

ACCESSION TO THE GOVERNMENT PROCUREMENT AGREEMENT OF THE WTO: COSTS AND CHALLENGES FOR DEVELOPING COUNTRIES

Oleksandr Dorofiev*

ABSTRACT

Nowadays, government procurement is one of the key instruments to implement the state policy on the one hand and to exercise profitable opportunities for business on the other hand. Due to the fact that government procurement covers almost all public works, services and supply contracts and involves huge amounts of money it has a significant importance for developing countries, where government procurement sphere is one of the most corrupted. Thus, it is highly important to adopt and reform its own domestic legislation as well as to become a part of international treaties, which regulate public procurement sphere. One of such treaties is Government Procurement Agreement of the World Trade Organization. Though there are many benefits, which are provided by the Agreement it is still widely criticized by developing countries. Their main concern is that the accession to the GPA will lead to economic losses and inability of domestic suppliers to compete with foreign ones. In order to declare whether it is right or wrong it is highly important to examine thoroughly potential benefits and costs of the accession of developing country. The results of the research show us that despite some costs, benefits still outweigh them.

* PhD student, National University "Odessa Law Academy"; oleksandr.dorofiev@gmail.com

“No other issue is as important as addressing the plight of the poor nations.”¹

Former Director-General of the WTO, Mike Moore, upon taking office in 1999.

1. INTRODUCTION

Any countries' economic development is highly dependent on its government procurement policies. Reduction of poverty, enhancement of its educational and healthcare system, development of infrastructure and any other state goals requires the use of government purchases.

An effective government procurement system is a good instrument towards the effective management of limited public expenditures in developing countries, because it allows for the state to save funds and use them in another area. In addition, the effective government procurement system is also a good weapon in fighting corruption, which is, obviously, a major problem of any developing country. Efficient government procurement systems can also lead to higher quality purchases. As a consequence, effective public procurement policies result in enhanced country welfare.

To pursue the above-mentioned goals, a country not only adapts and reforms its domestic legislation, but also interacts with other states via collaborating in international organizations, as well as signing and joining various international agreements. One such platform for negotiations is WTO, whose Government Procurement Agreement (GPA) serves as an important tool to achieve these goals.

Despite occasional references to developing countries in the preamble of the GPA and assistance to developing and least developed countries from the WTO, many WTO members are still quite skeptical regarding accession to the Agreement. Many of them are convinced that developing countries do not have equal opportunities like developed countries and, therefore, cannot adequately compete with many developed countries. Moreover, due to the openness of its market to all member countries of the GPA, domestic manufacturers are the ones who will suffer, not being able to compete with foreign suppliers.

¹ Press Release, World Trade Organization, Moore Calls for Greater Efforts to Assist Poor Countries (Sept. 1, 1999).

2. POTENTIAL BENEFITS OF GPA ACCESSION FOR DEVELOPING COUNTRIES

2.1. POTENTIAL EXPORT MARKET GAINS FROM ACCESS TO THE OTHER GPA PARTIES' COVERED PROCUREMENT MARKETS

The biggest motivation for any country, which wants to join the GPA regardless of its economic development is, undoubtedly, to get a guaranteed access to other GPA members' procurement markets on preferential conditions, which are related to the Parties' schedules. Thus, the accession of a particular country is viewed by many scholars as a good opportunity, which "assures foreign suppliers of ability to participate in procurement on same basis as domestic suppliers",² without facing any obstacles such as barriers to participate.

In accordance with the available data, "the total value of market access opportunities under the GPA has been valued at around \$US 1.7 trillion in 2015.³ This represents more than 2.5 % of world GDP for the same year. Besides, it was evaluated that the EU and the US constitute approximately \$US 1.2 trillion or 75 % of the total value of existing market access opportunities under the GPA.⁴ In case of, for example, many South American countries, which have strong economic relations with the US and Eastern European states, which are inextricably linked with the EU, accession to the GPA appears for them extremely attractive.

To find out more regarding market access opportunities of developing countries, we can use the available data, based on the GPA Parties' statistical reports, which can give us much more broad and itemized information on sectors of potential interest for specific developing countries. Also, we can use the data of three specific developing countries (Mexico, Georgia and Vietnam) in order to find out their ability to become a public procurement supplier. The following table relates to the statistical reports, which were submitted by the EU, United States and Japan. It shows 10 specific areas, in which the EU, US and Japan have a potential interest: 1) construction services; 2) pharmaceutical

² Heilman Grier, Office of the U.S. Trade Representative, "Market access opportunities under the GPA" (accessed on 21 September 2014), http://www.wto.org/english/tratop_e/gproc_e/symp_feb10_e/grier_3_e.pdf.

³ "Government Procurement Agreement. Opening markets and promoting good governance", WTO, GPA Brochure 2015, https://www.wto.org/english/thewto_e/20y_e/gpa_brochure2015_e.pdf.

⁴ R. Anderson, K. Osei-Lah, Anna Caroline Muller, "Assessing the value of future accessions to the WTO Agreement on Government Procurement (GPA): Some new data sources, provisional estimates, and evaluative framework for individual WTO members considering accession", *Public procurement law review*, 34, 2011, p. 18.

products, health services and related entities; 3) computer and related services; 4) telecommunication services; 5) chemical products; 6) fuels and petroleum products; 7) machinery and associated products; 8) textiles, clothing and footwear; 9) plastic and rubber products; and 10) wood products.⁵

Table 1: Market Access Opportunities of Potential Interest in GPA Parties' Government Procurement Markets⁶

Parties/Specific Sectors	European Union (2007)	Japan (2008)	United States (2008)	TOTAL
Construction Services	\$US 125.7 billion	\$US 11 billion	\$US 287 billion	\$US 423.7 billion
Pharmaceutical Products, Health Services and – Related Entities	\$US 15.1 billion	\$US 1.46 billion	\$US 120 billion	\$US136.56 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 billion	\$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
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
Wood Products	\$US 195 million	\$US 62 million	-	\$US 257 million
TOTAL	\$US 236.4 billion	\$US 15.51 billion	\$US 423.71 billion	\$US 675.63 billion

The table above indicates the amount of market access opportunities as well as the list of specific areas of interest for each country. In this respect, if Mexico, for instance, joins the GPA, it can become a potential supplier for the EU, US or even Japan in certain areas such as: 1) Chemical products; 2) Fuels and pe-

⁵ R. Anderson, K. Osei-Lah, Anna Caroline Muller, "Assessing the value of future accessions to the WTO Agreement on Government Procurement (GPA): Some new data sources, provisional estimates, and evaluative framework for individual WTO members considering accession", *Public procurement law review*, 34, 2011, p. 19.

⁶ Ibid.

troleum products; 3) Machinery and associated products; 4) Textile, clothing and footwear. In the same way, Georgia would have great potential to become a supplier for: 1) Wood products; 2) Textile, clothing and footwear as well as Chemical products. Vietnam, it can be assumed, would, undoubtedly, succeed in: 1) Fuels and petroleum products; 2) Machinery and associated products and 3) Textile, clothing and footwear. The above-mentioned sectors are among 10 the most sought-after goods of these countries on the world market.

If Mexico, Georgia and Vietnam accede to the GPA, they will get assured access to the procurement markets of 45 states and some of them would have the potential to become leading suppliers in the above-mentioned sectors. For example, considering only the EU, US and Japan markets in the aforementioned sectors, Mexico, for instance, could receive market access opportunities exceeding the amount of \$US 59,32.

2.2. ENHANCED COMPETITION AND IMPROVED GOVERNANCE IN THE ACCEDING WTO MEMBER'S OWN PROCUREMENT MARKETS

Enhanced competition: Apart from gaining an assured access of other countries' procurement markets, another key goal of the GPA is, undoubtedly, enhanced competition and, as a result, improved governance in a country, acceded to the GPA.

With respect to the above mentioned benefit, it is highly important for any country, especially for developing countries, which are facing difficulties in a realization of good governance and struggling with a high level of corruption.

The GPA facilitates competition in four different ways. First and foremost, it obliges parties to open their markets to international competition via Market access or "coverage" commitments that are negotiated and included in the specific schedules of the Appendix I of the GPA. Secondly, the various provisions of the Agreement relating to the provision of information to potential suppliers, contract awards, qualification of suppliers and other elements of the procurement process provide a framework that is intended to ensure transparent and non-discriminatory conditions of competition between suppliers, including both domestic and foreign suppliers.⁷

⁷ "Competition Policy and International Trade Liberalisation: Essential Complements to Ensure Good Performance in Public Procurement Markets", Robert D. Anderson and William E. Kovacic, 2009, p.72, (accessed on 12 October 2014), http://www.ftc.gov/sites/default/files/documents/public_statements/competition-policy-and-international-trade-liberalisation-essential-complements-ensure-good.anderson/2009procurementmkts.pdf.

These rules, fixed in the Agreement are utterly important, because many governments, especially developing countries, experience a strong influence to constrain competition and to favor conditions for particular suppliers (usually domestic ones) in the procurement processes. Thus, these rules help to ensure that the procurement process is exercising in a transparent way with a fair competition and non-discrimination with respect to bidders.

“Thirdly, the Agreement on Government Procurement requires that all GPA parties put in place national bid challenge systems (“domestic review procedures”) through which suppliers can challenge questionable contract awards or other decisions by national procurement authorities”.⁸ Such well-organized bid challenge systems are highly important in developing countries, where corruption and nepotism serves as an instrument to strengthen unfair competition. Therefore, it increases the level of credibility and gives a confidence to bidders that the winner will be chosen on the fact of the quality and price rather than through corrupt schemes or someone’s patronage.

Fourthly, the Agreement ensures right of any party to recourse to the WTO DSU in case a particular party convinced that the competition was not fair and was repressed by any other party, which created conditions, breaching the GPA.

It is quite often when suppliers from developing countries are faced with the fact that the organizers of trading from developed countries, wary of the companies of the countries which are in a difficult economic situation and do not allow those companies to tender or choose the other participants, based on the instability of some developing countries. This barrier has been removed: an international treaty prohibits discrimination, and its force is above many national legal acts. Access to markets is opened.

Improved governance: This benefit is highly broad, and therefore it can be divided in few sub-benefits.

First of all, the accession to the GPA will be an important tool for bringing/enhancing transparency into/in government procurement. This is because, the accession to the GPA requires putting in place domestic laws with compliance with the rules in the GPA. Apart from improved domestic laws, there are also relevant provisions in the GPA regarding the transparency, with Parties shall comply.

The lack of transparency in government procurement is a unique problem for all developing countries, where many decisions are taken with the lobbying or sometimes even by clear bribery from specific groups within the country.

⁸ *Ibid.*, p.73.

Transparency in government procurement is vital because it is viewed as a major instrument, which can eradicate, or at least limit the level of corruption.

By the compliance of transparent procurement process, and specifically, by the application of transparent award procedures, the scope of corrupt practices will be, undoubtedly, affected. Therefore, the main purpose of transparency, gained from the accession to the GPA is to promote openness in the public procurement system so that all the stakeholders will be enabled to have unhindered “access to information about the procurement activities and thereby reduce potential public procurement corruption”.⁹

Moreover, enhanced competition because of the increased transparency results in quality of procurements, bought for governmental needs. The quality of products can be extremely important for some LDCs in Africa or Asia, in case of quality of pharmaceutical services, for example.

Cost savings: The main objective of all public procurement systems is to achieve the best possible value for money – that is, to successfully “acquire the goods, works or services needed by the government on the best available terms”.¹⁰ Unfortunately, nowadays, many developing countries face challenges regarding inefficient use of money, destined for government procurements. The reason is almost the same – not transparent and corrupt procurement process. It is very often when in such processes, the winner supplies goods, works or services not only with a worse quality, but also with a much higher price.

Many scholars (Evenett, Hoekman, R. Anderson) are convinced that “some developing countries can realize substantial savings to their public treasuries through the implementation of more transparent and competitive government procurement regimes”.¹¹ One of such instruments to reach transparent and competitive regime can be accession to the GPA. In 2011, the OECD conducted a research of the advantages of transparency and competitive procurement processes refers to the below-mentioned examples of benefits gained in certain countries:

⁹ Dr. Kofi Osei-Afoakwa, “How Relevant is the Principle of Transparency in Public Procurement?”, *Developing Country Studies*, Vol.4, No.6, 2014

¹⁰ Sue Arrowsmith, “Regulating Public Procurement”, Kluwer Law International, 2011, Cambridge, p. 28.

¹¹ R. Anderson, Philippe Pelletier, K. Osei-Lah, Anna Caroline Muller, “Assessing the value of future accessions to the WTO Agreement on Government Procurement (GPA): Some new data sources, provisional estimates, and evaluative framework for individual WTO members considering accession”, *Public procurement law review*, 34, 2011, p. 29.

Table 2: Examples of Cost-Savings in Developing Countries Based on the Implementation of More Transparent and Competitive Procurement Systems¹²

<p>A 2003 OECD study of the benefits of transparent and competitive procurement processes refers to the following examples of benefits achieved:</p> <ul style="list-style-type: none">– In Bangladesh, a substantial reduction in electricity prices due to the introduction of transparent and competitive procurement procedures.– A saving of 47 per cent in the procurement of certain military goods in Columbia through the improvement of transparency and procurement procedures.– A 43 per cent saving in the cost of purchasing medicines in Guatemala, due to the introduction of more transparent and competitive procurement procedures and the elimination of any tender specifications that favor a particular tender.– A substantial reduction in the budget for expenditures on pharmaceuticals in Nicaragua, due to the establishment of a transparent procurement agency accompanied by the effective implementation of an essential drug list.– In Pakistan, a saving of more than Rs 187 million (\$US 3.1m) for the Karachi Water and Sewerage Board through the introduction of an open and transparent bidding process.
--

For many developing countries, the implementation of more transparent and competitive procurement regime can be a consequence of the accession to the GPA, which can be the starting point for further modernization of government procurement sphere.

The accession to the GPA can increase the level of transparency, and thus, to force corrupt suppliers to leave the market or at least, to improve the quality of the good and make a cheaper price. The creation of transparent and fair procurement system gives an opportunity to a government to procure goods from effective domestic suppliers.

Besides, developing countries, joined to the GPA will be able to procure goods, works or services not only from effective domestic suppliers but from competitive international suppliers as well.

Therefore, it can be stated that, accession to the GPA can lead to low-cost procurements and, ultimately, to budgetary savings.

The accession to the GPA together with further successful reforms and elimination of the corruption in government procurement area can promote the

¹² Ibid., p. 30.

integrity and effectiveness in the whole public service.¹³ The success in procurement sphere can lead to the conduction of reforms in other departments of the political system in conformity with international standards. So, the accession to the GPA can become a new starting point for a developing country in improvement of existing and implementation of new laws for greater transparency and competition.

The last, but not the least is that, the decreased level of corruption as a result of the accession to the GPA can help to increase a level of probity as well as to affect ethical standards of public officials in the long-run. However, it's worth noting that accession may lead to greater probity only if there is existing appropriate corruption control environment. In many cases the stipulations as they exist on paper are not implemented correctly. As a result the good intentions of the GPA regulations may not yield the desired effect as they may be flouted at will by reluctant officialdom.¹⁴

2.3. OTHER POTENTIAL BENEFITS

Apart from the above mentioned key benefits, there are some other important advantages, complementing the objective of the accession to the GPA.

Foreign Direct Investment: Many foreign investors are not really sure whether to operate in developing countries or not. This can be due to many reasons: political or economical instability, high level of corruption, etc. In this regard, "GPA membership may be seen as an international "stamp of approval" that might encourage inbound foreign direct investment in entities desirous of participating in construction and other public procurements".¹⁵ However, not only the fact of the accession to the GPA can be that reason, encouraging foreign entities. The fact that the procurement process is open, transparent and competitive gives an insight of predictable investment regime in a particular developing country, so foreign entities fell more confident in taking risks.

Opportunity to participate in further GPA negotiations: The last benefit gives an opportunity to developing countries to participate in further negotiations regarding the Government Procurement Agreement.

¹³ Interview with Kofi Osei-Afoakwa, Doctor of Accounting, Finance Department, University of Mines and Technology, Odessa-Tarkwa, 30 October 2014.

¹⁴ Ibid.

¹⁵ R. Anderson, Philippe Pelletier, K. Osei-Lah, Anna Caroline Muller, "Assessing the value of future accessions to the WTO Agreement on Government Procurement (GPA): Some new data sources, provisional estimates, and evaluative framework for individual WTO members considering accession", *Public procurement law review*, 34, 2011, p. 31.

Job creation: Many developing countries have serious problems with respect to employment of its workers. However, in the long run GPA can become a partial solution for this challenge. “Foreign suppliers generally require of nationals subcontractors to operate in the country. This contracts and partnerships mean employment opportunities”.¹⁶

3. COSTS AND CHALLENGES

In order to estimate the potential costs, occurs from the negotiations for the accession to the GPA, any country, especially developing one should be aware of:

- 1) Preparation for the negotiations by conducting feasibility studies, etc.
- 2) Ensuing losses to domestic suppliers if governments bodies find foreign suppliers cost effective.
- 3) Cost of harmonizing domestic legislation with the WTO GPA and other international instruments pertaining to procurement.
- 4) Instituting, and maintaining systems to satisfy requirements posited by the WTO GPA, especially with respect to statistical reporting, judicial mechanisms, etc.¹⁷

Negotiating costs: With respect to the first challenge, it will undoubtedly depend on characteristics of the accession candidate. Such characteristics can be the size of a state or governmental structure. For instance, the negotiating costs will be much higher for Mexico due to the big territory of a country. Conversely, “small” candidates like Georgia or Vietnam will face smaller costs. With respect to this feature, many small developing countries seek for assistance from some intergovernmental organizations or governance institutes.¹⁸ Armenia, for example, enlisted the support of the SIGMA, a governance institute, affiliated with the European Union and the OECD and helping to Armenia

¹⁶ Monica M. Diaz, “Cost-benefit of WTO Government Procurement Agreement”, Trade meets Development, 2013, (accessed on 12 October 2014), <http://trademeetsdevelopment.wordpress.com/2013/05/15/cost-benefit-of-wto-gouvernement-procurement-agreement>.

¹⁷ Vinitha Johnson, “Should India join the WTO GPA?”, CUTS International, 2011, p. 2, (accessed on 13 October 2014), http://www.cuts-citee.org/GP/pdf/Briefing_Paper13-Should_India_Join_the_WTO_GPA.pdf.

¹⁸ R. Anderson, Philippe Pelletier, K. Osei-Lah, Anna Caroline Muller, “Assessing the value of future accessions to the WTO Agreement on Government Procurement (GPA): Some new data sources, provisional estimates, and evaluative framework for individual WTO members considering accession”, *Public procurement law review*, 34, 2011, p. 32.

during the accession process, in particular, “bringing the procurement legislation of Armenia in conformity with the GPA Directives”.¹⁹

Next feature, important for negotiating costs is a type of a governmental structure. For example, countries with a federal governmental structure will face higher negotiating costs than countries with a unitary structure.

Besides, the potential costs affiliated with the negotiating of the accession to the GPA need to be evaluated. This is because members can provide an absolutely different treatment to other members within the Agreement. Therefore, a country should be aware of the amount of procurements, ensured by each governmental entity. “As a result, every new entrant would need to assess, prior to commencing negotiations to enter the WTO GPA, whether it has undertaken enough preparation to initiate negotiations into the WTO GPA”.²⁰

Costs of legislative/institutional adaptation: These costs vary on the fact of institutional and legislative reforms, necessary for fulfillment of the GPA requirements which were conducted by a country. If a country conducted such reforms the price of institutional adjustment and implementation costs will, undoubtedly, be lesser. Vice versa, if a country did not made any steps toward harmonization of its law with the GPA requirements the costs will be higher.

To this moment, the vast majority of candidates have adapted or reformed its national legislation in compliance with the GPA requirements.

The main factors underlying this trend appear to be: (i) a growing awareness of the importance of procurement policies as an aspect of governance with implications for development and the welfare of citizens; (ii) reforms to national procurement systems that have been implemented to facilitate the use of such systems in relation to assistance provided by multilateral development banks and other organizations, with a view to making more effective use of such assistance; and (iii) reforms driven by countries’ participation in regional trade agreements that require adherence to GPA-style disciplines;²¹

¹⁹ “Armenia: Case Study on e-Government Procurement Development”, Karen Baghdasaryan, Asian Development Bank, 2011, p. 9, (accessed on 13 October 2014), adbprocurementforum.net/wp-content/uploads/Armenia-eGP-case-study-June2011.pdf.

²⁰ Vinitha Johnson, “Should India join the WTO GPA?”, CUTS International, 2011, p. 2, (accessed on 13 October 2014), http://www.cuts-citee.org/GP/pdf/Briefing_Paper13-Should_India_Join_the_WTO_GPA.pdf.

²¹ R. Anderson, Philippe Pelletier, K. Osei-Lah, Anna Caroline Muller, “Assessing the value of future accessions to the WTO Agreement on Government Procurement (GPA): Some new data sources, provisional estimates, and evaluative framework for individual WTO members considering accession”, *Public procurement law review*, 34, 2011, p. 33.

However, with respect to this, Art. 5 of the GPA determines certain concessions and flexibilities to developing countries and circumstances, in which such transitional measures can be used. Art. 5.3 defines these measures as: “1) price preferences; 2) offsets; 3) phased-in addition of specific entities or sectors; and 4) thresholds that are initially set higher than their permanent threshold”.²²

Furthermore, Art. 5.4 of the GPA determines the possibility for developing countries to be allowed for the delayed application of any specific obligation in the Agreement for up to 3 years.²³ Also, even after the GPA “has entered into force for a developing country, the Committee, on request of the developing country, may extend the transition period for a measure adopted or maintained under paragraph 3 or any implementation period negotiated under paragraph 4”.²⁴

As a consequence, such flexibilities and concessions give to a country an opportunity to not face massive costs just after the accession and gives a time to put in order its domestic legislation in compliance with the GPA requirements.

Potential adverse impacts on local suppliers: The third factor, halting any country’s willingness to accede to the GPA is, probably, the most important and can cause the most serious costs. This is likelihood that some domestic suppliers will incur losses because of the substitution by foreign suppliers.

Basically, certain suppliers of any country, especially the suppliers of developing countries, acceding to the GPA will incur losses. However, the situation with each country is unique. In order to estimate possible losses for domestic suppliers, a country has to estimate the information regarding the size of the public procurement market and percentage of foreign suppliers, participating and winning in the biddings.

Chinese Taipei is a good example of how foreign suppliers as a result of the accession to the GPA occupy and dominate the domestic market.

²² Art. 5.3 of the GPA, signed on April 15, 1994.

²³ *Ibid.*, Art. 5.4.

²⁴ *Ibid.*, Art. 5.6(a).

Table 3: Procurement Contracts Signed with Foreign Suppliers in Chinese Taipei²⁵

Total procurement value in 2011 (TWD)	Procurement value by domestic suppliers (TWD)	Procurement value by US suppliers (TWD)	Procurement value by EU suppliers (TWD)	Procurement value by Japanese suppliers (TWD)
204,084,216,276 (ca. USD 7 billion)	64,689,754,235 (31%) (ca. USD 2.2 billion)	7,820,366,218 (3, 7%) (ca. USD 270 million)	14,848, 546,642 (7%) (ca. USD 512 million)	111,952,150,786 (53%) (ca. USD 3.8 billion)

The above mentioned figures show that the three-quarters of domestic market of Chinese Taipei are dominated by foreign suppliers. On the one hand it can be viewed as an opportunity for domestic countries to supply its own goods to Chinese Taipei and other developing countries. However, on the other hand, the vast majority of contracts with Chinese Taipei were signed with developed states, primarily by its neighbor, Japan. It gives us a concern that many developing countries just will be not able to compete with such highly developed states.

Moreover, another concern relates to the fact that foreign suppliers dominate the procurement market of Chinese Taipei. Can it be viewed as a threat for developing countries? Can other countries, especially those, which are not that competitive become just a “sales market” for developed countries whereas domestic suppliers of developing countries will not be able to compete with highly developed states on identical conditions?

Difficulties with an access to government procurement information: Another disadvantage of the accession to the GPA is a small opportunity to the relevant procurement information. Article IX of the GPA obliges Parties to publish an invitation to participate in the biddings in all cases of intended procurement. “The notice shall be published in the appropriate publication”.²⁶ However, some Parties like Norway do not publish its procurement information on-line, which creates certain difficulties for other Parties to get an access to procurement information.²⁷ Moreover, some Parties like Japan publish its government procurement information in its national language. It creates certain difficulties

²⁵ Ibid.

²⁶ Article 9 of the GPA, signed on April 15, 1994.

²⁷ WTO, Appendix IV, “Website address or addresses where parties publish procurement statistics pursuant to article XVI:5 and notices concerning awarded contracts pursuant to article XVI:6, p.3, (accessed on 17 October 2014), http://www.wto.org/english/tratop_e/gproc_e/rev_apiv_e.pdf.

for other Parties. For instance, Japan publishes its information on tender in its official gazette, “*Kanpo*”, in Japanese language.²⁸ It, undoubtedly, creates certain obstacles for other suppliers, especially from developing countries, which lack the specific technical and information capabilities. The biggest challenge is that it is quite hard to get an access to Japanese gazette, which is not available in many other countries. Besides, not every supplier, especially from developing countries can get an access to the procurement information, written not in English language.

4. CONCLUSION

For any developing country, the accession to the GPA faces many benefits as well as certain costs and challenges.

Some benefits are highly important for developing countries, and the accession to the GPA is a good tool for developing countries to embody them. First of all, it's good governance. This advantage is the most valuable benefit from the accession to the Agreement. It creates certain conditions, in which a developing country will have to reform and adopt its own laws in a compliance with the GPA. Moreover, the accession will ensure that specific GPA-provisions related to transparency are complied by a developing country. So, the possibility for corrupt schemes will be significantly limited, which will ultimately lead to enhanced transparency and elimination of corruption. Consequently, more saved budget funds will be used for important goals of the government.

Another benefit relates to the enhanced competition. As it is known, the vast majority of agreements on public procurement in developing countries are conducted with domestic participants. This often leads to the situation where low-quality suppliers with a much higher price win the biddings. At the end of the day, government spends more money of taxpayers. However, the accession to the GPA expects that such situations are almost impossible due to the fact that the whole process is transparent and more suppliers participate in the biddings: domestic suppliers as well as foreign.

With respect to the costs, the main fear of the accession is a possibility for suppliers of the developing countries to be substituted by foreign ones. Moreover, an unimpeded access on foreign procurement markets cannot ensure that goods, works and services of developing countries will be able to compete with goods, works and services from developed countries. However, it all gives an incentive for suppliers of developing countries to improve the quality of its

²⁸ “Japanese Government Procurement”, Japan External Trade Organization, (accessed on 23.10.2014), <http://www.jetro.go.jp/en/database/procurement/procurement.html>.

procurements. This requirement is financially costly, but in the medium-run it can help domestic producers to become successful on tenders, held on foreign government procurement markets.

Considering all the above-mentioned advantages and disadvantages of the accession of developing countries to the GPA, the conclusion is that the costs are real, but the benefits outweigh them.

LITERATURE:

1. “Armenia: Case Study on e-Government Procurement Development”, Karen Baghdasaryan, Asian Development Bank, 2011, p. 9, (accessed on 13 October 2014), adbprocurementforum.net/wp-content/uploads/Armenia-eGP-case-study-June2011.pdf.
2. Dr. Kofi Osei-Afoakwa, “How Relevant is the Principle of Transparency in Public Procurement?”, *Developing Country Studies*, Vol.4, No.6, 2014.
3. “Japanese Government Procurement”, Japan External Trade Organization, (accessed on 23.10.2014), <http://www.jetro.go.jp/en/database/procurement/procurement.html>.
4. Jean Heilman Grier, “Market access opportunities under the GPA”, Office of the U.S. Trade Representative, (accessed on 21 September 2014), http://www.wto.org/english/tratop_e/gproc_e/symp_feb10_e/grier_3_e.pdf.
5. Sue Arrowsmith, “Regulating Public Procurement”, Kluwer Law International, 2011, Cambridge, p. 28.
6. Vinitha Johnson, “Should India join the WTO GPA?”, CUTS International, 2011, p. 2, (accessed on 13 October 2014), http://www.cuts-citee.org/GP/pdf/Briefing_Paper13-Should_India_Join_the_WTO_GPA.pdf.
7. Robert D. Anderson and William E. Kovacic, “Competition Policy and International Trade Liberalisation: Essential Complements to Ensure Good Performance in Public Procurement Markets”, 2009
8. “Government Procurement Agreement. Opening markets and promoting good governance”, WTO, GPA Brochure 2015, https://www.wto.org/english/thewto_e/20y_e/gpa_brochure2015_e.pdf.
9. Press Release, World Trade Organization, Moore Calls for Greater Efforts to Assist Poor Countries (Sept. 1, 1999).
10. R. Anderson, K. Osei-Lah, Anna Caroline Muller, “Assessing the value of future accessions to the WTO Agreement on Government Procurement (GPA): Some new data sources, provisional estimates, and evaluative framework for individual WTO members considering accession”, *Public procurement law review*, 34, 2011

11. WTO, Appendix IV, “Website address or addresses where parties publish procurement statistics pursuant to article XVI:5 and notices concerning awarded contracts pursuant to article XVI:6, (accessed on 17 October 2014), http://www.wto.org/english/tratop_e/gproc_e/rev_apiv_e.pdf.