



## RESOLUTION NO. 24-2017

### **CONFIRMING THE PROPOSED ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN) GOVERNMENT PROCUREMENT CHAPTER TEXT FOR THE REGIONAL COMPREHENSIVE ECONOMIC PARTNERSHIP (RCEP)**

**WHEREAS**, Section 63 of Republic Act (RA) No. 9184 and its 2016 Revised Implementing Rules and Regulations (IRR) mandates the Government Procurement Policy Board (GPPB) to protect national interest in all matters affecting public Procurement, having due regard to the country's regional and international obligations;

**WHEREAS**, the Philippines, as member of the ASEAN, is one of the participating countries in the negotiations for the Regional Comprehensive Economic Partnership (RCEP) Agreement, a Free Trade Agreement (FTA) between the ten (10) ASEAN Member States<sup>1</sup>, Australia, China, India, Japan, New Zealand, and South Korea;

**WHEREAS**, on 11 March 2016, the GPPB issued Resolution No. 04-2016 designating the Executive Director and the Deputy Executive Directors of the GPPB-TSO as principal and alternate negotiators and representatives, respectively, to bilateral and multilateral free trade negotiations involving Government Procurement upon the invitation of the Department of Trade and Industry or other lead government agencies.

**WHEREAS**, on 6 June 2016, during the 13<sup>th</sup> RCEP – Trade Negotiating Committee (TNC) Meeting, the Bureau of International Trade Relations (BITR) of the Department of Trade and Industry (DTI) requested the GPPB-TSO for its initial views/insights on New Zealand's proposed Government Procurement (GP) Chapter Text for the RCEP, which contains Articles on Scope and Coverage, Principles, Transparency, Cooperation, among others, to help the Parties on GP in future rounds of negotiation;

**WHEREAS**, on 8 August 2016, GPPB-TSO furnished DTI-BITR with its initial Comments on the NZ proposed GP Chapter Text, reiterating its support of the Philippines' endeavors, through the DTI, to enter into a modern, comprehensive, and high quality agreement that contributes to the economic integration of the RCEP region, but noted the adoption of a more conservative stance when negotiating GP Chapters in prior FTAs, i.e. PJEPA and PH-EFTA, due to constitutional and legal limitations on international and/or foreign participation in government procurement;

**WHEREAS**, during the 14<sup>th</sup> RCEP-TNC Meeting held on 15-19 August 2016 at Ho Chi Minh City, Viet Nam, it was noted that a Government Procurement (GP) Experts Meeting will be organized at the margin of the 15<sup>th</sup> Round, and encouraged all RCEP Participating Countries to send their GP Experts;

**WHEREAS**, during the 15<sup>th</sup> RCEP-TNC Meeting, the GPPB-TSO attended the GP Experts Meeting held on 18 October 2016 in Tianjin, China, where comments, clarifications

---

<sup>1</sup> Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

and suggestions were made by the GP experts present during the meeting *viz* the New Zealand's proposed GP Chapter;

**WHEREAS**, during the 16<sup>th</sup> RCEP TNC Meeting last 7 December 2016 in Tangerang, Indonesia, RCEP Participating Countries (RPCs) stressed the value of having better representation of GP experts at the next GP expert meeting in Kobe, Japan. The GPPB-TSO was invited and encouraged by the TNC Chair to participate in the GP expert meeting to be held during the 17th RCEP-TNC Meeting in Kobe, Japan, as well as to support the TNC in their discussions on GP;

**WHEREAS**, during the GP Experts Meeting at the 17th RCEP TNC Meeting, New Zealand provided answers to queries of different RPCs and stressed that the negotiating text is focused on cooperation and transparency with non-binding obligations and no market access, and while Japan, Australia and South Korea are supportive of the proposal of New Zealand to include GP in the Negotiations, noting that the proposed provisions in the New Zealand negotiating text are simple, practical and modest but relevant to the credibility of the agreement, there was no consensus among the ASEAN TNC Members as to the inclusion of GP in the Negotiations;

**WHEREAS**, during its 1<sup>st</sup> Regular Meeting on 9 February 2017, the GPPB confirmed the participation of the GPPB-TSO, through its designated negotiators, to the RCEP Negotiations;

**WHEREAS**, during the 23rd ASEAN Economic Ministers' (AEM) Retreat held on 8-9 March 2017 in Pasay City, the Ministers agreed that a GP Chapter could be featured on the following conditions:

1. A language that is acceptable to all ASEAN Member States (AMS) shall be worked out, focusing only on cooperation and transparency, with no reference to market access in any form, including in the context of the general review;
2. It would not be subject to dispute settlement mechanism, and would not contain binding obligations or legally binding language e.g. "Shall" phraseologies; and
3. ASEAN should drive the discussions by tabling its own proposal on GP, instead of just responding to other RPCs' proposals;

**WHEREAS**, during the GP Experts Meeting conducted at the 18<sup>th</sup> RCEP-TNC Meeting held on 2-12 May 2017 in Pasay City, GP Experts from Malaysia, Brunei Darussalam, Thailand, Vietnam, Singapore, Indonesia and the Philippines discussed the provisions to be included in the ASEAN proposed GP Chapter based on the latest GP Chapter text in the Kobe round, incorporating proposed PH text and Indonesia text with comments from those AMSs attending the meeting, taking into consideration the directives of the Ministers;

**WHEREAS**, the proposed GP Chapter of the GP Experts was presented to the ASEAN TNC Leads noting that the deadline for AMSs to send their confirmation and/or further comments on the proposed GP Chapter text is set on 6 June 2017;

**WHEREAS**, during the 4<sup>th</sup> Inter Agency Technical Working Group (IATWG) Meeting on 19 May, 2017, the GPPB-TSO presented the proposed ASEAN GP Chapter Text for RCEP, and after due deliberation, the IATWG agreed to recommend to the GPPB the confirmation of the proposed ASEAN GP Chapter text for RCEP;

**WHEREAS**, during its 3<sup>rd</sup> Regular Meeting on 30 May, 2017, the GPPB, after careful review and due deliberation, adopted the recommendation of the IATWG to confirm the proposed ASEAN GP Chapter text for RCEP;

**NOW, THEREFORE**, for and in view of all the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law and other executive issuances, hereby **RESOLVE** to confirm, adopt, and approve, as **WE** hereby confirm, adopt, and approve the proposed ASEAN Government Procurement Chapter Text for the Regional Comprehensive Economic Partnership (RCEP), copy of which is attached as Annex "A".

This resolution shall take effect immediately.

**APPROVED** this 30<sup>th</sup> day of May 2017 at Pasig City, Philippines.

---

**DEPARTMENT OF BUDGET AND  
MANAGEMENT**

---

**NATIONAL ECONOMIC AND  
DEVELOPMENT AUTHORITY**

---

**DEPARTMENT OF EDUCATION**

---

**DEPARTMENT OF ENERGY**

---

**DEPARTMENT OF FINANCE**

---

**DEPARTMENT OF HEALTH**

---

**DEPARTMENT OF INFORMATION AND  
COMMUNICATION TECHNOLOGY**

---

**DEPARTMENT OF INTERIOR AND  
LOCAL GOVERNMENT**

---

**DEPARTMENT OF NATIONAL  
DEFENSE**

---

**DEPARTMENT OF PUBLIC WORKS  
AND HIGHWAYS**

---

**DEPARTMENT OF SCIENCE AND  
TECHNOLOGY**

---

**DEPARTMENT OF TRADE AND  
INDUSTRY**

---

**DEPARTMENT OF TRANSPORTATION**

---

**PRIVATE SECTOR REPRESENTATIVE**

## **CHAPTER ON GOVERNMENT PROCUREMENT**

The RCEP Participating Countries recognize that it is desirable to promote transparency and cooperation on the availability of information relative to the RCEP Participating Countries' existing laws and regulations regarding government procurement.

[Cambodia/Lao/Myanmar: Least developed ASEAN Member States are not required to undertake commitments under this Chapter.]

### **Article I Transparency**

1. In order to improve transparency, the Parties, to the extent possible will make publicly available their laws and regulations related to government procurement.
2. Each Party endeavors to designate a contact point for the exchange of information and for providing information to the other Party.

### **Article II Cooperation**

[Vietnam/Brunei/Malaysia/Thailand/Singapore/Indonesia: Alt. 1. The Parties endeavor to cooperate in the following:

- (a) Subject to their respective laws and regulations, exchange information, to the extent possible, on their respective laws and regulations, policies and practices on government procurement, as well as on any reforms to their existing government procurement regimes.]; and
- (b) Technical assistance for ASEAN Member States for the implementation of this Chapter including building capability of government officials.

### **Article III Dispute Settlement Mechanism**

The provisions of this Chapter are not subjected to the Dispute Settlement Mechanism provided in Chapter [XX].

### **Article IV Review**

The provisions of this Chapter may be reviewed within the period stipulated in the General Review provisions of this Agreement with the view of enhancing the transparency and cooperation mechanisms under this Chapter.