

NCCR Trade Regulation Brown Bag Series

Marc Steiner, Judge to the Swiss Federal Administrative Court

The Revised GPA - More Scope for Green Public Procurement?

Wednesday, 30 November 2016, 12.30 – 13.30

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Hallerstrasse 6, 3012 Bern, Switzerland

Abstract

The WTO Government Procurement Agreement (GPA) is considered to be the most relevant international legal framework when assessing public procurement practice. The revised "sustainable" GPA ("green" technical specifications and award criteria) entered into force April 2014. There is an argument, according to which there is a wide margin for purchasing public entities to consider the production process in the context of the GPA compared to classical WTO law. This might not be evident at first glance from the perspective of a WTO lawyer used to the PPM debate, but not used to the public procurement context. The explanation is that there is a significant difference between an import ban and public procurement. The regulatory behaviour of public entities leads to a limitation of the margin wherein consumer choice can be exercised, whereas government procurement implies choices of the public authorities acting as consumers themselves. The explicit reference to environmental aspects within public procurement is perfectly in line with the new "sustainable" in for instance in Germany meanwhile implemented EU public procurement directives. Art. 68 of the new directive 2014/24/EU even allows the integration of environmental externalities when assessing lifecycle-cost. This is a considerable mindset change. During the 90s the GPA was interpreted as a heavy defense weapon to avoid secondary policy goals because they can have a potential to be abused as disguised protectionism.

Biography of the Speaker

Marc Steiner holds a Master of Law from the University of Basel and is admitted to the bar. He has delivered an expertise on Green Public Procurement in Switzerland and issued a working paper on how to integrate social aspects in public procurement processes. Marc Steiner was appointed as a Judge to the Swiss Federal Administrative Court in 2007. He used to be involved (until 2013) as a regular guest of the ILO International Training Centre (ITC/ILTO) Torino, in the spreading of knowledge about the legal aspects of Sustainable Public Procurement. Furthermore, Marc Steiner was invited to act as an expert during the public hearing of the Internal Market and Consumer Protection Committee of the European Parliament on "Modernisation of Public Procurement". Marc Steiner is a member of the Advisory Board of Transparency International (Swiss Chapter) focusing on integrity in the government procurement process and at the same time a member of the Scientific Advisory Board of swisscleantech, the Swiss association for stakeholders in the green economy, dealing with sustainable (public) procurement issues. His research focuses on the legal implications of the inclusion of environmental and social policies in public procurement practices and the methods used when balancing interests in this context guided by the idea of a coherent legal order.

**Participation is free of charge, no registration is needed.
We warmly welcome you to join our seminar at the World Trade Institute!**

NCCR Trade Regulation Brown Bag Seminars are 30-minute presentations, given by external or in-house researchers. The presentations are followed by a 30-minute Q&A session. The Brown Bag concept comes from the US; it means that people bring their own lunch and eat it during the presentation.