1. Introduction

The 1990s saw the launch of a variety of initiatives on procurement reform by both developing and industrial nations. Examples include the signing of the World Trade Organisation (WTO) Government Procurement Agreement (GPA) on April 15, 1994,\(^1\) initiatives at the OECD to make bribery illegal under national laws, and strengthened rules regarding the procurement practices of EU Member States as part of the internal market program of the European Communities.\(^2\) Similar initiatives are under negotiation in the proposed Free Trade Area of the Americas (FTAA), which includes most of the
nations in the Western Hemisphere as well as North and Latin America.\(^3\) Yet another example of an international initiative is the proposal of Non-Binding Principles on Government Procurement by members of the Asia Pacific Economic Cooperation (APEC) fora.\(^4\) These international initiatives have occurred concurrently with national reforms to procurement regimes, some of which have been supported by international financial institutions such as the World Bank and International Monetary Fund.\(^5\)

The interest in using international agreements to reform procurement regimes reflects heightened public awareness of political and bureaucratic corruption in general, as well as the emergence of a larger body of academic research—from a variety of disciplines—upon which to base reforms.\(^6\) Leading non-governmental organisations have not only raised the importance of corruption as an issue, but have also gone to considerable lengths to document and to introduce summary measures of the extent of political and bureaucratic malfeasance, of which corrupt procurement practices are an important part.\(^7\)

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3 The latest draft of the FTAA agreement can be found on the web site of the Organisation of American States at ([www.oas.org](http://www.oas.org)). The Negotiating Group on Government Procurement which, at the time of writing, has met sixteen times, is currently chaired by an official from Costa Rica.

4 These principles cover Transparency of procurement regimes (defined later), “Value for Money and Open and Effective Competition,” “Fair Dealing,” and Accountability. Details can be found at ([www.apecsec.org.sg/fora/activity_group/govproc/non_binding.html](http://www.apecsec.org.sg/fora/activity_group/govproc/non_binding.html)).

5 See, for example, the Country Procurement Capacity Assessments published by the World Bank. Each developing economy is assessed every two or three years. Such an assessment is “intended to be a useful guide to diagnose the health of the existing procurement system in a country and, in the process, generate a dialogue, with the government focused on needed reforms.” Quotation taken from ([www1.worldbank.org/publicsector/anticorrupt/cpars.htm](http://www1.worldbank.org/publicsector/anticorrupt/cpars.htm)).


7 In addition to the long standing efforts of Transparency International ([www.transparency.org](http://www.transparency.org)), which produces an annual rankings of countries based upon the perceptions of the degree of state corruption, other databases that attempt to quantify the extent of corruption and other so-called governance practices have
Commercial interests have also played a part, urging trade negotiators in leading nations to push for the opening up of other nations’ procurement markets, both in the context of regional agreements and the WTO. Thus, pressure for further disciplines on procurement practices is being driven by a mix of market access and good governance objectives. The WTO is becoming the major locus of efforts to expand multilateral disciplines on public purchasing. A Working Group on Transparency in Government Procurement Practices was established after the 1996 WTO Ministerial Meeting in Singapore. The mandate of this Working Group was contained in that meeting’s Ministerial Declaration and called for

the working group to conduct a study on transparency in government procurement practices, taking into account national policies, and, based on this study, to develop elements for inclusion in an appropriate agreement.

The Working Group produced four annual reports between 1997 and 2001. At the 2001 WTO Ministerial Conference in Doha, Qatar, a concerted effort was made by a number of WTO Members, including the EU and the US, to obtain agreement to launch negotiations on transparency in government procurement. This was opposed by a number of developing countries who were of the view that the WTO should continue studying

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8 See, for example, the objections raised by the United States Trade Representative’s (USTR) in its annual National Trade Estimate Report on Foreign Trade Barriers (2001, U.S. Government Printing Office). This report documents allegations of closed procurement markets, and has tended to reflect the information supplied to the USTR by American corporations. The 2001 Report raised concerns about procurement practices in 50 foreign jurisdictions, see (www.ustr.gov/html/2001_contents.html).

and discussing this subject with a view to identifying good practices and determining what the benefits of multilateral disciplines might be. In the event, it was agreed in principle to launch negotiations on this subject at the 2003 Ministerial Conference on the basis of modalities that must be agreed by explicit consensus. This leaves open the possibility that negotiations will be blocked through a veto, or alternatively, that WTO members will agree that the outcome of negotiations will not apply to all members.

The effort to use international trade agreements to enhance the transparency of procurement regimes is the subject of this chapter. At the heart of trade negotiations is the exchange of market access concessions - given the mercantilist nature of the WTO, agreements will invariably be assessed through a market access lens. Indeed, a good case can be made that the primary role of the WTO is (should be) to enhance market access conditions and that any agreement that has little or no implications for market access does not belong in the WTO. In this chapter we explore the likely consequences of improved transparency for market access. We also discuss the enforcement dimension of any agreement on transparency. This by definition has a market access dimension—the ultimate enforcement device is the threat of retaliation through an increase in market access barriers. Understanding the incentives to implement any agreement is an important aspect of determining whether the issue is appropriately placed in the domain of the WTO.

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1. The relationship between discrimination and transparency

Before discussing the effects of improving transparency, it is useful to clarify the meaning of that term in a government procurement setting and its relationship to “discrimination.” A procurement process is discriminatory if any of its provisions are such that it treats differently any two potential bids that are identical in every commercially-relevant respect; that is, in those factors which have a bearing on a bid’s price, and likely quality and timeliness of delivery. The emphasis on potential bids reflects the fact that a procurement process could treat all actual bids identically - yet at the same time contain provisions that explicitly prevent or effectively deter other suppliers from bidding in the first place. The essence of this notion of discrimination is that there is at least one step in the procurement process that employs one or more commercially-irrelevant characteristics of a bidder. In settings with the possibility of international commerce the discrimination may involve foreign bidders (that is, foreign firms located outside the jurisdiction of the procuring entity or foreign-owned firms located inside that jurisdiction). Examples of such discrimination include outright bans on foreign bids, price preferences against foreign bidders, and measures that can increase the costs of foreign bidders (such as domestic content requirements).

In this chapter we regard a procurement process to be transparent if (i) the terms upon which the procurement process will be conducted and the criteria upon which any decisions are to be made are codified to the greatest extent possible and made widely available, (ii) the eventual procurement award decision (and, where possible, any intermediate decisions such as which firms are allowed to bid or have bid, or have met minimum requirements to be have their bids considered in detail) is made publicly
available, as are the reasons given for these decisions, and (iii) it is possible to verify expeditiously that the codified procedures and criteria in (i) were indeed applied and that the claims made in (ii) are in fact true. The proviso “expeditiously” is supposed to ensure that any deviations from the codified procurement process are quickly uncovered and steps are taken to remedy the situation.

Stated in this manner, discrimination and transparency refer to different aspects of the procurement process: the former to an asymmetry introduced into at least one step in the evaluation or decision making stages; and the later to the codification of criteria and verification of claims made in as many stages of the procurement process as is possible. As such, it is possible to have procurement processes that fall into all four permutations of transparent and discriminatory. For example, a procurement auction could be entirely transparent and still contain a publicly announced and explicit 10 percent price preference against one class of bidders (say, foreign firms). Likewise, a procurement auction could be neither discriminatory nor transparent with an uncodified unverifiable procedure that treats all bids symmetrically throughout the process and where every willing and able potential bidder actually submits a bid. Transparency and discrimination are related, of course, in that discretionary procurement procedures may provide the basis for discrimination to occur.

2. Transparency and market access

In a welfare-theoretic analysis, economists typically focus on the effect of government procurement policy on microeconomic efficiency - defined in a partial equilibrium setting as the sum of consumer and producer surplus in the market which, in this case, the
procurement policy directly impinges upon.\textsuperscript{11} However, our interest here is on the effect of such policies on market access, which is the currency of the realm in international trade negotiations.\textsuperscript{12} Concessions made by a nation during the latter are typically evaluated according to how much additional “access” foreign commercial interests gain to the nation’s markets. Often the metric used to evaluate—or at least to discuss—access is the additional sales by foreign firms that result (whether from abroad or from subsidiaries or related firms that are located in the nation offering the concession). This criteria is unobjectionable from a positive point of view, but from a welfare-theoretic perspective the increment in foreign producer surplus better captures the change in foreigners’ welfare that results from the concession (assuming that the concession has no knock-on effects for the prices paid by, and the varieties available to, foreign consumers). Nevertheless, for this analysis, we focus on the former more widely used metric.

As the discussion in Chapter 13 (by Trionfetti) makes clear, there are circumstances under which eliminating procurement discrimination will enhance overseas sales in the liberalising nation’s market. In the case when a complete procurement ban had been imposed, then removing the ban will only improve market access if government demand exceeded domestic firms’ supply at the prices which prevailed before the ban was imposed in the first place.\textsuperscript{13} So as to provide a benchmark against which to compare our discussion of the effects of improving transparency on market access, it will be useful to

\textsuperscript{11} Therefore, if one is considering the effect of a procurement policy on pencils the analysis will focus on the market for pencils and not, for example, on the market for wood from which pencils are made. Nor would one focus on the consequences in other markets for the users of pencils. The knock-on effects for other markets are considered in general equilibrium analyses, not the partial equilibrium analyses alluded to here.


\textsuperscript{13} This also assumes there was no subsequent shifts in the demand curve for government purchases or the supply curve of domestic firms.
recapitulate diagrammatically the above argument (about the removal of a ban on
government purchases from foreign suppliers). This is undertaken with the aid of Figure
1. In this Figure we portray a small open economy that is one whose consumers’ and
governments’ demand decisions - as well as the nation’s firms supply decisions - cannot
alter the world price of the good, WP. Furthermore, without specifying the terms upon
which imports could in principle be sold to the government, for simplicity we assume that
imports can enter freely into the nation - that is, they are unimpeded by tariffs or transport
costs. (Indeed, the fact that imports can enter freely does not guarantee that they will
necessarily be bought by anyone.)

The government’s demand curve for this good is given by $D_g$, and the domestic firms’
supply curve is given by $S$.\(^\text{14}\) If the government’s sole objective was increasing
consumption, so long as the (marginal) benefits exceed the price, then one would
consume quantity $Q_F$, with the domestic firms supplying $Q_1$ and imports supplying $(Q_F-
Q_1)$. In this case, the government is taking advantage of the open border to import goods
at the world price WP. (In effect, the presence of these imports curtails the ability of
domestic firms to raise prices above WP.) Now suppose that the government wants to
protect domestic firms and imposes a ban on purchasing from foreign firms. Under these
circumstances, the government must meet all of its needs from domestic sources, and in
order to do so offers domestic firms a higher price ($P_2$) than the world price. At price $P_2$,
domestic firms expand their output from $Q_1$ to $Q_2$, government consumption is curtailed

\(^{14}\) As domestic firms can always supply the world market and earn price WP, they will accept no price
lower than that from the domestic government or from domestic consumers. Domestic consumers, on the
other hand, can always buy from abroad at price WP and so are unwilling to pay any more than that for a
unit of the good from domestic suppliers. In principle, then, domestic suppliers could furnish domestic
consumers with some or even all of their needs at price WP; however, in the case considered in Figure 1 all
the domestic suppliers' output is purchased by the government. For this reason, we assume that domestic
consumers source the good from abroad and omit their demand curve from the analysis.
by \((Q_F - Q_2)\) and imports fall from \((Q_F - Q_1)\) to zero. Running the story in reverse sheds light on what happens when the procurement ban is removed. Removal restores the pre-ban equilibrium. That is, prices paid by the government fall from \(P_2\) to \(WP\) and foreign sales increase by quantity \((Q_F - Q_1)\) and by value \(WP(Q_F - Q_1)\), with the latter representing the increase in market access. At this point, it is worth noting that the elimination of the procurement ban did not shift either the government’s demand curve or the domestic firms’ supply curve. As we shall see below, this last observation crystallises diagrammatically the key difference between eliminating discriminatory procurement bans and eliminating some types of non-transparency. Before turning to this, it is helpful to discuss briefly the motives for non-transparency and some recent empirical evidence of the corruption that it can induce.

### 3.1 The motives for non-transparency and their effects

One motive for an opaque procurement regime is to engage in the very discrimination that has just been analysed.\(^{15}\) If so, imposing a transparent procurement regime will have the same effects on market access as eliminating the procurement ban. However, there is one wrinkle. To use an opaque procurement process to bolster a domestic industry, government demand must exceed domestic supply before the opaque process is introduced. This may require expanding government outlays so that the opaque procurement process (which facilitates discrimination) actually has some effect. To see this, consider Figure 2. Start with a government demand curve \(D_{g1}\), which does not absorb all the domestic output \(Q_1\) produced in response to world price \(WP\). The government introduces an opaque procurement process. What happens? Any foreign
firms who were supplying the government no longer do so, and are replaced by domestic firms. Imports fall, but the domestic output level remains at $Q_1$. Only if government demand expands, say to $D_{g2}$, will the opaque procurement process result in a higher domestic output of $Q_2$. In a nutshell, non-transparency with insufficient government demand cannot serve protectionist goals.\(^{16}\)

Perhaps more interesting are corruption-related motives for non-transparency. We now modify the assumption, used extensively in welfare-theoretic microeconomic analyses, that government officials seek to maximize societal welfare - taken to be a weighted sum of domestic consumers’ surplus and domestic producers’ surplus. Instead, assume that an official attaches a positive weight on this traditional objective as well as to his own income. The relative magnitudes of these weights will, in part, determine the extent to which the official deviates from actions that maximize societal welfare to those which enrich him. Much theorising has gone into the question of why officials engage in corruption (such as accepting bribes or undertaking extortion), but for our purposes what matters is that government procurement processes are almost always mentioned as opportunities for personal enrichment by officials.\(^{17}\)

There is a growing body of evidence that corrupt officials deliberately expand expenditures on goods and projects - such as aircraft and construction - which are highly differentiated and for which there are few, if any, comparable reference prices in world

\(^{15}\) Throughout we use the term ‘opaque’ and ‘non-transparent’ interchangeably. 
\(^{16}\) Supposing government demand did expand and the curve $D_{g2}$ did describe the new government demand curve, then what happens when the non-transparent procurement process is eliminated? Much depends on whether the government demand curve returns to its original position $D_{g1}$ also. Suppose not, then eliminating the non-transparent procurement process will expand imports by $(Q_F - Q_1)$ and the value of foreign market access increases by $WP(Q_F - Q_1)$. However, if government abandons its protectionist intent and removes the opaque procurement process and restores government demand to $D_{g1}$, then imports do not rise (as domestic firms can handily meet the government’s lower level of demand). Market access would be unaffected in this latter case.
markets. Recent econometric analysis supports the contention that governments which are perceived to be more corrupt spend more on military procurement and on arms imports. Put simply, officials with an interest in rent collection are likely to employ non-transparent procurement regimes to expand government spending on those items where the opportunities for self-enrichment are greatest.

A consequence of having to pay bribes to bid for government contracts is to reduce number of domestic bidders, especially among small and medium sized enterprises (SMEs). Unlike larger firms, SMEs do not have many executives who can devote considerable time with officials and take care of their needs. Recent research has underlined the importance of these time costs, as well as the traditional financial costs associated with bribery (which SMEs find harder to pay too). SMEs also offer less promising post civil-service employment opportunities for forward-looking incumbent officials. For all of these reasons, non-transparent procurement systems are likely to result in fewer firms being willing to supply the government with goods and services.

17 See further Tanzi and Rose-Ackerman, both op cit. supra note 7.
20 Further evidence for this argument can be found in P. Mauro, “Corruption and the composition of government expenditure” (1998) 69 Journal of Public Economics 263. Mauro’s paper estimates the extent to which higher levels of corruption affect the composition of government spending, and finds that spending on education suffers in more corrupt economies. He conjectures that the purchase of standard items such as textbooks and the hiring of teachers offer fewer opportunities for corruption that other government projects. One of the editors, S. Arrowsmith, has pointed out that another response to attempts to reduce corruption is to increase the complexity of procurement processes, creating more room for discretion for less-than-honest officials. This may well attenuate the shift in expenditure away from those government purchases that offered the most opportunities for bribe collection (before the corruption reform was put in place.) We thank Professor Arrowsmith for bringing this observation to our attention.
21 An overview of the latest research on the differential effects of corruption on large firms and SMEs can be found in V. Tanzi and H. Davoodi, “Corruption, Growth, and Public Finances” (2000) International Monetary Fund Working Paper WP/00/182.
Taken together, these empirical findings on the effects of corruption on procurement regimes can be thought of - in the traditional supply and demand framework - as shifting outward the government demand curve for products where there are opportunities for corruption, and at the same time shifting in the supply curve of firms. The following analysis of the market access effects of non-transparent procurement regimes builds on these observations.

3.2 The effects of non-transparency on market access

As mentioned, to trade negotiators the ‘relevance’ of a transparency agreement is likely to be a function of its impact on market access. To see what is the maximum possible effect on market access of removing a non-transparent procurement regime, suppose that under such a regime no foreign firm supplied the domestic government. Furthermore, suppose that, upon signing an international trade agreement, a transparent procurement regime is imposed and the corrupt officials cease their nefarious deeds. This heroic assumption is not made because we believe it is plausible, but rather to establish the maximum impact of signing such a transparency agreement.

The first effect of introducing a transparent procurement regime is to reallocate government spending away from goods that were more prone to bribery. Figure 3 represents diagrammatically the consequences of this reform. With the opaque procurement system, foreigners did not sell anything to the government and the domestic

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22 Of course, this need not be the case as an opaque procurement regime may be deliberately designed so as to extract bribes from foreign firms. However, paying such bribes is illegal under US law for US-based firms, while recent initiatives in the OECD context have made it more difficult for other OECD-based firms to engage in bribery.
firms’ sold output \( Q_2 \) at price \( P_2 \) to the state.\(^{23}\) Imposing transparency allows foreigners to sell to the government, and separately shifts the demand curve from \( D_g \) to \( D_{g1} \). The government takes advantage of access to world prices and buys quantity \( Q_3 \), which is less than if the demand curve had remained at \( D_g \). This implies that the quantity imported rises by \((Q_3 - Q_1)\), with increase in market access worth \( WP(Q_3 - Q_1) \). Thus, if corruption is the motivation for non-transparency and the latter results in discrimination against foreign firms, imposing a transparent procurement regime will improve market access less than the removal of a procurement ban that was not motivated by official malfeasance. Furthermore, if the fall in government demand is large enough so that domestic firms can now (at world prices) entirely supply the government’s needs, then market access need not improve at all.\(^{24}\) The lower impact on market access of transparency reform may be offset by higher imports of those goods that the government now increases expenditure on. In principle, this latter effect may ensure that transparency reform creates more market access than eliminating a straightforward procurement ban, but the circumstances under which this is likely to occur are restrictive.\(^{25}\)

Elimination of a non-transparent procurement regime will have a second effect, namely expanding the number of domestic firms who are willing to sell to the government. This case is analysed in Figure 4. The starting point is the same as in Figure 3: in the presence of a non-transparent procurement regime motivated by corruption the equilibrium price \( P_1 \) prevails and domestic firms supply quantity \( Q_1 \). Ignoring the effect of transparency

\(^{23}\) No doubt some of the premium over the world price \((P_1 - WP)\) is paid in bribes to corrupt officials.
\(^{24}\) This would happen if, in Figure 3, the government demand curve shifted in so much that its new intersection with the world price \( WP \) occurred at a quantity less than \( Q_1 \).
\(^{25}\) This is due to the requirement that government demand must end up exceeding domestic firms’ supply for imports to increase after the reallocation of government spending towards goods which offered (in the past) fewer opportunities for corruption. This requirement may not be satisfied for all the goods whose government demand expands under a transparent procurement regime.
reform on the government demand curve, such reform results in more firms entering the market (now that they do not have to spend time with and money on officials), and this shifts the supply curve out to $S_1$. With the government keen to buy at world price $WP$, domestic firms now supply $Q_4$ and imports expand but only to $(Q_F - Q_4)$, not $(Q_F - Q_1)$ as happened when the procurement ban alone was eliminated. Market access only rises, as a result of transparency reform, by $WP(Q_F - Q_4)$. Arguably, these new firms could have been attracted from other markets, and imports to those latter markets may well increase - providing additional benefits to foreign firms. (Such an effect will depend on the availability of unemployed resources, which can enter a new market without reducing supplies to other markets, and upon the relative profitability of supplying different markets). Again, the theoretical case is ambiguous, and it is entirely plausible that transparency reform creates less market access benefits than eliminating discrimination.

In sum, this section has drawn upon the latest empirical research on the consequences of corruption for the allocation of procurement expenditures and for the willingness of firms to supply markets to motivate straightforward conceptual analyses which clarify the circumstances under which transparency reform will have more or less market access effects than eliminating a ban on procurement from foreign firms. If market access gains are the metric used to evaluate the merit of a transparency agreement, the foregoing suggests that negotiations on improving transparency will offer fewer gains than those obtained under the current WTO GPA agreement. This is troubling as so few developing economies saw enough benefits to join the GPA, and are thus likely to view transparency negotiations with even greater skepticism.
3. Further considerations: enforcement

The last section was predicated on the assumption that a nation faithfully implemented a transparent procurement regime in response to signing an international trade agreement. In this section we examine the factors that determine whether a nation’s policymakers, who may be corrupt, are likely to have an incentive to implement the agreement. Most economic analyses of the incentives for national compliance with international trade agreements make two implicit or explicit assumptions: first, national policymakers take account not only of the interests of domestic exporters but also domestic producers and consumers. Second, policymakers value the future interests of these three national constituencies as well as their current interests. With such preferences, two features of international trade agreements and diplomacy tend to create incentives for government officials to refrain from taking measures contrary to the agreement. The first feature is the expectation of future trade negotiations and the market access benefits that they can bring to a nation’s exporters. Nations which choose not to fully comply with current agreements may find themselves at a disadvantage in future negotiations, or excluded all together.

The second feature is that disputes can be brought before an impartial body (a WTO panel), and sanctions may be authorised against nations that break the provisions of an agreement. These sanctions typically take the form of increasing trade barriers against the offending nation’s exports. Both features create a linkage between the government’s decision to faithfully implement a trade agreement and the current and future interests of

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its exporters. No doubt the strength of that linkage varies across nations and over time - dependant on the size and relative influence of the export and import-competing sectors, as well as on how effective consumers prove at forming a lobby or interest group. The linkage gives national export interests an incentive to oppose less than full implementation of agreements, which may benefit import-competing interests, and consequently alters the internal political economy of a nation. A central question is how this mechanism stands up in the procurement context instances where a nation’s officials may be corrupt.

If non-transparency in procurement is motivated by self-enrichment of officials the calculus may break down if corrupt officials seek to extract bribes from export interests. That is, officials may demand that export interests “pay” for the reduction in their bribe income from government contracts that would result from faithfully implementing a transparency agreement. If so, this may set off a ‘competition for influence’ over the extent to which the provisions of that agreement are implemented. A key condition for such a competition is that exporters are motivated by the fear that sales will be lost as a result of any violation of the transparency agreement—i.e., trade sanctions are used as an enforcement device. If the exporters do not have “deep pockets” (which will generally be the case for those who sell goods in competitive world markets), then this countervailing pressure to enhance compliance with the transparency agreement will be weakened. Furthermore, if exporters sell homogenous goods on world markets (as many developing countries’ exporters do) and the cost of switching to a new export destination are small, then any WTO-imposed sanctions will just result in exports being diverted away from the

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[27] The disadvantage may arise, for example, when trading partners discount any negotiating offer made by a nation that has not accorded with prior agreements.
complainant to other nations, with little or no effect on world prices. In this case, the sanctioning mechanism fails entirely, undermining the discipline that export interests may place on their domestic governments to enforce any transparency accord. These considerations cast doubt on the ability of international trade agreements to provide strong enough incentives to alter the behavior of officials who are principally interested in self-enrichment, and suggests other types of initiatives are needed that tackle domestic corruption head on.28

4. Concluding remarks

The last decade has seen momentum grow behind initiatives to enhance transparency in procurement regimes at the national and international level. The initiatives are motivated by concerns about using taxpayers’ and aid donors’ money effectively, as well as by a greater appreciation of the deleterious effects of corruption. There is also a market access dimension underlying efforts to enhance the transparency of procurement regimes. Thus, national and OECD-based initiatives to restrict the ability of firms to engage in corrupt practices and bribery tilt ‘the playing field’ towards firms domiciled in more lenient jurisdictions. Discretionary procurement also allows for de facto discrimination that may have market access implications for foreign firms.

Although there is little debate about the benefits of reducing corruption and the importance from a social welfare point of view of transparency in procurement, this paper casts some doubt on the efficacy of using international trade agreements as an instrument

28 This finding is consistent with that of Tanzi, who argues that an effective strategy to tackle corruption cannot be piecemeal in nature, and must comprehensively restructure the operation of the state. See Tanzi op cit. supra note 7.
to improve the transparency of procurement regimes. The arguments presented here do not deny that transparency agreements can offer market access benefits and that, under some circumstances, they can generate enough incentives to sustain full compliance. Instead, we have sought to show that when non-transparency in procurement is motivated by the self-enrichment of officials, the market access effects of fully implementing a transparent procurement regime are likely to be less than if protectionist impulses motivated non-transparency. Furthermore, the incentives to comply with such a transparency agreement (and, therefore, the market access gains that foreigners can expect) are weaker in nations with relatively more corrupt officials and export interests that do not have deep pockets or political influence (e.g., those that sell relatively homogenous goods into large world markets). To the extent that these latter circumstances are less likely to be found in functioning democracies and in economies which tend to specialize in selling more differentiated products, it is perhaps not surprising that efforts to establish disciplines on transparency at the WTO are primarily supported by trade negotiators in the industrialised world.

Our discussion suggests that the major onus of efforts to improve transparency must be domestic - driven by a desire from society (taxpayers, suppliers) to combat corruption, and enforced through mechanisms that are domestic in nature: effective deterrents through ex post punishments that exceed the gains realized by officials and firms (including banning firms caught in attempts to engage in bribery from bidding for contracts for a number of years); the creation of external monitoring devices and institutions (including encouragement and protection of "whistle blowers"); public

29 Our focus here on corruption-induced non-transparency in procurement should not be taken to imply that tackling corruption is the only, or indeed the most important, goal of international agreements on
transparency-enhancing mechanisms (published audits by independent auditors); privatisation and hard budget constraints; and creation of incentives for losers of corruption to complain, must all be part of the equation. In this regard, a transparency agreement in the WTO could be beneficial if it calls for the introduction of a challenge or bid-protest mechanism that can be invoked by participants in a procurement process to contest instances where transparency rules appear to be violated.
Figure 1:
Figure 2:
Figure 3: