

Government Procurement: An Emerging Tool of Global Integration and Good Governance in India

Minutes of Proceedings Project Advisory Committee Meeting

30 January, 2013, Hotel Metropolitan, New Delhi

I. Introduction

CUTS is implementing a project entitled “Government Procurement – An emerging tool of global integration and good governance in India”, with support from the British High Commission, New Delhi under its Prosperity Fund India Programme since July 2011. In 2012, CUTS conducted the first phase of the study entitled ‘*Government Procurement in India – Domestic Regulations & Trade Prospects*’, the findings of which had been widely disseminated. 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 focuses on the ‘WTO Plurilateral Agreement on Government Procurement: Market Access Opportunities & Challenges for India.’

The Project Advisory Committee (PAC) which was constituted for the purpose of guiding the implementation of the project supervises the progress of the activities undertaken under the project. The PAC is scheduled to meet at regular intervals to assess the progress made in the project and provide inputs and suggestions to improve the relevance of the research and outreach activities undertaken in the project.

This third meeting of the PAC was held to discuss the progress made by the project during the last eight months. It reviewed the findings of the second part of the study which focuses on WTO Plurilateral Agreement on Government Procurement and market access opportunities & challenges that are provided for India and further assessed if the project is moving in a right direction to achieve its objectives. The specific agenda for the meeting is given as Annexure I (Programme Agenda) and details of participants as Annexure II (List of Participants).

II. Opening

Bipul Chatterjee, Deputy Executive Director, CUTS International, welcomed the distinguished members of the PAC and thanked them all for accepting the invitation and for their active participation in the implementation of the project. He also thanked the British High Commission for supporting this project. He then moved on to review the minutes of the last PAC meeting before initiating discussion on substantive topic of the meeting.

Claire Tynte- Irvine, First Secretary, Economic and Trade Policy, British High Commission New Delhi, briefly presented a brief overview of the British Commission Prosperity Fund under which this study is funded. She noted that the focus was on supporting projects pertaining to sustainable growth and economic law and development which also imbued the values of low carbon, high growth. Specifically dealing with the subject 'Government Procurement' she noted that while choosing the subject, they had been aware that it may be a sensitive issue, however, they were specifically interested in understanding the interplay of government procurement *vis-à-vis* the National Manufacturing Policy in India.

Bipul Chatterjee noted that the first study on Government Procurement provides comparative analysis of Public Procurement Bill 2012, WTO GPA and UNCITRAL Model Law along side exploring the trade prospects of a few sectors in government procurement area. This study had been positioned as a neutral analysis. He apprised that the relevance of the subject has further enhanced as the Public Procurement Bill is likely to be passed in the next session of the Parliament. He further informed that the findings of the first part of the study has been widely disseminated and well received by the stakeholders. He informed, *inter alia*, the Department of Expenditure had made a request for a summarised version of the study.

III. Presentation of the Draft Report

Bipul Chatterjee commenced the presentation by providing an overview of the research which had been undertaken as part of the second phase of the study. This phase of the study entitled 'WTO Plurilateral Agreement on Government Procurement: Market Access Opportunities & Challenges for India' dealt with two facets:

1. The market access opportunities available for India in Member-countries of the WTO GPA, and in non-Member countries of the WTO GPA; and
2. The qualifications to market access opportunities created by WTO GPA members both within the realm of the agreement and through their domestic policies.

While elaborating on the methodology, he mentioned that the methodology deployed to calculate market access was one which had been utilised in a study by Anirudh Shingal of the World Trade Institute, Bern, after making suitable modifications. It was conveyed that statistics pertaining to the ministries of the Indian Government procurement which commodity were unavailable (as they were being collected since 2012, with relation to the national e-procurement website. Hence, the analysis undertaken in the second portion of the study has some limitation in certain aspects.

The market access opportunities in GPA and non-GPA markets was presented followed by a few insights on how the current WTO GPA members had used flexibilities in the Agreement, and even outside of the Agreement to preserve market access for their domestic suppliers which concomitantly whittled away market access opportunities for suppliers from markets abroad.

It was noteworthy that despite the represented market access opportunities, the actual number of contracts which had been awarded to foreign suppliers had been limited. Developed countries frequently procured from only developed countries. A few opportunities were identified for Indian suppliers in WTO GPA markets. Bipul Chatterjee noted that as per the research, a few areas which had been identified as presenting market access opportunities for India where the

pharmaceuticals sectors in the US, minerals in Canada, semi-finished goods of copper, nickel, aluminium, lead and gas generators in Chinese Taipei, ships, boats and floating structures in Japan, collector's pieces and antiques, plastic, machinery and electrical equipment in Korea.

It was noted that only about five percent of the total contracts awarded by developed country governments are awarded to international suppliers. Of these the proportion of contracts awarded to developing country suppliers was minimal.

The potential for market access opportunities in certain markets were also highlighted: for example, government expenditure in the US amounted to 42.2 percent of the GDP (US\$6369668mn), and alternatively in Singapore it was 17 percent of the GDP (US\$40749mn).

The presentation was concluded by outlining areas for future research such as sustainable procurement; post-contract management; e-procurement systems; public private partnerships; and the evolution of a national procurement policy.

IV. Discussion on the Draft Report

Anil Bhardwaj, Secretary General, Federation of Indian Micro and Small & Medium Enterprises (FISME) pondered as to whether submitting to the WTO GPA would result in expediting a process of reform pertaining to transparency in procurement. He noted that the 'peer pressure' which would result from making an international commitment may persuade the bodies engaged in procurement to quickly revamp their procurement procedures and processes to better integrate the participation of suppliers.

Manab Majumdar, Assistant Secretary General, Federation of Indian Chambers of Commerce and Industry (FICCI) noted that India has strong offensive interest in the IT Sector, though the same could not be said of hardware in the IT Sector and the research may provide some reflection to this effect.

It was raised as to whether trade in intermediate goods could be used as a channel to circumvent Buy National laws combined with Rules of Origin provisions. It was concluded that strategies to trade in intermediate goods, and evolving other strategies need to be integrated into overall trade policy of India, but these strategies are required to be deployed independently of any strategy pertaining to accession into the WTO GPA.

Ron Watermeyer, Director, Soderlund and Schutte also commended the efforts undertaken in the project and suggested that a strategy needs to be devised while making commitments to adhere to the WTO GPA. Such a strategy would ensure that the systems and institutions are linked in such a manner so as to ensure that no market access opportunities for domestic suppliers would be lost. He noted that in many cases the reason for awarding a large number of contracts to local suppliers was owing to the fact that foreign suppliers lacked the 'local knowledge' to contest a tender for procurement. He suggested the evolution and development of a 'supply chain approach' as an alternative for India irrespective of it considering accession into the WTO GPA.

Sangeeta Khorana, Lecturer in Economics, Abersywth University, congratulated the effort undertaken on the subject and the preparation of the draft report. She suggested that India could consider accession into the WTO GPA with the necessary safeguards and exemptions. It was added that due consideration must be given to the immense market access opportunities which were available in conjunction with the possibility that membership may provide a gateway for participants like India to influence the development of modalities. However, this would be possible only after a lot more work was undertaken on improving the state of its preparedness.

Khorana also noted that multiple studies had been undertaken with respect to the procurement practices of Tamil Nadu and Karnataka (the two states which have independent government procurement legislations), and suggested that these studies would be relevant to the analysis which has been undertaken.

The PAC meeting concluded after thanking everyone present.

V. Conclusion

Bipul Chatterjee, Archana Jatkar, and Vinitha Johnson, during the course of the discussion responded to the queries raised by the PAC members and identified certain issues which needed to be addressed during the conclusion of the project. Bipul Chatterjee concluded the meeting after noting that a lot of preparation needs to be undertaken in order to negotiate to enter the WTO GPA.

Annexure I

Project Advisory Committee Indian Government Procurement – Opportunities and Challenges

Conclave, Hotel Metropolitan, New Delhi, Wednesday, 30 January, 2013

Agenda

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| 10.00 – 10.30 | Registration |
| 18.00 – 19.00 | Opening and Presentation on Government Procurement – Opportunities and Challenges for India within the WTO GPA Framework

Bipul Chatterjee, Deputy Executive Director, CUTS

Claire Tynte- Irvine, First Secretary, Economic and Trade Policy, British High Commission New Delhi |
| 19.00 – 19.30 | Discussion and Conclusion |
| 20.00 onwards | Dinner |

Annexure II

Government Procurement – An emerging tool of global integration and good governance in India

List of Participants from PAC

Members of Project Advisory Committee present:

1. Anil Bhardwaj, Secretary General, Federation of Indian Micro and Small & Medium Enterprises (FISME)
2. Claire Tynte- Irvine, First Secretary, Economic and Trade Policy, British High Commission New Delhi
3. Manab Majumdar, Assistant Secretary General, Federation of Indian Chambers of Commerce and Industry (FICCI)
4. Ronald Watermeyer, Director , Soderlund and Schutte
5. Sangeeta Khorana, Lecturer in Economics, Abersywth University

CUTS Team

1. Bipul Chatterjee, Deputy Executive Director, Consumer Unity & Trust Society (CUTS)
2. Archana Jatkar, Coordinator and Deputy Head, CUTS Centre for International Trade, Economics & Environment
3. Vinitha Johnson, Assistant Policy Analyst, CUTS Centre for International Trade, Economics & Environment
4. Tanushree Bhatnagar, Young Professional, CUTS International