



Understanding the WTO Agreement on Government Procurement (GPA)

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Nature and membership of the GPA

- A plurilateral agreement - not all WTO Members bound
- Currently, covers only **37 WTO Members** (including the 25 member States of the EC; most other developed countries and Israel; Hong Kong, China; Korea; and Singapore)
- **But note:** nine more countries currently seeking accession (Albania, Bulgaria, Georgia, Jordan, the Kyrgyz Republic, Moldova, Oman, Panama and Chinese Taipei).
- Even more importantly: Other major developing countries (e.g. **China, Saudi Arabia**) have made commitments to join the GPA, as part of their WTO accession protocols. *China has recently confirmed that it will formally initiate its accession process in 2007.*

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

- Provisions on national treatment and non-discrimination in procurement markets (*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.

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

- **Enforcement:** provisions on national bid challenge procedures 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**

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Ongoing negotiations relating to the GPA: what is at issue?

- Negotiations cover both non-market access provisions of the Agreement (i.e. the text) and the market access ("coverage") commitments.
- **Purpose of negotiations on the text:** to update/streamline the agreement and ensure greater flexibility, take account of new procurement methodologies (especially e-procurement) and facilitate the accession of new Members. *NB: Members are examining various formulations to clarify/confirm in the revised Agreement the scope for ensuring protection of the environment.*
- **Purpose of the coverage negotiations:** to deepen coverage and eliminate existing discriminatory measures.
- Parties aiming to complete all aspects of the negotiations by end of 2006.

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The GPA and sustainable development (1): the existing text

- ❑ NB: WTO Members have a general concern to ensure that trade liberalization does not undermine environmental conservation/sustainable development goals. *These objectives are explicitly incorporated in the Marrakesh Agreement establishing the WTO.*
- ❑ The GPA (Article XXIII) stipulates that the Agreement shall not be construed to prevent Parties from implementing measures to protect human, animal or plant life or health. However, such measures not to be used as: (i) a means of arbitrary/unjustifiable discrimination; or (ii) a disguised trade restriction.
- ❑ The Agreement recognizes the role of technical specifications which often include environmental criteria. Moreover, the contract award (evaluation) criteria recognized under the Agreement clearly are not limited to price.

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The GPA and sustainable development (2): the emerging revised Agreement

- ❑ In the context of the ongoing renegotiation of the text, consideration is being given to various formulas that would make more explicit:
 - ❑ The scope for application of technical specifications to promote conservation of natural resources/protect the environment; and
 - ❑ The use of environmental characteristics as an evaluation/award criterion.

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