
Book Reviews

Simon J. Evenett and Bernard Hoekman (eds). ***The WTO and Government Procurement***. Northampton, Massachusetts: Edward Elgar, 2006. Pp. 526. \$255.00. ISBN 1845426002.

Explicit or *de facto* discrimination in government procurement against foreign suppliers continues to be an intractable barrier to international trade. The importance of liberalization in this area is underlined by the fact that almost all bilateral and regional free trade agreements notified to the WTO set out procurement-related commitments on transparency and non-discrimination. Yet, the WTO's initiative in this area, the Agreement on Government procurement (GPA), has only plurilateral/voluntary status and is not therefore part of the Single Undertaking. A separate initiative to develop a multilateral procurement agreement which would be limited to transparency-based obligations, without seeking to prohibit discrimination, seems to have floundered on the rocks.

Against this background, this volume brings together 20 previously published articles and essays on international procurement regulation. The chapters are preceded by an introduction by the Editors in which the overlapping rationales of national and international regulation are identified. Attention is also given to the subject areas covered in the chapters, such as the incidence and economic consequences of discrimination in government procurement and the impact of international rules targeted at prohibiting this discrimination. Thereafter, the chapters are divided into three parts.

Part I deals with the development of legal norms on procurement in the GATT/WTO context. The opening chapter by Blank and Marceau details the history of procurement negotiations from 1945 up to the entry into force of the Uruguay Round Agreement on Government Procurement in January 1996.

Abbott's focus in Chapter 2 is on what he perceives as the WTO's failure to take action against bribery and corruption and on what this failure reveals about the institution's rule-making processes. The chapter explores these questions with reference to the ill-fated negotiations towards a multilateral transparency-based agreement. Chapters 3 and 4 are provided by Arrowsmith. The first article, originally published in 2002, focuses on the then current, and recently completed, review of the plurilateral GPA. The second article deals with the negotiations towards a transparency agreement. It is suggested here that the negotiations have suffered from a failure to identify which regulatory objectives the agreement should be directed toward. Evenett's 2003 paper closes Part I by evaluating the need for multilateral rules based on transparency. He highlights the limitations of transparency-based obligations when unaccompanied by non-discrimination disciplines, and describes the attempt to separate the negotiations on transparency from those on market access as 'fundamentally misconceived'.

Part II deals with the economics of discrimination. Baldwin and Richardson open this part with the oldest contribution in the volume dating from 1972. This is a seminal paper in that it sets out a proposition which provided the departure point for much subsequent work. This theory posits that, when imported goods are identical to domestically-produced goods, and when government purchases are only a fraction of domestic supply, discrimination in favour of national suppliers has no impact on total imports, prices or government expenditures. By way of policy proposals, they call for a 'code of fair practices on government purchases' and would no doubt therefore have been pleased to see the entry into force of the GATT Tokyo Round procurement agreement on 1 January 1981.

Breton and Salmon in Chapter 7 claim that discriminatory procurement is frequently completely ineffective as a protectionist device. This leads them to question why discrimination occurs in this context and they suggest that discrimination can serve as ‘an instrument to make incomplete contracts enforceable’. Contrary to what is commonly understood, discrimination can, according to the authors, ‘enhance overall efficiency’. Chapter 8 by Mattoo similarly questions whether obligations of non-discrimination can be reconciled with the results of economic theory. This is among the most accessible chapters in Part II from the perspective of the non-economist. A critique of the primary finding of Baldwin and Richardson is provided at the conclusion, regarding which Mattoo notes that ‘in a wide variety of situations discriminatory procurement can adversely affect trade and the non-discriminatory disciplines of the GPA are necessary to prevent distortions’. The chapter proceeds to consider agency problems in procurement and the value and limitations of the GPA in addressing these problems.

Chapter 9 by Deltas and Evenett argues that preferences in favour of national firms ‘generate at best only marginal improvements in social welfare’ and that a key explanation for preferences is that they generate substantial increases in the profits of domestic firms. This of course provides a strong incentive for these firms to lobby for the maintenance of preferences. The authors also provide the interesting insight that the abolition of national preferences would not necessarily increase the proportion of contracts awarded to foreign firms. This is because ‘foreign firms will respond to the abolition of price preferences by raising their bids, which tends to mitigate any increase in the probability of them winning the contract’.

Lowinger’s contribution dating from 1976 assesses the amount of discrimination against foreign goods. He elaborates on a point hinted at by Baldwin and Richardson to the effect that the US Buy American Act is ‘unique only because it is explicitly set out in the law’

and that similar levels of discrimination are achieved in other nations through ‘administrative guidelines or tacit understandings between government and industry’. In Chapter 11 McAfee and McMillan argue that the costs of the procurement process can be reduced by offering price preferences. Whether the preference should be in favour of domestic or foreign firms depends on which firm has a comparative advantage for any particular contract.

Chapter 12 by Miyagiwa tests whether the Baldwin and Richardson ‘ineffectiveness proposition’ can be carried over to non-competitive situations. Trionfetti’s paper is similarly concerned with whether discrimination affects international specialization and trade flows. He finds possible evidence of discrimination in the fact that ‘governments appear to import significantly less than the private sector does’. Trionfetti also suggests that discrimination is more likely to increase domestic output and suppress imports when government demand exceeds domestic output. As this condition is more prevalent in developing countries, he presents this as a possible explanation for the reluctance of most developing countries to join the GPA. Chapter 14 by the Editors comments on the implications of the possible multilateral transparency agreement. Echoing Evenett’s view in his earlier paper, the authors find reason to doubt whether transparency is enough in itself to increase market access.

The chapters in Part III assess the costs and benefits of international procurement rules via empirical analyses of available data, and a number of national case studies. Hoekman’s chapter detects a sharp difference between the level of foreign sourcing between the larger and smaller GPA Members, with the latter having a significantly higher share. This difference is presented as a possible barrier to increased GPA membership among small countries. Palmeter provides the first of the country-specific case studies in Chapter 16, which applies some of the economic theories, detailed in Part II, to calculate the impact on national preferences on overall market access for foreign firms in the European Union and

the United States. Chapter 17, by Gordon, Rimmer and Arrowsmith examines the implications of a study on the economic impact of the European Union rules for the WTO's procurement initiatives. In Chapter 18, Srivastava examines the possibility of India acceding to the GPA, and comments on the compatibility of India's procedures with the GPA. Choi's closing chapter reports that Korea's accession to the GPA has led to improved competition and efficiency in government procurement without a significant increase in import penetration. Based on these observations, he suggests that developing countries might soon adopt the view that the costs of membership are outweighed by the benefits. This chapter also provides a brief account of the only procurement related case in the WTO era, which involved Korea as the respondent state.

It is increasingly understood in the field of procurement regulation, and trade regulation more generally, that a full understanding of the subject matter can only be achieved with a sound grasp of both the underlying legal and economic principles. The papers selected for inclusion in this volume certainly respond to this view. A future edition would no doubt contain some coverage of the recent negotiations relating to the GPA. A revised draft text was circulated at the end of 2006 and negotiations towards expanding the agreement's coverage are ongoing as of March 2008. As the coverage negotiations seem to be taking longer than expected, and, as there is little readily available information here, it would be very interesting for a future edition to present an 'insider's view' of the negotiating process. Some attention might also be given to incorporating papers on electronic methods of procurement, especially as electronic auctions are now expressly envisaged by the newly revised GPA.

Individual Contributions:

Simon J. Evenett and Bernard Hoekman, Introduction;

Part I. Legal Norms/International Cooperation/WTO Rules:

Annet Blank and Gabrielle Marceau (1996), The History of the Government Procurement Negotiations Since 1945;

Kenneth W. Abbott (2001), Rule-making in the WTO: Lessons from the Case of Bribery and Corruption;

Sue Arrowsmith (2002), Reviewing the GPA: The Role and Development of the Plurilateral Agreement after DOHA;

Sue Arrowsmith (2003), Transparency in Government Procurement: The Objectives of Regulation and the Boundaries of the World Trade Organization;

Simon J. Evenett (2003), Is There a Case for New Multilateral Rules on Transparency in Government Procurement?;

Part II. Economics of Discrimination:

Robert E. Baldwin and J. David Richardson (1972), Government Purchasing Policies, Other NTB's, and the International Monetary Crisis;

Albert Breton and Pierre Salmon (1996), Are Discriminatory Procurement Policies Motivated by Protectionism?;

Aaditya Mattoo (1996), The Government Procurement Agreement: Implications of Economic Theory;

George Deltas and Simon Evenett ([1997] 2000), Quantitative Estimates of the Effects of Preference Policies;

Thomas C. Lowinger (1976), Discrimination in Government Procurement of Foreign Goods in the U. S. and Western Europe;

R. Preston McAfee and John McMillan (1989), Government Procurement and International Trade;

Kaz Miyagiwa (1991), Oligopoly and Discriminatory Government Procurement Policy;

Federico Trionfetti (2000), Discriminatory Public Procurement and International Trade;

Simon J. Evenett and Bernard M. Hoekman (2005), Government Procurement: Market Access, Transparency, and Multilateral Trade Rules;

Part III. Empirical Analyses of International Agreements and Rules:

Bernard M. Hoekman ([1997] 2000), Operation of the Agreement on Government Procurement, 1983–1992;

Joseph Francois, Douglas Nelson and N. David Palmer ([1997] 2000), Public Procurement in the United States: A Post-Uruguay Round Perspective;

Harvey Gordon, Shane Rimmer and Sue Arrowsmith (1998), The Economic Impact of the European Union Regime on Public Procurement: Lessons for the WTO;

Vivek Srivastava (2003), India's Accession to the Government Procurement Agreement: Identifying Costs and Benefits:

Inbom Choi (2003), The Long and Winding Road to the Government Procurement Agreement: Korea's Accession Experience:

Dimitri Mardas (2001), Indicators for Measuring the Potential Economic Impact of Opening Government Procurement and their Application to the Situation of Hungary.

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