The Revised WTO Agreement on Government Procurement (GPA): significance for global work on integrity and best practices in public procurement

Robert Anderson
Counsellor, WTO Secretariat (Team leader for government procurement and competition policy)

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What is the GPA?: Basic nature of the Agreement

- An internationally recognized tool that promotes:
  - Competition and good governance (transparency, non-discrimination and an absence of corruption) in covered procurement markets.
  - Access to other GPA Parties’ procurement markets;
  - Value for money in each participating Member’s procurements.
- A plurilateral agreement within the WTO system (not all WTO Members participate).
- Well-harmonized with the UNCITRAL Model Law
- Not a detailed code, but an agreed set of minimum standards embodying best practices that participating governments meet in diverse ways (can synergize well with OECD and other international standards/initiatives).
Increasing membership of the GPA

- Currently, the GPA covers 42 WTO Members including the EU and its 27 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, New Zealand, Oman, Panama and Ukraine).

- Seven more countries have commitments to join the GPA, as part of their respective WTO accession protocols: Croatia, the former Yugoslav Republic of Macedonia, Mongolia, Montenegro, the Russian Federation, Saudi Arabia and Tajikistan.

- India an observer since February 2010; assessing its options. Malaysia, Indonesia, Montenegro and Viet Nam have become observers in 2012.
The recent conclusion of the GPA renegotiation: overview

- “Political conclusion” to the negotiations reached by Ministers from all GPA Parties on 15 December 2011, following intensive negotiations over almost a decade. Ministers also declared their interest in promoting use of the revised Agreement as a tool of market opening/good governance/sustainable development and the efficient management of public resources.

- Formal adoption of the results of the negotiations on 30 March 2012, following a verification process.

- Elements of the deal:
  - A modernized and even more flexible revised GPA text
  - Market access enhancement package valued at $80-100 billion annually.
  - Package of Future Work Programmes on issues such as SMEs and sustainability.
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;

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The recent conclusion of the GPA renegotiation (3): improvements in the revised GPA text (cont’d)

- Revised and improved transitional measures 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; and

- 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 (a significant innovation in the WTO framework).
The recent conclusion of the GPA renegotiation (4): the Future Work Programmes

- Relate to the administration and possible further evolution of the Agreement, over time.
- Subject-matters to be addressed include many areas of common interest with OECD/other organizations/national governments:
  - access to procurement markets by small and medium-sized enterprises;
  - sustainability in public procurement;
  - improvement of the available statistical data; and
  - exclusions and restrictions in Parties' Annexes.
- Work to begin upon entry into force of the Protocol of Amendment. All GPA Parties, observer governments and observer organizations encouraged to participate!
Policy coherence, synergies and the scope for progress toward greater harmony in international standards and policy advice

- Widening demand for greater coherence in international policy advice and standards (as in discussion yesterday). Role of the GPA as a tool of greater harmony/market openness (recall, it doesn’t prescribe all the details but embodies minimum standards that all Parties accept).

- Promotion of competition as an element of integrity and good governance. Requires careful thought and balancing of competition/transparency requirements!

- Need for/openness of the WTO to the input of other organizations in this area.