

The WTO's Agreement on Government Procurement (GPA 2012): An effective tool for achieving and locking in domestic government procurement reform and good governance, and for benchmarking domestic procurement systems

Government Procurement and Competition Policy Group,
IPD

Introduction

WHAT IS THE GPA 2012?

A plurilateral international agreement

- The Agreement provides legal guarantees of non-discrimination for the goods, services and suppliers of GPA Parties in covered procurement activities, which are worth an estimated USD 1.7 trillion annually
- Not all WTO Members are Parties to the GPA 2012, but the membership increases over time.
- The GPA 2012 is part of the WTO system and is enforceable under the DSU!

The objectives of the GPA 2012 include the following:

Exchange of reciprocal opportunities to access the GPA Parties' procurement markets for the Parties' goods, services and suppliers.


The "efficient and effective management of public resources" in the procurement markets of each participating WTO Member, by achieving greater value for money through enhanced competition in those procurement markets.

Strengthening good governance, including through transparency, avoidance of conflicts of interest and accountability mechanisms.

Encouraging the accession of other WTO Members to the Agreement, on mutually advantageous terms.

Increase in the number of Parties to the Agreement

Current GPA Parties and Observers



Art. XXII of the GPA
2012: “Any **Member
of the WTO** may
accede to this
Agreement”.

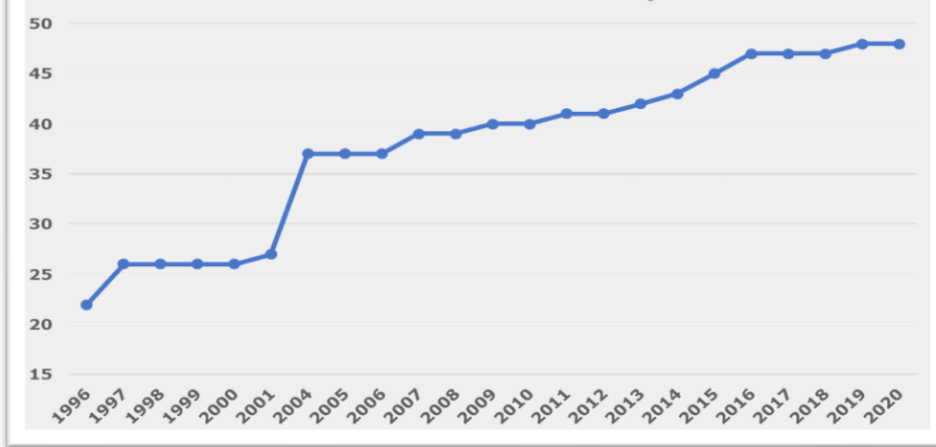


22 Parties covering
49 WTO Members

36 Observers,
including Argentina,
Brazil, China, India

Parties to the GPA 2012

Chart 1: WTO Members covered by the GPA



- Membership has grown over time
- 6 new Parties since the entry into force of the GPA 2012 : Montenegro (2015), New Zealand (2015), Ukraine (2016), Moldova (2016), Australia (2019)+ UK in its own right (2021), North Macedonia (2023).
- More developing countries have been joining. **The most recent is North Macedonia.**
- Geographical diversification

Armenia

Japan

North Macedonia

Norway

Australia

Korea

Singapore

Canada

Liechtenstein

Switzerland

EU (+ its 27 member States)

Moldova

Chinese Taipei

Hong Kong, China

Montenegro

Ukraine

Iceland

Netherlands w.r.t. Aruba

United Kingdom

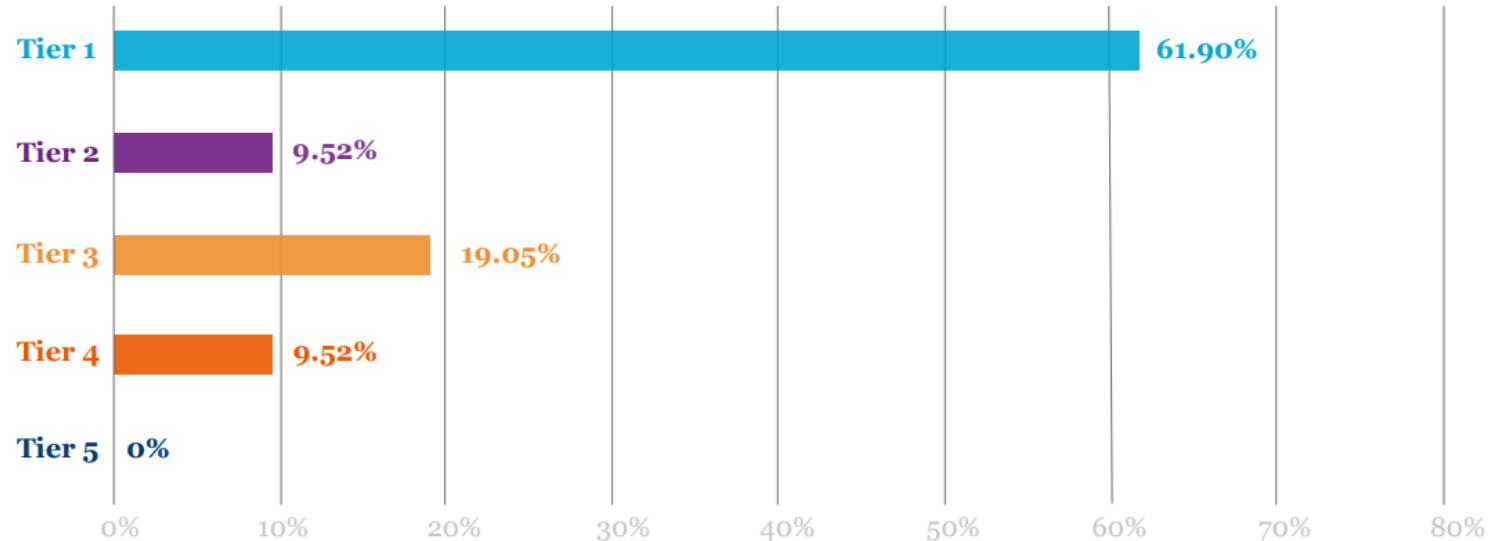
Israel

New Zealand

United States

WTO Member participation in the GPA 2012: is it only exporting powerhouses?

Ranking of GPA Parties as a Group by World Goods and Commercial Services Exports (2022)



Source: WTO-UNCTAD estimates. Estimates for goods are based on balance of payment statistics. The European Union counts as one GPA Party. As the available export data for Switzerland includes that for Liechtenstein, the graph treats the two GPA Parties as one.

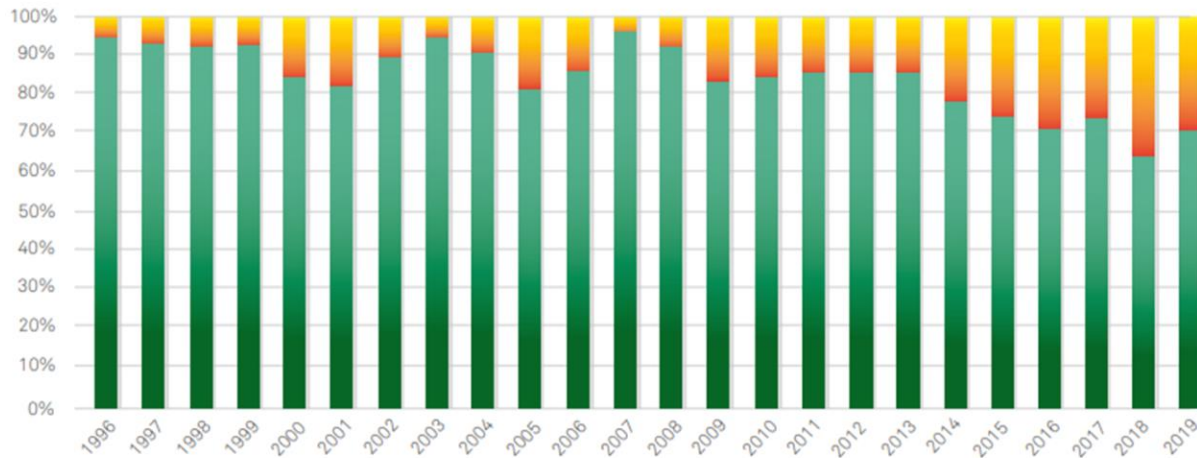
In what way can the GPA 2012
help governments achieve and
lock in domestic procurement
reforms and good governance?

Keeping procurement markets open

- The GPA 2012 requires the GPA Parties to open their markets (partially) and to keep them open even when there are pressures from the domestic industry to close them again.
- Only this way can governments hope to achieve the benefits of enhanced supplier competition (e.g. access to new products, higher quality, lower prices, etc.)

Keeping procuring entities on the path of virtue

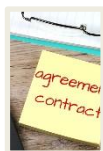
Frequency of use of
competitive tendering and
limited tendering methods
across all GPA Parties for GPA-
covered central government
procurement



Enhancing transparency of rules and in procurement procedures



Publication of contract opportunities (including in a WTO official language)



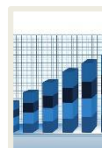
Publication of contract award notices (Article XVI:1 and 2)



In case of limited tendering, publication of a report with justifications




Maintenance of documents, reports and electronic traceability



Collection of statistics (Article XVI:4)

AIM: discourage discrimination, enhance competition and integrity, achieve accountability of government procurement decision-makers

Requiring impartiality and procedural fairness



Procuring entities are required to conduct covered procurement in a transparent and impartial manner that avoids conflicts of interest; and prevents corrupt practices.

A procuring entity shall receive, open and treat all tenders under procedures that guarantee the fairness and impartiality of the procurement process, and the confidentiality of tenders.

Ensuring accountability of procuring entities

What?

independent, speedy review of procurement decisions (e.g. regarding contract awards or qualification of suppliers)

When?

a supplier claims that a breach has occurred of the GPA 2012/the domestic law implementing the GPA 2012

Why?

ensuring systemic integrity (putting the spotlight on questionable practices) and correcting errors in the procurement process.

Enhance trust in procurement system and strengthen competition. Potential increase of direct foreign investment.

Help ensure compliance with the Agreement (hence reducing the number of WTO Dispute Settlement proceedings)

Who?

Domestic and foreign suppliers

The GPA 2012 nevertheless
leaves the GPA Parties a
substantial degree of flexibility

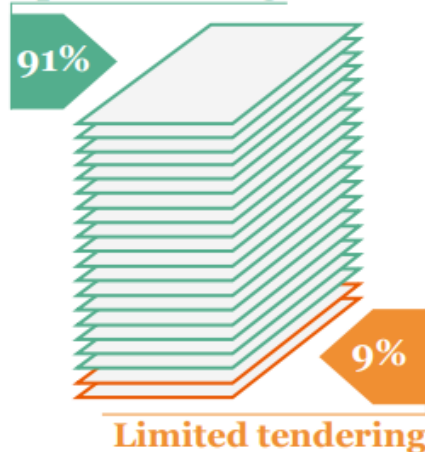
THE GPA 2012 IS...

- **flexible** in allowing its Parties to choose the means to achieve the ends (e.g. the Parties must have at least one independent administrative or judicial body to review procurement claims. The GPA 2012 does not prescribe further details);
- **a floor** and not a ceiling (e.g. publication of contract award notice within 72 days; in practice, Parties are publishing much earlier).

Procurement methods

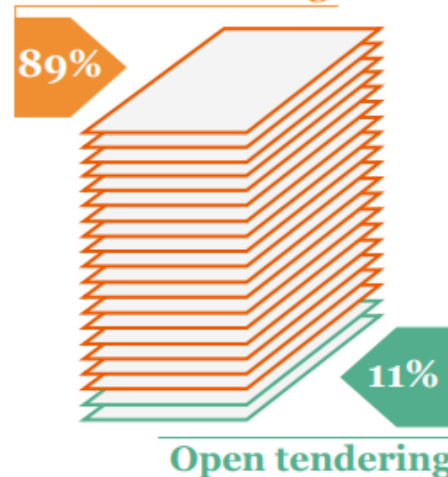
Flu vaccines procurement, 2018-2019

Open tendering



COVID-19 vaccines procurement, 2020-2021

Limited tendering

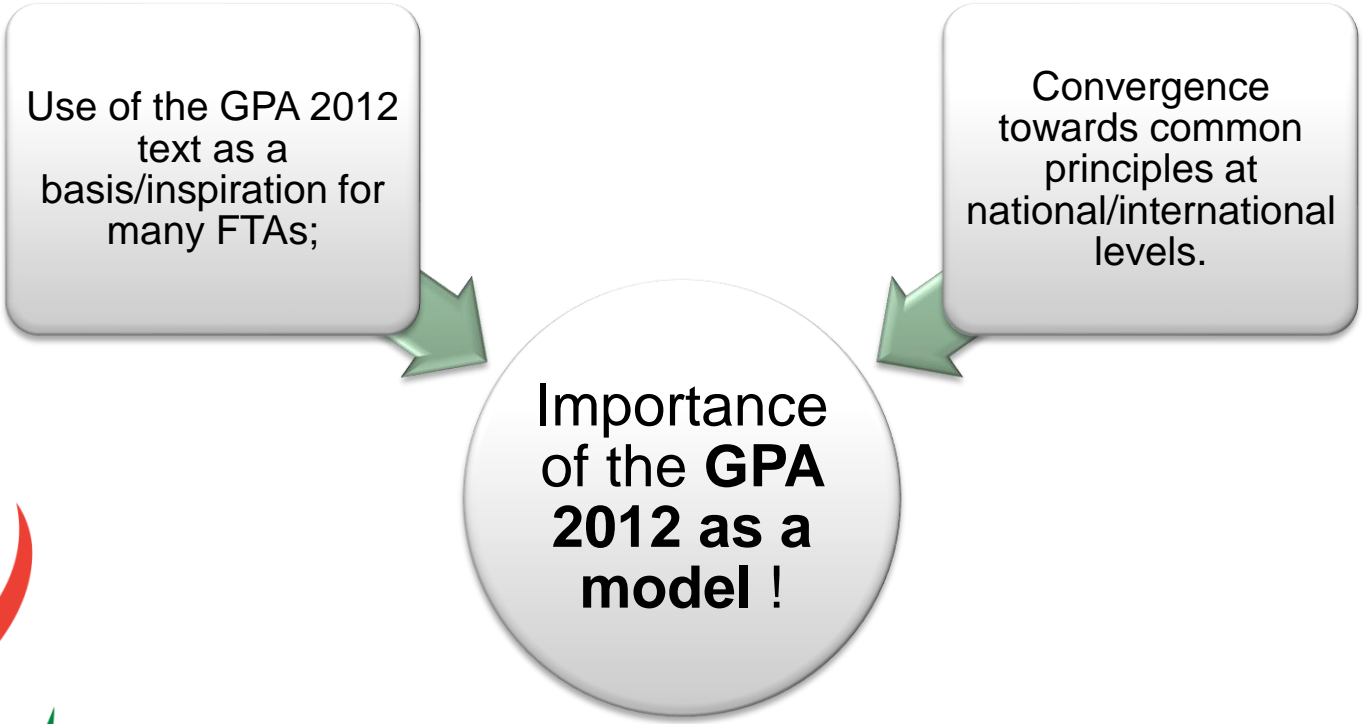


In what sense is the GPA 2012 an international benchmark?

The GPA 2012 and FTAs

Use of the GPA 2012
text as a
basis/inspiration for
many FTAs;

Convergence
towards common
principles at
national/international
levels.



```
graph TD; A[Use of the GPA 2012 text as a basis/inspiration for many FTAs;] --> C((Importance of the GPA 2012 as a model!)); B[Convergence towards common principles at national/international levels.] --> C;
```

Importance
of the **GPA**
2012 as a
model !

The GPA 2012 rules as a reflection of international best practices



The Agreement is an instrument negotiated by some of the leading jurisdictions worldwide when it comes to government procurement legislation and regulation, e.g. the EU, the US, Canada, Japan, the Republic of Korea, etc.


The GPA 2012 and the UNCITRAL Model Law



UNCITRAL designed the Model Law to be compatible with GPA.

UNCITRAL Model Law can be used to fulfil GPA legal requirements.

The GPA 2012 membership and access to the World Bank and the EBRD financing



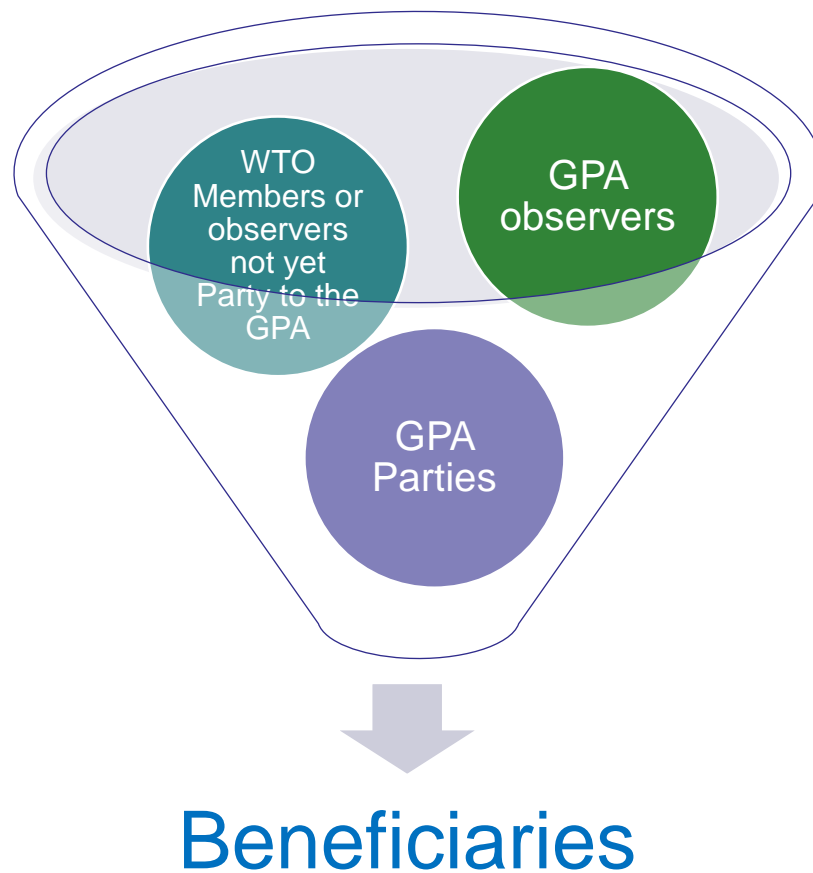
MDBs want to make sure that the countries receiving their funds have sound and confidence-inspiring procurement systems in place;

GPA membership provides relevant assurances and can help demonstrate that a procurement system meets the WB and the EBRD requirements.

Capacity building



The WTO Secretariat undertakes technical cooperation activities to assist developing and least-developed country Members in participating effectively in the WTO's work on government procurement.



TA IN COOPERATION WITH....

European Bank
for
Reconstruction
and
Development
(EBRD GPA TC
Facility as an
enabler);

Joint Vienna
Institute;

UNCITRAL
Secretariat;

Commercial
Law
Development
Programme
(US);

Asian
Development
Bank;

Academia, etc.

NATIONAL WORKSHOPS

Traveling to the requesting
Member/observer (travel
costs are covered)

AIM:

Explain and «demistify» the
GPA 2012

Reassure stakeholders
(policymakers, procuring
entities, private sector, civil
society, etc) before and
during the accession
process.

TAMS – REQUESTING A NATIONAL WORKSHOP



Technical Assistance
Management System

[English](#) | [Français](#) | [Español](#)



[→\] WTO Sign in \(Members and Secretariat\) ? →\]](#) [Log in \(other users\)](#)

[Home](#)

[Dashboards](#)

[Resources](#)

[Contact](#)

As a result of Covid-19, activities may be postponed or cancelled



Request a national
activity

Available resources

E-Learning Course on GPA 2012



COURSE · GOVERNMENT PROCUREMENT AGREEMENT (GPA 2012)

Objectives, Rules and Operation of the GPA 2012 – G...



[Go to course](#)

Relevant Knowledge Series episodes



WORLD TRADE
ORGANIZATION

- Not just market access: The GPA 2012 as an instrument of good governance in government procurement;
- The GPA 2012 and the prevention of corrupt practices in government procurement: A comparative assessment.

Both episodes are available at: [WTO - Government Procurement Agreement Knowledge Series](#)

Conclusion

- The GPA membership is increasing; North Macedonia is the latest Party to join!
- The GPA 2012 helps governments achieve and lock in domestic procurement reforms and good governance;
- The GPA 2012 is flexible. It is not prescriptive and is principle-based;
- The Agreement is a benchmark for FTAs and other international instruments;
- If you wish to learn more about the Agreement, technical assistance is available!