Introduction to Government Procurement in the WTO

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Contents of Presentation

- Government procurement in the WTO: history and three dimensions of current work
- Government procurement: economic and developmental significance
- Basic architecture and content of the Agreement on Government Procurement (GPA)
- The changing context of the Agreement:
  - pending accessions to the Agreement
  - ongoing negotiations

Background: historical treatment of government procurement in the GATT and the WTO

- **Government procurement largely excluded from cornerstone instruments of multilateral trading system (GATT 1947 and GATS 1994).**
- **<u>But</u> growing awareness over time of trade-restrictive effects of discriminatory procurement policies; importance of national procurement systems for economic welfare and growth.**
- **Hence, development of <u>Tokyo Round Code</u> 1970s); replacement by <u>current GPA</u> at conclusion of Uruguay Round; launch of <u>multilateral transparency work</u> (1996)**

The three branches of work on government procurement in the WTO

- The three branches of work on government procurement in the WTO:
  - The plurilateral Agreement on Government Procurement (main focus of this workshop)
  - The multilateral work on transparency in government procurement (currently on hold)
  - GATS work on procurement (moving slowly; not our main focus but will cover).

Why procurement regimes matter

- Significant proportion of Gross Domestic Product (10-15 % or more in most countries)
- Essential function of government, vital to the delivery of socially important goods and services
  - Transportation and other vital infrastructure (airports, highways)
  - Public health (hospitals, medicines)
  - Schools and universities
  - National defense
- Relevance to "governance"; wider significance for economic structure and performance)

Benefits of an open and transparent procurement regime

- More potential suppliers – results in more competition – lower prices/better quality goods and services
- Access to technology that may only be available abroad
- Translates into:
  - Reduced tax burden; and/or
  - Ability to provide more, better government services for same resources.
- Also <u>increased access to foreign markets by (your own) domestic producers</u>, if done through the GPA or a similar instrument.

What about domestic industry, employment?

- Not just a question of reserving contracts for domestic suppliers (though this may be one approach). Consider also:
  - Potential developmental benefits from increased competition in domestic procurement markets, access to foreign technology.
  - "Beach-head effect" (S. Schooner): foreign firms selling to government typically require extensive collaboration from domestic sub-contractors.
  - "Spillover effect": domestic firms exposed to new technology/become more competitive: sell at lower prices to both government and other private firms.
  - Potential gains from access to foreign procurement markets.

The GPA: nature and changing membership

- **A plurilateral agreement - not all WTO Members bound**
- **Currently, covers 40 WTO Members including the EC and its 27 member States; most other developed countries and four advanced developing countries: Israel; Hong Kong, China; Korea; and Singapore, in addition to the Netherlands in respect of Aruba**
- **But note: eight more countries currently seeking accession (Albania, Georgia, Jordan, the Kyrgyz Republic, Moldova, Oman, Panama and Chinese Taipei).**
- **Other major developing countries (e.g. China, Saudi Arabia) have made commitments to join the GPA, as part of their WTO accession protocols. *China will formally initiate its accession process by end of 2007*.**

Main elements of the Plurilateral Agreement on Government Procurement (1)

- **Provisions on <u>national treatment and non-discrimination</u> (*subject to important limitations in coverage*)**
- **Coverage defined through detailed schedules (Annexes) in "Appendix I".**
- **Detailed provisions on aspects of the procurement process, to ensure transparent and open competition. Includes provisions on:**
  - **Tendering procedures;**
  - **Qualification of suppliers;**
  - **Invitations to participate;**
  - **Selection procedures;**
  - **Time limits, documentation, opening of tenders and contract award procedures.**

Main elements of the Plurilateral Agreement on Government Procurement (2)

- **Enforcement: provisions on domestic review procedures (bid challenge systems) and application of the WTO-DSU**
- **Special and differential treatment for developing countries**
- **Built-in commitment to negotiations aimed at improving the Agreement, extending its coverage and eliminating discriminatory measures. Very recently (in December of last year), the negotiators reached provisional agreement on the text of a new Agreement. Negotiations to broaden and deepen coverage are ongoing.**

Overview of recent/ongoing negotiations relating to the GPA

- **Negotiations are covering both non-market access provisions of the Agreement (i.e. the text) and the market access ("coverage") commitments**
- **<u>Highlights of negotiations on the text</u>:**
  - **Complete revision to make provisions more user-friendly;**
  - **Takes account of widespread use of electronic procurement tools;**
  - **Enhanced flexibility re: time periods and related procedures; and**
  - ***Provisions on special and differential treatment for developing countries made more concrete and specific*.**
- **<u>Purpose of the coverage negotiations</u>: to deepen coverage and eliminate existing discriminatory measures.**
- **Provisional agreement now reached on the text; negotiations on coverage to be completed by end of 2007.**

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Concluding remark: three reasons why the GPA merits a closer look

- Economic and developmental significance of procurement: potential trade gains
- Transition from old to new Agreement: will facilitate accession by new Parties
- Pending accessions to the Agreement will:
  - change the nature of the Agreement over time (toward a greater focus on development issues); while also
  - expanding coverage and thereby augmenting the potential gains from further accessions