

**2<sup>nd</sup> Annual Meeting of AIIB – Jeju, June 16-18, 2017**  
**Seminar “Building Public Trust in Infrastructure Investments”.**

1<sup>o</sup>) What challenges do the private companies face in competing for, and implementing infrastructure projects?

Too often, we face poor quality of the preparation by the public employers.

Approximate design, objectives and functionalities insufficiently determined. Weak information on:

- Soil conditions, and/or
- Geological studies, both difficult to be achieved by competitors.
- Too large prices breakdowns making it difficult to compare bids or to determine the existence of Abnormally Low Tender (ALT).

Weak institutional and legal framework, and competition loyalty also concern companies. More actions to strengthen country capacities would be a factor in improving the environment conducive to achieving a greater volume of infrastructure.

The fear of the company is the existence of poorly drafted, incomplete or confusing technical and administrative contract specifications that shift to the assumption of unexpressed responsibilities to contractors. This is a source of litigation and losses which can lead to the bankrupt of the companies, especially SMEs.

There is also a strong tendency to rely on the company for the responsibilities of public employers, on the pretext that companies have an experience that their clients do not always have. Traducing this trend some standard contracts have seen their volume over the time increasing considerably, roughly up to 50% of the previous one. This approach allows their clients to refuse the companies' claims due to unexpected events, arguing that it was up to the company to take the necessary measures to avoid the extra costs due to the vagueness of the contract triggering the budget increase.

Contractors are also preoccupied by uncertain and random distribution of responsibilities between the various ministries and agencies to be involved throughout the project cycle. Difficulties to know precisely the actual procedures and reasonable timeframes for obtaining permits, authorizations, licenses, etc. worried also the contractors. That's why fair and transparent competitive bidding together with accurate procurement should improve the quality of infrastructure projects promoting Value for Money

Precise knowledge of the tax framework (determination of company operating income), customs environment (applicable nomenclature, tariff, and deadlines) must be improved. The procedures and the fairness of the reassessments made by the fiscal authorities are also a source of concern for the companies which lead to their withdrawal from certain countries, depriving them of a broader competition.

Moreover, the construction industry attaches great importance to the setting up of procedures and instruments enabling:

- Reduce the risks of projects and prevent the occurrence of disputes. To this end, the use of the SOURCE platform of good project preparation, promoted by the MDBs, is an important factor in identifying and reducing risks;
- The use of alternative dispute resolution mechanisms, such as the Dispute Review Board (DRB).

Finally, we can only regret the lack of consideration of:

- Real quality of the offers;
- Socio-economic impacts of the projects and the very largely insufficient considering of the budgetary return provided on the medium-long term by the infrastructure;

- Excessive preference for the lowest price and insufficient use of allocation to the most economically advantageous tender.

### 2°) What steps has the industry taken to address corruption risk in infrastructure projects?

The fight against corruption is now part of the obligations that responsible companies must implement consistently and vigorously. They adopt strict rules that reflect international conventions, those ratified by OECD member countries, and the recommendations of international organizations (the UN Global Compact), and the MDBs and DFIs anticorruption rules.

These international standards now apply to states, for example in France, law Sapin 2, which often boosts international standards. For example, French companies, or French subsidiaries of foreign groups, whose annual turnover exceeds € 100 million and those exceeding 500 employees, must now put in place measures to prevent and detect corruption and trading in influence in France and abroad.

The federations representing contractors, regional and worldwide, participate in the numerous international and national consultations launched on this subject by various international organizations (UN, OECD, and European Union, etc.) as well as by the MDBs / DFIs. They issue recommendations and documentations to their members to help them implementing the legal provisions and encourage them to increase their effectiveness.

On these bases, companies' edict codes of conduct, guides, best practices, set up accounting and financial procedures to prevent and detect corruption, they organize regular initial and refresh trainings for their agents. We should add: these internal rules are regularly updated and are reinforced by internal and external controls carried out by external audit firms delivering certifications meeting those meeting requirements of ISO 37001. In addition, it must be mentioned the improved protection and possible action of the whistleblowers.

Moreover, companies, and the majors, are required to ensure that these measures are applied by all their subcontractors. It must be emphasized here that, although this measure is indisputable in its theoretical expression, it is hardly rigorously applicable over the entire value chain initiated by the main company.

Companies have all the arsenal of best practices, and benchmarks useful in implementing measures to combat corruption, collusion, etc. Their effectiveness will depend, beyond the texts, on the strength and depth of the commitment of the President, his Council and his entire top management team. It will be reinforced by the awareness of the risk of loss of reputation and the financial risk generated by an unethical behavior. The consequences of the multiple sanctions that can be applied to both company and manager cannot leave indifferent. In this respect, the consequences of the extraterritoriality of anti-corruption laws in some countries are unpredictable and incalculable. Their application also places a paradoxical risk on companies that could be sued: to make it an anti-competitive tool because of the uncontrolled amount of sanctions imposed.

To conclude, the fight against corruption is and will be a continuous process, constantly renewed, which will improve if both private and public actors, are fully involved in this struggle. Each of these parties have the moral obligation to carry it out with determination and rigor. Responsible companies widely apply these principles. The counter-examples, which the media and some organizations present as general, are not representatives of the constant fight against corruption conducted by the contractors' community.

### 3°) Contractors are an important face of the project when interfacing with communities and people affected by a project. What responsibility do contractors bear for social impacts associated with a project.

CICA companies and their Continental and National federations, the European International Contractors (EIC), have for many years undertook a very important work of studies, reflections, and specific most appropriate measures for contractors to allow them to be compliant with Environmental, Social, Health and Safety (ESHS)

commonly accepted international standards. They must be adopted by contractors to ensure the improvement of the Environmental, Social, Health and Safety of the projects they undertake.

Regarding ESHS, federations and companies participate to the work and then incorporate principles and recommendations from various international organizations like, OECD (Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights, International Labour Organization's (ILO) core labour standards and the relevant ISO Technical Standards.

#### **Health and Safety:**

H&S is part of contractors' common practices. We recommend protecting labour rights and promote safe and secure working environments for all workers offering to the lowest category of workers the living wages. In our opinion, it must be equally applied to local subsidiaries and affiliated companies, all complying with the ILO core labour standards.

Regarding safety conditions our ultimate target is zero accidents and zero health hazards during the construction and operation of our projects. We also promote the health and wellness of our staff by raising awareness, launching health and exercise programmes and – where necessary – providing vaccinations and screenings.

#### **Human rights and local communities:**

We advocate for respect of internationally recognized human rights as those defined in the International Bill of Human Rights.

We employ the maximum possible number of local workers for our projects. We can fully integrate diverse cultures, religions, ethnicities on our construction sites worldwide.

Our policy is absolute rejection and zero tolerance for any behavior or action that constitutes any form of harassment, and undertake to collaborate actively, effectively, and firmly to prevent, detect, correct, and sanction any type of these behaviors. We treat with high celerity, confidentiality, transparency, objectivity, impartiality and respect for the privacy and dignity every case breaking our policy of respect of common human dignity.

#### **Involvement with local communities.**

Our companies contribute positively to communities thanks to the direct and indirect effects of the services they provide and of the lasting infrastructure they leave for the public such as social infrastructure and transport systems; they also contribute by means of their insertion in the economic landscape during project implementation and beyond.

We are committed to respect the traditions, cultures, and laws of the countries of operations and consider the concerns of the wider community as documented and prescribed by the MDBs.