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Activity: Workshop on Government Procurement Modernization in the Caribbean
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CARICOM'S PUBLIC PROCUREMENT REGIME

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BACKGROUND

- The Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy (2001) provides the overarching justification for the establishment and implementation of a regional Public Procurement regime. Article 239 obliges Member States to ***"elaborate a Protocol relating.... to.... Government Procurement."***

BACKGROUND

- Purpose of the Single Market is to facilitate the expansion of all forms of economic activity. As in most small developing countries, governments are generally the largest procurers of goods and services in their respective national contexts

BACKGROUND

- Consequently, the collective volume and value of Public Procurement in the CARICOM region is considerable (estimated at 20% of GDP to be US\$4.6 billion 2003)
- An effective Public Procurement policy is fundamental, therefore, to the success of the single market

PRINCIPLES OF THE REGIME

- Market Access (Free entry and participation in Procurement markets, negotiated conditions)
- Technically and financially qualified suppliers who are interested in participating in a procurement opportunity should not be prevented from doing so due to discriminatory restrictions and/or other artificial barriers to entry

PRINCIPLES OF THE REGIME

- Non-discrimination, National Treatment and Most Favoured Nation Treatment
- Ensure that its procurement laws, regulations, policies, administrative rules, guidelines, procedures and practices are not prepared, adopted or applied so as to afford protection, or favour to, or bias against, the goods, services, works or suppliers of any other Member State

PRINCIPLES OF THE REGIME

- Transparency: ensure that sufficient and relevant information be made available to all interested parties consistently and in a timely manner through readily accessible and widely available media at reasonable or no cost. applicable to all aspects of Public Procurement, including the operating environment, procurement opportunities, purchase requirements, tender evaluation criteria and award

PRINCIPLES OF THE REGIME

- Procedural Fairness: implement the necessary mechanisms to ensure the fair treatment of suppliers, including due process. Fair treatment is particularly important because it involves the expenditure of public funds, and is therefore subject to public scrutiny. From a regional perspective, fair treatment will promote confidence in the Public Procurement regime and mutual trust and respect among participants (will encourage participation)

ROAD MAP

Phase I: Diagnosis, Situational Assessment
Recommendations

Phase II:
Regional Policy and Protocol
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Phase III:
National Legislative Implementation

Phase IV:
National and Regional Institutional Implementation

COMPLETED WORK

- To date, the Caribbean Community has undertaken and concluded a significant volume of preparatory work regarding the establishment of a Community regime for Public Procurement
- Studies carried out under a CIDA/IDB Technical Co-operation Agreement

COMPLETED WORK

- The Project was commissioned in 2003 by the CARICOM Secretariat.
- To support CARICOM in its efforts to establish an effective regional regime for Public Procurement that facilitates the full implementation of the CSME, and to participate more effectively in external trade negotiations relating to Public Procurement

COMPLETED WORK

- The Project comprised:
- Diagnosis of existing legal and institutional frameworks
- Collection and analysis of Public Procurement statistics
- Recommendations for a Regional Best-Practice Regime

COMPLETED WORK

- The Project outputs have contributed to the Community decision-making process by providing a comprehensive picture of the current state of affairs in national procurement systems, identifying strengths and weaknesses as well as making recommendations for improvement in accordance with best practices.

COMPLETED WORK

- Consequently, the Community is adequately informed as regards the requisite measures that would need to be undertaken in order to create the conditions necessary for the establishment and sustainable operation of an effective and efficient regional Public Procurement regime

COMPLETED WORK

- The Draft Community Policy on Public Procurement was prepared that provides policy guidance in respect of the development of the requisite modern, comprehensive regulatory and institutional/administrative framework that affords the Community an opportunity to realize the benefits of the utilization of Public Procurement as a regional development driver.

COMPLETED WORK

- CARICOM Policy Provisions accord with international best practices:
- The World Trade Organization (WTO) Agreement on Government Procurement
- The non-binding principles promulgated by the Government Procurement Experts' Group (GPEG) of the Asia-Pacific Economic Commission (APEC)

COMPLETED WORK

- The Model Law on Procurement developed by (UNCITRAL)
- Current trends in hemispheric, regional and bilateral Public Procurement negotiations and existing agreements, some of which include small developing countries, notably, the European Union – Chile bilateral trade agreement, the United States

COMPLETED WORK

- The CARICOM Policy covers:
 - General Provisions: definition, objectives, implementation, scope, contract value thresholds, principles (including efficiency, transparency and, public procurement and the environment

COMPLETED WORK

- Substantive Provisions: including prohibition of offsets, rules of origin, prior information notice, designation of contact points, valuation rules, technical specifications, supplier registers, contract administration, anti-corruption and conflict of interests, use of information technology and statistical reporting

COMPLETED WORK

- Temporary Safeguards, Technical Co-operation and Assistance:
- including temporary restrictions for Least Developed Countries

COMPLETED WORK

- Institutional Provisions:
- Policy-Making, Monitoring and Review Bodies,
- Permanent Committee on Public Procurement,
- Community Notice Board
- Dispute Settlement

COMPLETED WORK

- Final Provisions:
- General exceptions and amendments and modifications

OUTSTANDING WORK

- Establishment of general principles to be observed by all Member States (agreement on the Policy);
- Elimination of existing barriers to market access and/or entry;
- Prohibition of new restrictions against CARICOM nationals;
- Observation of national treatment;

OUTSTANDING WORK

- Harmonization of laws, regulations, key practices and procedures; and
- creation of common rules and disciplines to be observed by all Member States including by private agents or suppliers

THANK YOU