

- (c) the prime contractor is vested with the authority to select the general contractors or subcontractors;
- (d) neither the Government of Mexico nor its entities fund the project;
- (e) the person bears the risks associated with non-performance; and
- (f) the facility will be operated by an entity or through a procurement contract of that entity.

7. Notwithstanding the thresholds set out in Article 1001(1)(c), Article 1003 (National Treatment and Non-Discrimination) shall apply to any procurement from locally-established suppliers of oil and gas field supplies or equipment by Pemex at any project site where it performs works.

8. In the event that Mexico exceeds in any given year the total value of the contracts it may set aside for that year in accordance with paragraph 3 or the reserved procurement under Annex 1001.2a(1)(2) or (4), Mexico shall consult with the other Parties with a view to agreement on compensation in the form of additional procurement opportunities during the following year. The consultations shall be without prejudice to the rights of any Party under Chapter Twenty (Institutional Arrangements and Dispute Settlement Procedures).

9. Notwithstanding Annex 1001.2a(6), Mexico may not set aside from the obligations of this Chapter procurement contracts by its entities of biologicals and drugs patented in Mexico.

10. Nothing in this Chapter shall be construed to require Pemex to enter into risk-sharing contracts.

Schedule of the United States

- 1. This Chapter does not apply to set asides on behalf of small and minority businesses.
- 2. This Chapter does not apply to the procurement of transportation services that form a part of, or are incidental to, a procurement contract.
- 3. The most-favored-nation obligation of Article 1003 does not apply to procurements covered by Annex 1001.2c.