# WTO Workshop on the Agreement on Government Procurement

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# Negotiating trade agreements with a government procurement chapter – issues and challenges

***Kodjo Osei-Lah*,**

**WTO Secretariat**

***s8.6***

# Negotiating an accord on GP

- Deciding to negotiate
- Preparation
- Negotiations
- Implementation

# Deciding to negotiate – some issues

- Economic and other policy considerations
  - wider economic and other policy considerations
  - significance of government procurement
  - identification of stakeholders and their interests
  - domestic procurement policy objectives, priorities
  - objectives to be achieved by negotiating accord
  - expected costs and benefits of an accord
- Nature, type, form of accord to negotiate – e.g.
  - bilateral, regional, multilateral, other
  - binding vs non-binding
  - with or without market access commitments
  - expectations and objectives of prospective partners

# Preparation

- Preparatory work – organization and coordination
- Preparatory work – rules
  - consistency of domestic rules with commonly accepted norms
  - ?any reform implications?
- Preparatory work – market access
  - market access potential arising from accord
  - capabilities and competences of domestic supply market – ?any supply-side constraints?
- ?Any complementary policy measures?
  - consultations, studies, surveys, analyses
  - time/resources/capacity/cost implications
- ➔ Offensive vs defensive interests 🡸

# Negotiations – rules

- Modalities for the negotiations
- Definition and scope
  - issues relating to definition, scope and coverage
- Transparency and procedural rules
- Enforcement/compliance mechanisms
  - binding vs non-binding rules
  - ?bid challenge, WTO DSU type enforcement?
- Developing country issues
  - national treatment vs domestic preferences
  - S&D treatment, technical co-operation, other
  - policy space debate

# Negotiations – market access

- Modalities for the negotiations
- Request/offer process
  - requests to other participants
  - policy, other implications of requests received
- Initial offer
  - how does it address competing domestic (defensive / offensive) interests?
  - does it meet the expectations of negotiating partners?
- Consultations/negotiations
  - domestic consultations
  - consultations/negotiation with participants
- Revised/final offer, any conditions attached

# Implementation

- Key issues
  - fulfilling obligations, realising benefits
- Alignment of domestic legislation to new accord
  - national treatment/non-discrimination
  - transparency, procedural rules
  - review, reporting, supplier challenge, dispute settlement?
- Other implementation measures, requirements e.g.
  - training/capacity building, oversight/regulatory measures
  - any complementary policy measures – e.g. SME support, improving standards, etc.
- ➔Reform, capacity, resource, financial, implications 🡸

# GPA accession – some considerations

- Rules - existing and revised Agreement
  - predictability: provisions, obligations, and therefore any reform implications known in advance; however
  - as pre-existing no possibility for acceding Member to influence the provisions of the Agreement
- Coverage
  - predictability: existing coverage of Parties known
  - possibility to conduct appropriate advance studies
  - however, note complexity of schedules
- Use of any S&D flexibilities
  - transitional measures, periods
- Negotiating timeline

# End note (1) – costs/benefits

- What benefits arise from accord? – e.g.
  - robust, transparent and competitive GP system
  - improved business confidence in GP system
  - improved value for money from greater competition
  - market access opportunities for domestic supplies, services, suppliers
  - can contribute to inward investment, etc.
- Costs/challenges – e.g.
  - preparatory, negotiation, implementation costs
  - impact of foreign competition on domestic industry
  - costs/challenges of other complementary policy measures

# End note (2) – some practical aspects

- Indicative vs actual timelines
- Initial vs final offers
- Scope and boundaries of coverage
  - exceptions, exclusions, thresholds, General Notes, etc
  - use of any S&D flexibilities
- Process and outcome of negotiations
  - correlation with expectations and objectives
- Any lessons/insights
  - from existing accords, ongoing negotiations (e.g. GPA),
  - other forums