



Summary of the Discussions and Presentations Held at the African Development Bank (AfDB), Abidjan, 19-20 November 2015.

Introduction:

Emre Aykar, CICA President, thanked the AfDB for having accepted to organize these two days meetings with CICA and EIC. Mr Aykar presented CICA to AfDB representatives and underlined participants' expectations toward this mission. Philippe Dessoix, EIC President, presented the task and objectives of EIC as well as its membership. Mr Dessoix illustrated EIC activities through examples such as EIC Blending 2.0 proposal or the EIC Contractors' guides to the FIDIC Forms.

Session 1:

a) Reform of the Bank's Procurement Policy – Implementation of the new Procurement Policy and related challenges

Vinay Sharma, AfDB Director of the Procurement and Fiduciary Services Department, explained that the Bank's old procurement policy was too prescriptive and not efficiently and pragmatically addressing the Bank's Business and member countries' needs, such as the need for more specialised procurement methods, an increased recognition of sustainability issues or the increased focus on capacity building.

Therefore, Mr Sharma identified a need for greater flexibility and an increased use of country systems and risk management without a reduction in fiduciary standards. Mr Sharma said that AfDB procurement rules represented only 1% of procurement contracts in Africa. The AfDB is hoping that under the new procurement framework this 1% will help improve the expenditure of the 99 % left within the budget of member countries. The new Policy was approved in October 2015 and should enter into force at the beginning of 2016.

The overarching principle of the new policy is to achieve Value for Money. Value for Money is obtained through the application of main principles of "Economy", "Efficiency", "Effectiveness" and "Equity" for a procurement process that is competitive, fair and transparent¹.

Furthermore, the "Fit for Purpose" risk-based approach aims at allowing great flexibility in choosing the type of procedures/instrument (PPP, DBO etc.) adapted to the country/sector/project context. Concerning the use of Borrower Procurement Systems (BPS), it aims at avoiding the creation of alternative systems. Bank's fiduciary Standards will be ensured through procurement audits and independent procurement review. The AfDB hopes to start using BPS with a relative small amount of countries but to progressively and rapidly extend its implementation to an increasing number of

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- 3) See Slide 6 of the Power Point presentation on "Procurement Capacity Development Operational Approach"
- 4) The Bank also makes public some projects here: <http://www.afdb.org/en/projects-and-operations/project-portfolio/#c10693>
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countries. Other MDBs are interested in this new Fit for Purpose risk-based approach and the AfDB hopes to attract larger MDB's financing into its new procurement framework.

Those policy principles will be implemented through indicators to be published in the Operations Procurement Manual and in a toolkit.

b) The new procurement policy as an enabler for enhancing National Private Sector Capacity

Ashraf AYAD, AfDB Chief Procurement Officer, emphasised that the new procurement policy entails a "Development Mandate" having for main objective to develop the National Private Sector.

Mr Ayad explained that 87% of Bank's contracts were awarded to African companies which represented about 44% of the value of contracts. However, Mr Ayad added that many of those African companies were actually international companies represented on the African continent and therefore supported that the share of African contractors has been falling since 1995.

In this context, African member countries have insisted, that the new procurement policy includes enabling provisions for supporting country-specific socioeconomic objectives such as the development of the Borrower's industry (local content, labour requirements etc.) and environmentally & Socially Responsible Procurement (ESRP).

The Bank will consider the application of these enabling provisions, if the borrowers have specific policies or national laws in that regard, if such provisions meet the Value-for-Money principle of the Bank's procurement policy and if the market analysis shows that it does not lead to monopolistic situations. Furthermore, the Bank will develop specific procedures and indicators to be in place during the implementation phase. Those provisions and procedures as well as exit clauses will be stipulated in the Financing Agreement. In addition, bidding documents for small value procurement are simplified and Works and Supply and Install solicitation documents may include provisions mandating and remunerating contractors for transfer of knowledge to their partners.

Discussion:

Answering participants' questions, the AfDB disclosed the following information:

- **Small value procurement contracts:** The AfDB is developing country-based thresholds. Those thresholds are based on AfDB's country assessments and sectorial assessment predictability and consistency. The AfDB has already done 45 country assessments (to be done every 3 years again). The AfDB matrix and indicators will be made public.
- **Time delivery issue:** The AfDB expects to reduce project implementation by an average of 8 months under the new procurement framework.
- **AfDB assessment methods and local content clause:** The AfDB stated that its assessment method was transparent, open and fair. On the local content clause, it explained that the AfDB will ensure that it does not damage AfDB principles and that the private sector can handle it without being in a monopolistic situation. What is more, such clauses were already existing in the legislation of some African countries. However, this had not led to greater

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involvement of African companies and the AfDB is lacking information to measure the efficiency of such provisions into national laws. The applicability of such legislation has always been a challenge.

- **Project proposals by countries:** The Ministry of Finance or the one acting as the Bank's governor of each country proposes its projects to the Bank.
- **Guarantees:** The AfDB has founded "Africa 50" and is thinking of using guarantees for countries where some sectors are bankrupt.
- **Abnormally Low Tenders:** The possibility to reject an ALT will be included in the new procurement framework. The methods are under elaboration by a MDBs' working group leads by EBRD.

Session 2: How can CICA-EIC contribute to building capacity of Bank Staff and Regional Member Countries (RMCs), including the National Private Sector (NPS):

Eric Yoboue, AfDB Advisor to the Director of the procurement and Fiduciary Services Department, explained extensively the concept and direction of the Bank's strategic approach for building capacity of Bank staff and RMCs.

After having described the context and justification of this approach, **Mr Yoboue** said that the goal of this approach was to promote a sustainable and organised procurement knowledge sharing culture within the Bank and in RMCs with the objective to improve performance and development impact of Bank-financed Operations in RMCs. In order to develop its approach in the area of building sound country procurement systems the Bank has been working with the OECD Methodology for Assessing Procurement Systems (OECD-MAPS²). This approach will be based on three pillars (Strengthening Countries Systems, Improvement of Stakeholders' skills, Support of National & Regional Procurement trainings institutions) and guided by four principles (Co-responsibility, Flexibility, Commitment and Partnership) in order to develop new skills (Fit-for-Purpose, Effectiveness, Continuous Risk Analysis). Some key indicators will be selected for assessing the performance of the new policy among which are the duration of procurement process/country/type of contracts, the percentage of contracts awarded in accordance with concerned loan agreements or the percentage of projects implementing Procurement Policy on time³.

Establishing partnerships is also a priority of the AfDB. The AfDB is in discussion with the ILO to promote such a training platform outside the African continent and would be interested in hearing what kind of competencies European and international contractors have developed in this area. The AfDB should finalised the approach concept note by December 2015 and E-learning material should be available by June 2016.

Vincent Detemmerman, Director Administration, Confédération Belge de la Construction, presented to the Bank the experience of European contractors on building procurement capacity for NPS. **Michel Demarre**, Director General SEFI-FNTP, detailed the case of Performance-based road maintenance contracts for the development and training of the local industry. Finally, **Bertrand Hanauer**, Directeur Développement Afrique SOGEA SATOM, presented VINCI's experiences in including professional training into contracts.

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Discussion:

- Training requirement: The Bank is thinking on integrating such requirements into big and medium size contracts.
- Local Content and Maintenance: The Bank agreed with the World Bank's assessment that maintenance had not been successful in Africa and that local content could be provided through maintenance. Participants insisted that maintenance's quality was improved if maintenance criteria were integrated into the contract and, that the Bank should impose certain maintenance standards into its contracts. A certain degree of flexibility also exists in the contract payment modalities. For instance there are contracts where there is no construction cost for the client and where the annuity payment only starts 2 years after completion of the project. **Mr Sharma** stated that the AfDB had not been successful because it probably did not pick up the right projects and the right contractors. He suggested to have a deeper conversation on this issue in 2016 between AfDB staff and the transport sector.

Session 3: Development of Infrastructure in Africa – Bank Projects Opportunities and co-Financing Instruments

Dr. Jacques MOULOT, representing the division manager for Regional integration, informed the participants about the long-term strategy of the Bank in the field of infrastructure and presented the existing opportunities as regards the ongoing projects. The Bank has newly adopted this 10 years strategy (until 2022) and infrastructure is one of the pillar with governance and regional growth. This strategy focuses on renewable energy and the Bank is already supporting some projects such as "Light Africa" or the "Feeding Africa" initiative in the agriculture area. In the transport sector, road, rail and harbours construction are a priority. In the Oil&Gas sector, the Bank will continue to play an advisory role. Dr. Jacques MOULOT presented a list of on-going projects (Lake Victoria Water and Sanitation Program, the Inga mega hydropower plant) and promised to send information on upcoming projects to the participants as soon as possible⁴. The Bank finances for about US\$ 7 billion of projects/year and future Bank support will be in line with the priorities identified in the Programme for Infrastructure Development in Africa.

In addition, **Valérie Dabady**, AfDB Division Manager at the Resource Mobilisation and External Finance Department (FRMB), informed participants about existing and envisaged co-financing instruments to be used by the Bank for financing RMCs' infrastructure projects. Ms Dabady explained the differences between the statutory (African Development Fund, Nigeria Trust Fund and AfDB) and non-statutory type of resources. Ms Dabady added that the role of the FRMB department was to support the financing of the AfDB's ten year strategy. The 3 statutory windows have a different scope of intervention as well as a different membership composition (See pp. 3 and 5 of the PowerPoint Presentation called "Resource Mobilisation"). The AfDB provides non-Concessional financing for 14 Middle Income Countries and has an authorised capital of US\$ 93 billion. The African Development Fund provides Concessional Financing terms for 40 low income African Countries and has a subscription of US\$ 8.75 billion in its current cycle. The Nigeria Trust Fund provides Concessional

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Financing Terms for lower income countries with a total available resource of US\$ 52 million over the 2016/2017 period .

The Bank also mobilises additional resources through non-statutory resources such as special funds or Trust Funds (85% are Thematic Trust Funds, 15% are Bilateral Trust Fund). The Bank currently manages 39 funds with a total of Units of Account 796 Million.

The Bank also mobilises co-financing resources to leverage the Bank's operations and has structured arrangements to foster co-financing with Japan, the Islamic Development Bank, China Development Bank etc). Ms Dabady further detailed co-financing arrangements with Korea and with China. Finally, the Bank is planning to develop co-financing with the Asian Infrastructure Investment Bank and it is keen on developing partnerships with non-sovereign donors such as Coca-Cola, MasterCard through foundations.

Discussion:

- Information about the projects: The AfDB said that the Regional Economic Unit were in charge of the planning and preparation of the projects. They could be a first entry point for contractors. Another entry point would be the Program Implementation Unit. Finally, contractors also have the possibility to have information at country level. To that end, contractors might be interested in consulting the Bank's country strategic papers⁵ (updated every 3 years). However, the AfDB staff said it could also introduce contractors at each level. Furthermore, the Bank can also find borrowers in exchange of a fee.

Session 4: Public Private Partnerships – The use of the UNECE International Centre of Excellence on Concessions and PPP (ICoE-PPP).

Geoffrey Hamilton, Chief, Cooperation and Partnerships Section, United Nations Economic Commission for Europe (UNECE), contextualised the development of international Concessions and PPP standards in the light of the new 17 Sustainable Development Goals. Mr Hamilton explained that those Concessions and PPP standards will be non-mandatory and based on best practices from a variety of countries. **Mr Hamilton** announced that indicators shall be published by March 2016 and that a charter on "Zero Tolerance to Corruption in PPP Procurement" as well as a mechanism to incentivise governments to comply with the Charter were pending. Mr Hamilton concluded its presentation by presenting the locations of the future or already opened centre of excellences and their area of competencies. He invited the AfDB to join the framework.

Marc Frilet, Vice-President of the French Institute of International Legal Experts (IFEJI) presented the experience of the ICoE promoters in complex infrastructure projects in Africa and illustrated how the ICoE could deliver information and methodological instruments to identify best practices in terms of institutional and legal frameworks in the countries where the projects are implemented. Mr Frilet also proposed ways of collaboration between the ICoE and the AfDB. **Roger Fiszelson**, CICA Director General, presented how the ICoE could provide tools to help implementing best practices in

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identifying and planning PPP projects. Mr Fiszelson presentation focused on the traffic and tariffs assessments, the evaluation of the user's ability and willingness to pay and on the Public Authorities or MDBs to allow the financial equilibrium of the projects when necessary.

Discussion:

The AfDB had created a PPP hub in South Africa and was planning to create one in West and North Africa. The AfDB would be opened for partnerships with UNECE to make sure that PPP standards and international best practices can be developed. Participants agreed to pursue the discussion on this matter in the coming weeks.

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