

Realizing the Synergies: The WTO GPA & RTAs

S4.3

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Overview

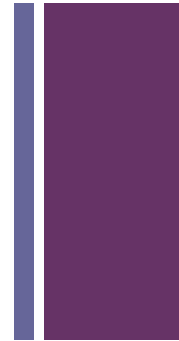
Appetite for further liberalisation of international procurement markets both in the WTO GPA and in RTAs

Government procurement market access agreements
strict reciprocity and conditional MFN

Most synergies in good governance principles
transparency, integrity and corruption control

Corruption control in WTO GPA and RTAs produces beneficial accumulation of “global public goods” rather than system damaging fragmentation

Confirms that government procurement agreements have a developmental significance that transcends their significance as an economic activity





Expansion of procurement agreements



WTO GPA expanded several times since Procurement Code 1979, most recently 2012

Estimates of value of coverage now \$1.7 trillion



Plurilateral & Regional Synergies: Corruption Control



Corruption: economic, political and social costs

- Irrational policy making

- Distorts dynamic of market competition

- Prevents value for money / loss of social welfare

RTAs with corruption provisions

- Over 47 RTAs referencing corruption control

Canada – EU FTA

- Chapter 21, Article IV.4 - WTO template



WTO GPA Corruption Control

Direct enforcement of the revised WTO GPA provisions entail

Violation Claim:

Interpretation of governmental action under WTO not limited to laws and regulations enacted by the government

Could governmental co-ordination or blessing of corruption in any form be construed to bring it within the ambit of WTO GPA disciplines?

Non-violation claim:

Theoretically corrupt practices *tolerated* by government could be seen as violations of WTO NVNI obligations

ILC work on State responsibility

conduct of public officials acting in their official capacity attributable to State

even if exceeds legal competence concerning its activity



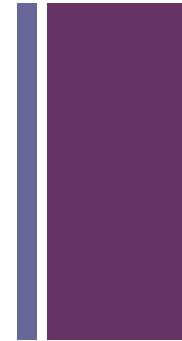


Article XX Dispute Settlement

Where any Party considers that **any benefit** accruing to it, *directly or indirectly*, under this Agreement is being *nullified or impaired*, or that the attainment of **any objective** of this Agreement is **being impeded** as the result of:

(a) the *failure* of another Party or Parties to carry out its **obligations** under this Agreement; or

(b) the application by another Party or Parties of **any measure**, whether or not it conflicts with the provisions of this Agreement,





Corruption Control: a Global Public Good



Prevention of corruption is non-excludable and non-rivalrous

Contributing to corruption control

does not exclude non-contributors

does not exhaust to exclude rivals

Unlikely that relationship between RTAs and WTO GPA with good governance provisions cause fragmentation

More potential to produce beneficial accumulation of regulatory enhancements – or global public goods

Therefore: government procurement agreements increasingly impact a developmental significance that transcends its importance as an economic activity

WTO GPA a pioneer in international corruption control

WTO GPA – more parties and more enforceable legal provisions