

GOVERNMENT PROCUREMENT – AN EMERGING TOOL OF GLOBAL INTEGRATION AND GOOD GOVERNANCE IN INDIA

MINUTES OF PROCEEDINGS

**Project Advisory Committee meeting
India International Centre, New Delhi, India, 05 March, 2012**

I. Introduction

The project entitled “Government Procurement – An emerging tool of global integration and good governance in India” is under the process of implementation by CUTS since July 2011. This project is supported by the British High Commission, New Delhi, under the Prosperity Fund India Programme. The long term goal of the project is to explore a more efficient government procurement system in India with greater transparency, efficiency and good governance for the benefit of both domestic as well as foreign enterprises, and consumers at large.

The project is being implemented under the guidance of a Project Advisory Committee (PAC), especially constituted for the purpose. The PAC is scheduled to meet twice a year at a regular interval to assess and evaluate the progress made by the project and the quality of outputs.

This second meeting of the PAC was held to discuss the progress made by the project during the last eight months, and also to assess whether the project is moving in the right direction to achieve its objectives. More importantly, the meeting was held to discuss the project output, the draft report prepared based on field and secondary research activities. 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 expressed gratitude to all for accepting the invitation and their active participation in implementation of the project. He also thanked the British High Commission for supporting this project. Speaking on the issue of government procurement, he said, government procurement is a very complex issue, more so because of lack of data and literature on the subject. CUTS took up this challenge and is grateful to the support provided by the British High Commission. One positive development since the last meeting is that a draft Public Procurement Bill 2012 has been prepared. It is approved by the Group of Ministers and the bill is likely to be introduced in the forthcoming session of the Parliament of India after getting clearance from the Union Cabinet. In view of this development, the study has attained greater relevance.

Chatterjee mentioned that some of the PAC members could not make it for the meeting, because of their prior engagements. He expressed his hope the meeting would help the project implementing team to find a way forward and further strengthen the research output. He concluded by mentioning that CUTS team would share updates on the ongoing projects with the PAC members so as to keep them informed. Finally, he thanked them all for agreeing to counsel for the project.

Andrew Jackson, Counsellor (Knowledge Economy), British High Commission, New Delhi, discussed the new initiative taken by the British government, the Prosperity Fund, under which this project is funded. He expressed that the important motivation for initiating this project is to create space for debate and discussion on this important issue of government procurement. The British High Commission does not meddle in the project implementation. He further said that this is an opportune time to propose this project, especially in the wake of revised WTO Government Procurement Agreement as well as the approval of the draft Public Procurement Bill 2012 by Group of Ministers in India. With regard to the progress of the project, he thanked CUTS for keeping the British High Commission fully informed on the developments relating to the project.

Archana Jatkari, Coordinator and Deputy Head, CUTS Centre for International Trade, Economics & Environment summarised the issues discussed in the first PAC meeting held on August 30, 2011. She went on to elaborate on how the research under the project and the report so prepared has taken into account and incorporated inputs received from the PAC members in that meeting.

III. Presentation of the Draft Report

Bipul Chatterjee, Deputy Executive Director, CUTS International began his presentation by providing an overview of the Indian government procurement. He stated that the subject is new, and at the same time, very important for the country. The present study focuses on the overall government procurement with a special focus on three sectors, namely Indian railways, health (including pharmaceutical and medical equipment) and IT/ITES. He also elaborated on justification for selection of these sectors. He stressed the point that the project does not pre-empt to conduct research from the point of view of India's possible accession to the Government Procurement Agreement (GPA), but to present a holistic picture on the possibility and potential of India's government procurement market. It is also to look at the regulatory issues and how these issues should be addressed in order to make the system more transparent and more efficient.

Bipul Chatterjee then highlighted the methodology and major findings of the research report. Highlighting major findings, he said, the government procurement market as per our estimate is over US\$300bn. It is huge, and constitutes 20 percent of India's gross domestic

product. The procurement market currently suffers from lack of transparency and efficiency. There is also lack of competition. Other major findings as revealed by the study are: (i) there is multiplicity of agencies dealing with public procurement in India; (ii) there is specific need for capacity building of stakeholders on this particular issue; (iii) type of reciprocity required from other countries (especially GPA members) to enable and prepare India for its possible accession to the GPA; (iv) it will be difficult to withdraw preferential treatment to Indian firms at one go, as it can lead unnecessary difficulties; (v) there are indications that domestic stakeholders are yet to be fully prepared for India's accession to the GPA. However, this will continue to be a major issue in negotiations in the coming period.

Bipul Chatterjee also highlighted some of the opportunities that will arise as a result of proposed Public Procurement Bill. It sends a positive signal through its provision on transparency and fair treatment. This in fact is indicative of the future public procurement regime in the country. The proposed bill tends to significantly reduce discrimination in public procurement. It is also expected that it would enhance competition and efficiency in the procurement system, he said. Comparing the proposed bill with the provisions in the GPA; it is found that various provisions in the bill are in tune with requirements of the GPA. This leads to a larger question, and the question is if India's proposed procurement bill is broadly compatible with GPA requirements, then what is preventing India from acceding to the GPA. This is the question, one needs to debate and discuss, he stressed.

There are, however, various challenges associated with government procurement, and the need for preferential treatment is one of them. It needs to be seen how these could be considered especially in the context of developing economy like India.

Bipul Chatterjee then discussed on the ways in which the project will move in the next phase. Some more intensive work is needed to make the figure and analysis more realistic on the subject. The project implementing team has plans to refine the methodology and make the study more robust by cross checking the assumptions. There is need to do some research on negotiating options for India. He also highlighted the need for advocacy and the need for creating awareness among stakeholders on the issue.

At the end of his presentation, Chatterjee thanked the members of the PAC and others present in the meeting, and then opened the floor for discussion.

IV. Discussion on the Draft Report

Manab Majumdar, Assistant Secretary General, Federation of Indian Chambers of Commerce and Industry (FICCI), was delighted by effort on the subject and preparation of the draft report. He highlighted the fact that it is good to know that some estimates on government procurement has been arrived, but opined that it will be enough for the project

purposes to provide a range in which the total market size of India government procurement market would lie. On the issue of Indian procurement market being characterised by lack of domestic and foreign competition, he said, there could be two scenarios: (i) in some sectors, the competition is legally prohibited, and (ii) the market is not so big, or complicated or in a far flung areas, and even if it is open it is not practical for foreign firms to participate in the bidding. There is a need to distinguish the two scenarios. And therefore, the real scenario could be slightly different.

Manab Majumdar raised the point that it is important to understand whether Indian businesses are ready and in a position to work on a reciprocal basis in the foreign markets. At the present juncture, the study should present a holistic picture of pro-and-cons of possible accession of India to the GPA, and it should not be based on any pre-conceived notion of whether India's accession is good or bad. The project should look diligently into the merits and demerits, opportunities and constraints, domestic preparedness and/or the lack of it, and the reasons for acceding to WTO GPA as a member. He flagged the point that the proposed Public Procurement Bill (2012) should be used as the base for assessing pro-and-cons for India's accession to GPA.

Manab Majumdar in the end highlighted the need and importance of a balanced approach to build stakeholders capabilities in order to build capacities of India's domestic industries to exploit market access along with increasing transparency and efficiency in the domestic market. He assured all cooperation for the project.

Federico Lupo Pasini, Fellow, CUTS International, expressed that India should not jump and open its procurement market in a hurry. He cited the example of the European Union, which is yet to open fully despite being more developed. **Bulbul Sen**, Fellow, CUTS International highlighted the fact that the issue of foreign direct investment (FDI) and its impact on procurement market should also be looked into.

D G Shah, Secretary General of Indian Pharmaceutical Alliance (IPA), in his deliberation pointed out that there is some misconception on FDI in the brown field, especially in the pharmaceutical sector. FDI is now becoming a tool to penetrate and capture Indian market, including the procurement market. He flagged the fact that the market share of top ten companies in India is not more than 38 percent. And more importantly as a result of acquisition of Indian companies by foreign companies in last few years, the share of foreign companies have gone up from 15 to 25 percent in a period of five years. These acquisitions, however, have not resulted in any new technology and this is a major issue. Also, some acquired companies have closed down their R&D units. Therefore, linking GPA with procurement is very complex, and it needs to be assessed sector by sector.

DG Shah highlighted the fact that for understanding cost-benefit from India's accession to the GPA, there is need to assess non-tariff barriers by the developed world. He also raised some queries pertaining to the quality and standards at an economical value in the model Tamil Nadu Medical Services Corporation Ltd.

Sangeeta Khorana, Lecturer in Economics, Aberystwyth University, U.K. pointed out that the biggest contribution of this project could be to come with facts based on cost-benefits analysis on whether India should join the GPA or not. This, in fact, needs to be quantified. Regarding the costs, she said, the cost associated with India's possible accession to the GPA is important. There are two types of costs involved: direct cost and indirect cost.

V. Conclusion

Bipul Chatterjee & Archana Jatkar, in between the discussion, responded to queries raised by the PAC members and assured them that the issues raised will be duly taken into account in the next phase of the project. He then concluded the meeting by highlighting the importance of the political economy of negotiation and thanked the member of advisory committee members for their valuable inputs.

ANNEXURE I

Government Procurement

An emerging tool of global integration and good governance in India

Tuesday, 05March, 2012

India International Centre, Lodhi Road, New Delhi

Agenda

Opening

- 1900 -1910 Bipul Chatterjee, Deputy Executive Director, CUTS International
- Andrew Jackson, Counsellor (Knowledge Economy), British High Commission
- Archana Jatkar, Coordinator & Deputy Head, CUTS Centre for International Trade, Economics & Environment
- 1910 - 1925 Presentation of draft report by Bipul Chatterjee, Deputy Executive Director, CUTS International
- 1925- 2000 Discussion

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. Manab Majumdar, Assistant Secretary General, Federation of Indian Chambers of Commerce and Industry (FICCI)
2. D G Shah, Secretary General of Indian Pharmaceutical Alliance (IPA)
3. Andrew Jackson, Counsellor (Knowledge Economy), British High Commission
4. Sangeeta Khorana, Lecturer in Economics, Aberystwyth University, UK

From CUTS Team

1. Bipul Chatterjee, Deputy Executive Director, Consumer Unity & Trust Society (CUTS)
2. Bulbul Sen, Fellow, CUTS International
3. Archana Jatkar, Coordinator and Deputy Head, CUTS Centre for International Trade, Economics & Environment
4. Federico Lupo Pasini, Fellow, CUTS International
5. Anutosh Biswas, Programme Officer, CUTS Centre for International Trade, Economics & Environment
6. Suresh P Singh, Policy Analyst, CUTS Centre for International Trade Economics & Environment