
World Trade Organization
Economic Research and Statistics Division

**INFRASTRUCTURE PROVISION AND AFRICA'S TRADE AND DEVELOPMENT
PROSPECTS: POTENTIAL ROLE AND RELEVANCE OF THE
WTO AGREEMENT ON GOVERNMENT PROCUREMENT (GPA)**

Nicholas C. Niggli and Kodjo Osei-Lah

Manuscript date: 30 October, 2014

Disclaimer: This is a working paper, and hence it represents research in progress. The opinions expressed in this paper are those of its author. They are not intended to represent the positions or opinions of the WTO or its members and are without prejudice to members' rights and obligations under the WTO. Any errors are attributable to the author.

**INFRASTRUCTURE PROVISION AND AFRICA'S TRADE AND DEVELOPMENT PROSPECTS:
POTENTIAL ROLE AND RELEVANCE OF THE
WTO AGREEMENT ON GOVERNMENT PROCUREMENT (GPA)**

by

Nicholas C. Niggli and Kodjo Osei-Lah¹

30 October 2014

¹ Niggli: Head of the Economic, Finance, Science and Innovation Section of the Swiss Embassy in the UK and former Chairman of the WTO Committee on Government Procurement (2007-2012).

Osei-Lah: Counsellor, Intellectual Property Division, WTO Secretariat, and procurement specialist. The views expressed in this paper are those of the authors writing in their personal capacity, and should not be ascribed to the WTO, its Members or Secretariat, or to the Swiss Embassy or Government. Robert Anderson and Antony Taubman provided support, encouragement and constructive suggestions throughout. Thanks are also due to Philippe Pelletier for his advice and discussions in the course of recent WTO Secretariat technical assistance missions with Kodjo Osei-Lah in Africa, in which various ideas set out in this paper were tested. Helpful comments from Anna Müller, Coleman Nee and other WTO Secretariat colleagues are also gratefully acknowledged.

ABSTRACT

Transitioning from the post-2008 financial meltdown to a sustained period of global growth and prosperity involves a major challenge: how to ensure the effective management of international economic interdependence. Trade, growth, good governance and sustainable development constitute essential ingredients to any solution, as is a fairer distribution of the gains of trade.

Two issues stand out in this conversation. The first concerns the unfinished business of the global fight against the scourge of poverty, which impacts one region more than most: Africa. At the same time, a key pre-requisite for economic performance - affordable and efficient public infrastructure and services - remains lacking in this region - notably, in Sub-Saharan Africa. To address this, the region itself has initiated a major, long-term, continent-wide infrastructure development programme which is intended to fix this problem sustainably - namely, the Programme for Infrastructure Development in Africa (PIDA). Its success foreshadows an economic transformation that will potentially usher in an emergent Africa in the 21st century.

Secondly, in one area of economic activity - trade in government procurement markets - the revised WTO Agreement on Government Procurement (GPA) is emerging as a multi-dimensional tool of trade, governance and development. The thesis of this paper is that GPA participation by African countries - a prospect which, to date, they have declined to take up - holds strong potential to reinforce the positive effects of PIDA and to contribute to the region's growth and development more generally.

Developing this thesis, the paper examines the possible application of the GPA to support Africa's infrastructure programme, drawing on its three dimensions of instrument of governance, market access instrument, and 'policy space' instrument in support of the development, financial and trade needs of developing countries. Based on the analysis, the paper concludes that the potential benefits outweigh the potential costs of participation in the GPA by African countries, and, accordingly, that the GPA merits consideration by the region in this regard.

A successful implementation of the infrastructure programme also portends a significant expansion in the size of the African government procurement market. Were African countries to accede to the Agreement in this context, it would constitute not only a big rise in membership numbers, but also a significant expansion in the value of market access under the Agreement. The broad outlines of a potential win-win scenario for both African countries and GPA Parties thus begin to emerge.

The paper, nonetheless, acknowledges that delivering these benefits would involve significant practical and political challenges. It concludes that if the challenges can be overcome and the mutual benefits delivered, the revised GPA would have been demonstrated as an effective tool for balancing flexibility and reciprocity in the government procurement sector, consistent with sustainable development principles, with the capability to deliver win-win benefits for a broad range of stakeholders, in the post-2015 era.

- **JEL Codes:** F13, F14, F15, F63, H44, H54, H57, O19, 024
 - **Keywords:** Africa, Agreement on Government Procurement, Aid, Corruption, Development, Developing Countries, Economic Integration, Foreign Investment, Foreign Trade, GDP, Governance, Government Procurement, GPA, Infrastructure, Integration, International Trade, International Trade Organizations, LDCs, Liberalization, Openness, Procurement, Public Goods, Public-Private Partnerships, Public Procurement, Regional Integration, Strategic Trade, Trade, Trade Agreements, Trade Policy, WTO.
-

Contents

1 INTRODUCTION	7
1.1 Africa in a post-2015 sustainable development era: challenge and opportunity.....	7
1.2 Infrastructure provision in Africa: relevance to the region's economic transformation and significance of PIDA	9
1.3 Challenges to Africa's infrastructure programme delivery.....	10
1.4 Delivering PIDA: is there a potential role for the GPA as facilitative tool?	11
2 CONTEMPORARY GLOBAL CHALLENGES: EFFICIENT PUBLIC INFRASTRUCTURE AND SERVICES AS ESSENTIAL PRE-REQUISITE FOR TRADE, GROWTH AND DEVELOPMENT	12
2.1 Trade, growth and development in a post-2015 framework.....	12
2.2 Trade in government procurement markets	12
2.3 Infrastructure provision, trade and development: the procurement policy dimension	13
2.4 Good governance and the need to curb corruption in infrastructure provision.....	14
2.5 Government procurement in normal times and in times of crisis: multi-dimensional, multipurpose, with internal tensions	16
2.6 Efficient and competitive public service provision: the need for a mediating instrument	17
3 PIDA: SIGNIFICANCE FOR AFRICA'S DEVELOPMENT PROSPECTS.....	19
3.1 Africa's infrastructure challenges	19
3.2 Goals and main elements of PIDA	21
3.3 Expected benefits, impacts and outcomes of successful PIDA implementation	21
3.4 Implications for trade in Africa's government procurement markets	22
3.5 Challenges to PIDA's successful implementation	23
3.6 Overcoming PIDA's challenges: how the GPA might help	24
4 RELEVANCE OF THE GPA TO A SUCCESSFUL PIDA DELIVERY AND HENCE TO AFRICA'S ECONOMIC TRANSFORMATION.....	25
4.1 Introduction to the GPA: the multiple dimensions of the revised Agreement.....	25
4.2 The GPA as an instrument of governance in the government procurement sector	26
4.3 The GPA: a market access instrument.....	29
4.4 S&D for developing countries: transitional measures under the revised Agreement.....	32
4.5 Adapting to evolving policy and other demands: the New Work Programmes	34
4.6 Accession to the GPA: basic requirements	34
5 THE GPA AND PIDA: POLICY CONSIDERATIONS FOR INTERESTED STAKEHOLDERS	35
5.1 Relevance of the GPA for PIDA: a summary of the factors.....	35
5.2 Sustainable and inclusive growth for Africa: potential role of the GPA and PIDA working in synergy.....	36
5.3 Accession to the GPA by African countries: a multi-stakeholder cost/benefit analysis	41
5.4 The GPA and PIDA: working in synergy to deliver win-win outcomes.....	47
6 SUMMARY AND CONCLUDING COMMENTS	49
ANNEX 1: GROWTH PROJECTIONS IN RELATION TO AFRICA'S GOVERNMENT PROCUREMENT MARKETS AND IMPLICATIONS FOR THE REGION'S TRADE AND DEVELOPMENT PROSPECTS - SCENARIO ANALYSIS -	53

1 INTRODUCTION	53
2 APPROACH	53
2.1 GPA covered procurement market size and market share analysis/estimation	53
2.2 Assessing the potential value of a GPA accession 'development dividend'	55
3 DATA SOURCES AND ASSUMPTIONS.....	55
4 RESULTS.....	57
4.1 Base case scenario	57
4.2 GPA accession: potential synergies and complementarities with other international development activities.....	60
4.3 Results from other scenarios	60
5 POLICY CONSIDERATIONS	61
6 CONCLUDING OBSERVATIONS	62

ABBREVIATIONS AND ACRONYMS

AfDB	African Development Bank
ARRA	American Recovery and Reinvestment Act (2009)
AUC	African Union Commission
COMESA	Common Market for Eastern and Southern Africa
DSB	(WTO) Dispute Settlement Body
DSU	(WTO) Dispute Settlement Understanding
EPA	Economic Partnership Agreement
FDI	Foreign Direct Investment
GPA	Agreement on Government Procurement
HDI	Human Development Index
ICT	Information and Communications Technology
LDC	Least Developed Country
MDG	Millennium Development Goal(s)
MFN	Most Favoured Nation
NEPAD	New Partnership for Africa's Development
PAP	Priority Action Project
PIDA	Programme for Infrastructure Development in Africa
PPP	Public-Private Partnership, <u>or</u> Purchasing Power Parity
RMB	Remnibi (Chinese Yuan)
RTA	Regional Trade Agreement
S&D	Special and Differential Treatment
SDR	Special Drawing Rights
SMB	Small or Minority Business
SME	Small or Medium Sized Enterprise
SSA	Sub-Saharan Africa
UCS	Use of Country Systems
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
UNECA	United Nations Economic Commission for Africa
UNIDO	United Nations Industrial Development Organisation
WTO	World Trade Organisation

"The world economy is in a very difficult moment, it is in flux. Many economies, particularly developed economies are still struggling to recover from the effects of the financial crisis. Other issues continue to emerge, and they keep changing the way that we do things, fundamentally shifting the landscape of the world economy. Meanwhile, the challenges of development are still huge. In these changing times, I believe that the role we play here in the WTO is even more important. The multilateral trading system remains the best defence against protectionism and the strongest force for growth, recovery and development."²

Roberto Azevêdo, 9 September 2013

1 INTRODUCTION

1.1 Africa in a post-2015 sustainable development era: challenge and opportunity

Among the challenges that the global economy faces today, three are particularly pertinent: (i) putting the global economy back on a sustainable growth trajectory following the 2008 global financial and economic crisis;³ (ii) the effective management of the growing interdependence of economies including the greater integration of more of the developing world into global value chains and the fairer distribution of the gains of trade;⁴ and (iii) the drive to curb corruption as an important aspect of global economic governance and efficient and effective management of public resources.⁵ These challenges are both complex and daunting. And they are also interlinked.

Simultaneously, the world is engaged in a long-running fight – and an unfinished business – to reduce the scourge of poverty which, unfortunately, afflicts significant parts of the globe.⁶ This struggle is particularly relevant to one region of the world – Africa, notably Sub-Saharan Africa (SSA) – which, at the turn of the century, fared poorly on practically all major indicators of

² Roberto Azevêdo, WTO Director-General, Statement to the General Council of the WTO, Geneva, Switzerland, 9 September 2013; available from: http://www.wto.org/english/news_e/news13_e/qc_09sep13_e.htm, accessed: 9.9.2013.

³ See, for instance, IMF website, *World Economic Outlook (WEO) Update: Is the Tide Rising?* January 2014, <http://www.imf.org/external/pubs/ft/weo/2014/update/01/>, accessed: 2.2.2014; IMF *World Economic Outlook*, April 2014, <http://www.imf.org/external/pubs/ft/weo/2014/01/index.htm>, accessed 8.7.2014.

⁴ See, for instance, WTO, *The Future of Trade: The Challenges of Convergence*, Report of the Panel on Defining the Future of Trade convened by WTO Director-General Pascal Lamy, 24 April 2013: http://www.wto.org/english/thewto_e/dq_e/dft_panel_e/future_of_trade_report_e.pdf; accessed: 30.4.2013. See also The United Nations Global Compact and WBCSD (the World Business Council for Sustainable Development), *Joint Report to the High Level Panel of the post-2015 UN Development Agenda*, March 2013, available from: http://www.unglobalcompact.org/docs/issues_doc/development/Joint_Report_HLP.pdf.

⁵ See, for instance, Press Release/Factsheet SOC/CP/301 dated 10.5.2004 on the UN Convention against Corruption, <http://www.un.org/News/Press/docs/2004/soccp301.doc.htm>, and the treaty text and related material at the UNODC website: <https://www.unodc.org/unodc/en/treaties/CAC/>. See also various initiatives on this matter, notably in the area of government procurement - for instance: OECD work on Integrity in Public Procurement: Good Practice from A to Z, <http://www.oecd.org/development/effectiveness/38588964.pdf>; preamble to the amended WTO Agreement on Government Procurement (GPA): http://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm, and, generally, Transparency International, *Curbing Corruption in Public Procurement*, http://www.transparency.org/whatwedo/activity/curbing_corruption_in_public_procurement.

⁶ United Nations, *A New Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development*, the Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, United Nations, May 2013 (UN High Level Panel, 2013), available from: <http://www.post2015hlp.org/the-report/>. See also, for instance, ECDPM, DIE, ODI, *European Report on Development 2013: Post-2015: Global Action for an Inclusive and Sustainable Future*, EU, 2013 (ERD 2013), p. V., available from: http://www.erd-report.eu/erd/report_2012/documents/chapters/01-Content_and_executivesummary.pdf. accessed: 5.2.2014.

economic performance and human development, compared to other developing regions.⁷ This was a region forming part of the so-called 'bottom billion' of the poorest of the world, at risk of being left behind in debt and poverty.⁸

More than a decade later, with the early shoots of potential global recovery in sight, and possibly beginning to consolidate⁹, there are important signs of growth in this region. Several countries in the region present frontier market and investment opportunities, with prospects of growth leading to a potential graduation into the next set of emerging economies.¹⁰ In part, this has been helped by reforms undertaken by the region itself over the years¹¹ with the support of its development partners and the international community, and a rise in raw materials prices.¹² Global initiatives such as the Millennium Development Goals (MDGs)¹³ and the WTO-led Aid for Trade programme¹⁴ have both achieved important results. At the same time, it is noted that more needs to be done - for instance, with regard to infrastructure provision¹⁵, which itself has been adversely impacted by declines in development finance flows arising from the last global downturn¹⁶ - in order to deliver long-term, sustainable results.¹⁷

⁷ See, for instance, OECD/African Development Bank, *Reform and Growth in Africa*, Development Centre Seminars, OECD Publishing, 2000, doi: [10.1787/9789264181649-en](https://doi.org/10.1787/9789264181649-en), pp. 39-40.

⁸ Paul Collier, *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It*, (Oxford), 2007, notably, Chapter 1: 'Falling Behind and Falling Apart: The Bottom Billion'.

⁹ IMF website, *World Economic Outlook (WEO) Update: Is the Tide Rising?* January 2014, and IMF *World Economic Outlook* April 2014, note 3 above.

¹⁰ See, for instance, David C. L. Nellor, 'The Rise of Africa's "Frontier" Markets', in *IMF Finance & Development Quarterly*, Sept 2008, Vol 45, No.3, available from: <http://www.imf.org/external/pubs/ft/fandd/2008/09/nellor.htm>, accessed: 20.2.2013; Javier Cuñat, *Africa Means Business: Opportunities in Frontier Markets*, 4 October 2012, available from: <http://knowledge.insead.edu/world/emerging-markets/africa-means-business-opportunities-in-frontier-markets-2288>; accessed: 20.2.2013; Ed Crooks, "GE aims to double African sales" FT, New York 12 March 2013, available from: <http://www.ft.com/intl/cms/s/0/4805778a-8a65-11e2-bf79-00144feabd0.html?ftcamp=crm/email/2013313/nbe/AfricaSubSaharaBusiness/product>, accessed 13.3.2013. See also: WTO, *The Future of Trade: The Challenges of Convergence*, Report of the Panel on Defining the Future of Trade convened by WTO Director-General Pascal Lamy, 24 April 2013 (WTO Future of Trade Report 2013), p. 17; available from: http://www.wto.org/english/thewto_e/dq_e/dft_panel_e/future_of_trade_report_e.pdf; accessed: 30.4.2013; Pascal Lamy, 'Africa: the Growth Continent for the 21st Century', Speech delivered at Nairobi University, Kenya, 22 May 2013; available from http://www.wto.org/english/news_e/sppl_e/sppl283_e.htm; G8 Lough Erne Leaders' Communiqué, 18 June 2013, paragraph 18, available from: <https://www.gov.uk/government/publications/2013-lough-erne-g8-leaders-communicue>; accessed 19.6.2013; Mike Odel, 'Africa Poised For Unprecedented, Long-Term Economic Growth: Seven Drivers That Could Transform Africa Into The World's Economic Powerhouse', *International Business Times*, 13 September 2013, 12.03 p.m., available from: <http://www.ibtimes.com/africa-poised-unprecedented-long-term-economic-growth-seven-drivers-could-transform-africa-worlds>, accessed 16.9.2013.

¹¹ Geo Quinot and Sue Arrowsmith (eds), *Public Procurement Regulation in Africa*, Cambridge University Press, 2013.

¹² See, for instance, UNECA, *Making the Most of Africa's Commodities: Industrializing for Growth, Jobs and Economic Transformation* UN Economic Report on Africa 2013, United Nations, March 2013, pp. 4, 9 and 20, available from: <http://www.uneca.org/publications/economic-report-africa-2013>; see also time series data and charts available from the IMF Primary Commodity Prices website, available from: <http://www.imf.org/external/np/res/commod/index.aspx>. It is noted that this growth has been subject to fluctuations, including significant declines along the way.

¹³ United Nations, *Millennium Development Goals Report 2012*, pp 4-5, available at: <http://www.un.org/millenniumgoals/pdf/MDG%20Report%202012.pdf>, accessed: 6.12.2012

¹⁴ WTO, OECD, *Aid for Trade at a Glance 2011: Showing Results*, 2011, Executive Summary, pp. 15-20; available from: http://www.wto.org/english/res_e/publications_e/aid4trade11_e.htm.

¹⁵ Note 14 above, p.19.

¹⁶ As noted in the 2013 Global Aid for Trade Review, notwithstanding its importance to development, aid for trade commitments dropped 14% to USD 41.7 billion in 2011 to return to the 2008-09 commitment levels - a casualty of the 2008 global downturn - with Africa's share declining to \$13.1 billion. See WTO, OECD, *Aid for Trade at a Glance 2013: Connecting to Global Value Chains*, OECD, WTO 2013, July 2013, Executive

As global efforts are stepped up to complete the unfinished business of eradicating extreme poverty from the world by 2030, in a new, post-2015 sustainable development framework¹⁸, an important contribution to resolving these challenges is trade, which is recognised as an engine of growth and economic development.¹⁹ This presents both a challenge and an opportunity for Africa and the world.

1.2 Infrastructure provision in Africa: relevance to the region's economic transformation and significance of PIDA

Aside from other challenges, one major constraint that prevents Africa from taking advantage of the benefits of trade opening is the region's well documented infrastructure deficit.²⁰ If Africa is to realise its economic potential and contribute its fair share to global growth, the provision of adequate and efficient infrastructure is key.²¹ Without it, Africa will continue to face enormous challenges in its bid to bring about economic transformation.

Enter the Programme for Infrastructure Development in Africa (PIDA), a \$360 billion, long-term, integrated and coordinated programme to 2040²² designed to reverse this infrastructure deficit, bring about greater regional and continental integration, and facilitate the more effective integration of African countries into the world economy. A continent-wide approach, PIDA is coordinated and led by the African Union Commission (AUC), New Partnership for Africa's

Summary, p. 22; available from: http://www.wto.org/english/res_e/booksp_e/aid4trade13_e.pdf; accessed: 15.7.2013.

¹⁷ ERD 2013, note 6 above, Chapter 8: 'Goods: Trade and Investment', p. 138.

¹⁸ UN High Level Panel 2013, note 6 above.

¹⁹ See, for instance, United Nations, *Monterrey Consensus on Financing for Development*, Monterrey, Mexico, 18-22 March 2002, Section C: International trade as an engine of development, paras 26-38. Available from: <http://www.un.org/esa/ffd/monterrey/MonterreyConsensus.pdf>; WTO, *World Trade Report 2013: Factors Shaping the Future of World Trade*, (WTR 2013) p.13, available from: http://www.wto.org/english/res_e/publications_e/wtr13_e.htm; see also: Robert Sharer, 'Trade: An Engine of Growth for Africa', in *Finance and Development*, IMF, Dec 1999, Vol 36, No.4, available from: <http://www.imf.org/external/pubs/ft/fandd/1999/12/sharer.htm>; see also: Commission on Growth and Development, *The Growth Report: Strategies for Sustained Growth and Inclusive Development*, notably pp. 19-28, World Bank, 2008 (Growth Report 2008); available from: <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/EXTPREMNET/0,,contentMDK:23225680~pagePK:64159605~piPK:64157667~theSitePK:489961,00.html>.

²⁰ See, for instance, Cesar Calderón and Luis and Servén, 'Infrastructure and Economic Development in Sub-Saharan Africa', *World Bank Policy Research Working Paper No. 4712*, September 1 2008, available from: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1265484&download=yes, accessed 20.2.2013; OECD-NEPAD Africa Investment Initiative, Expert Roundtable, Investment in Transport Infrastructure, 'Emerging public and sovereign fund investors in Africa's infrastructure: Challenges and Perspectives', pp.2-3. Available from: <http://www.oecd.org/investment/investmentfordevelopment/41775935.pdf>, 11 December 2008, accessed 7.2.2013; *Africa in 50 Years' Time: The Road Towards Inclusive Growth*, African Development Bank, Tunis, September 2011, pp. 27-28, available from: <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/Africa%20in%2050%20Years%20Time.pdf>; accessed: 22.6.2014.

²¹ See, for instance, Vivien Foster and Cecilia Briceño-Garmendia (Eds), *Africa's Infrastructure: A Time for Transformation*, The World Bank, 2010, available from: http://siteresources.worldbank.org/INTAFRICA/Resources/aicd_overview_english_no-embargo.pdf, accessed 7.2.2013; *Africa in 50 Years' Time*, note 20 above, pp. 27-28.

²² Source: NEPAD.org, 'NEPAD says private sector critical in developing Africa's infrastructure', <http://www.nepad.org/regionalintegrationandinfrastructure/news/2748/nepad-says-private-sector-%E2%80%99Critical%E2%80%99D-developing-afric>, accessed 31.1.2013.

Development (NEPAD) and the African Development Bank (AfDB, acting also as the lead project manager).²³

PIDA provides the strategic and implementation framework designed to take advantage of scale economies to deliver the benefits of regional integration while fostering the enhanced international competitiveness of regional firms. The prospects for a 'frontier' or 'emergent' Africa²⁴ would be significantly enhanced by the successful delivery of PIDA. This in turn is expected to stimulate growth and contribute to a continent-wide economy worth an estimated \$20.334 trillion in output by 2040²⁵ – a 6-fold rise over 2010 levels – helping to lift millions out of poverty while providing another growth engine for the world economy. Conversely, a failure of PIDA to achieve its goals presents the prospect of an Africa – principally Sub-Saharan Africa²⁶ – increasingly decoupled from the global economy, declining further into the world of the debt-ridden, 'bottom billion' poor.²⁷

Put differently, will Africa overcome its challenges and capitalise on opportunities to secure improved living conditions for its peoples, or will the challenges continue to pose obstacles to the region's structural transformation?²⁸ The stakes couldn't be higher for a world still impacted by the last global downturn, and an Africa, while potentially the growth continent of the 21st century²⁹, still one of the poorest regions of the world.

1.3 Challenges to Africa's infrastructure programme delivery

A major challenge to the successful delivery of PIDA revolves around plugging a financing gap which, on various analyses, accounts for up to half or more of the financing needs of both PIDA and other national infrastructure programmes.³⁰ If this persists, it would put the viability of Africa's overall infrastructure development programme at risk, jeopardising the very basis on which the long-term structural transformation of the continent under the PIDA framework is built. Other identified factors include the need for an appropriate and effective overall governance framework³¹, and effective coordination among the various stakeholders (notably, the continental-level institutions, Africa's Regional Economic Communities (RECs) and national authorities) regarding implementation and related issues – for instance, with regard to project selection and siting.³² To this can be added appropriate and effective complementary policy measures at the sub-regional and national levels both to facilitate policy coordination and to align national regulatory regimes and standards, where appropriate, with those at the REC and continental levels, as well as to international norms and standards.

²³ NEPAD/AUC/AfDB, *Study on Programme for Infrastructure Development in Africa (PIDA): The Regional Infrastructure That Africa Needs to Integrate and Grow through 2040* (PIDA Study Synthesis, Phase III), available from: <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/PIDA%20Study%20Synthesis.pdf>, p.6.

²⁴ Note 10 above.

²⁵ Note 23 above, p. 16. GDP figures are in 2005 constant PPP dollars.

²⁶ But not necessarily all the countries in this group.

²⁷ Note 8 above.

²⁸ *Africa in 50 Years' Time*, note 20 above, p.49.

²⁹ Note 10 above

³⁰ Note 23 above, p. 60.

³¹ Note 23 above, p. 9.

³² Note 23 above, pp. 9-11.

1.4 Delivering PIDA: is there a potential role for the GPA as facilitative tool?

A plurilateral agreement currently binding on 43 of the WTO's membership³³, the WTO Agreement on Government Procurement (GPA)³⁴ is the main legal instrument in the WTO framework regulating trade in government procurement markets. It is underpinned by the WTO principles of transparency and non-discrimination. The Agreement has, among its objectives, to bring about the liberalisation and expansion of world trade, facilitate integrity and predictability in government procurement systems, and foster the efficient and effective management of public resources.³⁵ In this regard, the GPA helps to bring about legal certainty, transparency and good governance in the government procurement markets covered by it, providing a boost to competition and improved value for public money.³⁶

This paper explores the prospects of a potential role for the GPA in facilitating the successful delivery of PIDA and thus the economic transformation of Africa. Specifically, the paper seeks to address the following issues: (i) whether and if so how the GPA might play a suitable role in reinforcing PIDA's governance framework; (ii) the trade and development implications of such a potential role; and (iii) whether, and if so, how, the revised Agreement's transitional measures (i.e., special and differential treatment provisions) might stimulate the interest of African countries in considering accession to the Agreement. Further, it also: (iv) touches on the question of the potential impact that a successful GPA role in PIDA implementation might have on future accessions to the Agreement; and (v) examines how the success of PIDA and African participation in the GPA might impact global growth.

The remainder of this paper is structured as follows: section 2 provides pertinent background and context, taking into consideration the ongoing conversations regarding sustainable and inclusive growth in the context of a post-2015 sustainable development agenda. Sections 3 to 5 address the issues raised above, and section 6 summarises and concludes. More specifically, section 2 discusses briefly the contribution of trade to development, the necessity for adequate levels of efficient, quality and accessible infrastructure and services to economic performance, and the role and relevance of government procurement in this respect, including its multiple dimensions.

³³ The Parties to the GPA are: Armenia; Canada; the European Union, including its 28 member States; Hong Kong, China; Iceland; Israel; Japan; Korea, Republic of; Liechtenstein; Netherlands with respect to Aruba; Norway; Singapore; Switzerland; Chinese Taipei; and the United States (see GPA/121, dated 24 October 2013, paragraph 1.3). At the time of writing, two more WTO Members (Montenegro and New Zealand) have completed their accession negotiations and will become full-fledged Parties following the deposit of their respective instruments of accession with the WTO Director-General (http://www.wto.org/english/news_e/news14_e/gpro_29oct14_e.htm). For the current list of Parties, see the WTO website: http://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm.

³⁴ The renegotiation of the 1994 Agreement on Government Procurement was successfully concluded in 2011 (GPA/112, dated 16 December 2011) and the results formally adopted by GPA Parties, following verification and legal review, in 2012 (GPA/113, dated 2 April 2012). The revised Agreement entered into force on 6 April 2014 (see WTO website: 'Revised WTO Agreement on Government Procurement enters into force', dated 7.4.2014, http://www.wto.org/english/news_e/news14_e/gpro_07apr14_e.htm).

³⁵ See Preamble to the amended Agreement on Government Procurement, available from: http://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm.

³⁶ See, for instance, Christopher R. Yukins and Robert D. Anderson, 'Opening Procurement Markets Internationally: An Update, and the Road Ahead', *Public Law and Legal Theory Paper No. 2012-32, Legal Studies Research Paper No. 2012-32*, The George Washington University Law School, *West Government Contracts Year in Review Conference (Covering 2011)*, Thomson Reuters, 2012. Available from: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2031553, Accessed: 4.2.2013.

Section 3 provides an introduction to PIDA, and highlights the potential impact that its successful implementation is expected to have on Africa's trade, development and economic performance. Section 4 presents an introduction to the amended GPA, and explores its potential role and relevance to Africa in the context of PIDA as an instrument of governance, a tool of trade, and a development policy or so-called 'policy space' instrument. Section 5 discusses policy considerations for African countries and other key stakeholders and section 6 concludes.

2 CONTEMPORARY GLOBAL CHALLENGES: EFFICIENT PUBLIC INFRASTRUCTURE AND SERVICES AS ESSENTIAL PRE-REQUISITE FOR TRADE, GROWTH AND DEVELOPMENT

2.1 Trade, growth and development in a post-2015 framework

The contribution of trade to growth and development is well acknowledged in the literature.³⁷ Trade-supported growth has helped to lift many developing countries from poverty, facilitating their integration into global value chains³⁸, and helping to create new and high quality jobs.³⁹ Both developing as well as developed countries have benefited from trade in this regard to varying degrees.⁴⁰

At the same time, trade liberalisation can also have a negative impact on jobs – notably in non-competitive sectors.⁴¹ In this vein, it has been argued that trade opening needs to take account of the broader socio-economic context, and incorporate measures to address its negative effects. It is in this context that the idea of "socially inclusive growth", in which trade is espoused not just "for its own sake, but for its potential contribution" to the collective future of humanity⁴², is gaining traction, both in the context of a more equitable distribution of the gains from trade⁴³, and in the evolving post-2015 framework.⁴⁴ Trade (and investment) policies can, in this regard, be most effective for development when they foster structural transformation of the economy.⁴⁵

2.2 Trade in government procurement markets

Government procurement is a significant economic activity in itself, globally accounting for 15-20% of GDP.⁴⁶ In addition to its key role as a means of providing public services, government procurement serves a vital economic function as well, providing employment, commercial opportunities for businesses, and fuelling trade both domestically and internationally.

³⁷ Note 19 above.

³⁸ Pascal Lamy, WTO Director-General [2005-2013], 'A Prominent Place for Growth in The Post-2015 Development Agenda: Trade as a Platform for Inclusive and Sustainable Development', speech at the Conference on International Cooperation in 2020 in the Hague, 7 March 2013; available from: http://www.wto.org/english/news_e/sppl_e/sppl268_e.htm, accessed: 7.3.2013.

³⁹ WTR 2013, note 19 above, p. 13.

⁴⁰ ERD 2013, note 6 above, Chapter 8: 'Goods: Trade and Investment', pp. 139-144, and sources cited therein.

⁴¹ WTR 2013, note 19 above, p. 13.

⁴² WTR 2013, note 19 above, p. 4.

⁴³ WTO Future of Trade Report 2013, note 10 above; World Economic Forum, Bain & Co, World Bank, *Enabling Trade, Valuing Growth Opportunities*, WEF, Geneva 2013, available from: http://www3.weforum.org/docs/WEF_SCT_EnablingTrade_Report_2013.pdf; accessed: 28.1.2013.

⁴⁴ United Nations High Level Panel Report 2013, note 6 above.

⁴⁵ ERD 2013, note 6 above, Chapter 8: 'Goods: Trade and Investment', pp. 139-144.

⁴⁶ OECD, *The Size of Government Procurement Markets*, 2002, available at: <http://www.oecd.org/dataoecd/34/14/1845927.pdf>, accessed: 04.02.2012

In terms of international trade, the WTO's Agreement on Government Procurement (GPA) regulates the trade relations in government procurement markets among 43 of the WTO's Members. The GPA covered procurement market has been estimated at around \$US 1.6 trillion in 2008, and \$US 1.7 trillion with the entry into force of the revised GPA in April 2014 (section 4.3). The eventual accession of more countries to the Agreement, such as China and the Russian Federation, will significantly expand the size of the market covered by the Agreement over time – by an estimated USD 440 billion to USD 1.127 trillion (see section 4.3). With government procurement chapters modelled on GPA-style disciplines increasingly being negotiated as part of regional and bilateral trade agreements⁴⁷, including some of the mega deals currently under negotiation⁴⁸, trade in government procurement markets under GPA-style disciplines is set to rise significantly over time.

2.3 Infrastructure provision, trade and development: the procurement policy dimension

*"Infrastructure is not an end in itself. Rather, it is a means for ensuring the delivery of goods and services that promote prosperity and growth and contribute to quality of life, including the social well-being, health and safety of citizens, and the quality of their environments."*⁴⁹

OECD Infrastructure Policy Brief 2008

The consistent availability of and access to efficient public services is fundamental to the performance of national economies, to social cohesion, and even to national safety and security. Whether it be an efficient public transport system, information and communications technology (ICT) infrastructure, quality water supply, drainage and sanitation system, or a reliable and stable energy supply, it is the consistent availability of and accessibility to these services that guarantees quality of life for all citizens. In countries with reliable, efficient and affordable public services, these may even be taken for granted. On the other hand, a breakdown in the delivery of such services can give rise to civil strife in other countries.⁵⁰

Poor or inefficient infrastructure imposes enormous economic costs, both visible and hidden, on businesses.⁵¹ Not only does it raise transport costs, it also imposes other costs such as higher inventory levels, reduced productivity, and higher prices for consumers, with implications for the international competitiveness of domestic firms forced to operate in this environment.⁵² The impact on an economy of transportation constraints can be severe - for instance, a 7% reduction

⁴⁷ Anderson, R., A. Müller, K. Osei-Lah, J. Pardo De Leon and P. Pelletier, 'Government Procurement Provisions in Regional Trade Agreements: A Stepping Stone to GPA Accession?', Ch. 20, pp. 561-656, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011 (Anderson et al, 2011).

⁴⁸ See for instance, the Trans-Pacific Partnership (TPP) (<http://www.dfat.gov.au/fta/tpp/>) and the Trans-Atlantic Trade and Investment Partnership between the EU and US (TTIP) (<http://trade.ec.europa.eu/doclib/press/index.cfm?id=918> and <http://www.ustr.gov/about-us/press-office/press-releases/2014/March/US-Objectives-US-Benefits-In-the-TTIP-a-Detailed-View>).

⁴⁹ OECD, 'Infrastructure to 2030', *Policy Brief*, January 2008, p.2. Available from: <http://www.oecd.org/sti/futures/infrastructureto2030/39996026.pdf>; accessed: 5.4.2013.

⁵⁰ Note 8 above.

⁵¹ World Economic Forum, Bain & Co, World Bank, note 43 above.

⁵² Note 51 above.

in export volumes and a 16% rise in delivery prices arising from a week's delay in shipment of goods – costs that are higher still in the case of time-sensitive goods.⁵³

The effective resolution of supply chain and transport constraints is estimated to produce a six-fold rise in world GDP in comparison with tariff reduction, yielding added benefits in terms of jobs, lower prices, and a greater balance in the distribution of the gains of trade both in-country and internationally.⁵⁴ Efficient global supply chains constitute an essential underpinning for global growth, and themselves depend on accessible and reliable infrastructure.⁵⁵

Yet the public investment available for infrastructure provision is inevitably finite, leading to a growing infrastructure spending gap, even in OECD countries.⁵⁶ Even as recent expanded post-crisis funding has helped to fix this problem in the more advanced countries and emerging economies (see section 2.5 below), it remains the case that the process involved in the conversion of public funds into public services must be efficient and cost-effective, and meet the needs and demands of the public in terms of quality and affordability. At the most fundamental level, this is a key driver of the need for public procurement systems to deliver value for money, be underpinned by good governance principles, and be responsive to other public policy goals. To be able to fulfil the multiple, often competing goals of public procurement, an appropriate mediating mechanism would appear to be needed to achieve effective balance.

2.4 Good governance and the need to curb corruption in infrastructure provision

Good governance is fundamental to sustaining the basic conditions for competition in liberalised procurement markets.⁵⁷ It involves, at a minimum: transparency; due process; objectivity; non-discrimination, timeliness and procedural fairness; and effective administrative and judicial review mechanisms with regard to the procurement process.⁵⁸ An effective legal and institutional framework at the national level, together with administrative capacity, is an essential pre-requisite for good governance to operate.⁵⁹ An international regime such as the GPA provides further legal guarantees (see sections 4.1 and 4.2 below). Good governance in government procurement markets can also contribute to enhanced foreign direct investment, through the actions of suppliers to establish a commercial presence and invest in local economies in which they wish to participate long-term.⁶⁰

⁵³ WTR 2013, note 19 above, p. 11.

⁵⁴ Note 51 above.

⁵⁵ Accenture, World Economic Forum 2013, *Building Resilience in Supply Chains*, available from: <http://www.weforum.org/reports/building-resilience-supply-chains>.

⁵⁶ Note 49 above.

⁵⁷ Robert D. Anderson and Harsha Vardhana Singh, 'Government Procurement and India-US Trade: Why Liberalize? Which Approach is Best?' Prepared for the Peterson Institute for International Economics (Washington D.C.), as an input to the Institute's project on *A Free Trade Area of the Democracies*, 2014 forthcoming, section 2.2, and related discussion therein.

⁵⁸ Anderson and Singh (2014), note 57 above.

⁵⁹ Anderson and Singh (2014), note 57 above.

⁶⁰ Anderson, R., P. Pelletier, K. Osei-Lah and A. Müller, 'Assessing the Value of Future Accessions to the WTO Agreement on Government Procurement (GPA): Some New Data Sources, Provisional Estimates, and an Evaluative Framework for Individual WTO Members Considering Accession', in (2012) 21 *Public Procurement Law Review* 4, pp. 113-138, @ pp. 126-7.

The benefits of good governance, however, are subject to erosion in direct correlation to the incidence of corruption in an economy. The cost to the economy and to public welfare of corruption is far in excess of the precise equivalent of the monetary value lost. Not only does corruption discourage public investment, it also diminishes its quality, lowers productivity, and leads to inferior infrastructure and services, to the ultimate cost of taxpayers and the consuming public.⁶¹ Of course, corruption is not limited to Africa alone. Nonetheless, in the case of Africa, the loss occasioned by corrupt practices, which can be significant in terms of economic output⁶², might, crucially, also be reflected in lost employment opportunities; reduced international competitiveness of African firms; poor health sector infrastructure, products and services;⁶³ and lost educational opportunities for Africa's young and brightest. All of these will impact the continent's welfare and economic performance for years to come.

The role of good governance in the Africa region's government procurement regimes thus cannot be over-emphasised. The measures envisaged in the 2003 United Nations Convention against Corruption⁶⁴ (UNCAC), which embodies specific measures in the area of public procurement, can be helpful in this regard.⁶⁵ So also would effective, transparent, competitive and non-discriminatory government procurement regimes at the national level. Consistency of national regimes to international norms and standards – such as the GPA, which now incorporates both the goal to avoid corrupt practices in accordance with the UNCAC, and specific, substantive anti-corruption provisions – would equally seem to be helpful in this regard.⁶⁶

⁶¹ See, for instance, World Bank website: 'Corruption, Growth, and Investment', available from: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/EXTANTICORRUPTION/0,,contentMDK:20222094~menuPK:384473~pagePK:148956~piPK:216618~theSitePK:384455~isCURL:Y,00.html#investment>.

⁶² Ware, G., S. Moss, J. Edgardo Campos and G. Noone, 'Corruption in Public Procurement: a Perennial Challenge', chapter 9, p.295, in Campos and Pradhan (eds), *The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level*, World Bank, Washington D.C, April 2007, pp 295-334.

⁶³ See, for discussion regarding corruption concerns in the public health procurement market, Anna Caroline Müller and Philippe Pelletier, 'Competition Policy and Government Procurement, Two Missing Links in the Debate on Public Health', *WTO Secretariat Staff Working Paper*, (forthcoming 2014).

⁶⁴ Note 5 above. Full text available from: http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf, notably, Article 9. See also, Factsheet, United Nations Convention Against Corruption, Press Release SOC/CP/301, available from: <http://www.un.org/News/Press/docs/2004/soccp301.doc.htm>.

⁶⁵ Noting, of course, that Africa has equally adopted its own legal mechanisms for fighting corruption. See, for instance, African Union Convention on Preventing and Combating Corruption, adopted 11 July 2003, Maputo, Mozambique; available from: http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/Convention%20on%20Combating%20Corruption.pdf.

⁶⁶ See, for instance, Krista Nadakavukaren Schefer, 'Will the WTO Finally Tackle Corruption in Public Purchasing? The Revised Agreement on Government Procurement', in *Insights*, Vol 17, Issue 11, American Society of International Law, April 2013, available at: <http://www.asil.org/pdfs/insights/insight130415.pdf>. As also observed, for instance, in WTO Future of Trade Report 2013, note 10 above, pp. 37-38.

2.5 Government procurement in normal times and in times of crisis: multi-dimensional, multipurpose, with internal tensions

"Procurement has, first, traditionally been an important tool of national industrial policy in many countries, ..."⁶⁷

Sue Arrowsmith

Many economies have been adversely impacted by the 2008 global financial crisis and its aftermath. The stimulus spending that was one of the important policy responses to this downturn involved significant public investment in infrastructure programmes and other public goods and services aimed at stimulating economic activity.⁶⁸ For instance, the American Recovery and Reinvestment Act of 2009 (ARRA) committed some \$150bn to infrastructure renewal⁶⁹, with further funds earmarked for green and broadband internet access technologies.⁷⁰ Similarly, other economies ranging from China to Europe to Japan have undertaken their own stimulus spending packages. In the case of China, for instance, a RMB 4 trillion (\$586 billion) stimulus package unveiled in 2008 (nearly 20% of its GDP) with substantial infrastructure spending components⁷¹ was boosted by a further RMB 1 trillion (\$150 billion) infrastructure package in 2012.⁷² And in Japan, a ¥10.3 trillion (\$112 billion) infrastructure investment programme announced in early 2013 was designed to boost growth by 2% and create some 600,000 jobs.⁷³

The fall-back on government procurement through stimulus spending in times of economic crisis is but one example of its deployment as a policy tool to achieve socio-economic – or so-called secondary or horizontal – policy objectives. While such use poses its own challenges, it is nevertheless considered a legitimate objective of governments.⁷⁴ At other times and in other

⁶⁷ Sue Arrowsmith, *The Law of Public and Utilities Procurement*, 2nd ed, Sweet & Maxwell, 2005, reprinted 2012, section 19, 'Industrial, Social and Environmental Concerns in Public Procurement', pp.1225-1232, @ p. 1227 (Arrowsmith, 2005).

⁶⁸ See, for instance, Robert Anderson, 'The WTO Agreement on Government Procurement: an Emerging Tool of Global Integration and Good Governance', pp 1, 6, in *Law in transition online*, EBRD, October 2010 (Anderson 2010); available from: <http://www.ebrd.com/downloads/research/news/lit102e.pdf>; accessed: 4.2.2013.

⁶⁹ THE WHITE HOUSE, 'American Recovery and Reinvestment Act: A \$150 Billion Investment in Our Nation's Infrastructure – The Largest New Investment Since the Construction of the Interstate Highway System', Washington, February 17, 2009; available from: http://www.whitehouse.gov/assets/documents/Recovery_Act_Infrastructure_2-17.pdf.

⁷⁰ THE WHITE HOUSE, 'The American Reinvestment and Recovery Act: Jumpstarting our Economy and Investing in Our Future', Washington, February 17, 2009, available from: http://www.whitehouse.gov/assets/documents/Recovery_Act_Overview_2-17.pdf.

⁷¹ World Bank - Global Economic Monitor (GEM), 'China announces massive economic stimulus plan', in *Daily Brief, Economics and Financial Market Commentary*, November 10, 2008 1:12 pm, available from: http://siteresources.worldbank.org/INTDAILYPROSPECTS/Resources/1324037-1124814739660/DECPGDaily_111008.pdf, accessed: 4.3.2013; see also The Economist, 'China seeks stimulation: a \$586 billion stimulus plan for China's economy', 10 November 2008, Beijing; available from: <http://www.economist.com/node/12585407>.

⁷² FT, 'China approves RMB 1tn infrastructure spend', Simon Rabinovic in Beijing, FT 7 September 2012, 06:42; available from: <http://www.ft.com/intl/cms/s/0/df1aea5c-f8a6-11e1-b0e1-00144feabdc0.html>, accessed: 4.2.2013.

⁷³ FT, "Abe takes first step on path to recovery", by Ben McClanahan in Tokyo, 11 January 2013, updated 11.13 hrs. Available from: <http://www.ft.com/intl/cms/s/0/85ec71b8-5ba6-11e2-9d4c-00144feab49a.html#axzz2JvqoIU33>; accessed 4.2.2013

⁷⁴ Sue Arrowsmith, *Government Procurement in the WTO*, Kluwer Law international, 2003, p.354-355; Arrowsmith (2005), note 67 above, section 19, 'Industrial, Social and Environmental Concerns in Public Procurement', pp.1225-1232; Geo Quinot, 'Promotion of Social Policy through Public Procurement in Africa', Chapter 15, pp 370-403, in Quinot and Arrowsmith (eds), *Public Procurement Regulation in Africa*, Cambridge

settings, public procurement (or corresponding or related policies) has played an important role in an industrial policy setting⁷⁵, used to nurture infant industries⁷⁶, promote innovation⁷⁷, support disadvantaged or depressed regions⁷⁸, and support the development of small and medium sized enterprises (SME) or small and minority businesses (SMBs)⁷⁹ - for instance, through facilitating their access to public procurement markets.⁸⁰

Notwithstanding the application of public procurement policy to a variety of purposes, a key challenge lies in making a reliable determination as regards when and whether such application does always deliver overall net positive benefits, as against the overall benefits of an open, transparent and non-discriminatory system.

2.6 Efficient and competitive public service provision: the need for a mediating instrument

The simple analysis above illustrates the need for an appropriate mediating instrument to help deliver balanced and optimal outcomes in the business of providing efficient, accessible and affordable public services while accommodating stakeholder demands for other socio-economic benefits. This highlights, at one level, the perennial tension between trade liberalization (and the supposed benefits of openness of markets) and policy flexibility (enabling specific, targeted government interventions to address identified objectives).

On the one hand, taxpayers (and consumers, notably with regard to user-pay services), as a composite constituency and the ultimate financiers of public services, expect to see judicious use of taxpayer funds in the procurement and provision of public services. The same applies to financing bodies and development partners. This implies value for money, transparency, and good governance in the management of public resources. It also calls for due process that ensures fair play, accountability, and avoidance of corrupt and other abusive practices that would waste public funds. Unsurprisingly, attributes like these often feature as the goals of both national public

University Press 2013. See also Sue Arrowsmith and Peter Kunzlik, 'Public Procurement and Horizontal Policies in EC Law: General Principles', Chapter 1, pp. 9-54, in Arrowsmith and Kunzlik (eds), *Social and Environmental Policies in EC Procurement Law*, Cambridge University Press, 2009, @ pp. 12-15.

⁷⁵ Arrowsmith (2003), note 74 above.

⁷⁶ See, for instance, Marc J. Melitz, 'When and how should infant industries be protected?' in *Journal of International Economics* 66 (2005) 177-196; available from: http://scholar.harvard.edu/files/melitz/files/infant_jie.pdf.

⁷⁷ World Bank, 'New Industrial and Innovation Policy', in *K4D - Knowledge for Development* website: <http://web.worldbank.org/WBSITE/EXTERNAL/WBI/WBIPROGRAMS/KFDLP/0,,contentMDK:20750656~pagePK:64156158~piPK:64152884~theSitePK:461198~isCURL:Y,00.html>; See also R. Kattel and V. Lember, 'Public Procurement As An Industrial Policy Tool: An Option For Developing Countries?', in *Journal of Public Procurement*, Volume 10, Issue 3, 368-404, Fall 2010, p.378. Available from: http://www.networkideas.org/featart/jul2010/Kattel_Lember.pdf; accessed: 9.12.2012.

⁷⁸ Arrowsmith (2005), note 67 above. See also, for instance, Phoebe Bolton and Geo Quinot, 'Social Policies in Procurement and the Agreement on Government Procurement: a Perspective from South Africa', Chapter 16, pp. 459-480, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011.

⁷⁹ Note 74 above.

⁸⁰ Note 74 above. See also, for instance, Steven L. Schooner and Christopher Y. Yukins, 'Tempering 'Buy American' in the Recovery Act - Steering Clear of a Trade War', in *The Government Contractor*, Vol. 51, No. 10, West, 11 March 2009. Available from: http://scholarship.law.qwu.edu/cqi/viewcontent.cgi?article=1118&context=faculty_publications. This paper also discusses the trade friction challenges that domestic policies of this nature can raise.

procurement systems and international procurement disciplines. The UNCITRAL Model Law on Public Procurement⁸¹, on which the national laws of many countries - developing and transitional economies alike including many African countries - are modelled⁸², and the World Bank's Procurement Guidelines⁸³, are illustrative in this regard. They also broadly correspond to the goals of the revised GPA⁸⁴, and it is significant that the synergies and complementarities between these instruments appear to have been further enhanced.⁸⁵

On the other hand, the same taxpayers and/or public, in their constituent parts, have different expectations with varying demands that impose internal tensions on the procurement system. For instance, they want an economy that creates jobs. With public procurement spending accounting for 15-20% of GDP⁸⁶, a significant part of such opportunities derives from the government procurement sector. In this context, as a major purchaser, the government's buying decisions can have a significant influence in the economy.⁸⁷ This can put pressure on governments to favour their domestic industry in their purchasing decisions - for instance, through reservations or other domestic preferences. On the other hand, such interventions run the risk of adversely impacting value for money, and can lead to long-run international competitiveness costs that ultimately hurt the national economy.⁸⁸ Equally, applying domestic preferences can lead to retaliatory reciprocal response by trading partners. At a basic level, these are the sorts of issues that the GPA's rules seek to mediate.

Against this backdrop, and as further developed later in this paper (see sections 4 and 5), the GPA combines, in one and the same instrument, the tools to ensure good governance, help to deliver value for money, and regulate the trade relations among trading nations in government procurement markets. In this context, can the GPA potentially serve as an appropriate instrument to mediate the tension arising from the competing objectives of government procurement systems?

⁸¹ See, for instance, preamble to the revised (2011) UNCITRAL Model Law on Procurement, Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17 (A/66/17), Annex I, available from: http://www.uncitral.org/pdf/english/texts/procurem/ml-procurement-2011/ML_Public_Procurement_A_66_17_E.pdf, accessed 5.4.2013.

⁸² UNCITRAL, 'Status, 1994 UNCITRAL Model Law on Procurement of Goods, Construction and Services', available from: http://www.uncitral.org/uncitral/en/uncitral_texts/procurement_infrastructure/1994Model_status.html, accessed 8.4.2013.

⁸³ The current versions are available from the World Bank website: <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/PROCUREMENT/0,,contentMDK:20060840~pagePK:84269~piPK:60001558~theSitePK:84266,00.html>, accessed 23.7.2014.

⁸⁴ See Preamble of the revised GPA, in particular recitals 3-7, GPA/113, dated 2 April 2012, note 34 above, p. 7.

⁸⁵ See Caroline Nicholas, 'Work of UNCITRAL on Government Procurement: Purpose, Objectives, and Complementarity with the Work of the WTO', Ch. 24, pp. 746-772, in Arrowsmith and Anderson (eds.), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011.

⁸⁶ OECD (2002), note 46 above.

⁸⁷ Arrowsmith (2005), note 74 above, pp. 1227-1231.

⁸⁸ See, for instance: Francis Ssenoga, 'Examining Discriminatory Procurement Practices in Developing Countries', in *Journal Of Public Procurement*, Volume 6, Issue 3, 2006, 218-249, available from: http://www.ippa.ws/IPPC2/JOPP6_3/Article_2_Ssenonga.pdf. For further discussion, see also: Arwel Davies, 'The National Treatment and Exceptions Provisions of the Agreement on Government Procurement and the Pursuit of Horizontal Policies', Chapter 14, pp. 429-443, and John Linarelli, 'The Limited Case for Permitting SME Preferences in The Agreement on Government Procurement', Chapter 15, pp. 444-458, both in Arrowsmith and Anderson (eds.), *The WTO Regime on Government Procurement: Challenge and Reform*, WTO, Cambridge University Press, 2011.

This raises a pertinent question: as Africa embarks on a major, long-term programme of infrastructure development in which it seeks to tap into sources of global finance, might the GPA help in reinforcing the legal/institutional framework under PIDA, and thus promote good governance and facilitate the successful delivery of PIDA while contributing to trade, efficiency and value for money benefits?

The next section discusses the role that PIDA can play in Africa's economic transformation, and section 4 the potential role that the GPA might play in the successful delivery of PIDA.

3 PIDA: SIGNIFICANCE FOR AFRICA'S DEVELOPMENT PROSPECTS

"NEPAD's aim is to promote regional economic integration by bridging Africa's infrastructure gap. There can be no meaningful development without trade and there can be no trade without adequate and reliable infrastructure."⁸⁹

NEPAD

What is PIDA and why is it relevant - even critical - for Africa's economic transformation? What are the implications of its success for African and global welfare?

3.1 Africa's infrastructure challenges

A continent rich in natural resources and with significant economic potential, Africa today is a region characterised by enormous needs in infrastructure provision, and yet low levels of related investment.⁹⁰ As previously noted, the region often ranks lowest in several of the indicators of economic performance and social wellbeing⁹¹, though with important differences. Certainly the continent is home to countries at different stages of development, including a regional economic powerhouse such as South Africa, and fast-growing economies such as Mauritius, Rwanda and Botswana, to name but a few of the top-15 macro-performers in Sub-Saharan Africa (SSA).⁹² At the same time, as previously noted, the SSA region has, for instance, the lowest GDP per capita and lowest human development index (HDI) among the regions of the world.⁹³ All of this limits the ability of this region to trade its way out of poverty by taking advantage of the market liberalisation available via the WTO's multilateral framework.

A key factor in Africa's situation lies in capacity constraints, of which inadequate infrastructure is a significant element.⁹⁴ Africa's infrastructure deficit – be it in the area of transportation, energy generation, ICT or water and sanitation – has militated against the ability of the countries of the region to capitalise on trade opening or better integrate into global value chains.⁹⁵

⁸⁹ Source: 'Regional Integration and Infrastructure', <http://www.nepad.org/regionalintegrationandinfrastructure>, accessed 31.1.2013.

⁹⁰ Tonia Kandiero, 'Infrastructure Investment in Africa', in AfDB *Development Research Brief*, Number 10 August 2009, available from: <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Financial-Information/Infrastructure%20Investment%20in%20Africa.pdf>; accessed: 7.2.2013.

⁹¹ Note 23 above.

⁹² Javier Cuñat, 'Africa Means Business: Opportunities in Frontier Markets', note 10 above.

⁹³ Note 23 above, p.12.

⁹⁴ Note 23 above, pp. 6-7.

⁹⁵ *Africa in 50 Years' Time*, Note 20 above, pp. 27-28.

Within an overall infrastructure investment requirement of \$80 billion⁹⁶ to \$93 billion⁹⁷ annually, an estimated \$30 billion⁹⁸ to \$40 billion⁹⁹ funding gap has been identified. This infrastructure deficit imposes enormous costs on the region, such as significantly higher transport costs compared with other regions¹⁰⁰, and an overall economic cost of some 2% of GDP growth per year.¹⁰¹ A continent that is home to the highest number of LDCs in the world, and itself consists of a majority of LDCs¹⁰², Africa is a region characterised by fragmented markets and many small countries with small populations not adequately served by an integrated infrastructure network.¹⁰³ Important potential exceptions such as South Africa aside, these challenges illustrate the kind of supply-side constraints that initiatives such as the WTO's Aid for Trade programme¹⁰⁴ seek to address.

If Africa is to overcome its development challenges and be able to trade its way out of poverty and better integrate into global value chains, efficient and cost-effective infrastructure is key. It is an essential pre-requisite to improving the enabling environment for private sector activity in Africa, central to delivery of vital public services, and at the heart of green growth.¹⁰⁵ Not only do regional infrastructure programmes and projects complement national ones, they can be transformational in this respect.¹⁰⁶

Implementation of the WTO's Trade Facilitation Agreement can help to bring down Africa's trade barriers, support the continent's regional integration agenda, and foster its drive for industrialisation and sustainable and inclusive development.¹⁰⁷ Again, a vital pre-requisite, and illustrative of its essential nature, is the need for efficient and cost-effective infrastructure such as transport, energy, ICT and other hard and soft infrastructure to support efficient economic activity.

⁹⁶ OECD-NEPAD Africa Investment Initiative, note 20 above.

⁹⁷ Foster and Briceño-Garmendia (2010), note 21 above, Overview, pp.1, 6, 7, 12.

⁹⁸ Foster and Briceño-Garmendia (2010), note 21 above, pp. 1, 9, 12, 25.

⁹⁹ OECD-NEPAD Africa Investment Initiative, note 20 above.

¹⁰⁰ Note 23 above, pp. 6-7.

¹⁰¹ Note 23 above, pp. 6-7.

¹⁰² Of the 49 LDCs, 34 or some two-thirds are located in Africa. See UN, *About LDCs*, available from www.unohrrls.org/en/ldc/25/, accessed 14.7.2014; see also LDC Factsheet, available from: <http://unohrrls.org/custom-content/uploads/2013/09/LDC-Factsheet-2013.pdf>, accessed: 14.7.2014. LDCs also make up the majority of the countries on the continent - some 60% of the total.

¹⁰³ Note 23 above, pp. 6-7.

¹⁰⁴ See: WTO, Hong Kong Ministerial Declaration, WT/MIN(05)/DEC, dated 22 December 2005, paragraph 57, available from: http://www.wto.org/english/thewto_e/minist_e/min05_e/final_text_e.htm#aid_for_trade; see also WTO, 'Recommendations of the Task Force on Aid for Trade', WT/AFT/1, dated 27 July 2006, available from: http://www.wto.org/english/tratop_e/dda_e/implementing_par57_e.htm.

¹⁰⁵ World Bank Group, *Growth in the Post-Crisis Global Economy: Policy Challenges for Developing Countries*, Developing Committee Paper, Spring 2014, pp. 10-11; accessible from: [http://siteresources.worldbank.org/DEVCOMMINT/Documentation/23554308/DC2014-0002\(E\)PostCrisis.pdf](http://siteresources.worldbank.org/DEVCOMMINT/Documentation/23554308/DC2014-0002(E)PostCrisis.pdf), accessed 8.7.2014.

¹⁰⁶ Note 105 above.

¹⁰⁷ Roberto Azevêdo: 'Trade facilitation will support African industrialization and development', address delivered at African Union Forum, 1 July 2014; available from: http://www.wto.org/english/news_e/spra_e/spra27_e.htm; accessed 8.7.2014

3.2 Goals and main elements of PIDA

The overall goal of PIDA is "to promote socio-economic development and poverty reduction in Africa through improved access to integrated regional and continental infrastructure networks and services".¹⁰⁸

NEPAD

PIDA presents the prospect of a long-term, integrated, continent-wide infrastructure development programme designed to address Africa's infrastructure deficit, while compensating for the problem of small, fragmented markets. A \$360 billion programme expected to run to 2040¹⁰⁹, PIDA is intended to promote regional integration by providing a framework for the development and implementation of regional and continent-wide infrastructure projects that provide sufficient scale economies to support their economic viability. Targeting four main sectors – transport, energy, information and communications technologies (ICT) and trans-boundary water – this regional approach is designed to be complemented by national programmes, with the aim to support trade expansion, boost Africa's share of world trade, and grow Africa's economy considerably over the projected plan period.

PIDA entails the construction of over 37,000 km of trans-continental highways, over 30,000 km of railways and some 16,500 km of power lines.¹¹⁰ Also envisaged under the programme are the construction of an additional 54,000 MW of installed capacity of hydroelectric power, and the addition of some 1.3 billion tons to Africa's port capacity.¹¹¹ PIDA is designed to be implemented through a series of rolling, shorter-timeframe, Priority Action Projects (PAPs), the first of which is scheduled to run from 2012 to 2020.¹¹²

3.3 Expected benefits, impacts and outcomes of successful PIDA implementation

The critical role of PIDA to Africa's economic transformation is highlighted by the benefits it is expected to deliver. These include: enhanced international competitiveness; at a minimum a doubling of Africa's share both of world trade and of intra-African trade; the creation of 15 million jobs directly related to PIDA; and the creation or sustenance of millions more jobs overall¹¹³ through increased economic activity. Other expected benefits include improved accessibility to clean water, ICT infrastructure and services, and energy for millions of Africans.¹¹⁴ The job numbers, for instance, have important implications for reducing the pressure on North-bound immigration from Africa – say, to Europe and North America.

¹⁰⁸ Source: 'Africa launches an ambitious programme for infrastructure development', <http://www.nepad.org/regionalintegrationandinfrastructure/news/1628/africa-launches-ambitious-programme-infrastructure-de>, accessed 31.1.2013.

¹⁰⁹ Note 22 above.

¹¹⁰ Note 22 above.

¹¹¹ Note 22 above.

¹¹² Note 23 above, section 8, pp.43-52.

¹¹³ Source: 'Programme for Infrastructure Development in Africa to be key feature of AU summit', *News & Events*, available from: www.pidafrica.org/news-events.html, accessed 31.1.2013.

¹¹⁴ Note 113 above.

The potential economic impact is equally significant. Based on an estimated annual growth rate of 6.2%, PIDA is expected to deliver an estimated 6-fold rise in GDP from \$3.3 trillion in 2010 to \$20.334 trillion by 2040, together with a rise in per capita income over the same period from \$3,190 to \$11,490.¹¹⁵ Its expected outcomes include: a 560% rise in installed electricity generating capacity to 700 GW, a 6-8 fold increase in transport volumes, and a 7.5-fold rise in port throughput. It is also expected to respond to a projected 20-fold rise in ICT demand to 6,000 gigabits/sec by 2018.¹¹⁶ A successful PIDA thus represents a clear stimulus for Africa aimed at overcoming the continent's infrastructure deficit, and, in the process greatly boosting its economic output as a contribution to global growth. The ICT component, for instance, will also help to bridge the digital divide between this region and the rest of the world.

Further, the integrated and coordinated approach under PIDA offers the prospect of substantial benefits in terms of cost savings and efficiency gains. For instance, this approach is expected to deliver savings in excess of \$1 trillion arising from opportunities for scale and scope economies, cost-sharing and efficiency gains in the transport and energy sectors alone over the plan period.¹¹⁷

With a population set to surpass that of China and India in under a generation¹¹⁸, these numbers suggest that an Africa with a large and growing middle class, and an even larger lower middle class, offers the prospects of a major boost to global demand and hence to enhanced global welfare within a sustainable development framework. Indeed, it is already starting to present frontier investment opportunities¹¹⁹, as also discussed in section 5.

3.4 Implications for trade in Africa's government procurement markets

As discussed in section 5 and Annex 1 of this paper, there are prospects for a significant expansion of trade in Africa's government procurement markets that would potentially be brought on stream by the growth in economic output envisaged under PIDA's implementation trajectory. In summary, the analysis suggests that:

- a total African regional government procurement market valued at US\$ 495-660 billion in 2010 would grow to an estimated value of US\$ 3.05-4.07 trillion by 2040; and

¹¹⁵ AUC/NEPAD/AfDB/ADF, *Programme for Infrastructure Development in Africa: Interconnecting, integrating and transforming a continent*, pp.1-2, available at <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/PIDA%20note%20English%20for%20web%202008.pdf>, accessed: 15.1.2013; see also: note 23 above, pp. 16-17. The estimated growth rate is GDP-weighted and expressed in 2005 US dollars purchasing power parity (PPP) (note 15 above, p. 16).

¹¹⁶ Note 115 above, pp.1-2.

¹¹⁷ Note 115 above, pp.3-4. The \$1 trillion-plus saving derives from \$850 billion or \$30 billion per year in the energy sector, and \$172 billion from ARTIN, the African Regional Transport Network - see pp 1-4.

¹¹⁸ Note 23 above, pp.12-16. According to this analysis, Africa's population will rise from 1 billion in 2010 to 1.8 billion in 2040, surpassing that of China in 2025 and of India in 2030, and becoming a key driver of global growth in the process.

¹¹⁹ See, for instance, Lamy, 'Africa: the Growth Continent for the 21st Century', note 6 above. See also Ed Crooks (FT, 12 March 2013), note 10 above; and Xan Rice, *Brands raise a toast to Africa expansion*, FT, 12 March 2013 13:09, available from: <http://www.ft.com/intl/cms/s/0/1a159808-8670-11e2-b907-00144feabd0.html#axzz2XAYS3ZFv>, accessed 13.3.2013.

- the proportion of this market that would be opened up under the GPA, were African countries to be part of that agreement, would amount to US\$ 82.5-211.2 billion in 2010, rising to between US\$ 508 billion and 1.3 trillion by 2040.

These numbers are substantial, and raise important policy and strategic questions. They suggest that, in the long term, Africa's government procurement markets are potentially significant and attractive, provided the infrastructure that underpins the envisioned economic growth is actually put into place. This makes PIDA a strategic investment in Africa's future, and its timely, effective and successful implementation of the highest priority for the region.

3.5 Challenges to PIDA's successful implementation

"At bottom, continental and regional policies approved by ministerial committees or conferences of heads of state are no more than declarations of intent — intent to improve the delivery of common goods through continental integration; intent to facilitate trade and connectivity through harmonised standards and regulations; intent to cooperate on planning and delivering essential parts of regional networks that all agree are desirable.

"But at every step, harmonisation is voluntary. In the absence of formal legal authority to see that continental and regional policies are written into effective national laws and regulations and to compel national authorities and utilities to follow through on their commitments, the regional institutions must rely on cooperation, consensus, and good will, which too often are in short supply.

"Missing, as a result, are consistent national policies, regulations, and norms among countries that share regional infrastructure. The ensuing profound lack of harmonization of laws, standards, and regulations complicates the processes of planning and financing vital regional projects while impeding cross-border economic activity".¹²⁰

NEPAD PIDA Study Synthesis III

As with any major endeavour of this scale, PIDA is not without its challenges. Amongst those identified include: the need for political leadership, effective regional institutional capacity, appropriate regulatory frameworks, and a 'high level of trust' among stakeholder countries.¹²¹ Another significant challenge concerns securing adequate financing to fund the programmes anticipated under PIDA – including financing for soft projects (project preparation facilities) and hard projects (actual implementation of projects).¹²² Already, a financing gap of some \$37bn representing more than half of the estimated \$68bn of priority action projects (PAP) to 2020 has been identified.¹²³ As previously noted (see section 3.1), altogether, an estimated \$30-40 billion p.a. funding gap has been identified in the overall Africa infrastructure funding requirement. These funding gaps, then threaten the overall viability, success and timely delivery of the programme, with adverse implications for reaching the critical "tipping points"¹²⁴ of infrastructure and services

¹²⁰ Note 23 above, p.9.

¹²¹ Note 23 above, pp.63-64.

¹²² Note 23 above, pp.43-62.

¹²³ Note 23 above, pp.59-62.

¹²⁴ Mark Gottfredson, *Finding the Hidden Costs in Broken Supply Chains*, Bain & Co, 2013, available from: http://www.bain.com/Images/BAIN_BRIEF_Finding_the_hidden_costs_in_broken_supply_chains.pdf; see also note 51 above.

needed for Africa's economic transformation, and therefore of achieving its goal of socially inclusive sustainable growth.

3.6 Overcoming PIDA's challenges: how the GPA might help

"We need an agenda that integrates economic growth with social inclusion and with environmental protection. We need a transformational agenda which creates jobs, develops infrastructures, raises productivity, improves competitiveness and promotes sustainable production and consumption. Strengthening international cooperation in the area of trade is an important element in achieving this agenda."¹²⁵

Pascal Lamy, 7 March 2013

A number of developments underway point to a potential positive impact on closing the PIDA financing gap. These include, for instance, the establishment of an Africa50 Infrastructure Fund in 2014 to serve as a vehicle for attracting investment into the sector¹²⁶ – including tapping into alternative sources of funding.¹²⁷ In July 2014, an announcement was made of the establishment of a New Development Bank (NDB) by the BRICS countries (Brazil, Russia, India, China and South Africa), which will have a particular focus on infrastructure investment. While the focus of the NDB will be on the BRICS countries themselves, attention will also be given to other emerging countries.¹²⁸ And the World Bank proposes to set up a Global Infrastructure Facility in an effort to plug the global infrastructure investment gap – estimated to exceed \$1 trillion a year in developing countries.¹²⁹

While, globally, the infrastructure investment gap is set to grow significantly, the challenge appears to lie not in a lack of funding globally *per se*, but with barriers that potentially militate against private sector investment in the sector – such as, for instance, banks and institutional

¹²⁵ Lamy, 'A Prominent Place for Growth in The Post-2015 Development Agenda: Trade as a Platform for Inclusive and Sustainable Development', note 10 above.

¹²⁶ See *Africa50 Infrastructure Fund*, available from: <http://www.afdb.org/en/topics-and-sectors/initiatives-partnerships/africa50-infrastructure-fund/>; accessed: 22.6.2014.

¹²⁷ See, for example, Z. Brixiova, E. Mutambatsere, C. Ambert, and D. Etienne, 'Closing Africa's infrastructure gap: innovative financing and risks', presented at the Commonwealth Ministers' Conference, Australia, 28-30 October 2011; available from: http://www.commonwealthministers.com/images/uploads/documents/Brixiova_9.pdf; see also: T. Triki and I. Faye, 'Africa's Quest for Development: Can Sovereign Wealth Funds help?', African Development Bank Working Paper Series No. 142, December 2011; available from: <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/WPS%20No%20142%20Africas%20Quest%20for%20Development%20Can%20Sovereign%20Wealth%20Funds%20help%20AS.pdf>.

¹²⁸ See, for instance, 'Brics nations to create \$100bn development bank', BBC News, 15 July 2014 20.01, <http://www.bbc.com/news/business-28317555>, accessed 16.7.2014 08.30; 'BRICS to Open Development Bank by 2016', Wall Street Journal, 9 July 2014 04.47 ET, <http://online.wsj.com/articles/brics-to-open-development-bank-by-2016-as-alternative-to-imf-1404888422>, and WSJ 'BRICS Agree to Base Development Bank in Shanghai', WSJ, 15 July 2014, 06.09 ET, <http://online.wsj.com/articles/brics-agree-to-base-development-bank-in-shanghai-1405453660>, accessed 17.7.2014.

¹²⁹ WSJ, 'World Bank to Set Up Global Infrastructure Facility', 6 Sept 2013 08.47 ET, <http://online.wsj.com/news/articles/SB10001424127887324577304579058660663794356>, accessed 17.7.2014; World Bank Group, *Growth in the Post-Crisis Global Economy: Policy Challenges for Developing Countries*, Developing Committee Paper, Spring 2014, p. v., accessible from: [http://siteresources.worldbank.org/DEVCOMINT/Documentation/23554308/DC2014-0002\(E\)PostCrisis.pdf](http://siteresources.worldbank.org/DEVCOMINT/Documentation/23554308/DC2014-0002(E)PostCrisis.pdf), accessed 8.7.2014.

investors – and how these may be mitigated.¹³⁰ Among the factors considered as key to efficient infrastructure and services provision, is one concerned with 'building the institutional capacity, pricing structures, risk-sharing framework, and regulatory environment to develop a strong project pipeline to attract the private sector'.¹³¹

Within this overall context, it is suggested that the GPA can play a suitable role by reinforcing the international legal/institutional framework to help deliver enhanced predictability and legal certainty in the infrastructure sector, and therefore boost confidence and help attract the needed investment. It is further suggested that the application of the GPA in this way will deliver the additional potential benefits of reciprocal market access for both Africa's¹³² suppliers and GPA partners, support African countries' development priorities through the GPA's transitional measures, and facilitate the integration of African firms into global value chains. The GPA disciplines also foster competition, can support efforts to counter and deter corruption in procurement processes, and facilitates the attainment of value for money.

The next section considers the possible application of the GPA in this way further.

4 RELEVANCE OF THE GPA TO A SUCCESSFUL PIDA DELIVERY AND HENCE TO AFRICA'S ECONOMIC TRANSFORMATION

"We need a dynamic approach to flexibility, tailor-made for specific needs and supported by appropriate capacity-building programmes."¹³³

WTO, The Future of Trade Report 2013

This section discusses the multiple dimensions of the GPA. It examines the amended Agreement in terms of its obligations and potential benefits and challenges, and considers why it may be relevant at this material time to a contemporary Africa potentially at the starting block of its own economic transformation.

4.1 Introduction to the GPA: the multiple dimensions of the revised Agreement

The GPA is the main legal instrument in the WTO framework regulating trade in government procurement markets. It is underpinned by the WTO principles of transparency and non-discrimination, and incorporates rules on procedural fairness and built-in mechanisms for enforcement including supplier challenges through domestic review mechanisms and the WTO's dispute settlement mechanism. These and other attributes of the GPA help to ensure predictability

¹³⁰ See, for instance, G20 Australia 2014 website, 'Investment in Infrastructure', https://www.g20.org/g20_priorities/g20_2014_agenda/investment_and_infrastructure, accessed 17.7.2014.

¹³¹ World Bank Group, *Growth in the Post-Crisis Global Economy: Policy Challenges for Developing Countries*, note 129 above, p. 11.

¹³² The term 'Africa' as used in the context of the discussion on the GPA in this paper encompasses Africa both as a unified whole and in the context of its various (sub-)regional economic groupings (RECs), as well as African countries in a collective sense. It signals appreciation that any deliberations that may take place on this issue on the continent may proceed in a variety of forums, including at the national level, in the RECs, and in the continent-wide organisations and institutions (African Union, NEPAD, etc.). Any GPA accession decision, however, remains a matter for individual WTO Members. Similarly, any related GPA accession processes remain a matter between individual acceding candidates and the existing GPA Parties. Furthermore, where the context so determines, references to 'Africa' equally denote 'African countries' in their capacity as WTO Members, and the term 'Africa' is used for convenience and simplicity.

¹³³ WTO Future of Trade Report 2013, note 10 above, p.30.

and legal certainty in the procurement markets covered by the Agreement, promote integrity and competition, help to curb corruption in government procurement processes and promote the efficient and effective management of public resources.¹³⁴ While a plurilateral agreement, it nevertheless has influence far wider afield than its current membership suggests, through the role it plays as a model or template in bilateral and regional trade agreements (RTAs) involving government procurement commitments.¹³⁵

The Agreement applies only to procurement specifically committed by the Parties and included in their respective schedules of commitments in Appendix I. Further, as with other WTO agreements, it also incorporates provisions on special and differential treatment (S&D). While cast in the form of transitional measures, the S&D provisions in the amended GPA improve upon, and make more concrete, those provided in the 1994 Agreement.¹³⁶ Thus, the GPA combines, in the one instrument, the roles of instrument of governance and market access instrument in the government procurement sector, while providing 'policy space' flexibility to support the development priorities of developing countries. Additionally, through the built-in agenda of new Work Programmes – which have, together with the amended Agreement, entered into effect – it has the potential to adapt to evolving policy, practice and technological developments.

The Agreement is administered by a Committee on Government Procurement (the 'Committee' or 'GPA Committee'), which is composed of all the Parties.

4.2 The GPA as an instrument of governance in the government procurement sector

The GPA is "on the cusp of a significant expansion of its role as an instrument of global economic integration and good governance."¹³⁷

Robert Anderson

The GPA fulfils its role as instrument of governance in several ways. First, as noted above, the Agreement embodies disciplines implementing the WTO principle of non-discrimination. Secondly, the provisions on non-discrimination are complemented by transparency and procedural rules. These not only help to ensure the availability and accessibility of information on applicable procurement rules and related commercial opportunities, but also establish the basis for objectivity and procedural fairness in the treatment of suppliers. Thirdly, the Agreement is backed by separate layers of enforcement, namely domestic review procedures for supplier challenges and

¹³⁴ Robert D. Anderson, William E. Kovacic and Anna Caroline Müller, 'Ensuring Integrity and Competition in Public Procurement Markets: a Dual Challenge for Good Governance', Ch. 22, pp. 681-788, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011. See also Robert D. Anderson, Claudia Locatelli, Anna Caroline Müller, and Philippe Pelletier, 'The Relationship Between Services Trade and Government Procurement Commitments: Insights From Relevant WTO Agreements and Recent RTAs', *WTO Secretariat Staff Working Paper*, 2014 (forthcoming).

¹³⁵ Anderson *et al* (2011), note 47 above.

¹³⁶ See, for instance, Anna C. Müller, 'Special and Differential Treatment and Other Special Measures for Developing Countries under the Agreement on Government Procurement: the Current Text and New Provisions', Ch. 11, pp. 339-389, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011.

¹³⁷ Robert Anderson, 'The WTO Agreement on Government Procurement: an Emerging Tool of Global Integration and Good Governance', pp 1, 6, in *Law in transition online*, EBRD, October 2010 (Anderson 2010); available from: <http://www.ebrd.com/downloads/research/news/lit102e.pdf>; accessed: 4.2.2013..

the WTO's dispute settlement mechanism. These have been further enhanced in the revised Agreement by new provisions on arbitration procedures to facilitate the resolution of objections arising in the context of any modifications to the market access commitments of a Party.

In addition to the more detailed transparency and procedural rules noted above, several other built-in transparency mechanisms facilitate the efficient administration of the Agreement, and support the realisation of its intended purposes. Thus, for instance, Parties are obliged to assist each other by providing an explanation, on request, about any aspect of their national legislation. They have also committed themselves to provide information, subject to non-disclosure provisions regarding confidentiality and competition issues, to facilitate the determination by another Party of the fairness and impartiality of a covered procurement transaction. Entities are required to maintain appropriate records of covered procurement transactions, and Parties are obliged to annually notify statistics regarding their covered procurement contracts.

These mechanisms facilitate early resolution of any concerns that may arise between Parties, and can help to prevent them rising to the level of a dispute requiring resolution under the WTO's Dispute Settlement Understanding (DSU).¹³⁸ This is evidenced by the role that the (1994) Agreement and discussions in the Committee played, for instance, in helping to avert the application to GPA Parties of 'buy national' measures in the American Recovery and Reinvestment Act (ARRA) 2009.¹³⁹ Thus, the GPA helped to ensure that the agreed covered procurement markets generally continued to remain open at the height of the last global financial crisis.

While issues related to ARRA were resolved through discussion in the Committee, three other previous cases rose to the level of a dispute under the DSU. These cases highlight instances where the Agreement helped to: (i) avoid potential trade-restrictive practices by opening up overly narrow technical specifications;¹⁴⁰ (ii) ensure the conformity of domestic law with the GPA;¹⁴¹ and (iii) confirm the boundaries of agreed coverage among the Parties.¹⁴² In this respect, they show that, in the area of government procurement as in other matters of WTO law, the Dispute

¹³⁸ In general, disputes under the GPA have been relatively few.

¹³⁹ Anderson (2010), note 137 above.

¹⁴⁰ In *Japan - Procurement of Navigation Satellite* (1997-98, WT/DS73/1-5 and GPA/M/8), the EU argued that the technical specifications in a tender for the purchase by a Japanese covered entity (Ministry of Transportation) of a navigation satellite, which explicitly referred to an American system details of which were not publicly available, were inconsistent with the provisions of the GPA. Consultations between the EU and Japan led to the opening up of the technical specifications with the aim to ensure interoperability between the American system (MSAS), and a European system (European Geostationary Navigation Overlay Service), and thus facilitate the development of a global seamless navigation service for aeronautical end-users.

¹⁴¹ In *United States - Massachusetts State Law Prohibiting Contracts with Firms Doing Business with Myanmar* (1997-2000, WT/DS88/1-6, WT/DS95/1-6 and WT/DSB/M/49), the EU and Japan challenged as inconsistent with the United States' obligations under the Agreement, a Massachusetts State law which sought to prohibit its procuring entities, covered under the Agreement, from awarding contracts to firms (whether US-based or foreign) that had business dealings with Burma/Myanmar. The case lapsed when the law itself was barred from implementation by the US Supreme Court.

¹⁴² In *Korea - Procurement Practices of the Korean Airport Construction Authority* (1999-2000, WT/DS163/1-7 and WT/DS163/R), the only case to be decided by a Panel, the US argued that Korea had failed to fulfil its obligations under the Agreement regarding the construction of the Incheon International Airport (IIA). It further argued that Korea's practices constituted a non-violation or impairment of its rights. A case highlighting the importance of the Parties' agreed coverage commitments under the GPA as set out in Appendix I, the Panel found that the IIA entities that were responsible for procuring the construction of the airport, and which were not specifically listed under Korea's schedules, were not covered under the Agreement.

Settlement Mechanism helps Members to keep to their agreed commitments, thus contributing to a predictable regime.

Separately, the Article XVIII provisions on domestic review are consistent with - and may have inspired - the provisions in Article 9(1) of UNCAC, a treaty that obligates signatory states to maintain appropriate mechanisms in their procurement systems to curb corruption.¹⁴³ In this regard, paragraph 1(d) of UNCAC Article 9 in particular calls for "[a]n effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed". In turn, UNCAC may have inspired this aspect of the revision of the GPA, which now embodies both preambular text¹⁴⁴ and substantive provisions¹⁴⁵ aimed at ensuring integrity and obliging Parties and their entities to avoid conflicts of interest and prevent corrupt practices when undertaking procurement transactions covered by the Agreement. Of course, these provisions need to be complemented by national legislation, for instance, through strengthened anti-corruption laws, together with more effective administrative oversight of procurement processes, and institutional strengthening and human capacity development (see also section 2.4 above).¹⁴⁶

As more and more countries adopt GPA-style disciplines either through participation in regional trade agreements with a government procurement chapter¹⁴⁷, through domestic reforms aligned with the UNCITRAL Model Law on Public Procurement, or unilaterally driven by other domestic concerns, a convergent picture is here emerging. This is one element of a global government procurement ecosystem in which GPA requirements not only set a *de facto* international standard, but arguably also represent best practices,¹⁴⁸ a picture in which the GPA serves the role of a tool of good governance and global economic integration, as noted by Anderson.¹⁴⁹ Increasingly, Africa appears to be ready to be a part of this ecosystem, as it is virtually on a convergent trajectory towards the same norms and standards, as Box 4.1 below highlights.

This growing convergence may have positive spillover effects regarding the work of the WTO Working Group on Transparency in Government Procurement, if and when it is reactivated at some future date.¹⁵⁰

¹⁴³ Note 64 above.

¹⁴⁴ Revised GPA, (GPA/113), note 34 above, preamble, recital 6.

¹⁴⁵ Revised GPA, (GPA/113), note 34 above, Article IV:4.

¹⁴⁶ Anderson and Singh (2014), note 57 above.

¹⁴⁷ Anderson *et al* (2011), note 47 above.

¹⁴⁸ See, for instance, Steven L. Schooner, 'Transparency, Flexibility, and Accountability: Keys to an Effective Procurement System' presentation at a WTO Regional Workshop for Asia and Pacific Economies, November, 2009, available from: http://www.unescap.org/tid/projects/procure_s3a_schooner.pdf.

¹⁴⁹ Anderson (2010), note 137 above.

¹⁵⁰ Work leading to negotiations on this issue was suspended by the General Council's 2004 'July Package' decision following the inconclusive outcome of the Cancun Ministerial Conference (see, Doha Work Programme, Decision Adopted by the General Council on 1 August 2004, WT/L/579, para. 1(g)).

**Box 4.1: African Government Procurement Systems and the GPA:
convergence and complementarity**

In the case of Africa, many countries' domestic procurement legislation is modelled on, aligned to or influenced by the UNCITRAL Model Law.¹⁵¹ This is, for instance, the case with respect to the procurement regulations adopted by the Common Market of Eastern and Southern Africa (COMESA).¹⁵² In this regard, insights that have been noted in the WTO Secretariat's technical assistance activities for several years¹⁵³ have been further corroborated. While there are notable variations in approach (for instance, in the case of domestic preferences), the picture that emerges is one of growing convergence and synergy between domestic procurement regimes in Africa and the GPA - at least in the areas of transparency, competition, procedural fairness and domestic review procedures for supplier challenges. This is due, in part, to the growing convergence between GPA and UNCITRAL Model Law standards.

4.3 The GPA: a market access instrument

4.3.1 Scale and scope of GPA market access

As previously noted (section 2.2), the GPA is also a market access instrument that provides legally secure access¹⁵⁴ to a covered procurement market worth \$1.6 trillion in 2008¹⁵⁵ - a figure that is estimated to increase by a further \$80-100 billion¹⁵⁶ with the entry into force of the amended Agreement. Further, prospects for expansion of the membership of the Agreement through future accessions could add an estimated \$440bn to \$1.127 trillion to the value of the GPA covered procurement market over time.¹⁵⁷

The Agreement applies to procurement specifically committed by the Parties and included in their respective schedules of commitments in Appendix I. Typically, all Parties cover procuring entities at all levels of government - central, sub-central and 'other'¹⁵⁸ government entities - applicable to them. All goods are covered in principle, except as otherwise explicitly excluded from coverage.

¹⁵¹ The countries include: the Gambia, Ghana, Kenya, Madagascar, Malawi, Mauritius, Nigeria, Rwanda, Uganda, Tanzania and Zambia - see, Elinor Caborn and Sue Arrowsmith, 'Procurement Methods in the Public Procurement Systems of Africa', Chapter 12, pp. 261-307, in Quinot and Arrowsmith (eds), *Public Procurement Regulation in Africa*, Cambridge University Press, 2013, @ pp. 263-268. See also specific country studies in the same volume on Ethiopia (by T. H. Bahta, Chapter 3); Ghana (D. Dagbanja, Chapter 4); Kenya (K. T. Udeh, Chapter 5); Nigeria (K. T. Udeh and M. L. Ahmadu, Chapter 7); and Zimbabwe (J. Zowa, N. Machingauta and P. Bolton, Chapter 10).

¹⁵² Caborn and Arrowsmith (2013), note 151 above, @ pp. 263-268. See also Geo Quinot and Sue Arrowsmith, 'Introduction', Chapter 1, pp. 1-21, in Quinot and Arrowsmith (eds), *Public Procurement Regulation in Africa*, Cambridge University Press, 2013, @ pp. 1-6.

¹⁵³ WTO, 'WTO Secretariat Technical Assistance Activities Relevant to the Agreement on Government Procurement', *Note by the Secretariat (GPA/W/308)*, dated 6 October 2009, available from the WTO website (www.wto.org).

¹⁵⁴ Anderson (2010), note 137 above.

¹⁵⁵ United States, Office of the United States Trade Representative, *The WTO Government Procurement Agreement: A Tremendous Opportunity for China*, available at <http://shenyang.usembassy-china.org.cn/wto-gpa.html>; cited in: Anderson *et al* (2012), note 60 above, p. 117.

¹⁵⁶ WTO, 'Report of the Director-General to the 8th Ministerial Conference', WT/MIN(11)/5, dated 18 November 2011, p. 6.

¹⁵⁷ Anderson *et al* (2012), note 60 above.

¹⁵⁸ 'Other government entities' is used to refer to entities such as utilities.

The services that are covered are explicitly specified, and all Parties cover construction services in full. The Agreement applies to procurement transactions of estimated value equal to or above specified minimum financial threshold values. These are, typically, SDR 130,000¹⁵⁹ for goods and services at the central government level, substantially higher (SDR 200,000 and SDR 400,000 respectively) at the sub-central and 'other' government levels, and SDR 5,000,000 for construction services at all levels (Table 4.1).¹⁶⁰

Table 4.1: General thresholds levels in the GPA (expressed in IMF SDRs)

Entities	Goods	Services	Construction Services
Central government level (Annex 1)	130,000	130,000	5,000,000
Central government level (Annex 2)	200,000	200,000	5,000,000
Other entities (Annex 3)	400,000	400,000	5,000,000

4.3.2 Assessing market access potential under the GPA

The GPA offers sizable market access. At the same time, the point has been made that this market is effectively not accessible to those developing countries that lack the domestic productive capacity to compete internationally in such markets.¹⁶¹ The point is further made that if market access is a key incentive to participate in the Agreement, then it arguably provides such countries with limited incentives to seek to join the Agreement.

As a snapshot of the situation today, this would seem to be a valid argument. On the other hand, a dynamic or proactive view, taking into account evolving developments such as, in the case of Africa, its infrastructure programme under PIDA, and other market-based developments¹⁶², the situation might change over time (see also later, section 5, and Box 5.1). As noted by Anderson *et al*, it is a matter for each WTO Member to assess its own interest with regard to GPA accession.¹⁶³ Such a process will require specific input in terms of more detailed economic and other studies,

¹⁵⁹ The thresholds in national currency are notified by each Party on a periodic basis and are available from the WTO website (http://www.wto.org/english/tratop_e/gproc_e/thresh_e.htm). For illustrative purposes only the exchange rate for the US dollar, sourced from IMF website (on 18 February 2014), was SDR 1 = USD 1.543850, (http://www.imf.org/external/np/fin/data/rms_five.aspx).

¹⁶⁰ For a general description of the coverage-related aspects of the Agreement, see, for instance: Robert D. Anderson and Kodjo Osei-Lah, 'The Coverage Negotiations under the Agreement on Government Procurement: Context, Mandate, Process and Prospects', Ch. 6, pp. 149-174, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011; see also, Philippe Pelletier, 'La revision de l'Accord de l'OMC sur les marches publics: son contexte et les dimensions de son champ d'application', in John H. Currie & Ren Provost (eds), *The Canadian Yearbook of International Law*, Volume 51, Volume 2013. University of British Columbia Press.

¹⁶¹ See, for instance, Stephen Woolcock, 'Public Procurement and the Economic Partnership Agreements: assessing the potential impact on ACP procurement policies' Commonwealth Secretariat, London School of Economics, May 2008, available from: http://www.thecommonwealth.org/shared_asp_files/GFSR.asp?NodeID=179104.

¹⁶² See, for instance, IBM's Project Lucy in Kenya, a \$100 million commercial technology research facility - "the first on the continent" - set up to conduct "commercially viable research" that "addresses Africa's challenges" and "impacts people's lives". 'IBM Research - Africa: developing solutions in Africa, for Africa and the world', IBM website, available at: <http://www.research.ibm.com/labs/africa/project-lucy.shtml>, and <http://www.research.ibm.com/articles/africa.shtml>, accessed 20.2.2014. See also later, Box 5.1.

¹⁶³ Anderson *et al* (2012), note 60 above.

which are outside the scope of this paper. Nonetheless, such an assessment might consider some or all of the following factors.

First, to determine the GPA market access potential relevant to it, an acceding WTO Member would have to determine its own offensive interests, in terms of relevant sectors. Next, it would need to determine the GPA Parties which provide coverage in the sectors of interest to it, and to assess the scope and extent of the commitments undertaken by such Parties. In undertaking this particular analysis, sight should not be lost of the proximity advantage of regional markets, were several countries in a region to be Party to the Agreement. This would, for instance, be the case for Africa under the scenario discussed in this paper.

Third, it would need to quantify the estimated size or value of market access – in terms of the financial or economic value of the market that has been opened up by the Parties of interest. Here, statistics of covered procurement contracts that have been provided by the Parties and available from the WTO website may be of interest.¹⁶⁴ Further, the interested WTO Member would need to determine the competitive strength of its domestic firms to effectively participate in these markets and win contracts. This is an important consideration, since, as noted above, a lack of capacity to compete has been a key factor behind developing countries' reluctance to sign up to the Agreement. In this regard, establishing whether offensive interests exist, and tackling any related capacity constraints in order to be able to exploit the liberalised markets, would appear to be an appropriate course of policy action.

By way of illustration, an analysis undertaken by the WTO Secretariat, drawing on the coverage by three Parties (the European Union, Japan and the United States) in 13 sectors¹⁶⁵, yields an estimate of a potential market worth \$686 billion that is open to Parties to the Agreement (and therefore to new members who join) in the thirteen sectors alone (Table 4.2).¹⁶⁶ Based on this analysis, a 10% share of this market, for instance, would equate to USD 68.6 billion in new market access opportunities for African firms were African countries to be parties to the Agreement. Meanwhile, work currently under way in the WTO Secretariat, in consultation with the GPA Committee, to develop an integrated and interactive web portal of GPA coverage and related data, will provide enhanced visibility, transparency and accessibility to the GPA coverage data and facilitate its use as a market access information resource (the so-called 'e-GPA project').¹⁶⁷

¹⁶⁴ Statistics reports under Article XIX:5 of the [1994] GPA, available from: http://www.wto.org/english/tratop_e/gproc_e/gpstat_e.htm.

¹⁶⁵ Construction services; computer and related services; textiles, clothing and footwear; telecommunication services; pharmaceutical products and health-related services; chemical products; fuels and petroleum products; machinery and associated products; plastic and rubber products; wood products.

¹⁶⁶ Anderson *et al* (2012), note 60 above. This also draws on an analysis that the Secretariat uses for technical assistance purposes.

¹⁶⁷ See, for instance, See GPA/121, dated 24 October 2013, paragraphs 4.8-4.9; GPA/122, dated 3 December 2013, paragraph 6.

Table 4.2: Assessing the value of GPA market access - potential market access opportunities in 13 sectors in the covered procurement markets of three GPA Parties¹⁶⁶

Parties Specific Sectors	European Union (2007) ¹⁶⁸ (for <i>all</i> covered gov. entities) (€1=\$US 1.3705)	Japan (2008) ¹⁶⁹ (except otherwise specified, for central gov. entities <i>only</i>)	United States (2008) ¹⁷⁰ (except otherwise specified, for the US Department of Defence (DOD) <i>only</i>)	TOTAL
Construction Services	\$US 125.7 billion	\$US 11 billion (central and sub- central gov. entities <i>only</i>)	\$US 287 billion ¹⁷¹ (central gov. entities <i>only</i>)	\$US 423.7 billion
(i) Pharmaceutical Products and Health Services; and (ii) procurement by health- related entities	\$US 15.1 billion	\$US 1.46 billion	\$US 120 billion ¹⁷²	\$US 136.56 billion
Computer and Related Services	\$US 46.5 billion	\$US 2.1 billion	\$US 1.6 billion	\$US 54.83 billion
Telecommunication Services	\$US 4.1 billion	\$US 531 million		
Chemical Products	\$US 21 billion	\$US 7.2 million	\$US 2.24 billion	\$US 23.25 billion
Fuels and Petroleum Products	\$US 4.5 billion	-	\$US 12.3 billion	\$US 16.8 billion
Machinery and Associated Products	\$US 14 billion	\$US 329 million	\$US 518 million	\$US 14.85 billion
Transport Equipment	\$US 9.6 billion	-	-	\$US 9.6 billion
Textile, Clothing and Footwear	\$US 4.4 billion	\$US 19 million	-	\$US 4.42 billion
Plastic and Rubber Products	\$US 903 million	\$US 3 million	\$US 53 million	\$US 959 million
Metal and Associated Products	\$US 766 million	\$US 18 million	-	\$US 784 million
Mineral Products	\$US 145 million	\$US 129 million	\$US 11 million	\$US 285 million
Wood Products	\$US 195 million	\$US 62 million	-	\$US 257 million
TOTAL	\$US 246.91 billion	\$US 15.66 billion	\$US 423.72 billion	\$US 686.3 billion

4.4 S&D for developing countries: transitional measures under the revised Agreement

Two broad categories of transitional measures (as the S&D measures are also referred to in the revised GPA), subject to negotiation, are provided for in the amended Agreement. These concern, respectively: (i) implementation of the Agreement; and (ii) market access-related provisions.¹⁷³ They are designed to respond to the development, financial and trade needs and circumstances of developing countries.¹⁷⁴

¹⁶⁸ GPA/94/Add.4, dated 15 July 2010. The exchange rate of €1=\$US 1.3705 applied in this handout is taken from the 2007 EU statistical report (GPA/94/Add.4, dated 15 July 2010).

¹⁶⁹ GPA/102/Add.2, dated 29 January 2010. The reported value was expressed Special Drawing Rights (SDRs) and has been converted to US dollars. The estimate may be affected by variations in exchange rates and related problems of conversion.

¹⁷⁰ GPA/102/Add.3 of 15 July 2010.

¹⁷¹ This comprises total above threshold procurement at the Annex 1 level, including limited tendering (Art. XV), which is reported on separately.

¹⁷² The US has reported in its statistical reports that the (total) general expenditures, by function, of the 37 States that it covers under the GPA in 2008 were \$US 40 billion for hospitals, and \$US 50 billion for health. Similarly, the value of goods/services covered by the GPA and procured by the US Department of Health and Human Services in 2008 was estimated at around \$US 30 billion.

¹⁷³ As also discussed by Müller, note 136 above.

¹⁷⁴ Article V:1 of the amended GPA (GPA/113), note 34 above, p. 13; the text of the amended Agreement is also available from the WTO website: http://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm.

The implementation period (Article V:4), which is new, provides for a period of time – 5 years for LDCs and up to 3 years for any other developing country - for an acceding WTO Member to implement any specific obligation under the Agreement, with the exception of Article IV:1(b) (MFN). In addition to the simplification and streamlining of the amended Agreement for the benefit of all Parties, this specific S&D measure seems to be a further concession to developing countries that negotiate their accession to the Agreement to ease the administrative burden of its implementation.

The market access-related transitional measures (Article V:3) are of two kinds, and cater respectively to the defensive and offensive interests of developing countries. Contrary to the implementation period, these are not subject to any pre-determined time-bound limitations¹⁷⁵, the content and duration of any measures being a matter for negotiation between the parties.

The defensive measures comprise 'market protections'¹⁷⁶ in the form of price preferences (new), gradual market opening through the phase-in addition of entities and sectors over time, and thresholds that are initially set higher than their permanent levels, or so-called asymmetric thresholds (new). These measures have been clarified and made more specific and concrete.¹⁷⁶ They are intended to provide developing countries with important flexibilities to assist them to adjust to the rigours of market opening, including temporarily sheltering sensitive sectors from international competition during an agreed, negotiated, transitional period.¹⁷⁷ Article V:3 also provides for the use of offsets – which may be considered as an offensive tool for public policy in this context – by developing countries: these are defined as any condition or undertaking “that encourages local development or improves a Party’s balance-of-payments accounts, such as the use of domestic content, the licensing of technology, investment, counter-trade and similar action or requirement.”¹⁷⁸

The transitional measures potentially further strengthen the role of the GPA as a multi-faceted instrument of trade, governance and development for the benefit of developing countries. In this respect, they help to bring into much closer alignment with each other than is often thought, the general approach in international instruments in the area of government procurement to provide for appropriate flexibilities that respond to the needs of developing countries. For instance, the World Bank's procurement guidelines provide for the application of domestic preferences under specified conditions in support of the Bank's objective of encouraging the development of domestic manufacturing and contracting capacity.¹⁷⁹ Similarly, its guidelines for engagement of consultants seek to encourage the use of national consultants¹⁸⁰ in its developing member economies. In a

¹⁷⁵ Muller (2011), note 136 above.

¹⁷⁶ As also noted by Müller, note 136 above.

¹⁷⁷ Note 136 above.

¹⁷⁸ As defined in Article I(l) of the revised GPA (GPA/113), note 34 above.

¹⁷⁹ World Bank, *Guidelines: Procurement of Goods, Works, and Non-Consulting Services under IBRD Loans and IDA Credits & Grants by World Bank Borrowers*, paras. 1.2 and 1.3 (General Considerations), pp. 1-2, available from: http://siteresources.worldbank.org/INTPROCUREMENT/Resources/278019-1308067833011/Procurement_GLs_English_Final_Jan2011.pdf.

¹⁸⁰ World Bank, *Guidelines: Selection and Employment of Consultants under IBRD Loans and IDA Credits & Grants by World Bank Borrowers*, para. 1.4 (General Considerations), p. 2, available from:

similar vein, the UNCITRAL Model Law on Public Procurement, in setting out a model framework for evaluation of bids in a procurement process, provides for the consideration of "any criteria" authorised by law, or a margin of preference for domestic suppliers or goods, or any other preference provided for in applicable domestic law.¹⁸¹

4.5 Adapting to evolving policy and other demands: the New Work Programmes

The revised GPA also incorporates a set of agreed Work Programmes that the GPA Committee is mandated to undertake with the entry into force of the amended Agreement.¹⁸² Designed to facilitate administration of the Agreement and adapt it to the evolving needs of the 21st century¹⁸³, these Work Programmes will address such issues as the participation of small and medium sized enterprises (SMEs) in public procurement markets, statistical reporting, sustainable procurement, the transparency aspects of public-private partnerships, exclusions and restrictions in Parties' coverage or market access schedules, and safety standards in international procurement.¹⁸⁴ The results will also provide a valuable input into future negotiations. The involvement of a wider range of economies in the work programs and in subsequent negotiations is likely to deliver outcomes that are even better adapted to the circumstances and needs of developing countries (see also sections 4.6 and 5.1 below).

4.6 Accession to the GPA: basic requirements

As previously noted, as a plurilateral agreement, only the Parties to the Agreement are bound by it. Pursuant to Article XXII:2 of the amended Agreement, any WTO Member is eligible to accede to the Agreement. Completion of the accession process involves two or, in the case of developing countries, three key elements. These are: (i) conformity of the acceding Member's domestic legislation with the requirements of the GPA, pursuant to Article XXII:4 of the amended GPA; (ii) agreement, through negotiation, with the existing Parties, on a mutually satisfactory market access offer (concerning the scope of procurement activities covered – and, by contrast, those excluded – from GPA obligations); and (iii) in the case of developing countries, agreement on any transitional measures that may apply.

Any WTO Member not Party to the GPA but wishing to follow the proceedings of the Committee in an observer capacity may do so pursuant to Article XXI:4 of the amended GPA, subject only to a written notice to the Committee. A WTO observer may also, on request, be accorded observer status in the Committee. Observer status incurs no obligation on the part of the observer government – for instance, with regard to accession to the Agreement.

<http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/PROCUREMENT/0,,contentMDK:20060656~menuPK:93977~pagePK:84269~piPK:60001558~theSitePK:84266,00.html>.

¹⁸¹ UNCITRAL, *Model Law on Public Procurement*, 2011, Article 11(3), note 81 above. Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17 (A/66/17), Annex I. available from: http://www.uncitral.org/pdf/english/texts/procurem/ml-procurement-2011/ML_Public_Procurement_A_66_17_E.pdf.

¹⁸² Revised GPA (GPA/113), note 34 above, APPENDIX 2, Annexes B to G, pp 438-447.

¹⁸³ Yukins and Anderson (2012), note 36 above.

¹⁸⁴ For a full list of the Committee's New Work Programmes, see the WTO website at: http://wto.org/english/tratop_e/gproc_e/gpa_wk_prog_e.htm.

The Agreement also provides for the technical assistance and capacity building for developing countries.

5 THE GPA AND PIDA: POLICY CONSIDERATIONS FOR INTERESTED STAKEHOLDERS¹⁸⁵

"Indeed, the historical evidence shows that all countries that have successfully transformed from agrarian economies to modern advanced economies had governments that played a proactive role in assisting individual firms in the process of structural transformation"¹⁸⁶

UNECA, African Union

Should African countries - the majority of which are LDCs¹⁸⁷ - join the GPA when they have no obligations to do so? It is, of course, the exclusive prerogative of each WTO Member to decide according to its own national interests. Nevertheless, the national interest would seem to dictate a 'YES' if the potential benefits exceed the potential costs, and 'NO' the other way round. The challenge, however, lies in making a reliable determination at any particular point in time as regards where the pendulum lies between the two. This section engages this discussion.

5.1 Relevance of the GPA for PIDA: a summary of the factors

"The historical record indicates that in all successful economies, the state has always played an important role in facilitating structural change and helping the private sector sustain it across time." "There is ample historical evidence that today's most advanced economies relied heavily on government intervention to ignite and facilitate their take-off and catch-up processes, which allowed them to build strong industrial bases and sustain the momentum of their growth over long periods."

Justin Lin and Celestin Manga¹⁸⁸

Based on the foregoing discussion, the GPA may have the potential to support the realisation of PIDA's goals in three distinct ways.

First, it can provide reinforcing support to the governance framework for PIDA's implementation – a kind of 'international stamp of approval'.¹⁸⁹ This can help to reduce risk, boost both investor and supplier confidence, facilitate inward investment to the sector and encourage the participation of global best-in-class suppliers in the infrastructure programme. Ultimately, this would also enhance the prospects for better value for money in the programme. Given the major challenge to implementation that PIDA faces with regard to creating an appropriate, harmonised regulatory framework, the GPA can potentially serve the role of a central pillar of minimum, agreed

¹⁸⁵ See also analysis in Annex 1 to this paper.

¹⁸⁶ UNECA, African Union, *Economic Report on Africa 2011: Governing Development in Africa - The Role of the State in Economic Transformation*, United Nations Economic Commission for Africa, Addis Ababa, Ethiopia, 2011, p. 90. Available from: <http://www.uneca.org/publications/economic-report-africa-2011>.

¹⁸⁷ As previously noted, over two-thirds of the global community of LDCs are located in Africa, and Africa itself comprises some 60% LDCs (see note 102 above).

¹⁸⁸ Justin Lin and Celestin Manga, 'Growth Identification and Facilitation: the Role of the State in the Dynamics of Structural Change', *World Bank Policy Research Working Paper 5513*, May 2010, available from: http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2010/05/18/000158349_20100518154747/Rendered/PDF/WPS5313.pdf.

¹⁸⁹ Anderson *et al* (2012), note 60 above.

international norms and standards to underpin national policy and legal/regulatory framework in this area.

Second, the GPA provides ready access to its covered procurement markets, estimated at \$1.7 trillion under the amended Agreement¹⁹⁰ and set to grow over time, through future accessions, by between a further \$440 billion to \$1.127 trillion. To this must be added Africa's own expanding regional procurement markets that would be created with its growing economies under PIDA. This has been estimated in this paper at between USD82.5 to 211.2 billion in 2010, rising to between USD 508 billion to USD 1.3 trillion in 2040. In this connection, African firms that have the requisite capacity and international competitiveness would be able to participate freely in the GPA covered procurement markets, where African countries are participants in the Agreement, as well as in Africa's own regional and sub-regional covered procurement markets.

Third, where African firms lack the capacity to exploit the opened-up GPA covered procurement markets – or, in some cases, to even to compete effectively at the mid-to-high end segments in their own domestic procurement markets – the GPA's transitional measures can provide a framework to help progressively redress this situation. In turn, this progressive upgrading and ensuing capacity to deliver value added products and services would help to position African firms in global value chains. Further, it would facilitate their more effective participation in GPA covered procurement markets abroad, in view of the access the GPA would guarantee to the bulk of the world's highest value procurement markets.

As an added point, the built-in agenda of new work programmes provides an opportunity for GPA Parties – and, to an extent, observers – to shape and influence the future evolution of the Agreement, for instance, with regard to the participation of small and medium size enterprises (SMEs) in public procurement markets, and in the area of sustainable procurement.¹⁹¹ African countries can contribute to this conversation as participants in the Agreement. In any event, given that observer status carries no obligation or commitment to accede, they may find it useful to obtain this free, no-obligation observer status, not least as a means of building sustained policy capacity and awareness in the field of government procurement and the contemporary policy issues it touches on.

5.2 Sustainable and inclusive growth for Africa: potential role of the GPA and PIDA working in synergy

"A strategic option for breaking into global value chains consists in African countries positioning themselves as reliable suppliers or subcontractors for global producers such as multinational enterprises in the manufacture of intermediate, semi-finished and/or finished goods."¹⁹²

UNCTAD, UNIDO (2011)

¹⁹⁰ Note 156 above. The amended GPA entered into force on 6 April 2014.

¹⁹¹ Yukins and Anderson (2012), note 36 above.

¹⁹² UNIDO, UNCTAD, *Economic Development in Africa Report 2011: Fostering Industrial Development in Africa in the New Global Environment*, Special Issue, UNCTAD/ALDC/AFRICA/2011, United Nations New York and Geneva, 2011, p. 99. Available from: http://unctad.org/en/Docs/aldcafrica2011_en.pdf.

5.2.1 Potential size of the African and GPA covered procurement markets

As an important consideration, the known firm-level capacity constraints that adversely impact the ability of African firms to exploit to the full the foreign markets opened up through the WTO's liberalising framework will not auto-resolve over time without appropriate policy action. Much is already being done in Africa in this respect. In the case of the government procurement sector, as noted above (Box 4.1 and sections 4.1-4.2), there already appears effectively to be a general trend towards broad-based conformity in practice with the GPA. In this regard, the greater the degree that African procurement regimes converge with the GPA, the greater the potential loss in opportunities that African firms incur as a result of not having reciprocal access to GPA covered procurement markets.

It is worth recalling that GPA Parties' suppliers, similarly to all other foreign suppliers, will have the same degree of access to the segments of Africa's procurement markets that are opened up to international competition. Thus, to not reform a country's procurement system to appropriate minimum international standards risks efficiency costs in terms of sub-optimal value for money outcomes. On the other hand, to reform appropriately and yet operate outside the GPA framework - even to the extent of implementing already in practice the key principles of the GPA - runs the risk of significant hidden costs to the domestic economy - in terms of lost market access opportunities and developmental benefits over time, noting that this could potentially deprive emerging African firms of the capacity to build economies of scale by servicing a wider range of procurement markets.

As the analysis in Annex 1 shows, the figures arising from a growing African government procurement market are substantial. In summary, over the PIDA implementation plan period from 2010 to 2040 inclusive, and subject to the realisation of the growth goals and the underlying assumptions made by the programme's managers (see Annex 1):

- An estimated total of between US\$ 43.9 trillion and 58.6 trillion in government procurement spending could be undertaken by African governments; this is equivalent to an arithmetic mean of between US\$ 1.42 and 1.89 trillion per year.¹⁹³
- Similarly, an estimated notional total aggregate/cumulative regional GPA covered procurement market worth between \$7.3 trillion and \$18.7 trillion could be created by Africa, if the region were to participate in the Agreement; this would be equivalent to a mean annual African GPA covered procurement spending worth between \$236.2 billion and \$604.8 billion.

To this regional market may be added the effective share that African firms might win in the foreign GPA covered procurement markets worth an estimated US\$ 1.7 trillion, and set to grow

¹⁹³ In reality, as would be expected, this would start from a lower base in 2010, rising gradually to the maximum figure at the end of the projected plan period. In this case, as noted in Annex 1 of this paper, the estimated annual figures start at between US\$ 495 and 660 billion in 2010, rising to between US\$ 3.05 and \$4.07 trillion in 2040.

through new accessions by between an estimated US\$ 440 billion and 1.127 trillion. Altogether, the combined potential market size – together with the transitional measures that the Parties hope will encourage more WTO Members to join the Agreement¹⁹⁴ – presents significant incentives to bring African countries and the existing Parties together to engage in negotiations with a view to producing win-win outcomes.

5.2.2 Quantifying the value of GPA accession for African countries: the market access dimension

The ability – and degree to which – African firms can participate effectively in this market would represent an effective sharing of the gains of trade in liberalised GPA covered procurement markets if African countries were to be parties to the GPA.

In 2012, according to data from the WTO's trade statistics database, Africa's share of exports in its own regional trade amounted to 13.9% of the total.¹⁹⁵ Similarly, Africa's share of exports in global trade amounted to 3.5% of the total.¹⁹⁵ One targeted outcome arising from the successful implementation of PIDA is a doubling of Africa's share respectively of regional trade and global trade.¹⁹⁶ Assuming that these trade performance objectives can be achieved and that the same level of performance can be realised in liberalised procurement markets in which Africa participates, this implies a 27.8% share of regional trade and a 7% share of global trade by the end of the PIDA implementation plan period. Applied to the notional GPA covered procurement markets, this would translate into the following market shares for African countries in such markets (Tables 5.1, 5.2 and 5.3):

- in the African regional GPA covered procurement market, in the range of US\$ 11.5-29.4 billion in 2010, rising to US\$ 141.3-361.8 billion by 2040;
- in the foreign GPA covered procurement markets, an estimated US\$ 59.5 billion now, rising to a potential estimated share in the range of US\$ 149.8-197.9 billion in the future;¹⁹⁷ and
- a combined total estimated market share ranging from US\$ 71-88.9 billion at the start, to US\$ 291.1-559.7 billion in the longer term.

¹⁹⁴ GPA/112, dated 16 December 2011, paragraph 3; GPA/122, dated 3 December 2013, paragraph 4.

¹⁹⁵ WTO, *International Trade Statistics 2013*, Table I.4, p. 21, available from: http://www.wto.org/english/res_e/statis_e/its2013_e/its2013_e.pdf. For further assumptions, see Annex 1 of this paper.

¹⁹⁶ Source: 'Programme for Infrastructure Development in Africa to be key feature of AU summit', note 113 above. For further assumptions, see Annex 1 of this paper.

¹⁹⁷ As noted in the Annex to this paper, in the case of the external GPA covered procurement market, this future date is not determined.

Table 5.1: Notional African government procurement market size (GPA and overall) in 2010 and 2040 based on the base case scenario

	2010	2040	
Aggregate Africa GDP (US\$ billion) [A]	3 300	20 334	Growth rate: 6.25% p.a.
Total (overall) Africa government procurement market size under PIDA growth scenario (US\$ billion) [B]	495 – 660	3,050 – 4,067	15-20% of GDP (OECD 2002)
Total notional African GPA covered procurement market (US\$ billion) [C]	82.5-211.2	508 – 1,301	2.5-6.4% of GDP (Anderson <i>et al</i> 2012)
Percentage market share of notional African GPA covered procurement market [D]	13.9%	27.8%	Doubling of intra-regional market share by 2040 – see assumptions.
Estimated African share of its regional GPA procurement market (US\$ billion) [E]	11.5 – 29.4	141.3 – 361.8	13.9% and 27.8% of the African region GPA covered procurement market respectively: [E] = [C] * [D]

Table 5.2: Estimating the potential market access opportunities for African firms in foreign GPA covered procurement markets

	Now	Future ¹⁹⁷	
Estimated size of foreign GPA covered procurement market (US\$ billion) [A]	1,700	2,140 – 2,827 ¹⁹⁸	See narrative and assumptions
Estimated percentage African share of the foreign GPA covered procurement market [B]	3.5%	7%	See narrative and assumptions
Potential estimated value of market access opportunities in foreign GPA covered procurement markets (US\$ billion) [C]	59.5	149.8 – 197.9	[C] = [A] * [B]

Table 5.3: Consolidated Market access opportunities for African firms in intra-regional and foreign covered procurement markets.¹⁹⁹

		Now	Future ²⁰⁰
A	Estimated African share of its regional procurement market (US\$ billion)	11.5 – 29.4	141.3 – 361.8 ²⁰¹
B	Potential estimated value of market access opportunities in foreign GPA covered procurement markets (US\$ billion)	59.5	149.8 – 197.9 ²⁰²
C	Potential estimated value of combined market access opportunities (in African and foreign GPA covered procurement markets) (US\$ billion)	71 – 88.9	291.1 – 559.7

This analysis highlights two important, inter-related issues. First, based on the Africa region's recent trade performance, and subject to the realisation of the growth goals under PIDA, Africa

¹⁹⁸ These figures reflect the value of future accessions based on current estimates. They do not take account of growth in these markets.

¹⁹⁹ Note: In this table, the figures in row A are expressed in 2005 constant US\$ PPP, while row B figures are expressed in nominal GDP terms. These would not normally be added together because of their respective different bases. The figures in row C are added up nonetheless to provide an indicative ballpark illustration and order of magnitude of the potential combined market access opportunities.

²⁰⁰ In the case of the GPA, this future date is not determined. In the case of Africa, the applicable future date is assumed to have occurred by 2040, the terminal year of the PIDA implementation plan period.

²⁰¹ See Table 5.1 above, and also Table 1 in the Annex to this paper.

²⁰² See Table 5.2 above, and also Table 3 in the Annex to this paper.

can expect further improvements in trade performance over time. Secondly, translated into liberalised procurement markets in which African countries are participants, this can contribute positively to the region's trade bottom line.

For a different perspective, the total value of official development assistance (ODA) disbursements to Africa as a whole in 2012 was \$51.4 billion, of which \$44.6 billion (86.9%) went to SSA.²⁰³ And in 2011, the total value of Aid for Trade commitments to Africa amounted to \$13.1 billion.²⁰⁴ For another perspective, Africa has, for instance, sustained significant net resource transfers to the rest of the world through poor management of its natural resources – some \$1.4 trillion over 30 years.²⁰⁵

Based on the above analysis, it can be seen that under appropriate conditions, accession to the GPA can facilitate the sharing of the gains of trade, growth and development, and can be complementary to other international development efforts. In this regard, the GPA appears to serve as a tool for sustainable and inclusive growth.

5.2.3 Assessing the overall added value of GPA accession: a GPA 'development dividend'?

As discussed by Anderson *et al* (2012), the overall value of GPA accession for acceding members include the following: (i) access to the liberalised foreign and regional GPA covered procurement markets by the firms of the acceding member, as noted above; (ii) increased value for money arising from more effective international competition; (iii) reduction in corruption and anti-competitive practices arising from the contributory factors of a stronger legal/institutional framework for government procurement; and (iv) the concessions arising from any transitional measures negotiated by as part of its GPA accession process.

Other added value benefits, also alluded to by Anderson *et al* and others, include: (v) any FDI encouraged by the predictability and legal certainty afforded by a GPA-consistent legal/institutional framework – for instance, in foreign firms taking advantage to establish longer-term commercial presence; (vi) additional economic benefits of investment in productive assets, of technology transfer, sub-contracting and local purchases by foreign firms winning government contracts; (vii) job creation; (viii) over the longer-term timeframe, improved competitive strength of local firms to

²⁰³ Sourced from the OECD Aid Statistics website, available from: <http://www.oecd.org/dac/stats/>; accessed: 16.2.2014.

²⁰⁴ As noted in the 2013 Global Aid for Trade Review, notwithstanding its importance to development, aid for trade commitments dropped 14% to USD 41.7 billion in 2011 to return to the 2008-09 commitment levels - a casualty of the 2008 global downturn - with Africa's share declining to \$13.1 billion. See WTO, OECD, *Aid for Trade at a Glance 2013: Connecting to Global Value Chains*, OECD, WTO 2013, July 2013, Executive Summary, p. 22; available from: http://www.wto.org/english/res_e/booksp_e/aid4trade13_e.pdf; accessed: 15.7.2013.

²⁰⁵ African Development Bank and Global Financial Integrity, *Illicit Financial Flows and the Problem of Net Resource Transfers from Africa: 1980-2009*, AfDB and GFI, May 2013, available from: http://www.gfintegrity.org/storage/gfip/documents/reports/AfricaNetResources/gfi_afdb_ifs_and_the_problem_of_net_resource_transfers_from_africa_1980-2009-web.pdf. According to this report, which undertook an analysis of capital flows (in terms of volume and pattern, recorded and unrecorded) to and from Africa over the period from 1980-2009, Africa was a net creditor to the world in net resource transfers of up to \$1.4 trillion over that period (Executive Summary, p. 1).

compete in both local and foreign public and private markets; and, (ix) generally to promote its industrial upgrading, and facilitate the insertion of African firms into global value chains.²⁰⁶

For the purposes of the analysis in this paper, this overall value of GPA accession for an acceding WTO Member is set out as a combination of two factors, namely: (a) the percentage share of the liberalised procurement market gained by the Member; and (b) the value of all the other additional economic and non-economic benefits accruing to that Member. The combined total of these two benefit components is described in this paper as a GPA accession 'development dividend'.²⁰⁷

Based on the above discussion, the greater the value of the 'development dividend', the higher the value of GPA accession for an acceding developing country. This paper has attempted to quantify the potential market share or market access value arising from GPA accession for African countries. An overall, consolidated, 'development dividend' figure may be arrived at, for instance, by applying a factor to the market share estimate for the acceding member's domestic firms. More work is needed to further develop the concept of the 'development dividend'. Such work is beyond the scope of the present paper.

5.3 Accession to the GPA by African countries: a multi-stakeholder cost/benefit analysis

5.3.1 Accession to the GPA: some cost/benefit considerations for African countries

The argument has been made - and is entirely valid - that countries can improve their procurement governance regimes and secure improved value for money without joining the GPA.²⁰⁸ At the same time, given the potential significance of the market access dimension, there is a heightened risk of lost market access opportunities in staying outside of the GPA framework - particularly in an environment of expanding African economies. This raises an important and inter-related point: at what point might it cost more to continue to stay outside of the GPA framework than to join - and *vice versa*? And how can policy makers identify this imaginary but critical crossover point?

With the pressures of finite financial resources and the need therefore for value for money, it is neither feasible nor desirable to exclude domestic government procurement markets altogether from international competition and a wider array of providers that may be available domestically. This is particularly the case for those developing countries which must rely on imports of medium to high technology products, given that they have limited or no domestic manufacturing capacity

²⁰⁶ For a discussion of the State's role in the economic transformation and industrial development in Africa, see, for instance, UNECA, African Union, *Economic Report on Africa 2011*, note 186 above, 2011; and UNIDO, UNCTAD, *Economic Development in Africa Report 2011*, note 192 above.

²⁰⁷ The concept of 'development dividend' as used here seeks to capture and encapsulate - for ease of reference and to facilitate assessment and quantification - the overall benefits accruing from GPA accession, including but not limited to the market access benefits. In that regard, it borrows - but is different - from the same term used in the area of Climate Change and Energy. For information on the latter, see, for instance: <http://www.iisd.org/climate/markets/dividend.asp>, accessed 23.7.2014.

²⁰⁸ See, for instance, CUTS, *Government Procurement in India: Domestic Regulations & Trade Prospects*, October 2012, available from: http://www.cuts-citee.org/pdf/Government-Procurement-in-India_Domestic-Regulations-Trade-Prospects.pdf, accessed: 6.12.2012.

of their own. In some such cases, a 'buy local' procurement policy would simply result in awarding a supplier an effective import monopoly for no economic gain: given that the bulk of African developing countries have a relatively narrow production base, rather than restricting all procurement to domestic entities as a general rule, they would be better served opening up procurement in general, along GPA lines, while locking in particular protection for certain key sectors, through a pragmatic exercise of exclusions from coverage, offsets and other transitional measures. In this context, it is worth taking note of the implications of the changing membership of the Agreement and the potential dynamics and future market access potential it offers.²⁰⁹ China's accession to the Agreement, for instance, will have significant implications for the Agreement as well as for the global economy²¹⁰, and, by extension, for African countries, for which China remains an important trading partner of growing significance.

Given that an objective of PIDA in seeking to redress Africa's infrastructure deficit is to enable African countries to promote their development and reduce poverty²¹¹, and given the relevance of trade and efficient infrastructure and services to achieving these fundamental objectives²¹², perhaps the trade dimension of PIDA itself merits further consideration by African countries. Designing a role for the GPA in PIDA's implementation means providing automatic market access to GPA covered procurement markets for African suppliers. While a majority of the latter may not have the capacity to appropriately exploit these markets in the immediate future, those that do, or that develop the necessary capacity over time to be able to do so, will not be shut out of such markets either. And for those that currently do not have the requisite capacity, the built-in tools under the GPA's Article V provisions can be applied to support their capacity development.

In addition to the above, a number of market-driven and geo-strategic developments appear to be working in favour of the region and in a manner potentially complementary to the region's own efforts aimed at its long-term structural transformation (see, for instance, Box 5.1 below).

Box 5.1: Examples of market drivers and geo-strategic developments relevant and potentially complementary to Africa's economic transformation

In recent times, a number of important FDI inflows into Africa have either been announced or are already being implemented on the continent. An example is IBM's US\$ 100 million Project Lucy, a commercial technology research facility in Kenya.²¹³ In 2013, news items in the Financial times suggested that global brands such as Diageo, SABMiller and Nestle, were investing for growth in Africa²¹⁴, while on the industrial goods front, GE was seeking to double its African sales.²¹⁵

²⁰⁹ See, for instance, Robert Anderson, 'The Conclusion of The Renegotiation of the WTO Agreement on Government Procurement: What it Means for the Agreement and for the World Economy', in (2012) 21 *Public Procurement Law Review*, Issue 3, pp. 83-93.

²¹⁰ See, for instance, WTO, 'Report (2012) of the Committee on Government Procurement' (GPA/112, dated 6 December 2012), paragraphs 16-19.

²¹¹ Note 108 above.

²¹² Note 89 above.

²¹³ See IBM website : <http://www.research.ibm.com/labs/africa/project-lucy.shtml>, and <http://www.research.ibm.com/articles/africa.shtml>, accessed 20.2.2014.

²¹⁴ "Brands raise a toast to Africa expansion", by Xan Rice in Lagos, FT, 12 March 2013, note 119 above.

²¹⁵ "GE aims to double African sales", by Ed Crooks in New York, FT, 11 March 2013, note 10 above.

Over the past three years, pledged investments and support by Africa's partners arising from various strategic Africa summits that have been quantified amount to at least US\$ 129 billion, according to figures compiled by the Mail and Guardian of South Africa. These include: India (May 2011, US\$ 5 billion), China (July 2012, US\$ 20 billion), Japan (June 2013, US\$ 32 billion), the EU (March 2014, €28 billion or US\$ 39 billion) and the United States (August 2014, US\$ 33 billion). Trade is an important focus in these developments, as also is investment in infrastructure, manufacturing and information technology.²¹⁶

With these developments, combined with Africa's own initiatives discussed elsewhere in this paper, and efforts by international financial institutions and other interested stakeholders, a picture that begins to emerge is one in which, in all probability, over time, Africa has the potential to overcome its capacity constraints, at which point access to markets – both regional and foreign – will become a key factor for its continued economic growth. In this scenario, it would seem relevant for government procurement markets to be considered on their own merit by African countries.

5.3.2 Potential multi-stakeholder benefits

As the analysis above shows, if PIDA's implementation is designed to take account of the GPA, a leveraged trade dimension begins to emerge in which Africa might use the GPA as an instrument to achieve multiple goals (see figure 5.1). The contours of a possible 'bargain' that begins to emerge for the various stakeholders in such an accession process might be summarised as follows:

- For the newly acceded (African) GPA Parties: adoption of an effective, internationally recognised framework for government procurement that fosters good governance and facilitates the achievement of value for money; in the case of Africa/SSA and the PIDA programme, enhanced attractiveness of the infrastructure procurement market as an investment destination, potentially helping to narrow the funding gap and improving the prospects for a successful and sustained infrastructure development programme; enhanced capacity building for both domestic industry and the public sector; improved initial domestic market access by local firms through appropriate use of the transitional measures for developing countries; strengthened ability in the longer term for domestic firms to build and diversify their operations through opportunities to compete in local, regional and wider afield international covered procurement markets; long-term strategic and commercial business-to-business partnerships between domestic and foreign firms – buttressed by greater legal certainty - that contribute to enhanced international competitiveness of domestic firms, their more effective integration in global value chains, and their greater commercial success in both public and private international export markets. The ability to influence the future evolution of the Agreement to better reflect Africa's interests and concerns; as well as the opportunity to influence future accessions.

²¹⁶ 'Billions promised to Africa - here's how it would be spent', Mail and Guardian [South Africa], 5.8.2014, accessible from: <http://mq.co.za/article/2014-08-05-the-billions-they-promised-africaand-how-they-would-be-spent>, accessed 10.8.2014.

- Citizens of newly acceded (African) GPA Parties: the benefits of better value for money, employment opportunities for citizens; commercial and sub-contract opportunities for local businesses; indirect economic boost through demand for ancillary services and supply of goods; longer-term enhanced international competitiveness of a wider range of firms and of the economy overall.
- For existing GPA Parties: expanded GPA membership offering significant new and long-term market access, on a surer legal foundation, that can help contribute to growth at home. Initially mainly in infrastructure and services, this market can be expected to grow as Africa overcomes the infrastructure constraints holding back its trade and stronger economic performance, with corresponding growth and long-term demand for more public services. The resulting increased spending translates into more covered procurement opportunities for GPA Parties – notably, as any phase-in coverage that may have been negotiated kicks in. And an expanding African economy offers the prospect of enhanced trade and commercial opportunities for all of Africa's trading partners. This approach also provides an opportunity for GPA Parties to offer practical, value-added support to a constituency of the WTO membership in a manner that is beneficial to the Parties themselves, resulting in win-win outcomes.
- For the WTO system: the systemic benefits of a WTO legal instrument facilitating the economic transformation of one of the poorer regions of the world into the emerging economies of the 21st century; in the process helping to support the economic upliftment of a majority of LDCs; an increase in membership of a WTO plurilateral instrument that offers mutual benefits to all participants as well as the WTO system; greater recognition and acceptance of the GPA as an important international legal instrument for regulating global trade in government procurement markets and complementary to other international instruments in this area, enhancing policy coherence in economic policy making, and contributing to global economic integration; help towards multilateralisation of the GPA.
- Global welfare: the sustained growth and economic transformation of Africa contributes to global growth, and helps to resolve one of the major challenges facing the global community, that of the scourge of extreme poverty on the continent; greater equity is served by affording firms in emerging economies the entitlement of access to new markets, and – through enhanced infrastructure – the greater practical capacity to make use of that access.

5.3.3 Challenges

Notwithstanding the significant potential benefits, there are also important challenges. Some of these challenges are highlighted below.

First, as a plurilateral agreement, WTO Members that are not party to the Agreement and that have not undertaken any commitments to join it have no obligation to do so. For instance, no African country is yet a Party to the Agreement, and only one of the GPA's 28 observer governments is African (Cameroon).²¹⁷ With the Doha Development Round negotiations arguably a high priority for developing countries and Agriculture and cotton particularly so for some African countries, the question potentially arises as to why non-Parties should prioritise membership of the Agreement over other trade concerns.

Secondly, if African countries were to join, it remains an important question as regards whether they should do so on the basis of a collective decision – for instance, through a regional economic integration organization - coordinating their respective accession processes and strategies, or independently. In this context, policy may have to remain flexible in order to accommodate a variable speed, variable geometry approach, should some countries wish to proceed at a faster pace.

Thirdly, where a collective path is taken, the process of arriving at a coordinated and mutually agreed continent-wide policy position will involve challenges. A similar situation would arise with regard to agreeing an overall accession strategy and minimum acceptable accession package for the GPA accession negotiations. This will also require further time, focus, energy, effort, and the needed expertise and resources.

Fourthly, a challenge arises as regards how to demonstrate the development effectiveness of the new transitional measures in the amended GPA. This might include, for instance, establishing any objective criteria by which to assess the appropriateness and adequacy of any package of transitional measures that may be negotiated, and how to measure their results in order to determine whether and, if so, the extent to which they have achieved their intended objectives. The corresponding challenge for existing GPA Parties concerns the degree to which they can adjust their expectations in negotiations on coverage to take account of the circumstances and specific development needs of a broadening range of developing country accession candidates.

Fifthly, there is the matter of appropriate complementary policies essential to and supportive of the goals of PIDA. These might include, for instance, a need for reform of the financial sector, education and governance²¹⁸, and a need for an effective competition policy regime, to list but a few.²¹⁹ There would also be a need for an appropriate research and innovation policy²²⁰, to take advantage of the ICT infrastructure backbone that is being laid down under PIDA, and to

²¹⁷ See GPA/121, dated 24 October 2013, paragraph 1.4; for the latest update, see the WTO website: http://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm.

²¹⁸ Le Goff, Maëlan and Raju Jan Singh, 'Can Trade Reduce Poverty in Africa?', in *Economic Premise*, World Bank, April 2013, No. 114, available at: <http://siteresources.worldbank.org/EXTPREMNET/Resources/EP114.pdf>; accessed: 25.4.2013; see also WTO, *World Trade Report 2013*, note 19 above, pp.13-14.

²¹⁹ For a useful discussion, see, for instance, Anderson, Kovacic and Müller (2011), note 134 above.

²²⁰ Kattel and Lember (2010), note 77 above.

accelerate the integration of Africa into global value chains and the rapidly expanding global digital economy.²²¹

Sixth, there is the challenge of effective coordination among contributing development partners and other interested stakeholders to achieve a common set of goals regarding GPA accession. For instance, Article II:3 of the Agreement excludes from coverage international assistance including development aid or procurement financed by other international organisations or subject to the procedures of such organisations. In this respect, there is some linkage with the important work being carried under the auspices of the OECD with regard to aid untying.²²² For instance, it has been argued that aid untying offers the prospect of potentially enhanced market access by local firms to regional aid procurement markets.²²³ Similarly, there appears to be important synergies with the Paris principles on Aid Effectiveness²²⁴ and the ensuing Accra Agenda for Action²²⁵ and Busan development co-operation initiatives.²²⁶ For instance, agreement among all stakeholders that a domestic government procurement regime that is established to be in conformity with the GPA might qualify for 'Use of Country Systems (UCS)'²²⁷ under the Paris principles, subject to such other criteria as might be agreed upon among stakeholders, could deliver another set of mutual benefits.

Seventh, there is also the question of competition to attract private finance for infrastructure investment, within an environment of an apparent slowdown in FDI growth, even if prospects for Sub-Saharan Africa appear brighter.²²⁸ In this regard, it has been argued in this paper that in

²²¹ No doubt these are all part of the conversation in the context of the policy framework in the continent's integration programme. For a discussion of a range of policy options and choices relevant to Africa, see, for example, 'Part 3 – Growth Challenges in Specific Country Contexts: Sub-Saharan Africa', pp 71-77 in Commission on Growth and Development (2008), note 19 above.

²²² OECD, *Untying Aid to the Least Developed Countries*, Policy Brief, July 2001; available from: <http://www.oecd.org/finance/2002959.pdf>; OECD, DAC Recommendation on Untying ODA, July 2008, available from: <http://www.oecd.org/dac/41707972.pdf>. Tied aid is reported to cost between 15-30% more in procurement contracts. See, for instance, information and related work at the OECD website: <http://www.oecd.org/dac/untied-aid/>; accessed 7.7.2013. For more information on this important work, see, generally, the OECD website on aid untying: <http://www.oecd.org/development/untyingaidtherighttochoose.htm>.

²²³ La Chimia, A., 'Untying Aid Through the Agreement on Government Procurement: a Means to Encourage Developing Countries to Accede to the Agreement and to Improve Aid Effectiveness', Ch. 13, pp. 390-425, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011.

²²⁴ The Paris Declaration on Aid Effectiveness (2005), in *The Paris Declaration on Aid Effectiveness and the Accra Agenda for Action*, pp. 4-13, available from: <http://www.oecd.org/development/effectiveness/34428351.pdf>.

²²⁵ The Accra Agenda for Action (2008) (pp. 14-21), in *The Paris Declaration on Aid Effectiveness and the Accra Agenda for Action*, pp. 14-21, available from: <http://www.oecd.org/development/effectiveness/34428351.pdf>.

²²⁶ Busan Partnership for Effective Development Co-operation, agreed at the Fourth High Level Forum on Aid Effectiveness, Busan, Republic of Korea, 29 November-1 December 2011, available from: <http://www.oecd.org/dac/effectiveness/49650173.pdf>.

²²⁷ See, for instance, paragraph 15 of the Accra Agenda for Action, note 225 above. See also the World Bank website on Use of Country Systems for Procurement: <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/PROCUREMENT/0,,contentMDK:22968216~menuPK:84285~pagePK:84269~piPK:60001558~theSitePK:84266~isCURL:Y,00.html>. See also, OECD (undated), 'Strengthening and Using Country Systems', available from: http://www.oecd.org/document/35/0,3746,en_2649_3236398_43384931_1_1_1_1,00.html, accessed 4.2.2012.

²²⁸ UNCTAD, *World Investment Report 2012: Overview*, United Nations, New York and Geneva, 2012, p. vi. Available from: http://unctad.org/en/PublicationsLibrary/wir2012overview_en.pdf. Over the three year

Africa, a GPA-compliant regime would potentially help to boost confidence in the sector and thus be supportive FDI targeting under the Africa50 Infrastructure Fund²²⁹ and other initiatives in this regard, for instance.

Finally, GPA accession presents one more set of policy options and actions that Africa's policy makers would have to contend with. The choices that Africa faces in this regard include: (i) whether to pursue and complete regional integration first before considering external trade integration initiatives; (ii) issues concerning the scale, scope and pace of transitioning to the post-Lomé Convention EU-ACP economic partnership agreements (EPAs) regime; (iii) specifically with regard to the EPAs and other trade agreements between Africa and its external trading partners, whether or not - and if so, the extent to which to include government procurement commitments; and (iv) the role and relevance of the GPA in the context of this discussion.

5.4 The GPA and PIDA: working in synergy to deliver win-win outcomes

While noting these practical and policy challenges, it is posited that the benefits that accrue to African countries, GPA Parties and the global economy of the GPA and PIDA working in synergy arguably far outweigh the costs and challenges, as the brief recap below attempts to highlight.

First, the approach discussed in this paper builds on the holistic and coordinated approach to infrastructure provision that has been developed under PIDA as a core element of Africa's drive for structural transformation. This transformation itself becomes a key driver of poverty reduction in this region, aided by complementary activities and initiatives in the same direction, such as Aid for Trade and other support provided by Africa's development partners²³⁰, market forces and even geo-strategic developments.

Simultaneously, the programme's implementation can potentially contribute to global welfare by stimulating demand and economic activity that - at least in the short to medium-term - is potentially likely to be fulfilled substantially from outside the region, due to the necessary expertise, capacity and resources for its delivery being largely exogenous to the region. Investment in the continent's infrastructure programmes by institutional investors and sovereign wealth funds, as foreseen under the Africa50 Infrastructure Fund²³¹ and other initiatives under consideration, would, for instance, potentially provide stable, sustained long-term returns to help to secure the pensions of beneficiaries in the respective home countries of the investors. And participation in the programme as suppliers or PPP partners by foreign firms would also contribute to the home economies in terms of jobs, demand and purchases of goods and services, and tax

period from 2009 to 2011, Africa's share of FDI inflows has declined from 4.4% to 2.8% of world totals, though the outlook for SSA seems more positive (pp. 3-11).

²²⁹ AfDB, note 126 above.

²³⁰ See, for example: WTO Aid for Trade initiative, note 14 above; UN post-2015 sustainable development agenda, note 236 below; G8 Lough Erne 2013 Leaders' Communiqué, paragraphs 18-21, note 10 above; G20 Infrastructure Action Plan 2012 Follow-up Report, available from: <http://www.q20india.gov.in/pdfs/D-2012-MDB-%20Follow-up-report-Infrastructure-Action-Plan-to-G20.pdf>; G20 Energy Infrastructure Plans for Africa: What is Missing, June 2012, available from: <http://www.polity.org.za/article/the-g20s-energy-infrastructure-plans-for-africa-what-is-missing-june-2012-2012-06-07>.

²³¹ AfDB, note 126 above.

inflows to their national treasuries. As African firms grow and broaden their commercial base, and benefit increasingly from enhanced infrastructure over time, the 'win-win' equation evolves, with the prospect of external firms then addressing the larger and more diverse market that would be yielded by sustained economic growth.

Thirdly, the GPA offers the prospect of a 'development dividend' which can provide an appropriate stimulus to local economies, contributing to enhanced economic opportunities for citizens and local businesses against expanding African economies. This would not only help to better distribute the gains from trade at a time when African firms, due to their own capacity constraints, are in some cases unable to participate effectively even in their own domestic procurement markets. It would also provide the added benefit of a private sector-led, 'learning-by-doing' approach to trade and industrial capacity building in Africa that supports the region's economic transformation, leading ultimately to the more effective integration of the continent into the global economy.

Taken together, the GPA and PIDA, working in concert, can be considered as providing a means or compass to a common, convergent destination²³² - one in which the GPA supports Africa's major drive towards structural transformation, and in which Africa's participation in the GPA expands the Agreement's membership and overall market access size. In this respect, the two, working together, offer an opportunity to demonstrate a means to achieve an effective balance between reciprocity and flexibility.²³³ In this regard, they are potentially well suited to the post-2015 sustainable development framework.²³⁴

If these results can be achieved, it would represent potentially 'win-win' outcomes for all stakeholders, consistent with the principles and objectives of the WTO.²³⁵ It would also be responsive to the paradigm of sustainable and inclusive growth, and development that calls for market opening, good governance, customised sector-based solutions adapted to the specific needs and circumstances of the target group, and equitable sharing of benefits among all stakeholders.²³⁶

The approach outlined in this paper illustrates two distinct but inter-related strategic undercurrents: respectively 'strategic development procurement', and 'strategic trade development', namely, the leveraging of the combined power of trade and government procurement, in a manner respectful of WTO principles, to deliver enhanced trade, growth and development outcomes. In this context, the GPA and PIDA, working together in synergy, offer the prospect of a significant, long-term impact on trade, growth, development and poverty reduction in Africa, with the potential for positive global welfare benefits (fig 5.1).

²³² Lamy, note 125 above.

²³³ WTO Future of Trade Report 2013, note 10 above, p. 4.

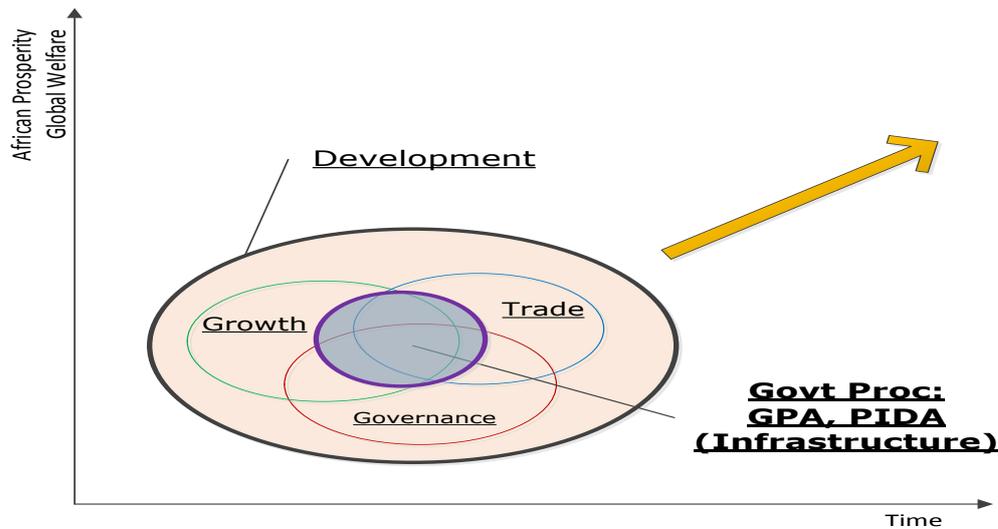
²³⁴ In this regard, it is instructive that the WTO's Bali Package already requires that the new Aid-for-Trade Work Programme to be framed by the post-2015 development agenda. See WTO, 'Aid for Trade: Ministerial Decision of 7 December 2013' - WT/Min(13)/34 - WT/L/909, paragraph 1.5 of the Bali Ministerial Declaration (WT/Min(13)/DEC), dated 11 December 2013.

²³⁵ See, for instance, *Preamble* to the Marrakesh Agreement Establishing the WTO.

²³⁶ See, The United Nations Global Compact and WBCSD, note 4 above.

Based on the above analysis, the GPA appears to merit a closer look by African countries. Similarly, the African government procurement market, with its potentially significant growth prospects, appears to merit a closer look by GPA Parties.

Figure 5.1 Promoting African prosperity and global welfare: interplay of trade, growth, governance and development, and vital significance of the GPA and PIDA in a 'strategic development procurement context



6 SUMMARY AND CONCLUDING COMMENTS

Africa's infrastructure deficit has been a key constraint to its ability to trade its way out of poverty. Now, the region itself has initiated a long-term, integrated and coordinated infrastructure development programme to fix this problem in a sustainable way. The successful delivery of this programme has the potential to transform Africa's economic output over the 30-year implementation period from \$3.3 trillion to an estimated \$20.3 trillion by 2040, in the process ushering in an emergent Africa.

This level of economic output implies a substantial growth in government procurement spending by African countries, which would rise from an estimated annual level of between \$495 billion to \$660 billion in 2010, to between \$3.05 trillion and \$4.07 trillion by 2040 (all in 2005 US dollars PPP). Were all African countries to be participating in the GPA during this period, it further implies a notional estimated aggregate African regional GPA covered procurement market of between \$82.5 billion and \$211.2 billion in 2010, rising to between \$508 billion and \$1.3 trillion in 2040. Thus, Africa presents a future GPA market access potential of considerable significance.

Put differently, over the timeframe of the programme (2010 to 2040 inclusive), based on an assumption of the region's own growth projections being realised, and subject to the successful implementation of its infrastructure programme, a currently poor but emerging Africa will have contributed in aggregate between \$43.9 trillion and \$58.6 trillion to the global economy in

government procurement spending alone. This raises two inter-related policy questions: (i) how will this potential gain in global welfare enhancing output be shared, and, specifically, what proportion will accrue to Africa? And (ii) what can African countries do to strategically position themselves to be able to win a fair share of this market?

The successful implementation of the infrastructure programme is, however, predicated on the existence of a harmonising, mutually agreed legal/institutional governance framework among African countries. While good progress is being made at the sub-regional level - for example, with regard to COMESA - at the continent-wide level, this currently appears to be lacking. Secondly, while a good start has been made with the Africa50 Infrastructure Fund and other initiatives, continuing big financing gaps mean that successful implementation depends on the ability of the continent to tap into alternative sources of funding to plug this hole. Together, these key challenges, among others, potentially threaten the successful implementation of the PIDA programme, and hence the prospect of transforming Africa's economy, creating jobs, and lifting millions out of poverty while contributing to global growth.

This paper has argued that the revised GPA can potentially play a facilitative and supportive role in this process. Through its role as an instrument of governance that provides a transparent, predictable and non-discriminatory government procurement regime, the GPA appears to be an ideal companion tool to PIDA implementation in this respect. It can provide a major boost in international investor and business confidence in procurement governance under PIDA, helping to promote participation by global best-in-class players (suppliers, PPP partners, etc.). This would provide enhanced assurance of better value for money for Africa's taxpayers and financing development partners, and contribute to the more efficient and effective management of public resources. Secondly, by contributing to risk reduction, it can also promote PIDA and Africa's infrastructure markets specifically, and Africa's government procurement markets more generally, as an attractive investment destination, in a manner also supportive of the Africa50 initiative and others. And by implementing PIDA within the context of the GPA framework, it would enable internationally competitive African firms to gain a stake in the \$1.7 trillion GPA covered procurement markets for exploitation from today even as Africa must necessarily open up its infrastructure programme to best-in-class global players today.

The above potential benefits aside, by negotiating an appropriate package of transitional measures, the acceding African countries can take advantage of the improved S&D provisions under the amended GPA to further advance their development goals.

Based on the region's trade performance objectives being realised as a result of a successful PIDA implementation (a doubling respectively of Africa's 13.9% share of regional trade and 3.5% share of global trade), and the transposition of similar performance in liberalised GPA covered procurement markets in which African countries participate, Africa can expect to gain a rising share of these markets over time. In terms of ballpark figures, this could be of the order of a combined total of an estimated US\$ 71-89 billion in the early years, rising to US\$ 291-560 billion in the later years. These figures include foreign GPA market access value estimated at US\$59.5

initially, rising to US\$ 150-198 billion per year in the longer term – an economic value that would be lost entirely to an Africa that remains outside of the GPA framework long term. While these figures are illustrative, they are also indicative of a need for strategic positioning by African countries in order to be able to secure a share of the market access opportunities that will be created by the envisaged economic growth of the region. This can be leveraged to deliver not only employment and business opportunities for citizens and local firms alike today, but also to invest to build productive capacity and help better integrate African industries into global value chains, and position them to compete more effectively in the growing global digital economy.

This paper has argued that the aggregate benefits of GPA accession for African countries – a so-called GPA 'development dividend' – potentially significantly outweigh the costs of participation in the GPA by African countries. Thanks to past and ongoing domestic procurement reforms, driven by the need for value for money, good governance and Africa's own regional integration agenda, much of these costs – which comprise essentially preparatory, negotiating, and implementation and adjustment costs – are being incurred anyway. And the prospect of increasing convergence between the GPA regime, other international instruments and domestic regimes will mean that, over time an imaginary line could be crossed when any cost advantages in staying outside of the GPA framework are effectively eroded. And as the GPA becomes increasingly 'hard-wired' into the architecture of global trade in government procurement markets with more countries opting in – either via GPA accession, or GPA-style disciplines in RTAs - staying out begins to cost more than being in.

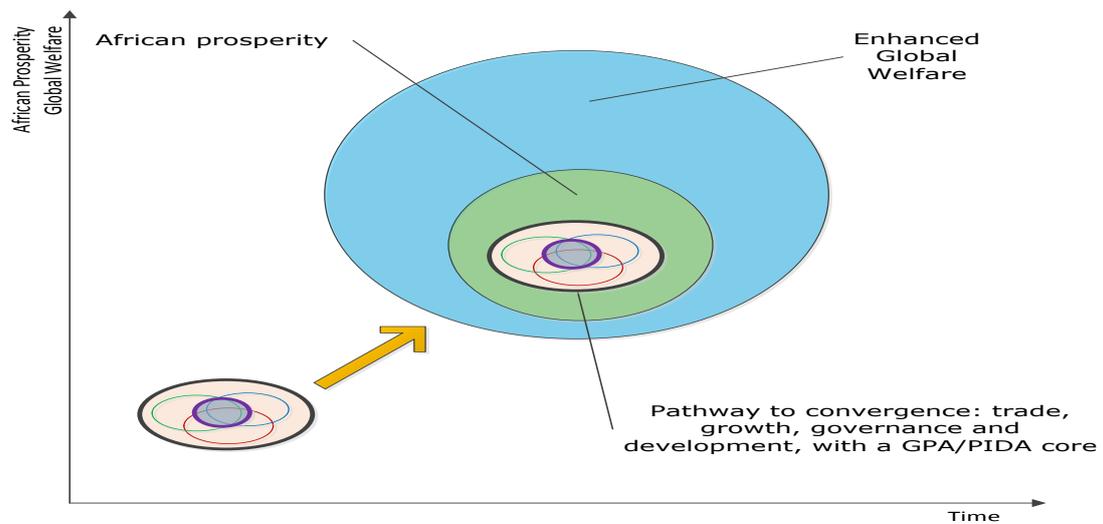
Notwithstanding the above, this paper has also identified important, practical and political challenges with regard to GPA accession. These challenges include buy-in by African countries and their development partners, competing priorities with regard to other trade issues on the multilateral trade and regional integration agenda, and effective policy coordination and related resource implications. Other challenges include the ability to negotiate mutually beneficial GPA accession packages – including commensurate transitional measures – between the acceding members and existing GPA Parties.

Nonetheless, if success can be achieved in this endeavour, it would contribute significantly to sustainable growth in a long-term depressed but potentially emerging region of the world, at the same time as it supports global growth. And a major phase of African accessions to the GPA could stimulate other competitive accessions to the Agreement, helping to expand the overall size of the GPA covered procurement market further.

This paper has set out the broad outlines of a multiple-win scenario for a broad array of stakeholders, predicated on a good governance platform consistent with international best practice, with the aim to deliver enhanced trade and development outcomes. It is consistent with a sustainable and inclusive growth paradigm in a post-2015 framework. And it offers a broad policy framework for managing the tension between trade opening and policy flexibility.

Altogether, the potential transitioning of Africa - Sub-Saharan Africa - into the next set of emerging economies offers the prospect not only of success in overcoming the scourge of poverty in this region. Far more than that, it also opens up the possibility of an emerging Africa providing a major fillip to the global economy as another growth engine, for the greater good of global welfare (Fig 6.1).

Figure 6.1: Promoting African prosperity, enhancing global welfare: significance of trade, growth, governance and development and relevance of the GPA and PIDA.



ANNEX 1: ANALYSIS

ANNEX 1: GROWTH PROJECTIONS IN RELATION TO AFRICA'S GOVERNMENT PROCUREMENT MARKETS AND IMPLICATIONS FOR THE REGION'S TRADE AND DEVELOPMENT PROSPECTS

- SCENARIO ANALYSIS -

1 INTRODUCTION

A recurrent issue raised regarding accession to the WTO Agreement on Government Procurement (GPA) – including in the context of WTO Secretariat technical assistance activities - is a request to demonstrate, in quantitative terms, the potential benefits of accession to the GPA for developing countries.

The analysis in this annex seeks to develop an approach to arrive at quantitative estimates of the potential market access opportunities that might accrue to a WTO Member from accession to the GPA, using the case of African countries as discussed in this paper. The analysis considers the potential opportunities arising from the African regional procurement market as a whole, as well as the foreign GPA procurement markets.

The analysis is not intended to replace more specific, country-based economic and other studies that will need to be undertaken in the case of specific accessions. Rather, it is meant to provide initial results to complement those from the more detailed and specific studies. The results of the analysis should be viewed accordingly in this context.

2 APPROACH

2.1 GPA covered procurement market size and market share analysis/estimation

The analysis computes the estimated aggregate size of the Africa region's general (or total) government procurement market, based on the GDP numbers generated by the PIDA Study Synthesis, by applying the ratio of the size of government procurement markets to GDP from the 2002 OECD study (15-20% of GDP).²³⁷ Similarly, it computes the estimated size of the notional aggregate African GPA covered procurement market size, assuming all African countries were to be Parties to the Agreement, by applying the ratio of GPA covered procurement market size to GDP developed by Anderson *et al* (2012) (2.5-6.4%).²³⁸ Using these figures, it computes the year by year numbers over the PIDA implementation plan period (2010-2040 inclusive), respectively of: (i) aggregate Africa GDP; (ii) aggregate Africa general government procurement market size; and (iii) aggregate notional Africa GPA covered procurement market size (Tables A1).

²³⁷ OECD. *The Size of Government Procurement Markets*, 2002, available at: <http://www.oecd.org/dataoecd/34/14/1845927.pdf>; accessed: 04.02.2012.

²³⁸ R. Anderson, P. Pelletier, K. Osei-Lah and A. Müller, 'Assessing the Value of Future Accessions to the WTO Agreement on Government Procurement (GPA): Some New Data Sources, Provisional Estimates, and an Evaluative Framework for Individual WTO Members Considering Accession', in (2012) 21 *Public Procurement Law Review* 4, pp 113-138, (Anderson *et al* 2012), @ pp. 119-120.

The growth rate in Table A1.1 is computed from the starting and terminal GDP figures provided in the PIDA Study Synthesis report²³⁹ according to the formula below, and gives the figure of 6.2487% p.a. – or a projected baseline growth rate of approximately 6.25%.

$$\text{Avg annual growth rate} = ((G_{Yn}/G_{Y0})^{(1/n)} - 1) * 100\%$$

Where:

- G_{Yn} = the projected GDP in Year n (in this case, US\$ 20.334 trillion and 2040);
- G_{Y0} = the GDP figure in the base year (in this case, US\$ 3.3 trillion and 2010);
and
- n = the number of intervening years (in this case, 30).

The intervening GDP figures in Tables A1 are computed by applying this growth rate to each successive year.

In the next stage of the analysis, it computes, over the PIDA implementation plan period (2010-2040), respectively: (i) the cumulative aggregate total general African government procurement spending; and (ii) the corresponding figure for the notional African GPA covered procurement spending. These figures correspond to the magnitude of the respective total spending over the plan period and provide a proxy and a quantitative basis for assessing the sharing of the gains of trade opening in Africa's government procurement market.

Next, it applies the margin corresponding to the market share that African firms/countries can potentially gain respectively in the aggregate government procurement markets (general and notional GPA) along the trajectory from the start to the end years of the PIDA implementation plan period. It does this by applying as proxy the following factors: (i) at the start period, the aggregate share of African countries respectively in the Africa region's goods trade (13.9%) and in global trade (3.5%), drawn from WTO trade data;²⁴⁰ and (ii) at the terminal period, a doubling of the respective shares at the start period noted above²⁴⁰, which is a stated goal of the PIDA programme (see section 3 below). These would translate into a 27.8% share in Africa's regional trade in government procurement markets, and a 7% share by African firms in foreign GPA covered procurement markets.

Finally, two alternative scenarios are addressed in addition to the baseline scenario. One applies a projected growth rate that undershoots the PIDA Study estimate by 1% (i.e., 5.25%) (Table A1.2), and the other uses a growth estimate that represents a 1% overshoot of the PIDA rate (i.e. 7.25%) (Table A1.3). The objective here is to gain an initial insight into the potential loss/gain arising from these alternative scenarios.

²³⁹ See NEPAD/AUC/AfDB, *Study on Programme for Infrastructure Development in Africa (PIDA): The Regional Infrastructure That Africa Needs to Integrate and Grow through 2040* (PIDA Study Synthesis, Phase III), available from: <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/PIDA%20Study%20Synthesis.pdf>, p. 16.

²⁴⁰ Data is taken from the WTO's 2013 World Trade Report and reflects 2012 figures. See the section on Data Sources and Assumptions in this Annex.

This overall approach builds on the discussion in sections 3 to 5 of the main paper.

2.2 Assessing the potential value of a GPA accession 'development dividend'

In addition to the direct market access opportunities that accrue to acceding members of the GPA, this paper has made reference to additional economic (and non-economic) benefits that arise, described as a 'development dividend' (see, notably) sections 4 and 5 of the main paper). These include job creation, enhanced tax receipts, value for money, more FDI, market-driven technology transfer and local firm capacity building/competitive strengthening, among others.²⁴¹ They also include, in the case of developing and least developed countries, the potential benefits of any transitional measures that they may negotiate as part of their accession package.

For the purposes of this paper, the 'development dividend' is considered as encapsulating the total net benefits of GPA accession for developing countries, comprising the direct market access opportunities and the additional benefits noted above. This analysis has attempted to provide a quantitative estimate of the magnitude of the market access potential in the case of the Africa region as a whole. However, the specifics for each acceding country will need to be determined on a case by case basis. Similarly, estimating the value of the additional benefits must be determined on a case by case basis, and is beyond the scope of this paper.

3 DATA SOURCES AND ASSUMPTIONS

For the purposes of this analysis, data is taken from the following sources:

- The aggregate GDP for Africa in the base year (2010), the terminal year (2040) and the projected growth rate: from the PIDA Study Synthesis and related documents.²⁴² The relevant figures are: 2010: USD 3,300 billion; 2040: USD 20,334 billion. The figures are expressed in the PIDA Study Report to be in 2005 constant dollars (PPP) and are assumed to be duly discounted over the PIDA implementation plan period.²⁴³
- The baseline projected growth rate, as well as the two alternative scenarios, are assumed to be unvarying over the timeframe of the analysis. However, in practice, they are expected to vary.
- The size of government procurement markets as a percentage of GDP: from the 2002 OECD study.²³⁷ This is assumed to continue to apply throughout the period applicable to this analysis.
- The size of GPA covered procurement markets as a percentage of GDP (2.5%-6.4% of GDP), together with growth prospects: taken from the analysis by Anderson *et al*

²⁴¹ For further discussion of the benefits of GPA accession, see the main paper, sections 4 and 5, and also Anderson *et al* (2012), note 238 above, pp. 122-133.

²⁴² See NEPAD/AUC/AfDB PIDA Study Synthesis, Phase III report, note 239 above, p.16. Monetary figures in constant 2005 US Dollars (PPP basis).

²⁴³ These figures – and the analysis in this Annex – do not take account of the PPP rebasing as reflected in the IMF's July 2014 Update on the World Economic Outlook (available from: <http://www.imf.org/external/pubs/ft/weo/2014/update/02/>, accessed 4.8.2014).

(2012).²⁴⁴ This is assumed to continue to apply throughout the period applicable to this analysis.

- In computing the notional aggregate African GPA covered procurement market size, an assumption is made that all African countries have joined the GPA.
- Africa's share respectively of intra-African trade and of world trade (based on merchandise exports) is taken from the WTO's international trade statistics database. The relevant data for the start period are respectively Africa's share of: (i) intra-African trade: 13.9%; and (ii) world trade: 3.5%.²⁴⁵ The merchandise exports are used as proxy for total exports for the purposes of this analysis. Applying these percentage figures to the respective African government procurement markets provides an indication of the potential market share that may be available to African countries in GPA covered procurement markets (regional and global).
- An objective of the ongoing reforms in Africa supported by the infrastructure programmes is a doubling of both Africa's share of intra-African trade and of world trade over the implementation plan period.²⁴⁶ This implies respective shares of 27.8% (of intra-African trade) and 7% (of world trade) by the end of the period. An assumption is made that the same level of performance can be achieved in covered procurement markets. Applying these percentage figures provides an indication of the overall further gains that can potentially be made by African firms in African and foreign GPA covered procurement markets. The estimated value of the foreign GPA covered procurement market share is also indicative of potential lost economic opportunities (opportunity cost) to Africa where, over the longer term, African countries continue to remain outside the GPA framework.
- The base year (2010) is retained for the purposes of this analysis, even though it is in the past and conditions may have changed. This permits use in this analysis of data generated from the PIDA Study without modifying the underlying assumptions made in that study.
- For the purposes of this analysis the full duration of the PIDA implementation timeframe (2010-2040) has been applied to the above analysis – and therefore to any transitional measures that may form part of the analysis. However, it is noted that the actual duration of any transitional measures that may be negotiated between an acceding Member and the GPA Parties will be the outcome of the relevant accession negotiations and may not necessarily correspond to this timeframe.

²⁴⁴ Anderson *et al* (2012), note 238 above.

²⁴⁵ WTO, *International Trade Statistics 2013*, Table I.4, p. 21, available from: http://www.wto.org/english/res_e/statis_e/its2013_e/its2013_e.pdf. The relevant figures are for the year 2012.

²⁴⁶ Source: 'Programme for Infrastructure Development in Africa to be key feature of AU summit', *News & Events*, available from: www.pidafrica.org/news-events.html, accessed 31.1.2013.

4 RESULTS

4.1 Base case scenario

4.1.1 Size of African government procurement market

The above analysis yields the following results for the base case scenario (Table 1):

- an aggregate general African government procurement market estimated at between US\$ 495 billion and 660 billion in 2010, rising to between US\$ 3.05 trillion and 4.07 trillion in 2040.
- an estimated, aggregate, notional Africa region GPA covered procurement market worth between US\$ 82.5 billion and 211.2 billion in 2010, rising to between US\$ 508 billion and 1.3 trillion in 2040.

Table 1: Notional African government procurement market size (GPA and overall) in 2010 and 2040 based on the base case scenario

	2010	2040	
Aggregate Africa GDP (US\$ billion) [A]	3 300	20 334	Growth rate: 6.25% p.a.
Total (overall) Africa government procurement market size under PIDA growth scenario (US\$ billion) [B]	495 – 660	3,050 – 4,067	15-20% of GDP (OECD 2002)
Total notional African GPA covered procurement market ²⁴⁷ (US\$ billion) [C]	82.5-211.2	508 – 1,301	2.5-6.4% of GDP (Anderson <i>et al</i> / 2012)
Percentage market share of notional African GPA covered procurement market [D]	13.9%	27.8%	Doubling of intra-regional market share by 2040 – see assumptions
Estimated African share of its regional GPA procurement market (US\$ billion) [E]	11.5 – 29.4	141.3 – 361.8	13.9% and 27.8% of the African region GPA covered procurement market respectively: [E] = [C] * [D]

4.1.2 Cumulative value of African government procurement spending

In cumulative/aggregate terms spanning the whole of the PIDA implementation plan period from 2010 to 2040 inclusive, these figures suggest that over the course of that entire period (Table 2):

- an estimated total of between US\$ 43.9 trillion and 58.6 trillion of government procurement spending will have been undertaken by African governments; this is equivalent to an arithmetic mean of between US\$ 1.42 trillion and 1.89 trillion per year.²⁴⁸
- an estimated total aggregate/cumulative notional regional GPA covered procurement market worth between US\$ 7.3 trillion and 18.7 trillion would have been created by Africa, were all the countries of the continent to be part of the Agreement; this would be

²⁴⁷ This is the estimated size of the Africa region procurement market that would be covered under the GPA if African countries were Parties to the Agreement and maintained a comparable level of coverage as other GPA Parties.

²⁴⁸ In reality, as would be expected, this would start from a lower base in 2010, rising gradually to the maximum figure at the end of the projected plan period. In this case, as noted in Table 1 above and in Table 2 below, for the general or broader regional procurement market, the estimated annual figures start at between US\$ 495 billion and US\$ 660 billion in 2010, rising to between US\$ 3.05 trillion and US\$ 4.07 trillion in 2040. The corresponding figures for the notional African regional GPA covered procurement market (i.e., the portion of the regional market that would be subject to GPA-style liberalization) are also shown in Tables 1 and 2.

equivalent to a mean annual GPA covered procurement spending over the entire period of between US\$ 236.2 billion and 604.8 billion.²⁴⁸

Table 2: Assessing the value of the Africa government procurement market (overall total and notional GPA covered procurement market) (base case scenario : 6.25% growth)

	Aggregate Total (2010-2040) (US\$ trillion)	Mean Annual Value (US\$ billion)	
Cumulative value of economic output created by Africa, 2010-2040 inclusive	292 935	9 449	Base case scenario, growth rate: 6.25% p.a. 15-20% of GDP (OECD 2002) 2.5-6.4% of GDP (Anderson <i>et al</i> 2012)
Total (overall) cumulative Africa government procurement spending	43.9 – 58.6	1,417 – 1,890	
Total notional cumulative Africa GPA covered procurement spending	7.3 – 18.7	236.2 – 604.8	

4.1.3 Magnitude of direct market access opportunities for African firms based on the notional African GPA covered procurement market

Based on the above analysis and the results presented in Table 1 above, every 1% market share gained, based on the African government procurement markets alone, would yield market access opportunities of between US\$ 825 million and 2.1 billion in 2010, rising to between US\$ 5.1 and 13 billion in 2040 on the notional aggregate African GPA covered procurement market (Table 1).

With a share respectively of 13.9% of intra-regional trade in the early years, rising to 27.8% by the terminal year, the corresponding magnitude of market access opportunities accruing to African countries in their own regional procurement markets rises more than tenfold from a relatively low point in the early years (between an estimated US\$ 11.5-29.4 billion) to between an estimated value of between US\$ 141.3 billion to 361.8 billion in the terminal years (Table 1).

4.1.4 Magnitude of potential market share by African firms in foreign GPA covered procurement markets

With the current foreign GPA covered procurement market beyond Africa estimated at US\$ 1.7 trillion with the entry into force of the revised GPA in 2014, and the potential value of additional market access arising from future accessions estimated to be between US\$ 440 billion and 1,127 billion, the total future GPA covered procurement market size would rise to an estimated value of between US\$ 2.14 trillion and 2.827 trillion.

Table 3: Estimating the potential market access opportunities for African countries in foreign GPA covered procurement markets

	Now	Future ²⁴⁹	
Estimated size of foreign GPA covered procurement market (US\$ billion) [A]	1,700	2,140 – 2,827 ²⁵⁰	See narrative and assumptions
Estimated percentage African share of the foreign GPA covered procurement market [B]	3.5%	7%	See narrative and assumptions
Potential estimated value of market access opportunities in foreign GPA covered procurement markets (US\$ billion) [C]	59.5	149.8 – 197.9	[C] = [A] * [B]

Based on the above analysis and the assumptions made, and predicated on the successful implementation of PIDA and attainment of its growth goals and trade performance improvement objectives, African countries can expect to secure foreign GPA covered procurement market access opportunities in the shorter term of some US\$ 59.5 billion. In the longer term, this could rise to between US\$ 149.8 billion and 197.9 billion per year (Table 3).

4.1.5 Direct market access value based on both the African regional and foreign GPA covered procurement markets

The above analysis suggests that, over the longer term, adding together corresponding numbers for the intra-regional and foreign GPA covered procurement markets, the potential market access opportunities could grow substantially over the PIDA implementation period by between 4 to 7 fold from a lower value range of US\$ 71-89 billion, to a significant US\$ 291-560 billion by the terminal year (2040) (Table 4).

Table 4: Consolidated Market access opportunities for African firms in intra-regional and foreign covered procurement markets²⁵¹

		Now	Future ²⁵²
A	Estimated African share of its regional procurement market (US\$ billion)	11.5 – 29.4	141.3 – 361.8 ²⁵³
B	Potential estimated value of market access opportunities in foreign GPA covered procurement markets (US\$ billion)	59.5	149.8 – 197.9 ²⁵⁴
C	Potential estimated value of combined market access opportunities (in African and foreign GPA covered procurement markets) (US\$ billion)	71 – 88.9	291.1 – 559.7

²⁴⁹ In the case of the GPA, this future date is not determined.

²⁵⁰ These figures reflect the value of future accessions based on current estimates. They do not take account of growth in these markets. However, they do include estimates for a number of African countries, namely South Africa and COMESA countries, amounting to less than 6% of the total estimated potential increase arising from future accessions (i.e., US\$ 23.6-59.4 billion). As the future accession estimates do not take account of the future growth prospects in these markets, the figures for the African countries share in future accessions have been ignored for reasons of simplicity. However, if taken into account, they would reduce the 'Future' figures in Row C in Table 3 above to US\$ 148.1-193.7 billion.

²⁵¹ Note: In this table, the figures in row A are expressed in 2005 US\$ constant PPP, while row B figures are expressed in nominal GDP terms. These would not normally be added together because of their respective different bases. The figures in row C are added up nonetheless to provide an indicative ballpark illustration of the potential magnitude of the combined market access opportunities.

²⁵² In the case of the GPA, this future date is not determined. In the case of Africa, the applicable future date is assumed to have occurred by 2040, the terminal year of the PIDA implementation plan period.

²⁵³ See Table 1.

²⁵⁴ See Table 3.

4.2 GPA accession: potential synergies and complementarities with other international development activities

The total value of official development assistance (ODA) disbursements from all donors to all recipients in 2012 was US\$ 133.04 billion. Of this amount, total disbursements to Africa added up to US\$ 51.4 billion (some 38.6% of the total), of which US\$ 44.6 billion (86.9%), went to Sub-Saharan Africa.²⁵⁵ In 2011, the latest year for which Aid for Trade statistics are available, the total value of Aid for Trade commitments to Africa amounted to US\$13.1 billion.²⁵⁶

Based on the analysis in this paper, the potential market access gains for African countries, as a ballpark figure, represents one to several multiples of the available funding from aid and international development efforts. In this regard, the analysis supports the view that trade can make a positive contribution to development, and that this notion is equally supported with respect to trade in government procurement markets.

4.3 Results from other scenarios

The results of the analysis based on the other growth projection scenarios are shown in Tables 5 and 6. The analysis suggests that, over the PIDA implementation plan period (2010-2040):

- an estimated 16.6% of overall economic output could be lost with a mere 1% undershoot in the baseline growth rate to an average 5.25% over the plan period, with a corresponding loss of government procurement spending power; and
- a gain of an estimated 20.5% in economic output could be recorded over the implementation plan period, with a corresponding increase in government procurement spending power on the basis of a 1% overshoot in the growth projection to 7.25% p.a.

These results illustrate the potential gains/losses associated with under- and over-achieving under the alternative scenarios. In this regard, they reinforce the importance of the infrastructure programme and of its timely implementation to Africa's trade and development prospects.

Table 5: Comparative scenario analysis of aggregate total African government procurement and notional African GPA covered procurement markets respectively

	2010 Base year	2040 Scenario 1: 6.25%	2040 Scenario 2: 5.25%	2040 Scenario 3: 7.25%
Annual Growth Rate→				
Aggregate Africa GDP (US\$ billion)	3 300	20 334	15 317	26 942
Africa government procurement market under PIDA growth scenario, notional (US\$ billion)	495-660	3,050 – 4,067	2,297 – 3,063	4,041 – 5,388
Notional African GPA covered procurement market (US\$ billion)	82.5-211.2	508 – 1,301	382.9 – 980.3	673.5 – 1,724

²⁵⁵ Sourced from the OECD Aid Statistics website, available from: <http://www.oecd.org/dac/stats/>; accessed: 16.2.2014.

²⁵⁶ As noted in the 2013 Global Aid for Trade Review, notwithstanding its importance to development, aid for trade commitments dropped 14% to USD 41.7 billion in 2011 to return to the 2008-09 commitment levels - a casualty of the 2008 global downturn - with Africa's share declining to \$13.1 billion. See WTO, OECD, *Aid for Trade at a Glance 2013: Connecting to Global Value Chains*, OECD, WTO 2013, July 2013, Executive Summary, p. 22; available from: http://www.wto.org/english/res_e/booksp_e/aid4trade13_e.pdf; accessed: 15.7.2013.

Table 6: Comparative results based on scenario analysis of aggregate total African government procurement and notional African GPA covered procurement markets respectively, cumulated over the PIDA implementation plan period

Annual Growth Rate→	Scenario 1: 6.25%	Scenario 2: 5.25%	Scenario 3: 7.25%
Cumulative value of economic output created by Africa, 2010-2040 inclusive (US\$ trillion)	292 935	244 215 (= -16.6% of scenario 1)	353 041 (= +20.5% of scenario 1)
Cumulative notional grand total government procurement spending (US\$ trillion)	43.9 – 58.6	36.6 – 48.8	52.9 – 70.6
Cumulative notional total GPA covered procurement spending (US\$ trillion)	7.3 – 18.7	6.1 – 15.6	8.8 – 22.6

5 POLICY CONSIDERATIONS

While of a generally preliminary and indicative nature, the results from this analysis in terms of order of magnitude are quite significant. They help to illuminate important policy questions for the consideration of African countries, their development partners, GPA Parties and other interested stakeholders. In this context, the issues raised below are merely indicative.

- Significant government procurement sector market size growth can be expected under the growth scenario envisaged in the PIDA infrastructure development timeframe. To the extent that this growth is realised, the relative proportions of this growing market that will be won respectively by African and foreign firms have important implications for the realisation of the goal of sustainable and inclusive growth and sharing in the gains of trade opening in a post-2015 framework, with particular reference to Africa.
- The envisaged growth appears to be closely tied to a successful implementation of PIDA, which will provide the underpinning, interconnecting infrastructure and services that will facilitate Africa's economic transformation. As such, the timely and successful implementation of PIDA (and related national infrastructure programmes) constitute a critical success factor for Africa's economic transformation.
- By corollary, any unresolved challenges or significant delays in PIDA's implementation would have an adverse impact on the realisation of the envisaged trade and growth goals with potentially significant attendant costs. These costs are of the order of a 16.6% lower cumulative aggregate economic output over the plan period for a mere 1% undershoot in the growth projection. On the other hand, a 1% overshoot implies a gain in economic output of 20.5% over the PIDA implementation plan period.
- A lack of capacity to exploit GPA covered procurement markets has been an important consideration as to why accession to the Agreement has not received adequate attention among African countries. With the growth envisaged under the PIDA, a question is raised as to whether appropriate capacity would not ultimately be acquired over time by African countries, and, if so, at what point in time and along the capacity development trajectory the pendulum of GPA accession might swing into a net positive added value or position.

- An important consideration is how to determine this crossover point, in order to facilitate a determination as to whether accession to the Agreement might be in the interest of a particular WTO Member.²⁵⁷ A second consideration is concerned with how to negotiate an appropriate accession package including, where applicable, appropriate transitional measures, that reflects the mutual best interests of both the acceding member and existing Parties. In both these issues, it is hoped that the analysis in this paper and this Annex will be of some use.

6 CONCLUDING OBSERVATIONS

The analysis in this annex suggests that if PIDA's implementation is successfully achieved and its growth projections realised, a significant growth in economic output emanating from Africa will be generated, with a corresponding increase in the size of Africa's government procurement markets. The analysis in the paper further suggests that significant potential market access benefits await African countries from participation in the GPA, assuming the growth projections envisaged under PIDA are realised, and African countries are participants in the Agreement.

While these figures are indicative and represent order of magnitude computations, they suggest that Africa's share of a combined regional and foreign GPA covered procurement market opportunities can rise by several multiples from today's potential value of US\$71-89 billion p.a. to US\$ 291-560 billion over time. Conversely, non-participation in the GPA implies lost foreign market access opportunities of some US\$ 59 billion now, rising to a potential future value of US\$ 150-198 billion, representing Africa's potential share of the foreign GPA covered procurement market.

It is, however, a different question as to whether African countries – and their respective domestic firms – have the necessary capacity to exploit the ensuing liberalised procurement markets. In this, the main paper has argued that the legal certainty and predictability brought about by the GPA can foster the participation of global best-in-class players in African countries' economies generally, and the region's procurement markets more specifically, bringing FDI, promoting value for money, and delivering other economic benefits such as market-based technology transfer and local firm capacity building. It has also highlighted the potential role that the GPA's transitional measures can play in supporting domestic policy in the government procurement sector.

Given the significant trade dimension highlighted in this paper and particularly in this Annex, it is considered that the GPA merits a closer look by African countries, with a view to unlocking, with the support of their development partners, GPA Parties and other interested stakeholders, the value that the Agreement potentially represents for Africa and the world.

²⁵⁷ It is understood that the decision to seek accession to the GPA (or otherwise) is entirely the prerogative of WTO Members that are not parties to the Agreement to make, particularly so where such Members have not undertaken any obligations or commitments with respect to accession to the Agreement.

Table A1 - Scenario Analysis Tables: Analysis of Africa's government procurement market (2010-2040): Size and growth projections, estimated notional GPA covered procurement market size, and potential net GPA accession added value or 'development dividend'²⁵⁸

Notes to the tables:

1. The totals and the averages are computed over the duration from 2010 to 2040 inclusive.
2. The figures of 15% and 20% of GDP represent a range that the size of government procurement is estimated to constitute, according to an OECD study.
3. The figures of 2.5% and 6.4% of GDP represent a range that the size of the GPA covered procurement market is estimated to constitute in relation to GDP, according to a study by Anderson *et al* (2012).
4. For underlying assumptions, see the narrative in this Annex.

²⁵⁸ This analysis draws on GDP data and growth projections provided under PIDA. See the narrative in this Annex for relevant assumptions, including with regard to growth projections.

Table A1.1: Scenario 1 - 6.25% growth projection

Year	Computed GDP (US\$ trillion)	African GP Market Size (US\$ billion), @...		Notional Africa GPA Covered Procurement Market (US\$ billion) @...	
		15%	20%	2.5%	6.4%
2010	3,300.00	495.00	660.00	82.50	211.20
2011	3,506.21	525.93	701.24	87.66	224.40
2012	3,725.30	558.79	745.06	93.13	238.42
2013	3,958.08	593.71	791.62	98.95	253.32
2014	4,205.41	630.81	841.08	105.14	269.15
2015	4,468.19	670.23	893.64	111.70	285.96
2016	4,747.40	712.11	949.48	118.68	303.83
2017	5,044.05	756.61	1,008.81	126.10	322.82
2018	5,359.24	803.89	1,071.85	133.98	342.99
2019	5,694.12	854.12	1,138.82	142.35	364.42
2020	6,049.93	907.49	1,209.99	151.25	387.20
2021	6,427.97	964.20	1,285.59	160.70	411.39
2022	6,829.63	1,024.45	1,365.93	170.74	437.10
2023	7,256.40	1,088.46	1,451.28	181.41	464.41
2024	7,709.83	1,156.47	1,541.97	192.75	493.43
2025	8,191.59	1,228.74	1,638.32	204.79	524.26
2026	8,703.46	1,305.52	1,740.69	217.59	557.02
2027	9,247.31	1,387.10	1,849.46	231.18	591.83
2028	9,825.15	1,473.77	1,965.03	245.63	628.81
2029	10,439.10	1,565.86	2,087.82	260.98	668.10
2030	11,091.40	1,663.71	2,218.28	277.29	709.85
2031	11,784.47	1,767.67	2,356.89	294.61	754.21
2032	12,520.85	1,878.13	2,504.17	313.02	801.33
2033	13,303.24	1,995.49	2,660.65	332.58	851.41
2034	14,134.52	2,120.18	2,826.90	353.36	904.61
2035	15,017.74	2,252.66	3,003.55	375.44	961.14
2036	15,956.16	2,393.42	3,191.23	398.90	1,021.19
2037	16,953.21	2,542.98	3,390.64	423.83	1,085.01
2038	18,012.56	2,701.88	3,602.51	450.31	1,152.80
2039	19,138.12	2,870.72	3,827.62	478.45	1,224.84
2040	20,334.00	3,050.10	4,066.80	508.35	1,301.38
Cumulative Total	292,934.65	43,940.20	58,586.93	7,323.37	18,747.82
Arithmetic Mean (2010-2040)	9,449.50	1,417.43	1,889.90	236.24	604.77

Table A1.2: Scenario 2 - 1% undershoot: 5.25% growth projection

Year	Computed GDP (\$ trillion)	African GP Market Size (US\$ billion) @...		Notional Africa GPA Covered Procurement Market (US\$ billion) @...	
		15%	20%	2.5%	6.4%
2010	3,300.00	495.00	660.00	82.50	211.20
2011	3,473.25	520.99	694.65	86.83	222.29
2012	3,655.60	548.34	731.12	91.39	233.96
2013	3,847.51	577.13	769.50	96.19	246.24
2014	4,049.51	607.43	809.90	101.24	259.17
2015	4,262.11	639.32	852.42	106.55	272.77
2016	4,485.87	672.88	897.17	112.15	287.10
2017	4,721.38	708.21	944.28	118.03	302.17
2018	4,969.25	745.39	993.85	124.23	318.03
2019	5,230.13	784.52	1,046.03	130.75	334.73
2020	5,504.72	825.71	1,100.94	137.62	352.30
2021	5,793.71	869.06	1,158.74	144.84	370.80
2022	6,097.88	914.68	1,219.58	152.45	390.26
2023	6,418.02	962.70	1,283.60	160.45	410.75
2024	6,754.97	1,013.25	1,350.99	168.87	432.32
2025	7,109.61	1,066.44	1,421.92	177.74	455.01
2026	7,482.86	1,122.43	1,496.57	187.07	478.90
2027	7,875.71	1,181.36	1,575.14	196.89	504.05
2028	8,289.18	1,243.38	1,657.84	207.23	530.51
2029	8,724.37	1,308.66	1,744.87	218.11	558.36
2030	9,182.40	1,377.36	1,836.48	229.56	587.67
2031	9,664.47	1,449.67	1,932.89	241.61	618.53
2032	10,171.86	1,525.78	2,034.37	254.30	651.00
2033	10,705.88	1,605.88	2,141.18	267.65	685.18
2034	11,267.94	1,690.19	2,253.59	281.70	721.15
2035	11,859.50	1,778.93	2,371.90	296.49	759.01
2036	12,482.13	1,872.32	2,496.43	312.05	798.86
2037	13,137.44	1,970.62	2,627.49	328.44	840.80
2038	13,827.16	2,074.07	2,765.43	345.68	884.94
2039	14,553.08	2,182.96	2,910.62	363.83	931.40
2040	15,317.12	2,297.57	3,063.42	382.93	980.30
Cumulative Total	244,214.62	36,632.19	48,842.92	6,105.37	15,629.74
Arithmetic Mean (2010-2040)	7,877.89	1,181.68	1,575.58	196.95	504.19

Table A1.3: Scenario 3 – 1% overshoot: 7.25% growth projection

Year	Computed GDP (US\$ trillion)	African GP Market Size (US\$ billion) @...		Notional Africa GPA Covered Procurement Market (US\$ billion) @...	
		15%	20%	2.5%	6.4%
2010	3,300.00	495.00	660.00	82.50	211.20
2011	3,539.25	530.89	707.85	88.48	226.51
2012	3,795.85	569.38	759.17	94.90	242.93
2013	4,071.04	610.66	814.21	101.78	260.55
2014	4,366.20	654.93	873.24	109.15	279.44
2015	4,682.74	702.41	936.55	117.07	299.70
2016	5,022.24	753.34	1,004.45	125.56	321.42
2017	5,386.36	807.95	1,077.27	134.66	344.73
2018	5,776.87	866.53	1,155.37	144.42	369.72
2019	6,195.69	929.35	1,239.14	154.89	396.52
2020	6,644.88	996.73	1,328.98	166.12	425.27
2021	7,126.63	1,068.99	1,425.33	178.17	456.10
2022	7,643.31	1,146.50	1,528.66	191.08	489.17
2023	8,197.45	1,229.62	1,639.49	204.94	524.64
2024	8,791.77	1,318.76	1,758.35	219.79	562.67
2025	9,429.17	1,414.38	1,885.83	235.73	603.47
2026	10,112.78	1,516.92	2,022.56	252.82	647.22
2027	10,845.96	1,626.89	2,169.19	271.15	694.14
2028	11,632.29	1,744.84	2,326.46	290.81	744.47
2029	12,475.63	1,871.35	2,495.13	311.89	798.44
2030	13,380.12	2,007.02	2,676.02	334.50	856.33
2031	14,350.18	2,152.53	2,870.04	358.75	918.41
2032	15,390.56	2,308.58	3,078.11	384.76	985.00
2033	16,506.38	2,475.96	3,301.28	412.66	1,056.41
2034	17,703.09	2,655.46	3,540.62	442.58	1,133.00
2035	18,986.57	2,847.99	3,797.31	474.66	1,215.14
2036	20,363.09	3,054.46	4,072.62	509.08	1,303.24
2037	21,839.42	3,275.91	4,367.88	545.99	1,397.72
2038	23,422.78	3,513.42	4,684.56	585.57	1,499.06
2039	25,120.93	3,768.14	5,024.19	628.02	1,607.74
2040	26,942.19	4,041.33	5,388.44	673.55	1,724.30
Cumulative Total	353,041.43	52,956.21	70,608.29	8,826.04	22,594.65
Arithmetic Mean (2010-2040)	11,388.43	1,708.26	2,277.69	284.71	728.86

BIBLIOGRAPHY

African Development Bank and Global Financial Integrity, *Illicit Financial Flows and the Problem of Net Resource Transfers from Africa: 1980-2009*, AfDB and GFI, May 2013, available from: http://www.gfintegrity.org/storage/gfip/documents/reports/AfricaNetResources/gfi_afdb_iffs_and_the_problem_of_net_resource_transfers_from_africa_1980-2009-web.pdf.

Anderson, R., 'The Conclusion of the Renegotiation of the World Trade Organization Agreement on Government Procurement: What it Means for the Agreement and the World Economy', (2012) 21 *Public Procurement Law Review*, Issue 3, pp. 83-94.

Anderson, R., P. Pelletier, K. Osei-Lah and A. Müller, 'Assessing the Value of Future Accessions to the WTO Agreement on Government Procurement (GPA): Some New Data Sources, Provisional Estimates, and an Evaluative Framework for Individual WTO Members Considering Accession', in (2012) 21 *Public Procurement Law Review* 4, pp. 113-138, (Anderson *et al* 2012).

Anderson, R., A. Müller, K. Osei-Lah, J. Pardo De Leon and P. Pelletier, 'Government Procurement Provisions in Regional Trade Agreements: A Stepping Stone to GPA Accession?', Ch. 20, pp. 561-656, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011 (Anderson *et al* 2011).

Anderson, R. and K. Osei-Lah, 'The Coverage Negotiations under the Agreement on Government Procurement: Context, Mandate, Process and Prospects', Ch. 6, pp. 149-174, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011.

Anderson, R., W. Kovacic and A. Müller, 'Ensuring Integrity and Competition in Public Procurement Markets: a Dual Challenge for Good Governance', Ch. 22, pp. 681-718, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011.

Anderson, R. D. and H. V. Singh, 'Government Procurement and India-US Trade: Why Liberalize? Which Approach is Best?' Prepared for the Peterson Institute for International Economics (Washington D.C.), as an input to the Institute's project on *A Free Trade Area of the Democracies*, 2014, forthcoming.

Arrowsmith, S., *Government Procurement in the WTO*, Kluwer Law International, 2003.

Arrowsmith, S., *The Law of Public and Utilities Procurement*, 2nd ed, Sweet & Maxwell, 2005, reprinted 2012, in particular, chapter 19, 'Industrial, Social and Environmental Concerns in Public Procurement', pp. 1225-1232.

Arrowsmith, S. and P. Kunzlik, 'Public Procurement and Horizontal Policies in EC Law: General Principles', Ch. 1, pp. 9-34, in Arrowsmith and Kunzlik (eds), *Social and Environmental Policies in EC Procurement Law*, Cambridge University Press, 2009.

Bahta, T. H., 'The Regulatory Framework for Public Procurement in Ethiopia', Ch. 3, pp 46-76, in Quinot and Arrowsmith (eds), *Public Procurement Regulation in Africa*, Cambridge University Press, 2013.

Bolton, P. and G. Quinot, 'Social Policies in Procurement and the Agreement on Government Procurement: a Perspective from South Africa', Ch. 16, pp. 459-480, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011.

Caborn, E. and S. Arrowsmith, 'Procurement Methods in the Public Procurement Systems of Africa', Ch. 12, pp. 261-307, in Quinot and Arrowsmith (eds), *Public Procurement Regulation in Africa*, Cambridge University Press, 2013.

Collier, P., *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It*, (Oxford), 2007.

Commission on Growth and Development, *The Growth Report: Strategies for Sustained Growth and Inclusive Development*, World Bank, 2008. Available from: <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/EXTPREMNET/0,,contentMDK:23225680~pagePK:64159605~piPK:64157667~theSitePK:489961,00.html>.

Dagbanja, D. N., 'The Regulatory Framework for Public Procurement in Ghana, Ch. 4, pp 77-99, in Quinot and Arrowsmith (eds), *Public Procurement Regulation in Africa*, Cambridge University Press, 2013.

Davies, A., 'The National Treatment and Exceptions Provisions of the Agreement on Government Procurement and the Pursuit of Horizontal Policies', Ch. 14, pp. 429-443, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011.

De Lima e Silva, V. G., 'The revision of the WTO Agreement on Government Procurement: to What Extent Might it Contribute to the Expansion of Current Membership?', (2008) 2 *Public Procurement Law Review*, 61-98.

Kattel, R. and Lember, V., 'Public procurement as an industrial policy tool: an option for developing countries?', in *Journal of Public Procurement*, Volume 10, Issue 3, 368-404, Fall 2010, p.378. Available from: http://www.networkideas.org/featart/jul2010/Kattel_Lember.pdf; accessed: 9.12.2012.

Kandiero, T., 'Infrastructure Investment in Africa', in AfDB *Development Research Brief*, Number 10 August 2009, available from: <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Financial-Information/Infrastructure%20Investment%20in%20Africa.pdf>; accessed: 7.2.2013.

La Chimia, A., 'Untying Aid Through the Agreement on Government Procurement: a Means to Encourage Developing Countries to Accede to the Agreement and to Improve Aid Effectiveness', Ch. 13, pp. 390-425, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011

Le Goff, M. and R. J. Singh, 'Can Trade Reduce Poverty in Africa?', in *Economic Premise*, World Bank, April 2013, No. 114, available at: <http://siteresources.worldbank.org/EXTPREMNET/Resources/EP114.pdf>; accessed: 25.4.2013.

Lin, J. and C. Manga, 'Growth Identification and Facilitation: the Role of the State in the Dynamics of Structural Change', in *Development Policy Review*, 29:264-290, 2011.

Linarelli, J., 'The Limited Case for Permitting SME Procurement Preferences in the Agreement on Government Procurement', Ch. 15, pp. 444-458, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011.

Melitz, M. J., 'When and how should infant industries be protected?' in *Journal of International Economics* 66 (2005) 177-196; available from: http://scholar.harvard.edu/files/melitz/files/infant_jie.pdf; accessed: 14.4.2013.

Müller, A. C., 'Special and Differential Treatment and Other Special Measures for Developing Countries under the Agreement on Government Procurement: the Current Text and New Provisions', Ch. 11, pp. 339-376, in Arrowsmith and Anderson (eds), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011.

Nicholas, C., 'The 2011 UNCITRAL Model Law on Public Procurement', (2012) 21 *Public Procurement Law Review*, Issue 3, pp. NA111-NA1123.

Nicholas, C., 'Work of UNCITRAL on Government Procurement: Purpose, Objectives, and Complementarity with the Work of the WTO', Ch. 24, pp. 746-772, in Arrowsmith and Anderson (eds.), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, 2011.

OECD, 'Infrastructure to 2030', *Policy Brief*, January 2008. Available from: <http://www.oecd.org/sti/futures/infrastructureto2030/39996026.pdf>; accessed: 5.4.2013.

OECD, NEPAD, 'Emerging public and sovereign fund investors in Africa's infrastructure: Challenges and Perspectives', Expert Roundtable on Investment in Transport Infrastructure, 11 December 2008, OECD-NEPAD Africa Investment Initiative, available from: <http://www.oecd.org/investment/investmentfordevelopment/41775935.pdf>; accessed: 13.3.2013.

OECD. *The Size of Government Procurement Markets*, 2002, available at: <http://www.oecd.org/dataoecd/34/14/1845927.pdf>, accessed: 04.02.2012

OECD (Undated), 'Strengthening and Using Country Systems', http://www.oecd.org/document/35/0,3746,en_2649_3236398_43384931_1_1_1_1,00.html, accessed 4.2.2012.

OECD/African Development Bank, *Reform and Growth in Africa*, Development Centre Seminars, OECD Publishing, 2000, doi: [10.1787/9789264181649-en](https://doi.org/10.1787/9789264181649-en).

Pelletier, P., 'La revision de l'Accord de l'OMC sur les marches publics: son contexte et les dimensions de son champ d'application', in John H. Currie & Ren Provost (eds), *The Canadian Yearbook of International Law*, Volume 51, Volume 2013. University of British Columbia Press.

Quinot, G., 'Promotion of Social Policy through Public Procurement in Africa', Ch. 15, pp 370-403, in Quinot and Arrowsmith (eds), *Public Procurement Regulation in Africa*, Cambridge University Press 2013.

Quinot, G. and S. Arrowsmith (eds), *Public Procurement Regulation in Africa*, Cambridge University Press, 2013.

Schooner, S. L. and C. Y. Yukins, 'Tempering 'Buy American' in the Recovery Act - Steering Clear of a Trade War', in *The Government Contractor*, Vol. 51, No. 10, West, 11 March 2009. Available from: http://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=1118&context=faculty_publications

Ssenoga, F., 'Examining Discriminatory Procurement Practices in Developing Countries', in *Journal Of Public Procurement*, Volume 6, Issue 3, 218-249, 2006; available from: http://www.ipppa.ws/IPPC2/JOPP6_3/Article_2_Ssenonga.pdf.

Udeh, K. T., 'The Regulatory Framework for Public Procurement in Kenya', Ch. 5, pp 100-122, in Quinot and Arrowsmith (eds), *Public Procurement Regulation in Africa*, Cambridge University Press, 2013.

Udeh, K. T. and M. L. Ahmadu, 'The Regulatory Framework for Public Procurement in Nigeria', Ch. 7, pp 141-161, in Quinot and Arrowsmith (eds), *Public Procurement Regulation in Africa*, Cambridge University Press, 2013.

UNCITRAL Model Law on Public Procurement 2011, Adopted 1 July 2011, available from: http://www.uncitral.org/uncitral/en/uncitral_texts/procurement_infrastructure/2011Model.html, accessed 4.2.2012

UNCTAD, *World Investment Report 2012: Overview*, United Nations, New York and Geneva, 2012, Available from: http://unctad.org/en/PublicationsLibrary/wir2012overview_en.pdf.

UNECA, 'Making the Most of Africa's Commodities: Industrializing for Growth, Jobs and Economic Transformation' - *UN Economic Report on Africa 2013*, United Nations, March 2013; available from: <http://www.uneca.org/publications/economic-report-africa-2013>.

UNECA, African Union, *Economic Report on Africa 2011: Governing Development in Africa - The Role of the State in Economic Transformation*, United Nations Economic Commission for Africa, Addis Ababa, Ethiopia, 2011; available from: <http://www.uneca.org/publications/economic-report-africa-2011>.

UNIDO, UNCTAD, *Economic Development In Africa Report 2011: Fostering Industrial Development in Africa in the New Global Environment*, Special Issue, UNCTAD/ALDC/AFRICA/2011, United Nations New York and Geneva, 2011. Available from: http://unctad.org/en/Docs/aldcafrica2011_en.pdf.

United Nations Convention Against Corruption 2003, The, available from: available from: http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf.

United Nations, *The Millennium Development Goals Report 2012*, UN, New York 2012, available from: <http://mdgs.un.org/unsd/mdg/Resources/Static/Products/Progress2012/English2012.pdf>.

United Nations, *A New Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development*, the Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, United Nations, May 2013, available from: <http://www.post2015hlp.org/the-report/>.

Ware, G., S. Moss, J. Edgardo Campos and G. Noone, 'Corruption in Public Procurement: a Perennial Challenge', in Campos and Pradhan (eds), *The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level*, World Bank, Washington D.C., April 2007, pp 295-334.

Woolcock, S., "Public Procurement and the Economic Partnership Agreements: assessing the potential impact on ACP procurement policies", The Commonwealth Secretariat / LSE, May 2008, available from: http://www.thecommonwealth.org/shared_asp_files/GFSR.asp?NodeID=179104, accessed 18.7.2011

World Economic Forum, Bain & Co, World Bank, *Enabling Trade, Valuing Growth Opportunities*, WEF, Geneva 2013, available from: http://www3.weforum.org/docs/WEF_SCT_EnablingTrade_Report_2013.pdf, accessed: 28.1.2013.

WTO, *The Future of Trade: The Challenges of Convergence*, Report of the Panel on Defining the Future of Trade convened by WTO Director-General Pascal Lamy, 24 April 2013; available from: http://www.wto.org/english/thewto_e/dg_e/dft_panel_e/future_of_trade_report_e.pdf; accessed: 30.4.2013.

WTO, Agreement on Government Procurement 1994, The, available from: http://www.wto.org/english/docs_e/legal_e/gpr-94_01_e.htm.

WTO, 'Adoption of the Results of the Negotiations Under Article XXIV:7 of the Agreement on Government Procurement, Following their Verification and Review, as Required by the Ministerial Decision of 15 December 2011 (GPA/112), Paragraph 5, (GPA/113, dated 2 April 2012). Available from: http://www.wto.org/english/tratop_e/gproc_e/gproc_e.htm. Accessed: 24.6.2012.

WTO, 'Ministerial-Level Meeting of the Committee on Government Procurement (15 December 2011): Decision on the Outcomes of the Negotiations Under Article XXIV:7 of the Agreement on Government Procurement' (GPA/112, dated 16 December 2011). Available from http://www.wto.org/english/tratop_e/gproc_e/gproc_e.htm, Accessed: 4.2.2012.

WTO, 'Historic Deal Reached on Government Procurement', 15 December 2011, available from http://www.wto.org/english/news_e/news11_e/gpro_15dec11_e.htm, accessed 4.2.2012.

WTO, Committee on Government Procurement, Declaration: 'Ministerial-Level Meeting of the Committee on Government Procurement (3 December 2013, at Bali, Indonesia)' dated 3 December 2013, available from: www.wto.org; accessed 30.1.2014.

WTO, OECD, *Aid for Trade at a Glance 2011: Showing Results*, 2011, available from: http://www.wto.org/english/res_e/publications_e/aid4trade11_e.htm.

WTO, OECD, *Aid for Trade at a Glance 2013: Connecting to Global Value Chains*, OECD, WTO 2013, July 2013, Executive Summary, p. 22; available from: http://www.wto.org/english/res_e/booksp_e/aid4trade13_e.pdf.

WTO, *World Trade Report 2013: Factors Shaping the Future of World Trade*, WTO, 2013, available from: http://www.wto.org/english/res_e/publications_e/wtr13_e.htm.

Zowa, J., N. Machingauta and P. Bolton, 'The Regulatory Framework for Public Procurement in Zimbabwe', Ch. 10, pp 200-216, in Quinot and Arrowsmith (eds), *Public Procurement Regulation in Africa*, Cambridge University Press, 2013.
