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Government Procurement Agreement: History and Future

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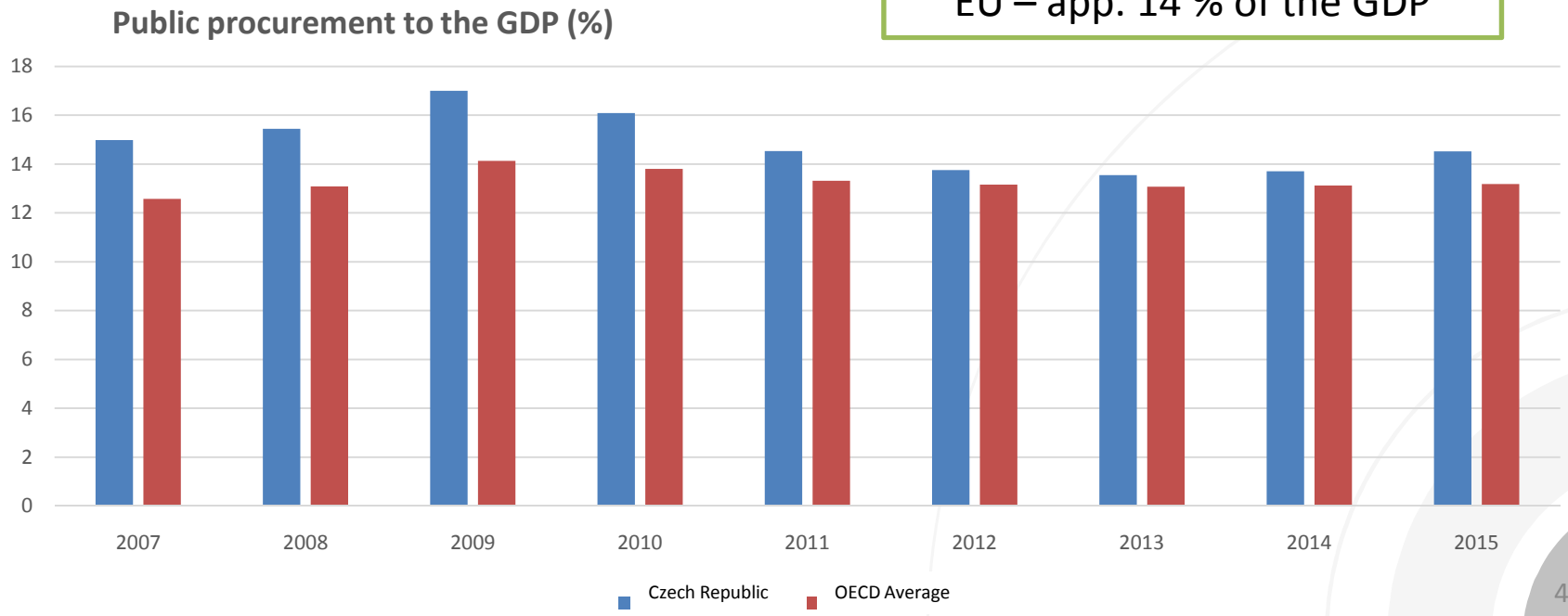
Public Procurement

- **Definition (OECD):**
 - *Public procurement refers to the purchase by governments and state-owned enterprises of goods, services and works.*
 - *As public procurement accounts for a substantial portion of the taxpayers' money, governments are expected to carry it out efficiently and with high standards of conduct in order to ensure high quality of service delivery and safeguard the public interest.*
- **Public procurement:**
 - Above threshold
 - Below threshold

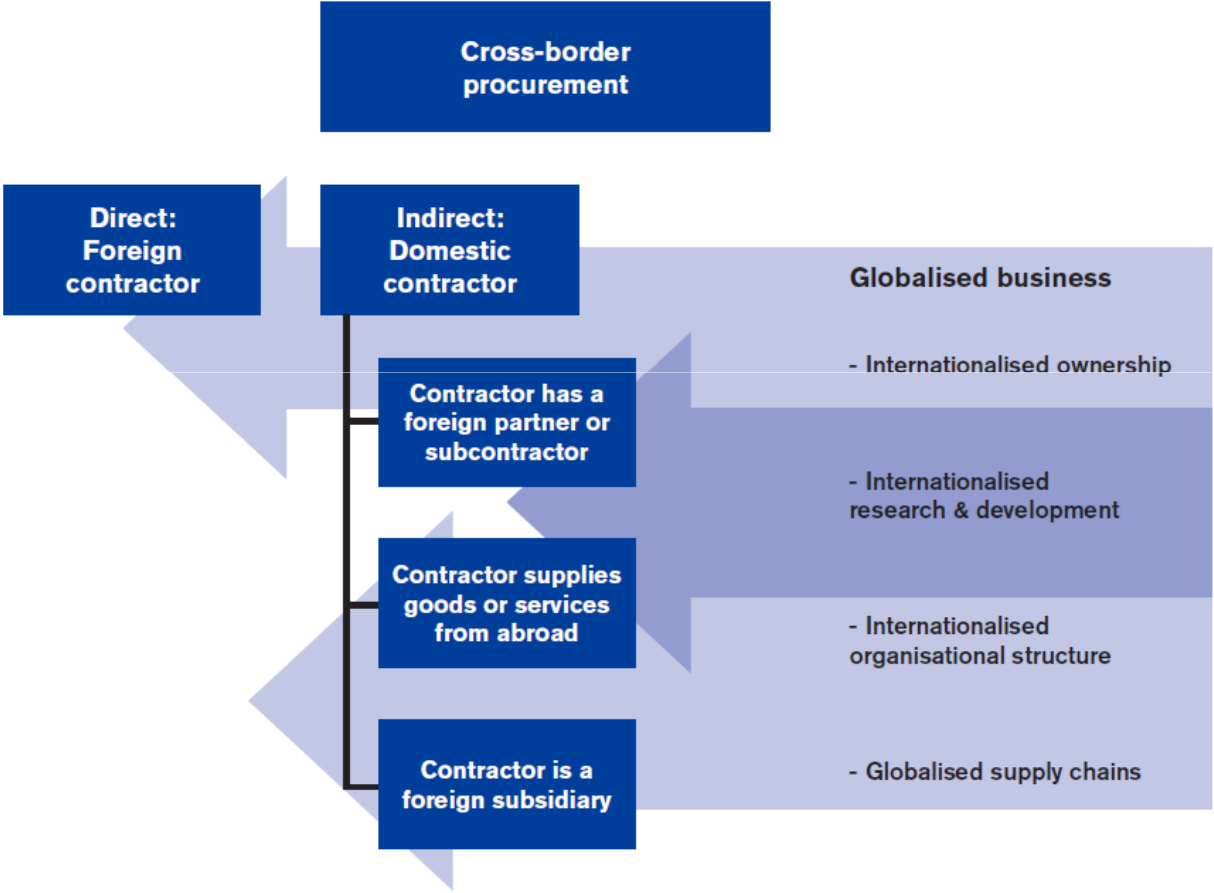
Public Procurement

Estimates vary from 7 to 18 %

USA – app. 10 % of the GDP
EU – app. 14 % of the GDP

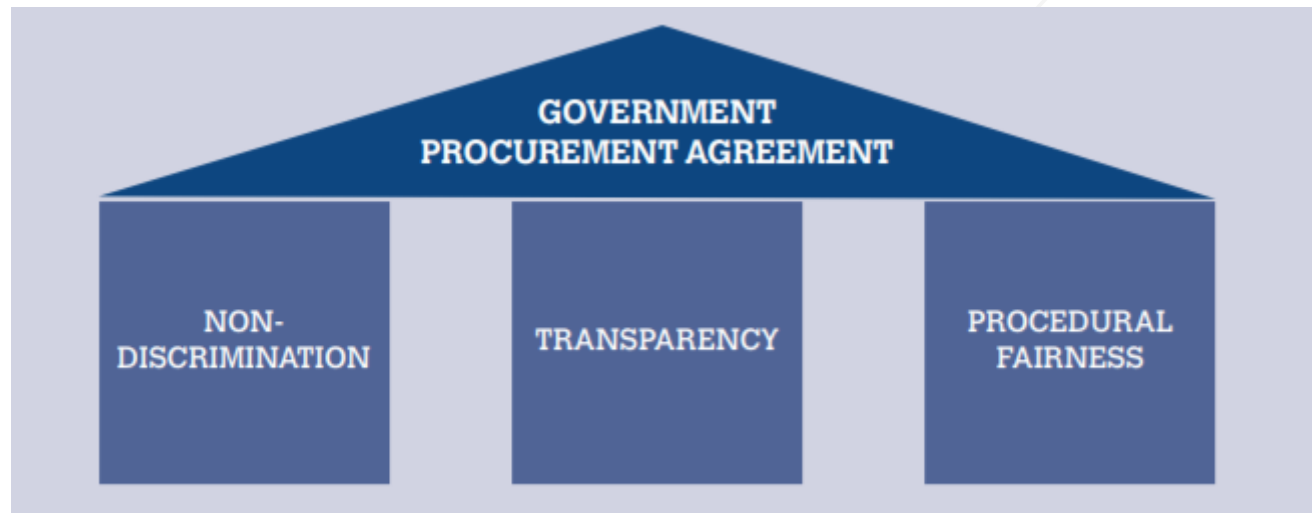


International public procurement = cross-border public procurement



Public Procurement and the WTO: 3 Main Pillars

- The main goal of the Government Procurement Agreement is to ensure creating open and transparent procurement markets, including guarantees of national treatment and non-discrimination.
- Plurilateral agreement, individually determined market access commitments based on reciprocity

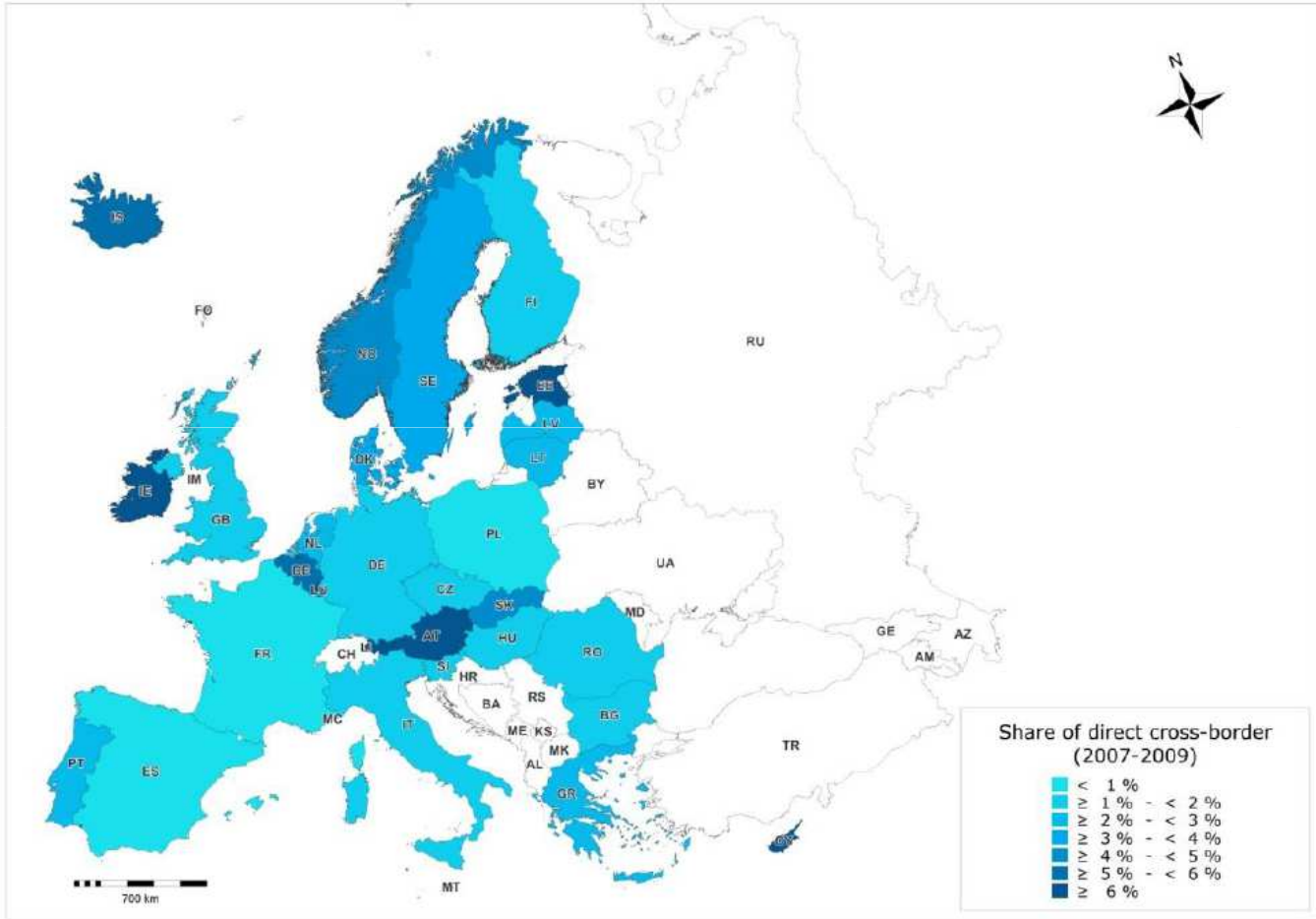


European Union (formerly EC)

Disclaimer

Regional Trade Agreements of the European Union





Low share of direct cross-border public procurement (3–5 % in the EU)

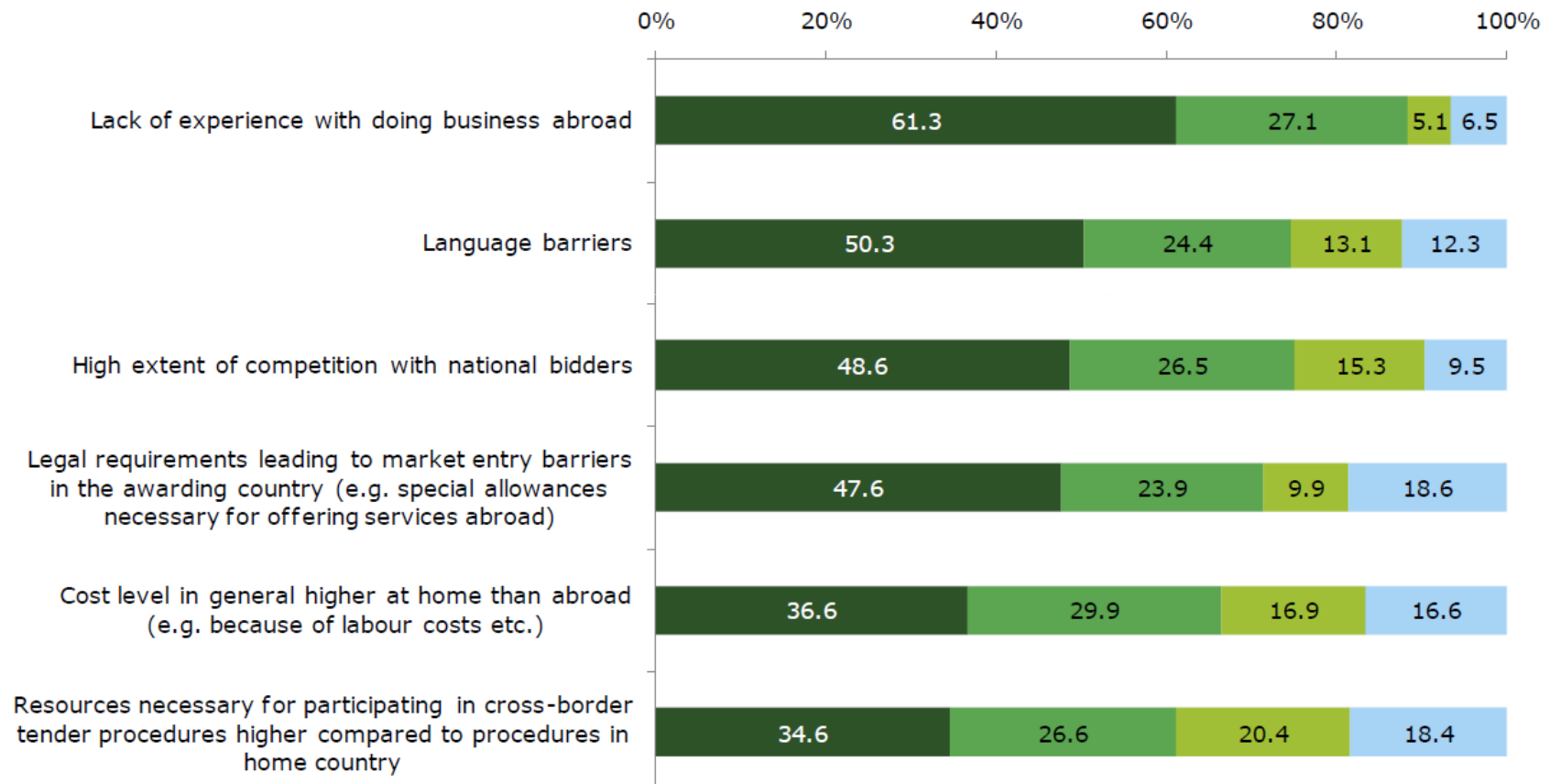
Why???

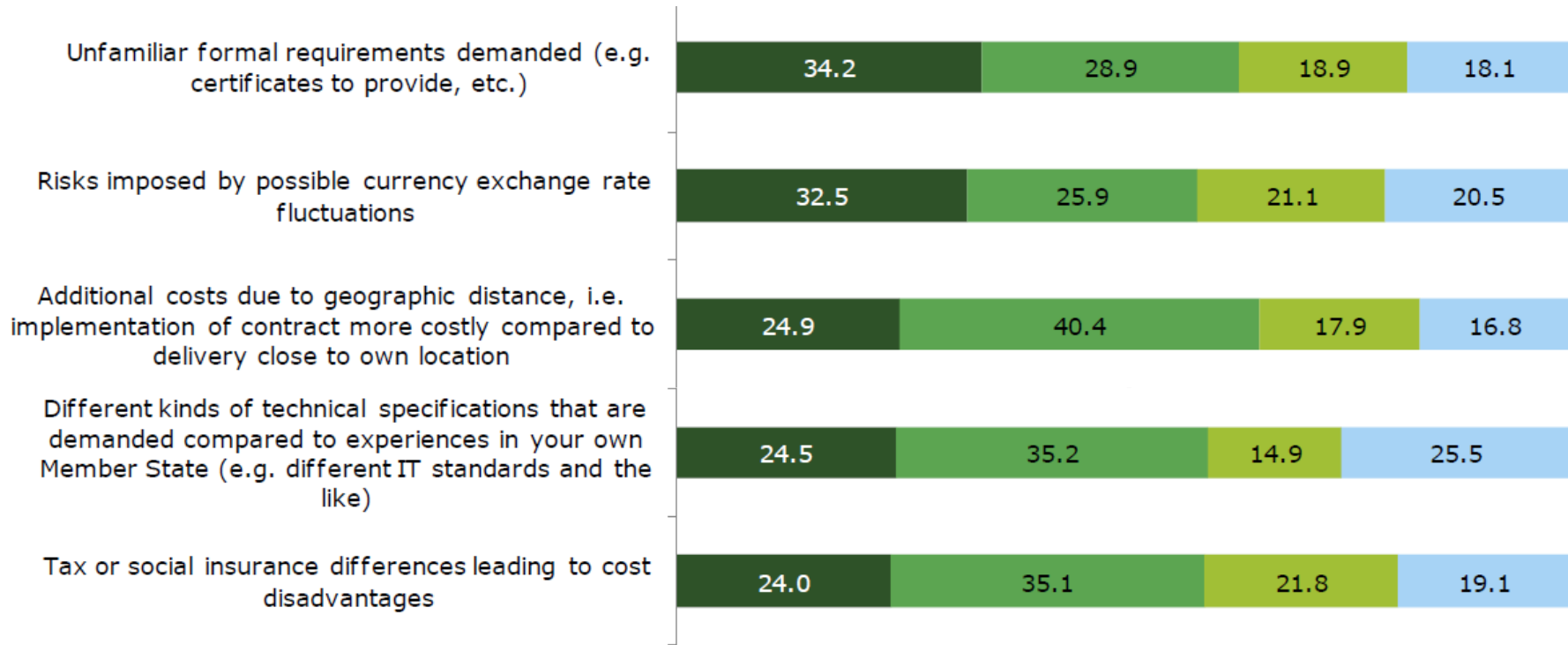
Possible Obstacles

- **External barriers:**
 - Regulatory deficiencies
 - Home-biased governments
 - Complicated processes (SMEs)
 - Other economic factors
- **Internal barriers:**
 - Lack of experience
 - Language barriers
 - ... (see next slide)

Figure 4: Businesses' view on several possible obstacles to cross-border bidding

Based on your experience, how do you assess the relevance of the following possible obstacles?





N = between 260 and 274

■ To a high extent ■ To a medium extent ■ To a low extent ■ Not at all

Research Project

- F2/70/2018 University of Economics, Prague, Czech Republic
- *Cross-border public procurement: analysis of the international framework and obstacles to involvement of Czech companies in it*

1. Desk research – Government Procurement Agreement

2. Desk research – Regional Trade Agreements

3. Desk research – Cross-border procurement in the EU

4. Field research – in-depth interviews with pilot companies

5. Field research – survey



Government Procurement Agreement: History and Future

- **The goal of this paper** is to identify possible shortcomings of the Revised GPA and challenges for the future development. In our analysis, the historical background of the Government Procurement Agreement will be taken into consideration.
- **Methodology: desk research**
 - Analysis of primary sources – official documents of the World Trade Organization including the Government Procurement Agreement and the revised Government Procurement Agreement
 - SWOT analysis of the Government Procurement Agreement – strengths, weaknesses, opportunities, and threats
- The following slides cover brief history of the GPA, the revised GPA, and future challenges

History of the GPA

- “Tokyo Round Code on Government Procurement” (1979)
 - Apr. 1979: 1979 Code signed
Jan. 1981: 1979 Code enters into force
 - ***Procurement of goods by central government entities***
- Revised “Tokyo Round Code on Government Procurement” (1987)
 - Nov. 1983: Negotiations to amend 1979 Code commence
Feb. 1987: Protocol of amendments to 1979 Code
Feb. 1988: Amended 1979 Code enters into force
 - ***Adding a limited number of services and reducing thresholds***
- Agreement on Government Procurement (1994)
 - Apr. 1994: GPA 1994 signed in Marrakesh
Jan. 1996: GPA 1994 enters into force
 - ***Procurement of goods, services, and construction services by central, sub-central and other entities***

The revised GPA

- Revised Agreement on Government Procurement (2012)
Feb. 1997: Preparatory work for negotiations to revise GPA 1994
Mar. 2012: Protocol amending the GPA 1994
Apr. 2014: Revised GPA 1994 enters into force
- Negotiated parallel to the Uruguay Round
- Two main parts of negotiations: modernization of the text (2006) and extension of the market access commitments
- ***The elements of the review** were to include expansion of the coverage; elimination of discriminatory measures and practices which distort open procurement; and simplification and improvement of the Agreement, including adaptation to **advances in the area of information technology***

Parties to the GPA (46)

Members of the revised GPA	
Armenia	Republic of Moldova
Canada	Montenegro
European Union (with regard to its 28 member states)	Netherlands (with respect to Aruba)
Hong Kong	New Zealand
Iceland	Norway
Israel	Singapore
Japan	Chinese Taipei
Republic of Korea	Ukraine
Liechtenstein	United States

Coverage Schedules

- These Annexes also specify threshold values above which individual procurements are subject to the GPA disciplines
- This, in other words, means that government procurement falls within the GPA rules if the procuring entity is covered, if the procured goods/services/construction services are covered and if the value of the procurement is above the threshold levels indicated in commitments schedules.

Revised GPA	GPA 1994
Annex 1: central government entities	Annex 1: central government entities
Annex 2: sub-central government entities	Annex 2: sub-central government entities
Annex 3: other entities	Annex 3: other entities
Annex 4: goods	General rule that all goods are covered unless specifically exempted.
Annex 5: services	Annex 4: services
Annex 6: construction services	Annex 5: construction services
Annex 7: general notes	Included as “General Notes” under the GPA 1994.

Future Challenges

- Shortcomings found in insufficient regulation of international e-procurement (which remains only an option), including not establishing single point of access for procurement notices; insufficient standardization of procurement notices; and insufficient support of small and medium-size enterprises.
- The shortcomings connected with market access commitments consist in a (hypothetically) insufficient scope of covered goods/services/construction services; in a (hypothetically) insufficient scope of covered governmental entities; and in too high thresholds for covered procurement.

Future Work Programmes

- a Work Programme for SMEs
- a Work Programme on the Collection and Reporting of Statistical Data
- a Work Programme on Sustainable Procurement
- a Work Programme on Exclusions and Restrictions in Parties' Annexes
- a Work Programme on Safety Standards in International Procurement

SWOT Analysis

- Plurilateral agreement – flexibility in comparison with the WTO Rounds
- Interconnection with the General Agreement on Tariffs and Trade (GATT) and with the General Agreement on Trade in Services (GATS) – synergies
- Anchoring the possibility of e-commerce (however, a permissive approach)
- *Flexibility in coverage commitments – no universal coverage commitments (?)*

SWOT Analysis

- Not ensuring interoperability of procurement system of its parties
- Insufficient commitments schemes of the parties to the GPA – covered goods/services/construction services, covered entities, and primarily high thresholds
- Insufficient support of e-procurement, primarily establishing single points of access
- *No universal coverage commitments (?)*

SWOT Analysis

- Growing membership (from 19 members at the beginning to current 46, respectively 47, parties)
- Anchoring further negotiations and improvements of the GPA (similar to the revision of the GPA)
- Support of the global struggle against corruption
- Establishing various work programmes
- Covering also public work concessions and other PPPs
- *Synergies with regional trade agreements (?)*

SWOT Analysis

- Low share of above threshold government procurement
- Persisting home-bias in public procurement that is, however, hard to measure
- Cost of accession to the GPA
- Concerns regarding imbalances in coverage and reciprocity
- Complicated assessment of new rules due to insufficient statistical data
- *Rivalry of regional trade agreements (?)*

Thank you for your attention!