**UNCITRAL** United Nations Commission on International Trade Law

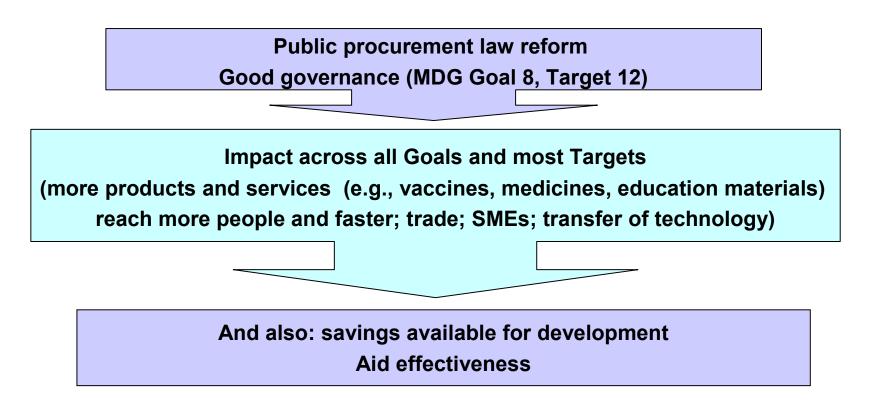


Cooperation and Integration, the path to Government Procurement Development in the Caribbean, April 12-13 2011

Modernising public procurement law – the UNCITRAL approach

Caroline Nicholas UNCITRAL April 2011

#### Why procurement modernisation?





#### **Procurement reform**

#### **Objectives**

- Accession to GPA or other TA; MDB/donor requirements
- Improve performance of system (national)
- Compliance with international agreements (UNCAC)
  Context
- Stage of development
- Geography, political system, economy
- Legal system and traditions

#### Appropriate model?

**Reform of UNCITRAL Model Law** 

- Update the law (1994)
  - Introduce e-procurement
  - Apply experience in implementation and use
  - No change to key principles and features
- Started in 2004
- Revised law to be issued June 2011
- Consensus approach

**Common procurement objectives** 

No change in UNCITRAL objectives

- Value for money/economy and efficiency
- Participation, competition
- Fair treatment
- Integrity and public confidence
- Transparency

#### **Scope of revised Model Law**

#### Remains

- A framework text
- Subject to other international agreements
- Regulates selection of suppliers
  - Not procurement planning
  - Not contract administration
- *Expanded* to include "defence" procurement



**Parameters of revised Model Law** 

- Reflect developments in procurement
  - From rules and compliance
  - To management and performance
  - Anti-corruption vs value for money?
    - Use of discretion and the toolbox approach



#### **Consistency with other texts**

- WTO GPA
  - 1994 and revised text 2006
- Other regional and trade texts
- MDBs' Guidelines
- UN Convention Against Corruption
  - Preventive measures on procurement (art 9)



# Introduction to UNCITRAL and its work in procurement

#### Main issues for harmonization

- Objectives and principles the same
- Some differences as regards
  - Procurement methods
  - Use of procurement for other policy goals
- Differences reflect capacity issues
- Model Law designed to be flexibly applied and to allow for development



#### Legal reform is just the start

- Law needs to be supported by
  - Regulations (the details)
  - Guidance (how to use)
  - Capacity-development (training)
  - Institutions
  - Political will
  - Suppliers and civil society
- Otherwise, law may be good, but system poor

### THANK YOU

### Details of UNCITRAL's work on procurement

www.uncitral.org