and withdrawal of tenders
Article 32. Tender securities	Article 16. Tender securities
Section III. EVALUATION AND COMPARISON OF TENDERS	Section III. EVALUATION OF TENDERS
Article 33. Opening of tenders	Article 41. Opening of tenders
Article 34. Examination, evaluation and comparison of tenders	Article 42. Examination and evaluation of tenders
Article 35. Prohibition of negotiations with suppliers or contractors	Article 43. Prohibition of negotiations with suppliers or contractors
Article 36. Acceptance of tender and entry into force of procurement contract	Article 21. Acceptance of the successful submission and entry into force of the procurement contract
Chapter IV. PRINCIPAL METHOD FOR PROCUREMENT OF SERVICES	Chapter IV, article 46, and Chapter V, articles 48 and 49
Article 37. Notice of solicitation of proposals	Article 34. Solicitation in request for proposals proceedings
Article 38. Contents of requests for proposals for services	Article 46. Request for proposals without negotiation; and Article 48. Request for proposals with dialogue
Article 39. Criteria for the evaluation of proposals	Article 11. Rules concerning evaluation criteria and procedures
Article 40. Clarification and modification of requests for proposals	Article 15. Clarifications and modifications of solicitation documents
Article 41. Choice of selection procedure	Article 27. General rules applicable to the selection of a procurement method
Article 42. Selection procedure without negotiation	Article 46. Request for proposals without negotiation
Article 43. Selection procedure with simultaneous negotiations	Article 48. Request for proposals with dialogue
Article 44. Selection procedure with consecutive negotiations	Article 49. Request for proposals with consecutive negotiations
Article 45. Confidentiality	Article 23. Confidentiality

Article of the 1994 Model Law	Relevant provisions of the draft revised Model Law
Chapter V. PROCEDURES FOR ALTERNATIVE METHODS OF PROCUREMENT	Chapter IV, articles 44 and 45, and Chapter V, articles 47, 48, 50 and 51
Article 46. Two-stage tendering	Article 47. Two-stage tendering
Article 47. Restricted tendering	Article 44. Restricted tendering Article 33. Solicitation in restricted tendering, request for quotations, competitive negotiations and single-source procurement. Requirement for an advance notice of the procurement
Article 48. Request for proposals	Article 48. Request for proposals with dialogue Article 34. Solicitation in request for proposals proceedings
Article 49. Competitive negotiation	Article 50. Competitive negotiations Article 33. Solicitation in restricted tendering, request for quotations, competitive negotiations and single-source procurement. Requirement for an advance notice of the procurement
• Articles 48 (7) and 49 (3)	• Article 23. Confidentiality
Article 50. Request for quotations	Article 45. Request for quotations Article 33. Solicitation in restricted tendering, request for quotations, competitive negotiations and single-source procurement. Requirement for an advance notice of the procurement
Article 51. Single-source procurement	Article 51. Single-source procurement Article 33. Solicitation in restricted tendering, request for quotations, competitive negotiations and single-source procurement. Requirement for an advance notice of the procurement
Chapter VI. REVIEW	Chapter VIII. CHALLENGES AND APPEALS
Article 52. Right to review	Article 63. Right to challenge and appeal
Article 53. Review by procuring entity (or by approving authority)	Article 65. Application for reconsideration before the procuring entity
Article 54. Administrative review	Article 66. Application for review or an appeal before an independent body

Article of the 1994 Model Law	Relevant provisions of the draft revised Model Law
Article 55. Certain rules applicable to review proceedings under article 53 [and article 54]	Article 65. Application for reconsideration before the procuring entity; Article 66. Application for review or an appeal before an independent body; Article 67. Rights of participants in challenge or appeal proceedings; and Article 68. Confidentiality in challenge and appeal proceedings
Article 56. Suspension of procurement proceedings	Article 64. Effect of an application for reconsideration or review or an appeal; Article 65. Application for reconsideration before the procuring entity; Article 66. Application for review or an appeal before an independent body
Article 57. Judicial review	Article 69. Judicial review