Public procurement in developing countries: challenges for foreign companies

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Outline:

- Recent trends;
- Public procurement as a non-tariff barrier;
- Ways to open & improve GP market;
- Developing countries dilemma.

Recent trends:

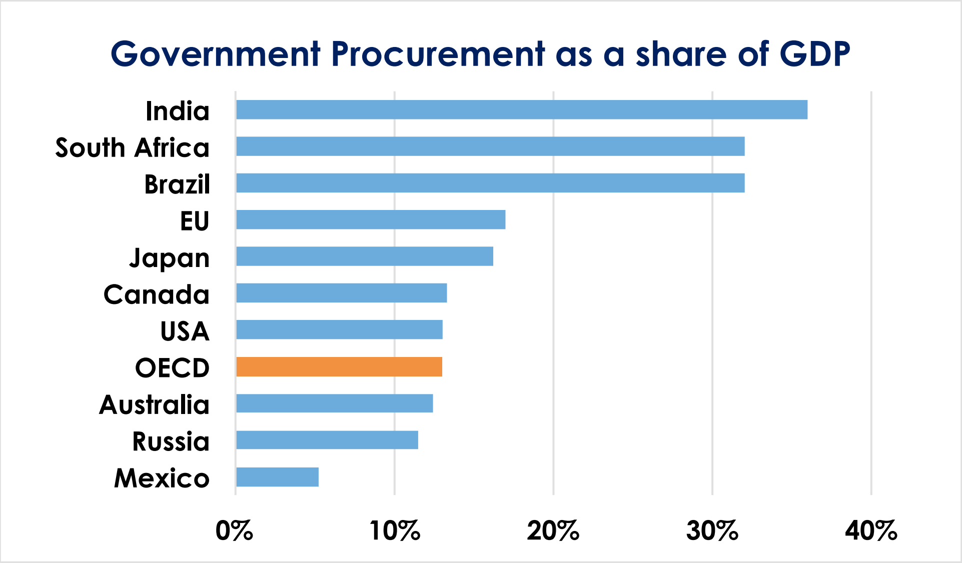
Size of public procurement:

OECD economies - 10-15% GDP

Developing countries - 20-40% GDP

GP functions:

- ✓ Social policies
- ✓ Economic policy tool – support & protect



Source: OECD, International Institute for Sustainable Development

Protectionism ⟷ Liberalization

Protectionism

- Buy National policies
- Local preferences
- Group preferences (regional, SMEs)
- Local content requirements
- Investment requirements
- etc.

Liberalization

- GP commitments – 113 out of 277 RTAs
- Large regional blocks
- New WTO GPA accessions
- GPA revision in 2012 – market access improvements – US$ 80-100 bln. annually
- etc.

Public procurement as a NTB:

Direct measures:

- ensure the demand for national producers
- support & protect critical categories: infant industries producers, SMEs
- additional government expenses

Direct restrictions
Ban on foreign companies participation (Indonesia, Philippines, Vietnam, Russia)
Price preferences (Brazil – 8-25%, Mexico – 15%, Malaysia – 2,5-10%, Egypt – 15%)
Local content and labour requirements (Some Mexican states – 30-50%, Vietnam – 30-50%)
Investment requirements (South Africa)
Set aside policies for SMEs, certain groups etc. (South Africa – 30%, Brazil – 25% and all small contracts, India – 20%, Malaysia – support “bumiputera” ethnic group)
National innovation procurement policies (China)

Public procurement as a NTB (cont.):

Indirect/system barriers
Legislation inconsistencies
Lack of unified and standardized tender procedures at all procurement levels
Lack of transparency and information sharing
Corruption
Low level of e-procurement development
Absence of control and supervision mechanisms

System limitations:

- **negative impact on both national and foreign** producers
- additional government expenses
- may reduce positive effects of direct measures

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Incentives to reform and incorporate international best practices

Ways to open & improve GP market:

Guidelines and recommendations to increase efficiency and transparency, improve legislation and procedures, tackle corruption, develop e-procurement

Ex.: Mexico – procurement reform based on WB and OECD recommendations saved US$ 1 billion in three years (2009-2012) /WB/.

WTO Government Procurement Agreement – procedural and market access commitments on central and local levels
Lists of covered entities, goods and services + thresholds
Reciprocity principle

Ex.: Armenia (GPA party from 2011), **China, Kyrgyz Rep., Ukraine** – negotiate accession.

Regional initiatives:
APEC Non-binding Principles in GP
Mercosur countries – revision of Protocol on GP
EAEU – GP commitments: procedural and market access – national treatment
TPP – federal entities covered, GPA+ commitments
FTAs with GP chapter

Developing countries dilemma:

Positive factors:

- Access to foreign procurement and other markets
- Negotiations based on reciprocity
- Special and differential treatment granted to developing countries
- Implementation of internationally used practices to improve GP system

Negative factors:

- Restrictions to use GP as an instrument to protect national industry
- Risks to implementation of economic and social policies
- Benefits of participation in foreign tenders are not certain

Current approach of certain DCs to foreign companies participation in GP:

Selective liberalization on sector/government level/certain entities basis in accordance with reciprocity principle under RTAs (in particular, bilateral FTAs)

Low level of liberalization

Thank you for your time and attention!

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