

The Implications of the EC-CARIFORUM EPA Government Procurement Provisions

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Outline of Presentation

- Background to the EC-CARIFORUM EPA
- Assessing the government procurement chapter
 - General Objective
 - Coverage and Thresholds
 - Binding Commitments
 - Bid Challenge Mechanism
- Balancing Policy Objectives
- Implications for RTAs and the WTO GPA

EC-ACP Trade Relations

- 1963 Yaoundé Convention EC and 18 ACP states
 - Relations preferential & non-reciprocal
- 2000 Cotonou Agreement EC and 78 ACP states
 - GATT/WTO requirements: Article I; Article XXIV
 - *'Reciprocity' 'substantially all trade'*
 - Temporary waiver until January 2008
- EC-ACP EPA negotiations:
 - Completed: EC-CARIFORUM EPA 30/10/2008
 - 'Stepping-Stone Agreements: Africa and Pacific

EC-CARIFORUM EPA GP Provisions

- General Objective (Art 165)
 - *Recognizes* the importance of transparent competitive tendering with due regard to *special* situation of CARIFORUM economies
- Compare other North-South RTAs
 - EC-Morocco General Objective (Art 41)
 - *reciprocal & gradual liberalisation* of procurement markets – but no timeframes or coverage
 - US-Jordan General Objective (Art 9)
 - Facilitates Jordan's accession to WTO GPA

Scope of the EC-CARIFORUM EPA

- Thresholds: *highest negotiated to date*
- Coverage: *limited to Central Government*
- Transparency obligations: *binding*
 - Procurement policies and procedures
- Non-discrimination principle: *encouraged*
 - Article 167.1 'endeavour' non-binding

Bid challenge procedures:

- Transparent; Timely; Impartial; Effective
- Measures to correct breaches:
 - unspecified
- Compensation:
 - unspecified



EC-CARIFORUM EPA Final Observations:

- Limited to transparency
 - Sets limits to reform
- Trade and Development Committee:
 - Review operation of Chapter every three years
 - Built-in mechanism for progressive negotiations
- Capacity building activities
 - Financing approx S\$10M

Balancing Policy Objectives

- Positive List vs. Negative list approach
- Examples of existing flexibilities:
 - US WTO GPA Annex 4 excludes all transportation services
 - US WTO GPA General Notes permit set asides on behalf of small and minority businesses
 - NAFTA provided Mexico temporary set asides in energy and construction
 - Aus-Singapore RTA permits Australia to promote employment in significant indigenous communities
 - EU-Chile RTA excludes financial services



Implications for Promoting Procurement Reform through RTAs

- Provides legislative push
 - Side-steps domestic inertia and vested interests
- Provides framework to promote int'l norms
 - transparency and good governance
 - competition and economic efficiency
- Provides technical assistance
- Sufficiently flexible to incorporate domestic policy objectives during negotiations
- Facilitates accession to WTO GPA

Conclusions

- RTAs can promote reforms based on int'l norms
- Effective negotiations key
 - provide opportunity to incorporate bespoke national strategies within rules based system
- Can provide pathway to WTO GPA accession
- Advantages of WTO GPA:
 - based on int'l norms and guidelines
 - standalone framework negotiated separately
 - stronger DSM – stronger legislative push