



**The revised WTO Agreement on Government
Procurement (GPA): developmental
significance and scope for synergies with other
Organizations' work in this area**

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What is the WTO Agreement on Government Procurement (GPA)?

- ❑ An internationally recognized tool that promotes:
 - ❑ Access to other GPA Parties' procurement markets;
 - ❑ Improved value for money in each participating Member's procurements;
 - ❑ 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)
 - ❑ Successfully renegotiated over the past several years; *revised Agreement in force effective April 6, 2014.*
 - ❑ Membership increasing over time. Multiple developing/transition economies acceding/pondering accession (Moldova; Montenegro and Ukraine currently among the most active).

How the GPA works: relationship to national legislation and other international instruments (1)

- ❑ GPA is not a self-contained procurement system or a substitute for appropriate national legislation.
- ❑ Rather, it is a set of principles and minimum standards regarding competition (including trade-openness), transparency and procedural fairness in the government procurement sector to which participating governments commit themselves.
- ❑ Each participating government must adopt national legislation conforming to the GPA's standards (though uniformity not imposed).

How the GPA works: relationship to national legislation and other international instruments (2)

- ❑ **Market openness and fairness of procurement systems of the participating governments are enforceable via the WTO dispute settlement system and national institutions (“bid challenge” or “domestic review” systems). Contributes to a culture of transparency and accountability.**
- ❑ **For participating governments, GPA an essential guarantee of fair treatment for their own suppliers in other markets (encourages trade/FDI).**
- ❑ **Positive spillovers with respect to value for money in procurement processes, transparency and integrity within and potentially beyond the government procurement sector (strongly pro-development!).**

Magnitude of GPA coverage



- **Size of the GPA-covered procurement market**
 - **An estimated USD1.6 trillion market – around 2.5% of World GDP (2008)**
 - **Recent renegotiation has added an estimated USD 80-100 billion annually.**

Gradually increasing membership of the Agreement

- ❑ Currently, covers 43 WTO Members including the EU and its 28 member States; most other developed countries (i.e. US, Canada, Japan; Norway and Switzerland); plus Hong Kong, China; Iceland; Israel; Korea; Singapore; Chinese Taipei; Aruba and Armenia.
- ❑ Ten more countries currently seeking accession (Albania, China, Georgia, Jordan, the Kyrgyz Republic, Moldova, Montenegro, New Zealand, Oman, and Ukraine).
- ❑ Five more countries have commitments to join the GPA, as part of their WTO accession protocols: **the former Yugoslav Republic of Macedonia, Mongolia, the Russian Federation, Tajikistan and Saudi Arabia.**
- ❑ India an observer (not a Party) to the Agreement since February 2010; Malaysia, Indonesia, Montenegro and Viet Nam have also since become observers.

The recent conclusion of the GPA renegotiation: overview

- ❑ **“Political conclusion” to the negotiations reached by GPA Ministers on 15 December 2011, following intensive negotiations over almost a decade.**
- ❑ **Formal adoption of the results of the negotiations on 30 March 2012; revised Agreement now in force for eleven of the fifteen Parties..**
- ❑ **Elements of the deal:**
 - ❑ **Revised text – greater flexibility/improved S&D provisions.**
 - ❑ **Market access enhancement package valued at \$80-100 billion annually.**
 - ❑ **Package of Agreed Work Programmes on issues such as SMEs, sustainability an improvement of statistical reporting.**

The recent conclusion of the GPA renegotiation (2): key improvements in the revised GPA text

- ❑ Core principles of the revised text are the same as the existing one (non-discrimination, transparency, procedural fairness). However, revised text incorporates:
 - ❑ 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;
 - ❑ Updating of the text of the Agreement to take into account developments in current government procurement practice, notably the use of electronic tools;
 - ❑ 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;
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The recent conclusion of the GPA renegotiation (3): improvements in the revised GPA text (cont'd)

- ❑ More explicit recognition of the GPA's significance for *good governance and the fight against corruption*, 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**
- ❑ Revised and improved transitional measures ("special and differential treatment") for developing countries that accede to the Agreement. Under the revised provisions, such measures are to be tailored to the particular needs of the individual accession candidates.**

Other factors increasing the importance of the GPA as an element of the global framework for trade and development: changing global policy environment

- ❑ Enhanced importance of the procurement sector in light of the global economic crisis; emerging economies' infrastructure needs.**
- ❑ Also increased pressures for policies that potentially limit access to procurement markets in other major world economies by non-Parties to the Agreement.**
- ❑ GPA the main tool of exporting economies to preserve market access rights in this crucial sector.**
- ❑ Use of the GPA text in numerous preferential/free trade agreements, including in Latin America, Africa and Asia.**

Potential benefits of GPA accession for developing/emerging countries: presenter's perspective*

- ❑ Potential trade gains from assured access to other Parties' procurement markets and insulation from possible protectionist measures.
- ❑ Possibilities for achieving enhanced value for money in acceding countries' own procurement systems.
- ❑ Potentially increased incentives for inbound foreign direct investment.
- ❑ Opportunity to influence the terms of other Parties' accessions.
- ❑ Opportunity to influence the future evolution of the Agreement.

*It is recognized that each acceding WTO Member must ultimately assess these for itself.

Potential costs of GPA accession*

- ❑ **Direct costs of participating in relevant negotiations.**
- ❑ **Costs of necessary legislative/institutional adaptations (but note: to some extent, these may already have been incurred or may be independently desirable for domestic policy reasons).**
- ❑ **Adjustment costs for local firms/industry (but note: they may well benefit overall).**

***It is recognized that each acceding WTO Member must ultimately asses these for itself.**

Scope for synergies with other organizations' work in this sector

- ❑ Common interest between the WTO and multiple other Organizations in promoting procurement reforms and institution-building for general developmental purposes (since procurement processes impact importantly on national infrastructure systems, public health, the adequacy of schools and universities, etc.).**
- ❑ Usefulness of common perspectives/shared messages for client countries, where appropriate.**
- ❑ Agreement already extensively harmonized with the UNCITRAL Model Law.**
- ❑ Robust informal co-operation now established with EBRD.**
- ❑ Other possibilities e.g. with World Bank.**

For further information/reflection:

- ❑ **Anderson, Robert D. (2010). "The WTO Agreement on Government Procurement (GPA): An Emerging Tool of Global Integration and Good Governance," *Law in Transition*, Autumn 2010, pp. 1-8 to 8-8; available at: <http://www.ebrd.com/downloads/research/news/lit102.pdf>.**
- ❑ **Anderson, Robert D., Philippe Pelletier, Kodjo Osei-Lah and Anna Caroline Müller, *Assessing the Value of Future Accessions to the WTO Agreement on Government Procurement (GPA): Some New Data Sources, Provisional Estimates, and An Evaluative Framework for Individual WTO Members Considering Accession* (WTO Staff Working Paper ERSD-2011-15, October 6, 2011), available at http://www.wto.org/english/res_e/reser_e/ersd201115_e.htm.**
- ❑ **Arrowsmith, Sue and Robert D. Anderson, eds. (2011). *The WTO Regime on Government Procurement: Challenge and Reform* (Cambridge University Press: 2011).**