



**SYSTEM EXPANSION AND INTEGRATION
WITHIN IN-COUNTRY ORGANIZATIONS
AND BETWEEN GOVERNMENTS – THE CASE
FOR CROSS BORDER RELATED INTEGRATION**

**THE WTO AGREEMENT ON GP AND THE E-
GPA**

**ASIA PACIFIC PUBLIC ELECTRONIC PROCUREMENT
NETWORK**

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These slides have been prepared by the speakers in its personal capacity. They do *not* represent an official WTO point of view.

Contents of presentation



- The Role of Trade Agreements in Fostering Cross-Border Trade
 - The GPA as an emerging tool of global economic integration and good governance
 - What is the WTO Agreement on Government Procurement (GPA)?
 - The changing global context of the GPA: factors increasing its importance
 - Main elements of the GPA
 - Significance of the entry into force of the revised GPA
 - The treatment of GP in Regional Trade Agreements (RTAs)
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 - **Enhancing the Transparency and Accessibility of GPA Market Access Information**



1.1. What is the WTO Agreement on Government Procurement?

Trade and government procurement in the WTO: the evolving policy interface



- **Government procurement excluded** from the core disciplines on non-discrimination in the 1947 General Agreement on Tariffs and Trade (**GATT**) and the 1994 General Agreement on Trade in Services (**GATS**).
- A gap that is gradually being filled, over time:
 - 1979: the **Tokyo Round** Government Procurement Code
 - **GPA 1994**: improved rules, expanded coverage.
 - **Work on Transparency** in GP (1997-2004).
 - **The GPA 2012**: a multi-dimensional tool for the 21st century (e-procurement, greater flexibility, more emphasis on good governance, improved S&D for DCs).

What is the GPA?: Basic nature of the Agreement



- ❑ **An internationally recognized tool to promote:**
 - ❑ **Access to other GPA Parties' procurement markets;**
 - ❑ **Improved value for money in each participating Member's procurements;**
 - ❑ **Good governance (transparency, fair competition and an absence of corruption in covered procurement markets).**
- ❑ **A plurilateral agreement within the WTO system (not all WTO Members participate)**

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Factors currently enhancing the significance of the GPA for world trade (1): its **growing membership**



- From 2001 to 2016, membership in the WTO GPA nearly doubled, increasing from 27 to 47 WTO members.
- Currently, the GPA covers 47 WTO Members including:
 - the EU and its 28 member States; most other traditional developed countries (the US, Canada, Japan, Liechtenstein, New Zealand, Norway and Switzerland); plus Hong Kong (China); Montenegro; Iceland; Israel; Korea; Singapore; Chinese Taipei; Aruba and Armenia, Ukraine and Moldova joined in 2016.
- Eight more WTO Members in various stages of accession:
 - (Australia, Albania, China, Georgia, Jordan, the Kyrgyz Republic, Oman and Tajikistan).
- Five additional WTO Members have commitments to seek GPA accession (eventually), as part of their WTO accession protocols:
 - the former Yugoslav Republic of Macedonia, Mongolia, the Russian Federation, Saudi Arabia and Seychelles.
- 29 observer Governments (10 new observers since 2012).
 - 11 regional Members of the ADB: India; Indonesia; Malaysia; Pakistan; Philippines; Thailand; Turkey; and Viet Nam
- **Strong presence of ADB Members** : 40 out of 67 ADB members have links with the GPA:
 - GPA Parties: 25 ADB Members - 7 regional and 18 non-regional members !
 - Acceding or commitment to initiate accession to the GPA: 7 regional ADB Members;
 - Observers to the Committee on GP: 8 ADB Members



Factors currently enhancing the importance of the GPA for the global economy (2):

- **The policy context:**
 - Enhanced importance of the procurement sector worldwide.
 - Increased pressures for policies potentially limiting access to important procurement markets.
 - *Role of the GPA and/or bilateral/regional agreements*
- **Synergies with other international instruments, FTAs and national legislation**
 - GPA a distillation of best practices internationally.
 - An important benchmark for national procurement reforms.
 - Carefully harmonized with the UNCITRAL Model Law.
 - Recognised for use under Alternative Procurement Arrangements in the World Bank's New Procurement Framework
 - The model for procurement chapters in bilateral FTAs and regional trade agreements worldwide.

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5 main elements of the GPA



1. Rules on **national treatment and non-discrimination** with respect to participation in each Party's covered procurement markets.
2. **Coverage** defined through detailed schedules (Annexes) in "**Appendix I**". Specify covered entities, thresholds, covered services, specific exclusions, etc.
3. **Detailed provisions** on aspects of the procurement process, **to ensure transparency and open competition**. Includes provisions on:
 - a) Tendering procedures;
 - b) Qualification of suppliers;
 - c) Time limits, documentation, opening of tenders and contract award procedures.
4. **Enforcement**: provisions on application of the WTO-DSU and domestic review procedures (bid challenge or remedy systems).
5. **Special and differential treatment (S&D)** and other provisions to facilitate accession to the Agreement

The Revised GPA (1): Highlights of the revised text



Core principles of the revised text are the same as the existing one (non-discrimination, transparency, procedural fairness). However, the revised text contains **several distinct improvements**:

- 1) **A complete revision of the wording** of the provisions of the Agreement.
- 2) **Updating of the text of the Agreement** to take into account developments in current government procurement practice, notably the use of electronic tools.
- 3) **Additional flexibility** for Parties' procurement authorities, for example in the form of shorter notice periods when electronic tools are used.
- 4) **The GPA's significance for good governance and the fight against corruption is more explicitly recognized.**
- 5) **Revised and improved transitional measures** ("special and differential treatment") for developing countries that accede to the Agreement.



The Revised GPA (2): Highlights of the market access dimension

- What you get is... legally assured and enforceable market access.
- How much you get...
 - An estimated USD1.7 trillion market – around **2.5% of World GDP (2008)**
 - Recent renegotiation has added an estimated USD 80-100 billion annually.
 - Future accessions (including China) estimated in the range of **USD 440-1,225 billion** annually;

The GPA covered procurement market is large and is expanding !

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The text of the RTA chapters on GP are closely aligned with the text of the GPA (1)

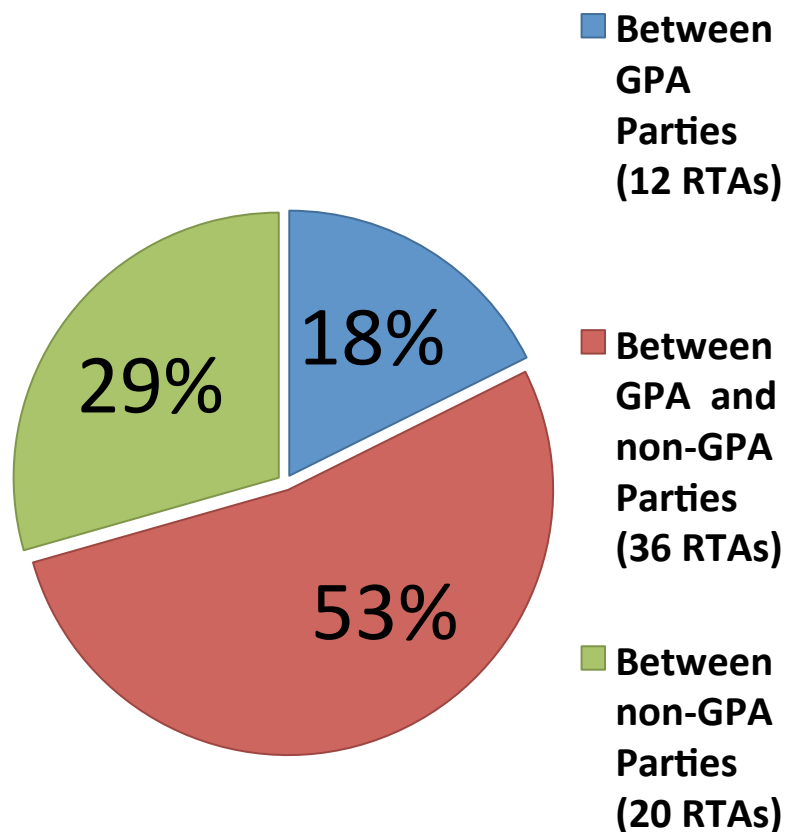
- **Same Objective:** To provide suppliers access to the GP markets of the RTA parties.
- **Same Overall Principles:** Non-discrimination, transparency and procedural fairness.
- **Same detailed elements:**
 - National treatment and non-discrimination for covered procurement;
 - Minimum standards regarding procurement procedures;
 - Enforcement mechanisms
 - Use of offsets regulated
- **Same transitional Measures (the TPP example):**
 - Almost identical to those available under the revised GPA.
 - Significant transitional measures have been awarded to Malaysia, Viet Nam, and to a lesser degree to Brunei and Mexico.
 - Concrete examples of how such measures might be applied in the GPA context ?
- **The RTA text has "tweaked" the GPA's rules and goes further in a few instances:**
 - **Commitments to GPA accession**
 - **Corruption and conflicts of interest,**
 - **Cooperation** mechanisms: SMEs, e-GP, capacity building, etc.



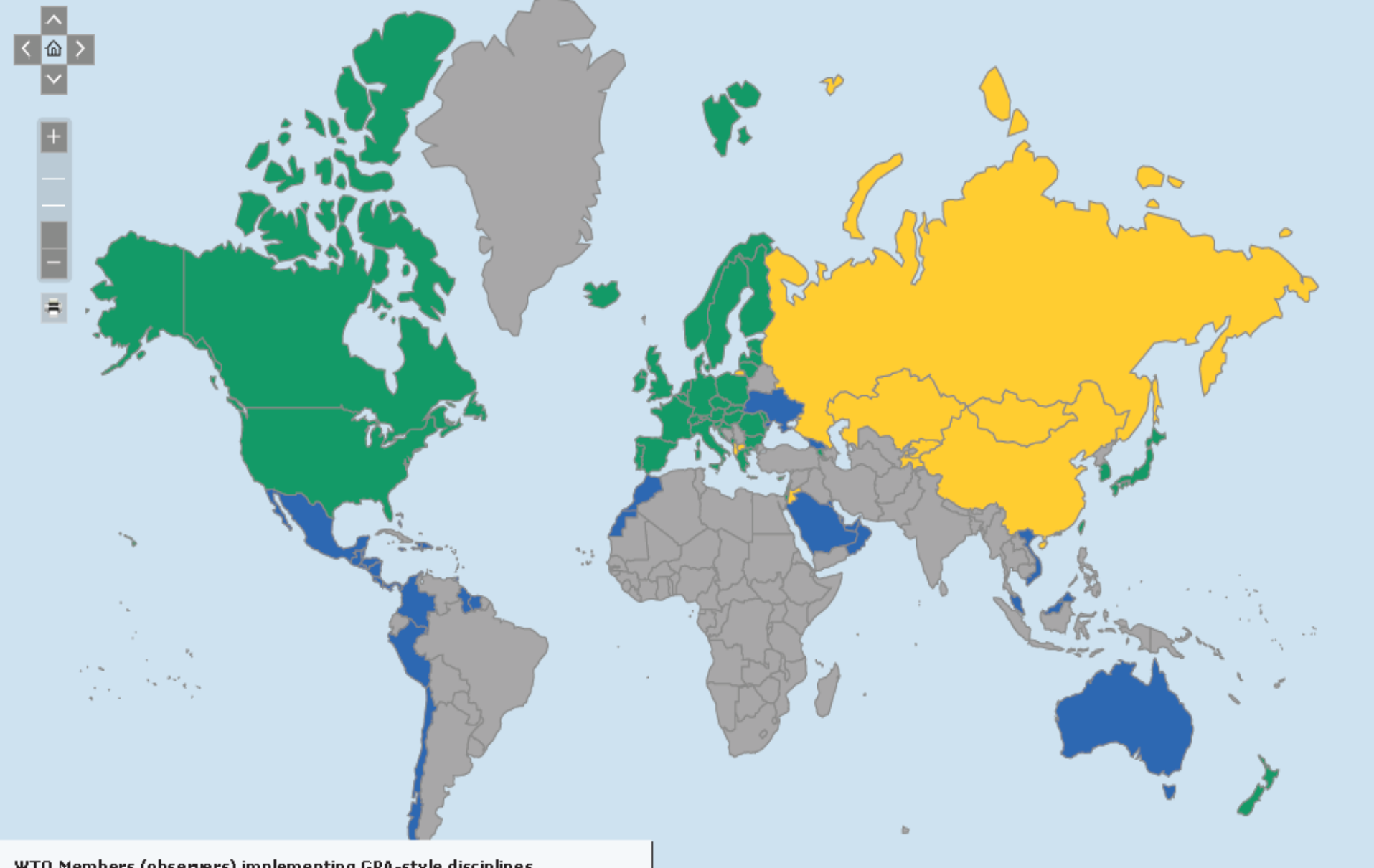
The text of the RTA chapters on GP are closely aligned with the text of the GPA (2)



More than 70 RTAs with detailed GP provisions



- Altogether, these RTAs cover around 50 % of WTO Membership (around 80 WTO Members)
- It implies that a significant number of countries currently outside the GPA are implementing GPA-style disciplines via RTAs.



Coverage analysis : GPA offers broader coverage overall than the TPP – with some exceptions (1)



- The structure of the TPP's government procurement market access schedules: close parallels to the revised GPA.¶

■ Coverage dimension	TPP sections to Annex 15-A	GPA's Annexes to Appendix I	✕
■ Central Government Entities	Section A	Annex 1	✕
■ Sub-Central Government Entities	Section B	Annex 2	✕
■ Other Entities	Section C	Annex 3	✕
■ Goods	Section D	Annex 4	✕
■ Services	Section E	Annex 5	✕
■ Construction Services	Section F	Annex 6	✕
■ General Notes	Section G	Annex 7	✕

The Sections/Annexes also specify the threshold values above which individual procurements are subject to the relevant disciplines. ✕

- RTA market Access commitments :
 - do not generally contain deeper commitments as compared to the revised GPA (limited exceptions).
- As a whole, does it preserve important incentives for eventual GPA accessions by relevant WTO Members (if they choose to pursue this) ?



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ROLE OF THE WTO GPA IN PROMOTING E-COMMERCE (1)



- Important and Explicit goal of the GPA !
- The 7th recital of the revised Agreement's Preamble refers specifically to:
 - **“the importance of using, and encouraging the use of, electronic means for procurement covered by this Agreement”**
- Further to this objective, the GPA encourages both participating governments and businesses to employ electronic tools in all aspects of the procurement process.

ROLE OF THE WTO REVISED GPA IN PROMOTING E-COMMERCE (2)



How the revised GPA promotes e-GP ?

- The provisions of the GPA are understood to apply to both traditional forms of GP and e-GP at the same way.
- Art. I(g) defines "in writing" or "written" as:
 - meaning **"any worded or numbered expression that can be read, reproduced and later communicated"**, and expressly states that this **"may include electronically transmitted and stored information"**.
- Clear **incentives** for using electronic tools by providing greater flexibility for Parties that use them:
 - Art. XI:5 permits the reduction of minimum waiting periods for tendering if and to the extent that electronic means are used.

ROLE OF THE WTO REVISED GPA IN PROMOTING E-COMMERCE (3)



- Additional transparency benefits flowing from the use of electronic means in the publication of information intended to be made publically available.
 - Information on applicable **GP national laws** and regulations;
 - Information on procurement **notices**, multi-use list of suppliers, award information;
 - Information on GP **statistics**.
- The use of electronic means is mostly **optional**, but **encouraged** !
- General principles (non-discrimination, transparency and procedural fairness) have to be complied with.



ROLE OF THE WTO REVISED GPA IN PROMOTING E-COMMERCE (5)

- **Information on GP system (Art VI:1(2)):**
 - **What ?** Each Party shall promptly publish any Laws, Regulations, Judicial Decisions, Administrative Rulings, Contract Clauses, and procedures regarding covered government procurement.
 - **Where ?** in an **officially designated electronic** or paper medium that is **widely disseminated** and remains readily accessible to the public.
 - **How to find out ?** Each Party shall provide the link to the relevant electronic (or paper) media in Appendix II. Easily retrievable via the e-GPA.
- **Information on Procurement notices, Multi-use lists of suppliers:**
 - **What ?** For each covered procurement, a procuring entity shall publish a notice of intended procurement in the appropriate paper or electronic medium.
 - **Where ?** in an **officially designated electronic** or paper medium. Such medium shall be widely disseminated and such notices shall remain readily accessible to the public, at least until expiration of the time-period indicated in the notice.
 - **How to find out ?** Each Party shall provide the link to the relevant electronic (or paper) media in Appendix III. Easily retrievable via the e-GPA.



ROLE OF THE WTO REVISED GPA IN PROMOTING E-COMMERCE (6)

- **Which notices?**
 - Notice of intended procurement
 - Notice of planned procurement (can be used as notice of intended procurement by Annex 2 and 3 entities).
 - Summary notice in one of the WTO languages also to be published electronically
- **Access to information - the notices shall:**
 - for procuring entities covered under Annex 1 (central-government entities), be accessible by electronic means free of charge through a single point of access, for at least any minimum period of time specified in Appendix III; and
 - for procuring entities covered under Annex 2 (sub-central government entities) or 3 (other entities), where accessible by electronic means, be provided, at least, through links in a gateway electronic site that is accessible free of charge.

Parties, including their procuring entities covered under Annex 2 or 3, are encouraged to publish their notices by electronic means free of charge through a single point of access.



ROLE OF THE WTO REVISED GPA IN PROMOTING E-COMMERCE (7)

GP Statistics and Award information:

- **Award Notice:**

- **What ?** Procuring entities shall publish an **award notice** not later than 72 days after the award of each contract covered by this Agreement.
- **Where?** in an officially designated **electronic** or paper medium. Where the entity publishes the notice only in an **electronic medium, the information shall remain readily accessible for a reasonable period of time.**
- **Special requirement:** Each procuring entity shall, for a period of at least three years from the date it awards a contract, **maintain data that ensure the appropriate traceability of the conduct of covered procurement by electronic means.**

- **Statistics:**

- Where a Party publishes its statistics on an official website, the Party may substitute a notification to the Committee of the website address for the submission of the data
- **How to find out ?** Each Party shall provide the links to the relevant electronic (or paper) media in Appendix III. Easily retrievable via the e-GPA.

ROLE OF THE WTO REVISED GPA IN PROMOTING E-COMMERCE (8)



- **Electronic Auctions (Art. XIV) – Permitted!**
 - Optional use of electronic auctions
 - If used, obligation to provide
 - Automatic evaluation method
 - Results of any initial evaluation
 - Other relevant information relating to the conduct of the auction
 - Obligations arise only if used!

ROLE OF THE WTO REVISED GPA IN PROMOTING E-COMMERCE (9)



- Mostly **optional** use of electronic means, but IF used, **some minimum requirements apply**:
 - Re. the **general availability and interoperability of the IT systems** and software used;
 - availability of **mechanisms to ensure the integrity of requests for participation and tenders**;
 - maintenance of **data to ensure the traceability of the conduct of covered procurement by electronic means**.
- **WHY ?** To ensure that the use of electronic means **does not create barriers to international trade and competition**, and that their use remains fully transparent.



V. The WTO's e-GPA Project

Enhancing the Transparency and Accessibility of
GPA Market Access Information

<https://e-gpa.wto.org/>

Contents:

- Purpose, objective, features and functionalities;
- Current state of implementation;
- Anticipated future developments;

e-GPA: Objectives



- Create an **integrated database** of GPA coverage data to serve as a market access information resource
 - for use by governments, businesses and other interested parties
- Better publicize the **huge commercial opportunities** available under the Agreement
- Serve as a important tool of commerce in the GP sector
 - Lower some of the costs associated with physical distance and help suppliers to identify international trade opportunities
- Create an online digital tool for **notifications**, statistical data and more
 - thus foster interest in and accessions to the Agreement
- Synergise with an integrated database of trade measures across the WTO (via i-TIP)

Features and functions of e-GPA 2.0



- **Browse:**
 - A comprehensive function combined with basic search, report or **Output generation** tools.
- **Thresholds (new):**
 - Additional enhanced search, analysis and reporting tools (new).
- **An Advanced Search tool (new)**
 - A powerful means to more easily search and filter the entire GPA coverage database with regard to a particular Party or Parties, all other dimensions of coverage, and keywords to retrieve information of interest down to the line item level.
- **Publication Media (new):**
 - information published or publicised by the Parties or their covered entities regarding **current procurement opportunities, award notices**, applicable **national legislation** and more pursuant to their obligations under the Agreement.
- **Modifications to coverage (new):**
 - this maintains the e-GPA coverage data up-to-date on a permanent basis.

Benefits delivered by e-GPA



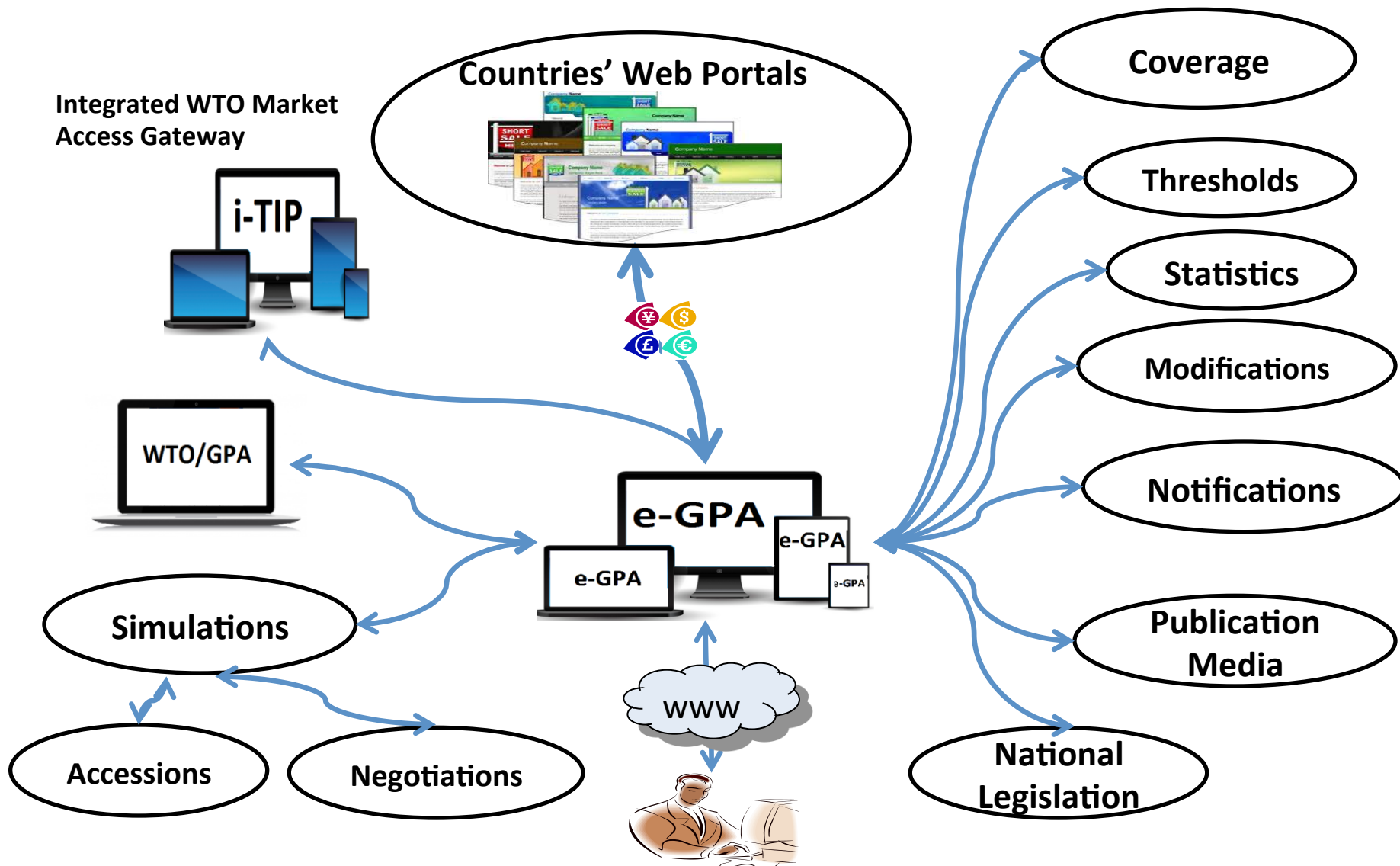
- **Improved service to Members, Suppliers and acceding candidates**
 - enhanced **transparency and accessibility** of market access (MA) **information**
 - enhanced **visibility** of the size and extent of **MA opportunities**
 - efficient access to **information on commercial opportunities**
 - provide a rich **resource for policy analysis**, e.g.
 - accessions to the Agreement; future negotiations; technical assistance



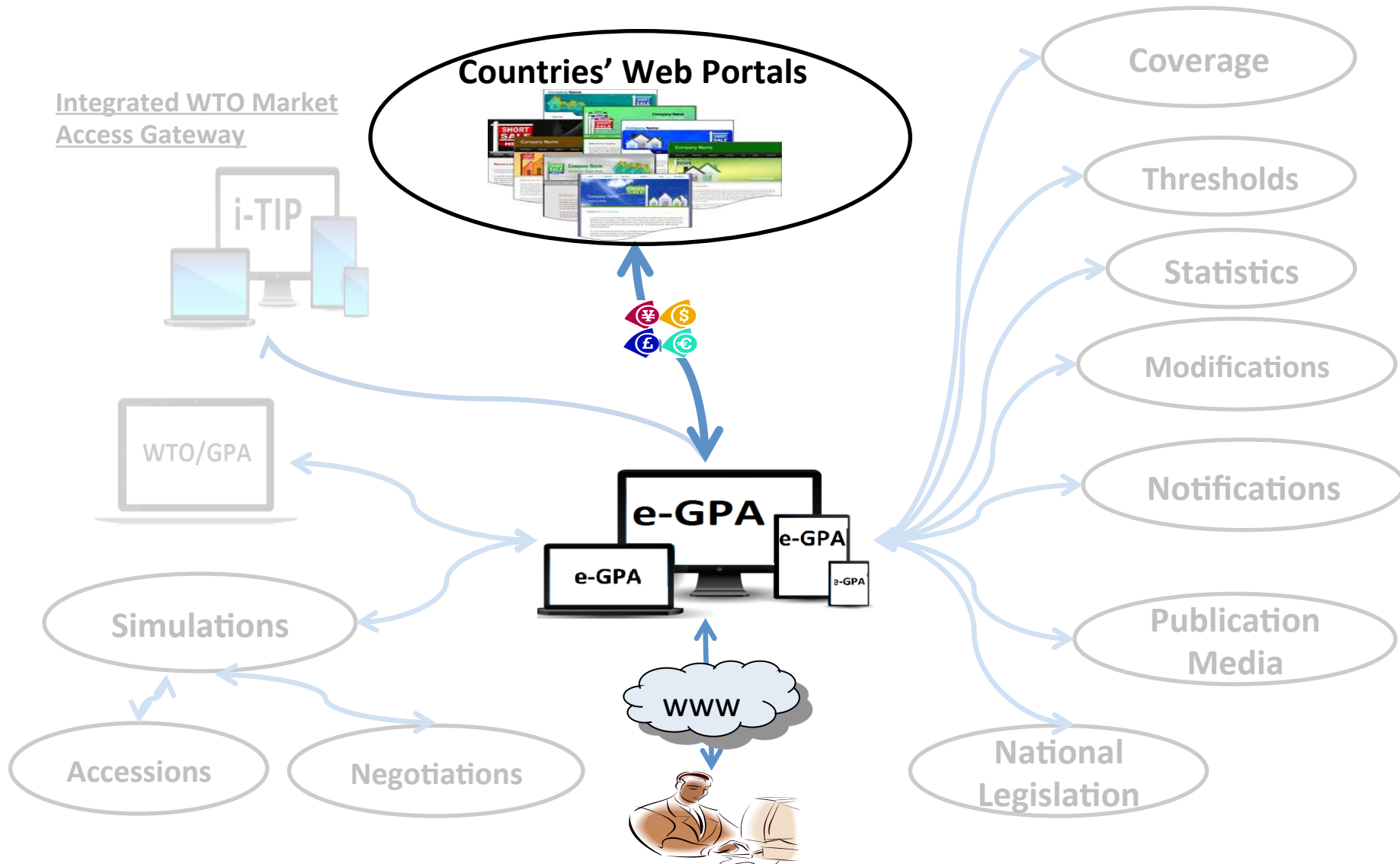
What next ? Future Developments

- What should be included in Phase III and subsequent phases ?
 - further modules, more advanced functions
 - **statistics**, enhancements to notifications
 - **digital submissions**, more external linkages
 - advanced modules: simulations (for accessions/negotiations)
 - Web services, further enhanced reporting, analytics
 - **The possibility to access, directly from the e-GPA portal, elements of information contained in procurement notices published in Parties' jurisdictions might be explored.**

WTO e-GPA portal: schematic illustration

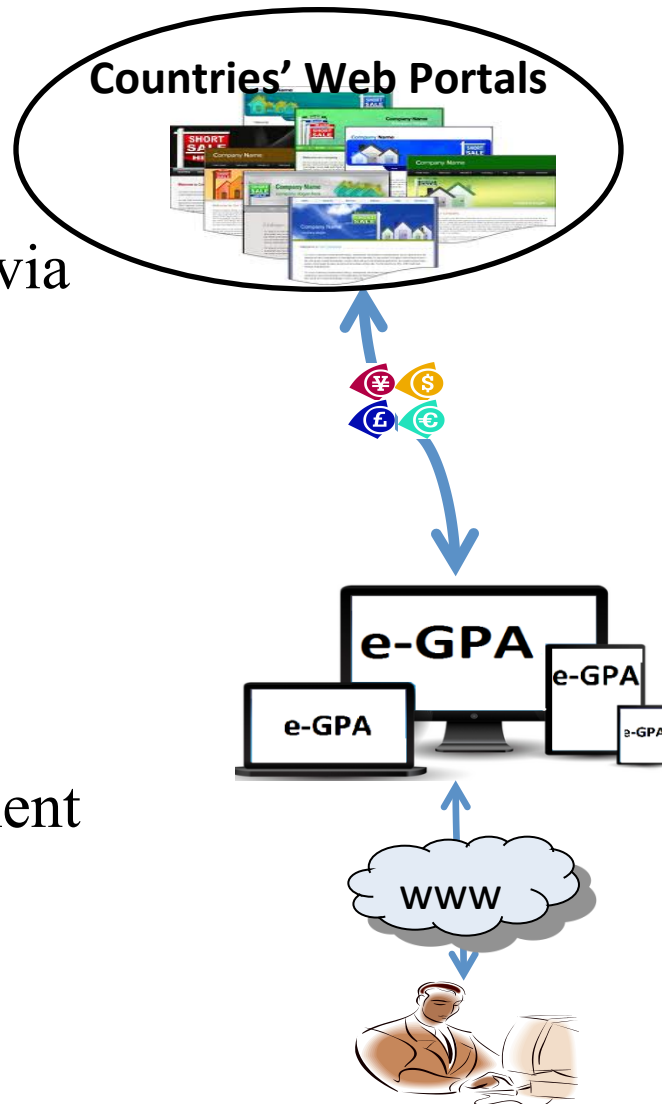


WTO e-GPA portal: schematic illustration



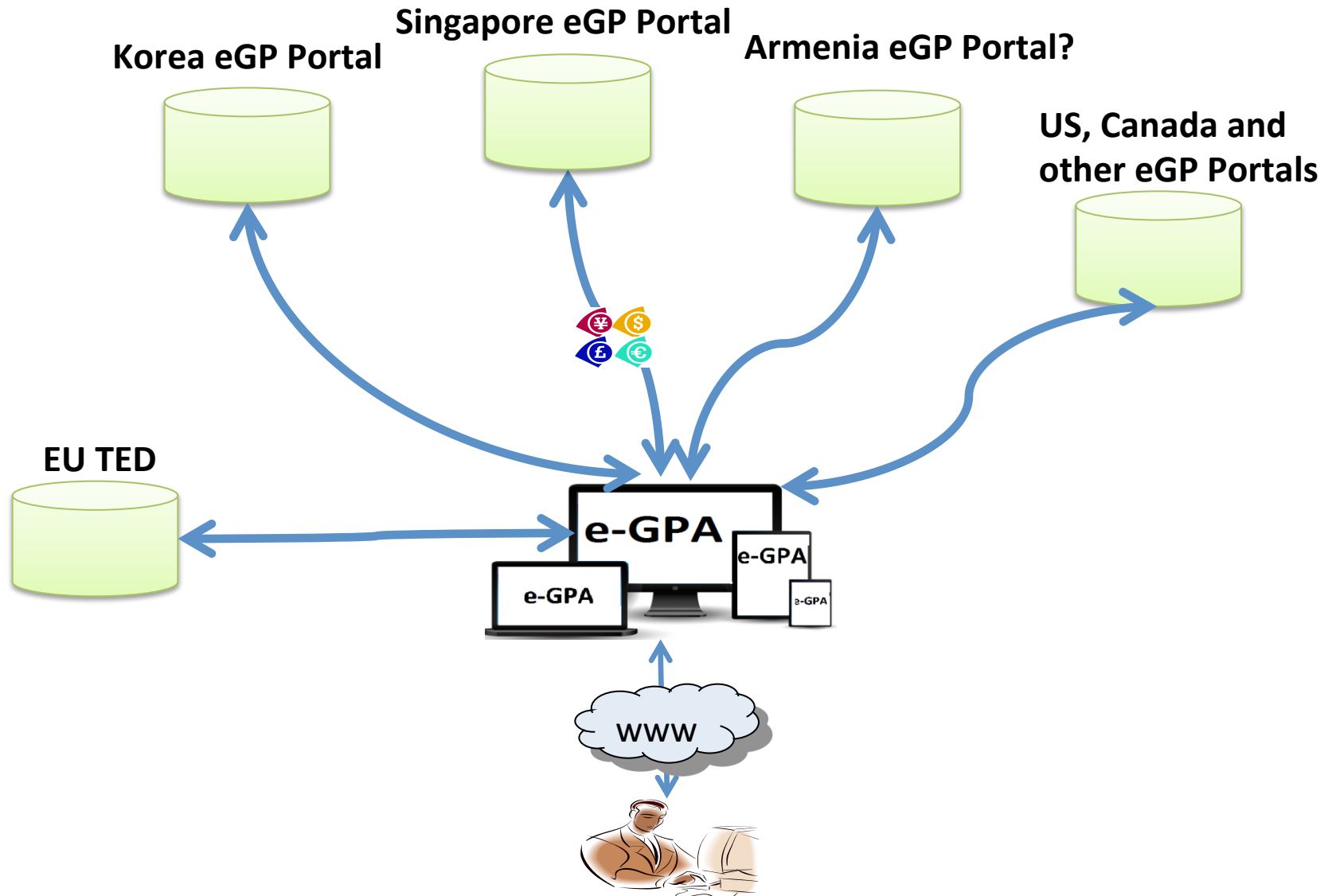
WTO e-GPA portal

Now: currently provides access, via links to **the GPA Parties' own websites**, to information published by the Parties regarding current procurement opportunities.



Future: Should it be developed to provide access, directly from the e-GPA portal, to elements of information contained in procurement notices covered by the GPA published in Parties' jurisdictions ?

WTO e-GPA portal: interoperability possibilities



What next ? Future Developments ?

How might it be approach ?

- Useful complement to national government procurement portals.
- Focus on elements of information contained in procurement notices covered by the GPA
 - Better advertise procurement opportunities, calls for tenders, award notices, etc.
- Details of all other aspects of the procurement process would still have to be determined by the participating government. For example,
 - E-submission, bids, offers, certifications, e-auctions, e-payment, e-signature, frameworks, e-catalogs₃₆ etc ...

What next ? Future Developments ? : interoperability of elements of the notices

- Information contained in the summary notice (to be provided in one of the WTO languages):
 - The subject matter;
 - Final date for the submission of tenders;
 - The address/URL where the tender documents may be requests.
- Information contained in the notice of intended procurement (no requirement regarding languages):
 - Name and address of the procuring entity (ID/Ref)
 - Description of the procurement
 - Time-frame of the contract
 - Procurement method
 - Deadline for submission of tenders
 - Conditions for participations
- Notice of planned procurement ? Award notices ?

What next ? Future Developments ? potential interoperability challenges (initial thoughts)

- **Single point of access for central gov. entities vs various gateway electronic sites**
- **Data structure**
- **Data standards**
- **Products/Services Classification systems**
- **Entities (ID)**
- **Push or Pull**

E-GPA: <https://e-gpa.wto.org/>

Live Demo !!



Integrated Government Procurement Market Access Information (e-GPA) Portal

[Home](#)[The GPA in Brief](#)[GPA Coverage ▾](#)[Publication media](#)[Assistance ▾](#)

Improving the transparency and accessibility of GPA market access information

Welcome to the integrated Government Procurement Market Access Information Resource (e-GPA) portal of the WTO.

This portal provides a single point of access to the market access information under the **Revised Agreement on Government Procurement (GPA)**, together with related information that the GPA Parties are committed to provide. It offers improved transparency and user-friendly accessibility to the relevant information, and aims to better publicize the up to \$1.7 trillion in market access opportunities available under the Agreement. The revised GPA entered into force on 6 April 2014. In particular, the site enables you to browse and search the Parties' coverage commitments, and create an output on screen reflecting your results. In appropriate cases, the outputs can be downloaded in a variety of file formats, or printed.

[Browse](#)[Advanced Search](#)[Thresholds](#)[Publication Media](#)[Modifications](#)[Generate an Output](#)