6. A procuring entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in the procurement.

7. Notwithstanding paragraph 6, a procuring entity may:

(a) conduct market research in developing specifications for a particular procurement; or

(b) allow a supplier that has been engaged to provide design or consulting services to participate in procurements related to such services, provided it would not give the supplier an unfair advantage over other suppliers.

8. For greater certainty, a Party, including its procuring entities, may, in accordance with this Article, prepare, adopt or apply technical specifications to promote the conservation of natural resources or protect the environment.

Article 17.8
Tendering Procedures

1. Each Party shall ensure that the tendering procedures of its procuring entities are applied in a non-discriminatory and transparent manner that is consistent with this Chapter.

2. A procuring entity shall use open, selective or limited tendering procedures.

Article 17.9
Conditions for Participation

1. Any conditions for participation required from suppliers, including financial guarantees, technical qualifications and information necessary for establishing the financial, commercial and technical capacity of suppliers, as well as the verification of qualifications, shall be no less favourable to suppliers of the other Party than to domestic suppliers.

2. A Party and its procuring entities may establish a multi-use list, provided that the procuring entity or other government agency annually publishes or otherwise makes available, continuously in electronic form, a notice inviting interested suppliers to apply for inclusion on the list. The notice shall include:

(a) a description of the goods and services, or categories thereof, for which the list may be used;

(b) the conditions for participation to be satisfied by suppliers and the methods that the procuring entity or other government agency will use to verify a supplier’s satisfaction of the conditions; and

(c) the name and address of the procuring entity or other government agency and other information necessary to contact the entity and obtain all relevant documents relating to the list.

3. The process of, and the time required for, qualifying suppliers shall not be used in order to keep suppliers of the other Party off a suppliers’ list or from being considered for a particular intended procurement.

4. Nothing in this Article shall preclude the exclusion of any supplier on grounds such as bankruptcy or false declarations or significant deficiencies in performance of any substantive requirement or obligation under a prior contract.

5. For greater certainty, a procuring entity may allow suppliers who have not yet qualified to tender in an intended procurement to participate in that procurement, provided that there is sufficient time to complete the qualification procedure.