

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

Robert D. Anderson

**Honorary Professor, School of Law
University of Nottingham (UK)**

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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.*