The WTO Agreement on Government Procurement (GPA): a global tool for trade enhancement, policy reform and good governance

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- The 2012 Renegotiation of the Agreement
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What is the GPA?: Basic nature of the Agreement

- An internationally recognized tool to promote:
  - Access to other GPA Parties’ procurement markets;
  - Improved value for money in each participating Member’s procurements;
  - Procurement reforms and good governance (transparency, fair competition and an absence of corruption in covered procurement markets).
- A plurilateral agreement within the WTO system (not all WTO Members participate)
- Vital synergies with: (i) regional trade agreements (RTAs); and (ii) countries’ national legislation.
Five main elements of the Agreement

1. Basic rules on **non-discrimination and transparency** with respect to participation in each Party’s covered procurement markets.

2. **Coverage** defined through detailed schedules (Annexes) in “Appendix I”. Specify covered entities, thresholds, covered services, specific exclusions, etc.

3. **Minimum standards** regarding core aspects of the procurement process, to **ensure transparency and open competition**. Includes provisions on:
   a) Tendering procedures;
   b) Qualification of suppliers;
   c) Time limits, documentation, opening of tenders and contract award procedures.
Five main elements of the Agreement (cont’d)

4. **Enforcement mechanisms**: provisions on application of the WTO-DSU and domestic review procedures (“remedy”, “appeal” or “bid protest” systems).

5. **Built-in mandate for future negotiations** to improve/update/broaden the Agreement’s reach
The 2012 renegotiation of the Agreement: overview

- Three main elements of the deal:
  1. GPA text overhauled and modernized.
  2. Additional market access commitments valued at $80-100 billion annually (total coverage of the Agreement now about $1.7 trillion or possibly more).
  3. Package of agreed Work Programmes on issues such as SMEs and sustainability.

- Revised Agreement now in force for all GPA Parties!
The Revised GPA (2): highlights of the revised text

Core principles of the revised text are the same as the existing one (non-discrimination, transparency, procedural fairness). However, the revised text contains multiple improvements:

1) A complete revision of the wording of the provisions of the Agreement with a view to making them more streamlined, easier to understand and user-friendly;

2) Updating of the text of the Agreement to take into account developments in current government procurement practice, notably the use of electronic tools;

3) Additional flexibility for Parties' procurement authorities, for example in the form of shorter notice periods when electronic tools are used. Shorter time-periods have also been allowed for procuring goods and services of types that are available on the commercial marketplace; .....
The Revised GPA (3): highlights of the revised text

4) The GPA's significance for good governance and the fight against corruption is more explicitly recognized, including in new substantive provisions that require participating governments to carry out their GPA-covered procurements in ways that avoid conflicts of interest and prevent corrupt practices; and

5) Clarified scope for implementation of measures to protect environmental values/promote sustainability.
Growing global reach of the Agreement (1): evolving membership

- Currently, the GPA covers 48 WTO Members including the EU and its member States; most other traditional developed countries (the US, Australia, Canada, Japan, Liechtenstein, New Zealand, Norway, Switzerland and the United States); plus Aruba (represented by the Netherlands); Armenia; Hong Kong (China); Iceland; Israel; Korea; Moldova; Montenegro; Ukraine; Singapore; Chinese Taipei (Taiwan).

- The United Kingdom now a Party to the Agreement in its own right!

- Eleven more WTO Members have initiated their accessions (Albania, Brazil, China, Georgia, Jordan, Kazakhstan, the Kyrgyz Republic, Oman, the Russian Federation, Tajikistan and the Republic of North Macedonia).

- Four additional WTO Members have commitments to seek GPA accession (eventually), as part of their WTO accession protocols: Afghanistan, Mongolia, Saudi Arabia and Seychelles.

- Currently, 36 observer Governments, including Brazil, Argentina, Chile, Colombia, Costa Rica, Ecuador, Panama and Paraguay.
Growing global reach of the Agreement (2): extension of its reach through regional and bilateral trade agreements/other instruments

- GPA the model for chapters on government procurement in regional/bilateral trade agreements worldwide.
  - Includes the recently negotiated Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP) in addition to multiple EU and US regional/bilateral agreements.
- GPA an essential benchmark for national procurement reforms (all GPA Parties must have GPA compliant legislation).
- Carefully harmonized with the UNCITRAL Model Law.
- Referenced in the World Bank’s new Procurement Guidelines.
Significance of government procurement markets for individual suppliers; role of international supply chains in today’s economy

- Government procurement a huge proportion of economic activity (13-18 % of GDP, on average, worldwide). Accessibility to entrepreneurs and good results for taxpayers depend on good procurement practices/transparency.

- Government often the single biggest customer for individual suppliers, especially in services sector. Impacts directly on their overall competitiveness.

- Public procurement supply chains now often widely diffused across national borders (as in the private sector economy). GPA membership facilitates participation.

- Best value for money for citizens depends on competition/transparency/unrestricted supply possibilities.
The GPA’s role in the promotion of good governance, worldwide

- Importance of open markets for the prevention of corrupt practices and supplier collusion.
  - Importance of transparency (including through e-tools) and mechanisms for the engagement of stakeholders (e.g., complaint bodies).
  - Market opening as an antidote to supplier collusion.
  - GPA participation as a catalyst for necessary internal reforms.
- Various countries now joining the Agreement in part for these reasons.
- *Domestic capacity building, institutions, leadership and supplier engagement remain crucial to success.*