

National Consultation

WTO Plurilateral Agreement on Government Procurement *Market Access Opportunities & Challenges for India*

Hotel Metropolitan, New Delhi, Thursday, 31 January, 2013

Objective

To share the findings of the study on ‘**Opportunities and Challenges for India within the WTO GPA Framework**’, with the relevant stakeholders and discuss future course of action based on its recommendations

Background & Context

In 2012, with support from the British High Commission, New Delhi, under the Prosperity Fund Programme of the Foreign & Commonwealth Office of the United Kingdom Government, CUTS International conducted a study entitled *Government Procurement in India – Domestic Regulations & Trade Prospects*.

The second part of the study continues to further understand the nuances of government procurement and undertakes an assessment of opportunities and challenges which India is expected to encounter if in case it decides to negotiate to accede to the WTO Plurilateral Agreement on Government Procurement.

It is important to determine the amount of market access that India will be able to access both outside and within the framework of the WTO GPA accurately in order to aid decision-making by policy-makers and preparedness by domestic participants.

The WTO GPA framework contains levels and layers at which country-members undertake obligations and qualify market access based on social and economic motivations which renders the task of assessing opportunities and challenges a difficult one. It requires an understanding of procurement frameworks of different countries, public expenditure norms, and relationship between different tiers of government which may be based on devolution of financial power apart from insights into the actual operation of the WTO GPA which differs from other WTO agreements owing to being plurilateral.

This study provides a basis for commencing methodical preparation for India’s possible future accession to the WTO GPA. It categorises and undertakes an assessment of policies which have a social or economic purpose or motive ancillary to the core procurement itself which may be essential to a government to achieve welfare-oriented goals. Issues are examined in order to:

- collect information for modelling similar policies which could protect suppliers in a domestic policy space; and
- understand the impact of such policies on market access for Indian suppliers in international markets.

Economic analysis has been undertaken to determine the market access potentiality in government procurement of countries who are members of the WTO GPA and some other WTO Members who are not members of the WTO GPA.

An evaluation of the legal framework of the WTO GPA has been undertaken by studying the modalities of assessing the value of an offer by a country member through an analysis of entity coverage, thresholds offered and exclusions advanced by countries who are party to the WTO GPA.

Major Issues

Following are some of the major issues covered in this study:

- What opportunity does the WTO GPA framework offers to India?
- What is the market access available for Indian suppliers in WTO GPA member-country markets and in the markets of some non-members?
- What is the legal framework governing the country members who have joined the WTO GPA?
- How should India position itself in the event it seeks to undertake accession into the WTO GPA?

Way Forward

The first part of the study focused on two aspects of domestic preparedness:

- whether the relevant domestic legislation of India, the Public Procurement Bill of 2012, is compatible with the WTO Agreement on Government Procurement or not?; and
- whether Indian suppliers are in a position to capture international markets in procurement in health, railways and information technology sectors or not?

The second part of the study focuses on commencing preparation for changes in international environment for government procurement which may result in decreasing market access owing to a multitude of factors of which the WTO GPA framework itself is one.

The direction for future work on government procurement can be focused on the following which are essential to further our understanding on:

- how market access requests and offers may be modified as a result of the interplay of policies both within and outside the purview of the WTO GPA;
- the need for comprehensive data collection pertaining to the procurement undertaken by Indian Ministries at central, state and local government levels; and
- the necessity of sensitising the relevant Indian stakeholders on major issues regarding government procurement legislation, corresponding policies, post-contract management, public-private initiative and government procurement, and on market access issues.

The study provides certain insights on the above and evaluates country commitments in the WTO GPA which aids interpretation and possible quantification of market access opportunities and challenges for India.