

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

## **Report of the Consultation Meeting**

*New Delhi, India, March 06, 2011*

### **Executive Summary**

CUTS is implementing a project entitled ‘Government Procurement – An emerging tool of global integration and good governance’, in India with the support of British High Commission under the Prosperity Fund Programme. Though government procurement is a relatively new topic of research in India it has become vital especially with India attaining an observer status in the WTO Plurilateral Agreement on Government Procurement (GPA) and in the wake of recent steps taken by India in this regard. This project is expected to fill the knowledge gap and assess the impact of possible accession of the India to the GPA.

### **Background and Context**

Government procurement is an important aspect of international trade, given the considerable size of the procurement market (often 20-30 percent of gross domestic product of a country). Also, that procurement is one of the core elements of the operation of government and its agencies, bearing impact on key stakeholders in society; it further attains a place of importance in public life. This project has, therefore, a long term goal 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.

India’s intention to become an active player in the government procurement market became clear when it obtained observer’s status in the Plurilateral Agreement on Government Procurement at the WTO and also when it agreed to negotiate this subject as part of the EU-India free trade agreement and India-Japan free trade agreement (in latter case, it is a part of the signed agreement).

Since then India’s possible accession to the WTO Government Procurement Agreement has become a subject of increasing interest. Such an accession may require legislative changes and simplification in procurement procedures, which may enhance benefits of and may reduce costs for public administration.

Although these are some significant developments, the lack of data and literature on Indian government procurement market makes it difficult to assess the gains and challenges for India if it accedes to the WTO GPA. While foreign players will be excited to gain better access to the Indian government procurement market, however, it is not known if Indian private/public sector will be equally benefited in case India gains access to other markets.

Given this background, there is little systematic attempt to make the process of acceding to the WTO GPA more scientific and knowledge-based as well as inclusive. This project, supported by the British High Commission, New Delhi, is an attempt to examine various features of the government procurement market of India in three sectors – health including pharmaceuticals/ medical equipment, information technology and IT-enabled services, and rail transport, and is exploring implications of India’s possible accession to the WTO GPA on these important markets and otherwise.

## **Opening and Introduction**

*Andrew Jackson, Counsellor (Knowledge Economy), British High Commission*

**Andrew Jackson** introduced the Prosperity Fund Programme under which the project is funded. The Prosperity Fund programme seeks to promote action on global issues in areas of strategic importance to the UK as has been mentioned in the UK’s White Paper released in April 2011. The Prosperity Fund India programme, he informed, focuses on promoting sustainable global growth and, in particular, will be consistent with the UK’s development objectives of promoting sustainable development and improving welfare. He further underlined the UK’s experience gained from a more transparent and open system of government procurement and importance of foreign competition in fostering innovation. He stated that this project will add to knowledge which is genuinely helpful to stakeholders and the government and to be more focused on outcomes rather than outputs.

He explained the importance of the government procurement for the development of India. India is a vast and populous country where the States still play an important contribution to the economy. Further, ensuring that financial resources are spent in an efficient manner is an imperative for any economy in these difficult economic times and it is true for emerging economies such as India. An efficient public procurement sector would further foster the already strategic role of India as a global actor, and it would promote increased integration of India into the world economy.

*Bipul Chatterjee, Deputy Executive Director, CUTS International*

**Bipul Chatterjee** introduced the project and explained the relevance of the topic not only in the Indian context but also in the milieu of the multilateral trading system. Thereafter, he explained the main issues on government procurement in India as well as the main contents of the first draft report on the subject under the project.

The government procurement market in India is huge, and given its size and complexity is not possible to come up with precise estimations. The draft report provides an indirect estimation of the market, based on some assumption and calculation, which was explained by Bipul Chatterjee. The report enumerates that regulatory structure of the public procurement system in India is extremely complex. There is no coherent body of legislation and procurement laws and policies are scattered and disciplined differently across ministries and territorial/administrative levels. Chatterjee stated that a ray of hope is visible in the form of the Draft Procurement Bill 2012, which will probably address

some of the shortcomings of the current system.

The presentation provided that public procurement policy is a complex economic tool that can cause massive economic distortions as well as addressing important development or socio-economic concerns. This explains the reluctance of national authorities (especially developing countries) to liberalise their procurement system.

The presentation dealt with the major issues related to size and structure of Indian government procurement (general & in select three sectors of health, IT and railways). It discussed the extant procurement policies, practises and institution, the major opportunities and challenges for Indian procurement market/system. Thereafter, it went on to analyse the domestic preparedness of India *vis-à-vis* accession to the GPA and the implications of potential foreign competition as a consequence of more open and transparent procurement regime on efficiency of procurement process, potential economic impact.

***Bulbul Sen Sarkar, Consultant, CUTS International***

**Sarkar** focused her analysis on the role of public procurement as an industrial policy tool and on the effect of public procurement liberalisation on the socio economic development of India. In this context, the preferences to small and medium enterprises (SMEs) are a vital industrial policy tool for India as they ensure the development of strategic sectors of the economy. The GPA does not pose many problems on this front as it gives to developing countries a wide policy space for development. She expressed that the preferences to the SMEs can be maintained as long as they are adopted to promote legitimate economic policy objectives. According to Sarkar, India must take into account the various adjustment costs that the GPA will impose on India.

Sarkar proposed an interesting analysis on the linkages between a closed procurement market and inflow of foreign direct investment (FDI). Given the fact the main purpose of some of the restrictions on public procurement is to promote local industries, a close procurement market could induce an inflow of FDI that would jump the regulatory restrictions and act as domestic Indian companies in the Indian procurement market. She further expressed that this study will provide many clues especially in the light of Procurement Bill 2012.

**Discussion**

One participant suggested on the way to improve the research by sharpening the data set on import and export opportunities in government procurement. It would be important that the report in its assessment also takes into consideration the real market access opportunities of Indian companies and that it offer an inventory of existing regulatory barriers in Europe and US. As other participants argued it, India will face huge import barriers in EU and US public procurement markets.

Another participant suggested not reaching a conclusion over the decision of India to join the GPA, unless this conclusion is an outcome of stakeholder analysis. Furthermore, it was suggested that the opening to the market should be complemented by an FDI policy on strategic sectors.

A participant from a leading pharmaceutical association cautioned against an immediate opening of the Indian government procurement market, as it would increase the trade deficit. According to him the pharmaceutical industry is not yet ready for increased competition, as it suffers from a negative trade balance with the rest of the world. India is importing more pharmaceutical products than it is exporting, and this has negative consequences on the economy. Therefore, this participant suggested to leave the public procurement market closed to foreign competition until India addresses the negative trade balance in pharmaceutical trade.

Another participant offered his comments on the overall issue of India's accession to the GPA. According to him, the GPA is an instrument of WTO developed country Member to gain market access into foreign country. India has little to gain at the moment from the accession to the GPA as the current GPA members do not offer real market access opportunities to Indian companies. The main barriers consist of burdensome regulatory requirements that de facto prevent Indian companies from benefitting from the available market access opportunities in Europe and US. According to this participant, the current market access offer on the table for India is only two percent of the overall GP market in US and EU, which is too little to be considered real market access.

Therefore the only effect that the GPA will have on India will be on the import side. India will open its market to foreign competition but without enjoying a reciprocal market success opportunities. India will suffer from serious adjustment costs. First of all, the regulatory requirements imposed by the GPA will take long time before they will be fully implemented. Procurement officials are not ready to adjust to the next set of requirements and they might commit mistakes. This will probably lead to a surge in litigation. Secondly, many Indian firms will be left out of the market and this will have serious repercussions on employment.

One participant from The Energy & Resources Institute (TERI) provided a slightly different view on the accession of India to the GPA. The focus of his comments was on the effect of the liberalisation of public procurement on competition. According to a study conducted by TERI, the liberalisation of public procurement does not necessarily bring the positive effects that are usually associated with increased competition. In some instances, the beneficial effects of a liberalised procurement market are offset by adjustment costs. These are not only labor costs (uncompetitive companies forced to go out of business) but also the costs of adjusting to new legal requirements imposed by the GPA. According to this participant the GPA impose too strict requirements on transparency etc. These will ultimately increase transaction costs. Furthermore, in some sector there is already competition and he commented on the liberalisation of procurement by citing an example from pharmaceutical sector and also it expressed

discontent with the findings of some interviews in the study that suggest that foreign companies will not be able to reach the sub-district level.

### **Conclusion**

In conclusion, Bipul Chatterjee, Sarkar and Archana Jatkar clarified some of the queries made and suggested that the study is a cost and benefit analysis of the Indian government procurement system *vis-à-vis* its domestic preparedness to further open. The comments will be taken into consideration while revising the draft report. Chatterjee then concluded the meeting and thanked the discussants and participants for their valuable inputs.