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**GOVERNMENT PROCURMENT AGREEMENT
AND PROVISIONS
LEVELING ITS RELEVANCE TO SYRIA**

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Introduction

In most countries, government and governmental agencies control purchasing specific kinds of agricultural products as well as some other products. Particularly, basic commodities are likely subject of this control. Accordingly, in most cases, any foreign competition to such agencies would be inevitably failed.

Government procurement is one of the few subjects that are still not covered in the multilateral negotiations (in the context of WTO), though it is strongly mentioned in most regional trade agreements (RTAs) and other kinds of free trade agreements (FTAs). Government procurement can be an effective developmental tool if used adequately. It is also an important tool for managing the national macroeconomy. Government procurement legislatives are defined as preferential treatment granted to central governmental agencies or agencies controlled by government, on contrary of private and foreign agencies. Usually, government procurement reflects advantages relating to monopolizing the purchase of specific products or restricting it in favor of the mentioned agencies.

It is worth mentioning that government procurement costs a considerable financial burden in some developing countries, where it sometimes reaches at 15% to 20% of total GDP¹. Procuring governments present several justifications for this practice, including social security and/or motivating specific production sectors. Therefore, government procurement has several implications, ranging from social development to economic revenues and creating jobs ... etc.

1-The importance of liberalizing government procurement

Liberalizing government procurement, whether was conducted through RTAs or Government Procurement Agreement (GPA), could have notable development results, such as increasing the efficiency of state-owned agencies due to the full competition they would face with private sector; incenting private sector to produce, considering that barrier to compete have been removed; increasing transparency and predictability; reducing public expenditure on those agencies, particularly if they were in deficit; and, finally, allowing “comparative advantage” to be in place (where public and private products would be equal) in order to secure the product for local consumer with minimum price.

2-GPA in the context of WTO

There is a kind of agreements in the WTO called plurilateral agreements, which is obligatory only to the member countries that have signed it, and not to all WTO member countries. Among these plurilateral agreements, there is one dedicated for government procurement, which is the GPA. This agreement has 28 member countries nowadays (if the EU is considered as single country). Most developing countries are not GPA members. The agreement text guarantees undiscriminatory market access to goods and services purchases for foreign suppliers. The agreement implies unrestricting the validity to conduct purchase transactions and contracts to central and local governmental agencies, except under defined threshold (US\$ 185, 000).

GPA was negotiated for the first time in Tokyo Round (1973-1979), and was enforced in 1981. The agreement contains two components: one is about general commitments and the second lists

¹South Center, 2008.

governmental agencies subject to the agreement. The agreement was re-negotiated and developed in the Uruguay Round, so it was extended to cover more state-owned agencies; the new version of the agreement was enforced in 1-1-1996.

In the Doha Round, most developing countries rejected incorporating GPA among the obligatory agreements; this was due to political, legislative and institutional reasons. Thus the agreement remained among WTO non-obligatory agreements.

Lately in 2011, an agreement for new revision for the agreement was agreed. The new revision widens the scope of GPA authority. The new modification is expected to be enforced in 2012.

It is worth to mention also than any dispute between two GPA member countries is subject to the WTO Dispute Settlement Body.

3-Government procurement in the context of RTAs

The focus on the issue of government procurement is growing in the framework of RTAs, such RTAs and bilateral agreements (Bas). The legal texts of these agreements obligate mostly developing countries to open government procurement market to foreign agencies. However, the threshold mentioned above varies from one RTA to another.

3-1 The content of GPA is a strategic policy for the EU

. The EU includes a special provision for government procurement in agreements it takes part in. In this respect, among the sectors that the EU focuses on is water sector, where the EU rejects the domination of partner's government on procurement of its water sector. This is the case in the association agreement between the EU and the Andean Community², or the EU or Central American states.

3-2 Government Procurement in Syria

Syrian government intervenes obviously in the field of government procurement. Among the most important dominating procurement are:

- General Organization of Cereals (GOC) trade and process
- Cotton Marketing General Organization (CMO)
- General Organization of Tobacco (GOT)
- General Organization of Sugar (GOS)

The GOC is eligible for “marketing cereals crops internally and externally. It is responsible for securing needed quantities of specific crops (which are wheat, lentil and chickpeas) for domestic consumption. The organization has two junior organizations: General Establishment for Mills and General Establishment for Bakeries.”³The organization purchases cereals from local producers as well as foreign markets (importing), and controls the distribution of purchased quantities in domestic markets. It also controls exporting extra quantities and storing strategic reserves of cereals, besides establishing investment projects in its relevance. Still, barley could be purchased by the General Establishment for Feed (GEF), which buys this crop according to its needs⁴.

² It is a custom union that comprises South American countries, including Bolivia, Colombia, Ecuador and Peru.

³ The website of GOC.

⁴ For examples, please see the Syrian newspaper Al-Iqtissadiya <http://www.iqtissadiya.com/print.asp?id=6433>

CMO is responsible for “receiving, storing, marketing and ginning cotton, as well as exporting surpluses and delivering seeds remained after ginning to public and private companies, including The General Organization for Supplying Agricultural Production Requirements.”⁵

GOT is a governmental trading and industrial-agricultural establishment. It is eligible for purchasing domestic production of tobacco and manufacturing it⁶. GOS, in turn, is authorized to produce and refine white sugar and its other by-products⁷.

The work of these organizations is connected with the so-called Agricultural plan, which is a central plan that obligates farmers to farm defined areas of concerned crops.

Buying prices of wheat, tobacco and sugar beet reflect the state intervention in these sectors, which aims at guaranteeing food security and securing reasonable revenues for farmers whom produce these crops. This intervention, from “trade liberalization” point of view is a motivation for probably less-efficient sectors, and a barrier to free competition. However, from farmers’ point of view (say in case of Syria, from General Union of Peasants’ point of view), this intervention is required and crucial, and it is indispensable.

4- Jordan experiment with GPA

Jordan is a neighboring country for Syria, and has ad hoc distinct experiment in terms of government procurement, thus we will shed light on its experiment with government procurement.

Jordan is an observer in the GPA, and it is still in the accession process. The government of Jordan strongly support finalizing the accession process and joining the agreement⁸, while Jordanian Chamber of Trade oppose signing the agreement due to its “negative impact on national economy and private businesses.”⁹ The chamber argues that “the agreement has advantages and disadvantages due to the strength of joining countries’ economies. That is, the advantages are in favor of great industrial countries while disadvantages are to be beard by small-economies, thanks to opening the door for international competition regarding government procurement, ignoring any recognition of local producers and traders.”¹⁰

5- The experiment of Saudi Arabia and Oman

We shed light also on the experiment of Saudi Arabia and Oman particularly. During the stage of negotiation for WTO accession, each of Saudi Arabia and Oman practiced heavy pressures to accept being member of GPA. The two states could pass these pressures without clear commitment to join the agreement, where the accepted to be GPA observers, and they committed to revisit the subject later and join the agreement “if they found that in favor of their countries.”¹¹

6- The realistic impacts of applying the GPA

There is a number of expected impacts for approving GPA or equal provisions, including the following:

- Achieving more incorporation and integration with international markets

⁵ Aleppo Industry Chamber website <http://www.aci.org.sy>

⁶The website of Syrian Companies’ Index.

⁷Same source.

⁸For example, see the Jordanian newspaper Al-Ghadd, 13-3-2012.

⁹The Jordanian newspaper Al-Raie, 12-11-2011.

¹⁰Same source.

¹¹The Saudi newspapaer Al-eqtisadyah, 9-7-2007.

- Losing the ability to use preferential advantages granted to national agencies as local policy tool
- Losing financial revenue resulted from government procurement that national agencies run/ or saving the losses that the state bears in case the agencies were in financial deficit
- Probable reduction in food security level in case of food products procurement, and slump in industrial security trend in case of industrial crops procurement. This would happen due to the reliance on the suppliers in the market and not on a specialized and active governmental institution.

In general, developing countries resist joining the agreement or approving equal provisions, because they don't want to lose a developmental tool (that is, controlling preferences granted to governmental agencies), and also because of high costs related to shifting from government procurement to "market procurement". In this respect, lack of experience, weak technical and administrative capacity, and legislative difficulties are among noticeable obstacles. Yet, further reasons comprise the fear from nation agencies inability to compete foreign institutions in case of finishing government procurement, particularly if the foreign competitor is strong and active.

Conclusion

From most developing countries point of view, government procurement - whether as legal text of the WTO unbinding agreement, GPA, or as special provisions in RTAs – is unwarranted concession regarding an important developmental tool owned by these countries. In general, developing countries resist joining GPA or approving government procurement provisions. Nevertheless, they accept that sometimes, under the political pressures that developed countries put during the stage of negotiations for WTO accession, or due to the desire to have preferential treatment and other advantages that a developing country can obtain through FTAs.

Recommendations:

All things considered, the following recommendations can be drawn:

- Joining GPA is largely not in favor of developing countries, particularly poor in these countries. Thus, when it starts the stage of negotiations for WTO accession¹², Syria had better to resist joining GPA as long as possible.
- In case of the inevitable concession regarding GPA accession, Syria had better to inaugurate Saudi Arabia and Oman behavior. That is, the acceptance to be just a GPA observer, besides a promise to re-evaluate the situation later.
- FTAs government procurement provisions may be less harmful than the WTO GPA, particularly if the FTA was RTA. Therefore, it is preferable not to reject such agreements principally before examining and evaluating them sufficiently. Yet, the “examination” ought to cover the social and economic impacts of the legislation.
- In case of inevitable GPA accession, it is essential to ask for technical aids and investment assistance in order to run shifting process from the domination of governmental agencies to free markets agencies and open competition.

¹²Syria currently is WTO observer, and it hasn't yet started its negotiation accession.

Resources:

- South Center (2008): Government Procurement in Economic Partnership Agreements and FTAs, South Center, Geneva.
- WTO website www.WTO.org
- Ishaq Mohammed and HarePaul (1997): Transition to the Market in Post-Communist Ukraine, Centre for Economic Reform And Transformation, Edinburgh.
- GOC website <http://www.syrecon.org/index.php?module=subjects&func=viewpage&pageid=325>
- Syrian Companies' Indexwebsite <http://www.sptechs.com/emarket/syrian.asp>
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- the Syrian newspaper Al-Iqtissadiya <http://www.iqtissadiya.com/print.asp?id=6433>
- Aleppo Industry Chamber website <http://www.aci.org.sy>