

Mr P Rennert
Assistant Director
FTA Policy and New Trade Issues Branch
Department of Foreign Affairs and Trade
CANBERRA ACT
February 5th, 2015

Dear Peter

WTO AGREEMENT ON GOVERNMENT PROCUREMENT

Thank you for the opportunity to provide comments on the Government's recent decision to secure Australian accession to the WTO Agreement on Government Procurement (GPA). I note the Minister's announcement in November 2014 that work is continuing on joining the GPA, with the goal of opening for local exporters access to multi-million dollar government procurement markets of the current 45 economies who are members of the GPA.

The Australian Services Roundtable's (ASR) key strategic focus is to secure Australia's position in the global professional services economy, and accordingly we welcome and support the Government's efforts to finalise Australian accession to the GPA. In particular, ASR supports these efforts now because of the newly expanded scope of the GPA to include coverage of all 'services procured for governmental purposes', most recently telecommunications and construction services. In the past, this Agreement's sole focus on goods procurement removed it from ASR's member interests.

Public procurement and related international trade disciplines are likely to be even more important in the future for global economic growth and development than they are at present. Estimates indicate that overall government procurement spending accounts for as much as 15–20 per cent of GDP, on average, worldwide, though much of this is not yet covered by current international disciplines. Moreover, investment and other public procurement in emerging market economies in Africa, Asia and Latin America is likely to be a major driving force of economic growth in the years to come.

The mere opening of markets – however desirable – is not, by itself, enough to ensure good economic performance. What is required is a deepening and broadening of international trade disciplines to ensure that, as far as possible, all aspects of government procurement are carried out in a transparent and non-discriminatory manner that maximises value for money for governments and taxpayers.

Equally important, the disciplines themselves need to be continually updated to reflect developments in procurement methodologies (such as electronic procurement, a GPA inclusion which is very welcome) and to ensure the maximum degree of flexibility for Parties consistent with an open international trading regime. Most of all, the membership of the GPA needs to be broadened to encompass emerging economies.

There remain however some threshold issues ASR would like to raise with you as work progresses towards accession.

i) Members have raised some concerns relating to any required changes to selective tendering and negotiations procedures, timeframes and technical specifications at the state level. Member firms conduct a large percentage of their business with government, and larger state governments in Australia are major purchasers of services. Streamlining procurement processes, and reducing costs of tendering especially for SMEs is a key advocacy focus for ASR. If the GPA carries any risk for existing contract standards, panel arrangements and appeal mechanisms at a state level, our members may query the benefit of the Agreement; at this stage it is difficult to say what such changes would look like based on the documentation publicly available. For example, prima facie, a 'bid challenge mechanism' as required under the GPA may raise costs significantly for Australian bidders if it goes far beyond current processes at state and federal level to review (but not challenge) tender decisions.

ii) The mooted accession of China to the GPA is of course a welcome development; it represents legal access for Australian professional services suppliers to a huge market, where we currently have comparative advantage in areas such as education, health and architecture services. Currently China's procurement policy is a blatant "Buy China" policy; reform of the policy is urgently required if harmonisation with the GPA is to be achieved. While the revised GPA text contains a new and explicit requirement that procurement be carried out in a manner that avoids conflicts of interest and prevents corrupt practices, ASR member activity in this market would seem to indicate that certain barriers remain. These include misconceptions of certain procurement officials and their malpractices in procurement processes, poor capacities of some local governments in enforcing reform, structural deficiencies in the budget management system, and the lack of political will of both central and local authorities in spurring trade liberalisation. Any improvements in this reform process which Australia is able to bring about either through current negotiations with China or as part of the accession mechanisms of both economies, would be welcomed by ASR.

In closing I want to assure you that ASR strongly supports the Government's move to accede to the GPA, and any further assistance we can give to expedite the process is available should you require it.

Yours sincerely,

A handwritten signature in black ink that reads "Ian Birks". The signature is written in a cursive style with a horizontal line underneath the name.

Mr. Ian Birks
Chief Executive Officer
Australian Services Roundtable
Email: ceo@servicesaustralia.org.au