Statement

by
ANCE “MDB Working Group” Coordinator
Gian Alfonso Borromeo
(EIC Past President)

at

Confindustria/ANCE – World Bank Meeting
on Procurement Policy Review

on

16th January 2013
in Rome (Italy)
Dear Mr. Becq,

Ladies and gentlemen, dear colleagues,

It’s a privilege for me to have the opportunity to convey some thoughts and suggestions directly to the World Bank’s Chief Procurement Policy Officer, Mr. Becq, which result from the experience of Italian International Contractors grouped under the Italian National Construction Federation, ANCE.

I have personally met Mr. Becq before in my previous function as President of European International Contractors – of which ANCE is a member – and I am very happy that today we meet for the first time here in Italy.

SLIDE 2

Allow me to remind the audience, which might not be familiar with statistical details, that civil works contracts represent the dominant sector in terms of World Bank-financed contracts for which International Competitive Bidding is prescribed.
The **share of civil works contracts awarded** through International Competitive Bidding – and thus being under “**Prior Review**” of the Bank – amounts to **more or less 60%** of all the contracts under “**Prior Review**” while **supplies represent on average 25%** and **consulting services contracts** are roughly at 15%.

**SLIDE 3**

As it has already been mentioned, within this dominant civil works sector, **Italian international contractors** throughout the last five years have always been among the **Top 6 World Bank civil works providers**!

Against this background, and with due respect to our European colleagues, I would claim – Mr Becq – that **your visit here in Rome to the leading European suppliers for World Bank-financed civil works is maybe even more important than the ones you already paid to Paris, London or Berlin** given that French, British and German contractors are less interested each year in working in developing countries!

Let me tell you from my humble experience that, for instance, British and many excellent contractors from Northern Europe prefer to work at home where they luckily enjoy a big domestic infrastructural market, better prices and less risk. This is not the case for Italy. By the way, many Northerner colleagues believe that the legal and contractual umbrella
offered by the World Bank is too small nowadays to attract them in some Asian, African or South American countries. We Italians begin to think the same...

Going back to our Italian success in World Bank financed tenders, let me state that, honestly, we will not be able to increase our current ranking .... unless ..... the World Bank or the WTO decide to investigate why no Italian – or other European contractors – participate in World Bank tenders for example in China, India and Brazil.

SLIDE 4
In fact, World Bank contracts open for International Competitive Bidding in China and Brazil are 96% actually awarded to local Chinese and Brazilian contractors.

We would like to encourage the Bank to investigate the true reasons behind these figures! You certainly know Mr Becq what we are talking about....

SLIDE 5
Ladies and gentlemen, dear colleagues,

The final slides of my presentation shall now summarise the main concerns and suggestions elaborated by the Italian MDB Working
Group which was set up in summer 2012 and which is composed of experts from leading Italian international contractors and renowned law firms.

Our ideas have been shared and discussed with our European colleagues of the competent EIC Working Group and are now an essential part of the EIC Position Paper which has already been handed over to the World Bank.

These ideas are now under discussion in Washington and the representative of the European contractors is Mr. Uwe Krenz from Germany, which we have the pleasure to welcome here in Rome today. Thank you, Uwe, for coming to Rome to assist our meeting! I cannot think a more competent and fair gentleman to convince Mr. Becq to listen to the voice of European civil works contractors.

First of all, let me clearly state that, differently from U.S., Japanese and Northern European Contractors, Italian contractors are still ready to continue working in developing countries on World Bank contracts!

I believe that our readiness is also in the interest of the World Bank and its Borrowers which both are looking for a broad competition and high quality works and Italy’s top ranking in the Bank’s respective statistics is the evidence of our quality.
I would like to make it very clear, however, that there are certain preconditions which have to be in place so that Italian and other European contractors can actually participate in bidding for World Bank-financed civil works projects!

And the most important precondition is a fair, transparent and professional tender process as laid down in the Bank's Standard Bidding Documents.

International contractors have full trust in these World Bank procedures and tender documents – which have been called the Bank’s "golden procurement standard" – and we are bidding for World Bank projects in distant countries because they cannot be changed arbitrarily by each Borrower. This is very important and reassuring for international bidders!

We are aware that, in the coming months, the subject of "Country Procurement Systems" shall be high on the Agenda again. We are also aware that some important Bank borrowers are asking for more "freedom" to use their documents and legislation.

Mr Becq, I have the same age as the World Bank. I am therefore in the best position to understand how badly the Bank needs to be rejuvenated.
However, if the World Bank would like to see Italian contractors continue bidding for their large-scale civil works projects, then our companies would request the Bank, as a minimum, to maintain its current practice with regard to the following two pillars of its procurement policy:

- To prescribe for its large civil works contracts the use of its Standard Bidding Documents; and

- To maintain its "Prior Review" policy in relation to the Borrower’s procurement procedures, documents, bid evaluations, award recommendations, and FIDIC contracts.

Do not attempt to be innovative on these two pillars, please! Do not try to rejuvenate what is instead the result of sixty years of international best practice! The Bank should keep carefully the enormous prestige acquired in all these years as the world leader in procurement!

SLIDE 7

For European contractors in general the prequalification phase is a very important element of the competition because, for commercial reasons, we are reluctant to submit a full offer if we do not have the certainty that our bid will be admitted to the evaluation phase and if we do not know against whom we are competing!
Therefore, we suggest that:

- For large civil works contracts, **pre-qualification should be the standard procedure** and **post-qualification procedure should be avoided**;
- Technical and financial qualifications of **consolidated local subsidiaries and affiliated companies** should be accepted; and
- Beyond scrutinising **financial capability** and **technical competence**, the PQ system should also **evaluate sustainability criteria**, such as Environmental Management (ISO 14001), Occupational Health (OHSAS 18001), Decent work conditions (ILO), Local Content, etc.

**SLIDE 8**

We also believe that the so-called **“lowest evaluated tender” should not be the only award criterion** but that, at least for large civil works, additional award criteria, which take into consideration the **quality aspect of each offer**, should be added.

The latest EU guidelines, for instance, support the **“Most Economically Advantageous Tender” approach** – i.e. the bid which embodies the **most beneficial combination of cost-effectiveness and technical**
**performance** – because it avoids price “dumping” followed by uncertainty on final completion, price and quality of the works.

As a logical consequence, the Bank should also define **its own policy to identify and reject** Abnormally Low Tenders.

In addition, the World Bank should also consider **innovative evaluation criteria** which reward specific contributions to development, such as **employment and training of local personnel** and **know-how transfer**.

**SLIDE 9**

Last but not least, with regard to the **contract execution phase**, we would suggest the following three points:

- **Borrowers’ amendments** in the Particular Contract Conditions **should not deviate from the standard risk allocation** laid down in the Bank’s General Contract Conditions (the “**FIDIC MDB Harmonised Construction Contract**”);
- **The Bank should enforce** the installation of **Dispute Boards** and the availability of **International Arbitration vis-à-vis** the Borrowers;
- **The Bank should ensure oversight over the full project cycle** from the tender phase until project completion.
Dear Mr Becq, after the long trip you have made to visit us in Italy, I would not dare to enter more in the details. We hope that some of our comments will be considered in your final report to the Executive Board.

Please remember that for our civil works industry, the World Bank is the vital umbrella which allows us to work in difficult and politically risky countries.

And your long experience in procurement, Mr Becq, reassures us that our concerns will be taken seriously by the Bank.

Thank you for your attention.
Consultation by the World Bank
on its Procurement Policy Reform
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World Bank Procurement Policy Review

EIC Working Group „World Bank Procurement“

advises

IAGP
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**Country Procurement Systems:**

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Thank you for your attention!
INTRODUCTION

In 2011, the World Bank (WB) has started the process of reviewing policies and procedures relating to procurement, in order to adapt the mechanisms to significant changes in the global economy, and thus to better achieve its institutional mission.

The role of WB in this process is essentially limited to:

- Defining the way in which borrowers must continue initiatives, using the Guidelines and, with regard to International Competitive Bidding (ICB), the standard documents of WB;
- Estimating borrowers' abilities and risks to complete the projects;
- Helping borrowers in planning procurement,
- Reviewing the various stages of the process and providing any clearance in the case of contracts of larger size and scope, of riskier contracts, as well as smaller contracts;
- Providing technical support to borrowers, in order to achieve the necessary reforms of its purchasing system;
- More generally, contributing - through the procurement - to the improvement of the political and administrative capacity building of borrowers, especially less developed countries.

GOALS

Guidelines review issuing the procurement of WB represent a primary date in the agenda of the institution's modernization. The general framework must be innovated and improved, to respond to the profound changes of the political
and economic global system that occurred in the last decade, particularly in light of the increasing globalization of markets.

The review undertaken by WB starts from some general considerations:

1) The WB specialization in financing infrastructure projects, its historic core business, must now adapt to the need of financing projects in different sectors, such as utilities, services ICT, etc.

2) It also highlighted the need for a greater focus on procedures of new financing instruments, such as the PPP, Emergency Loans, Development Policy Loans, Guarantees and Program for Results financing;

3) It is, then, important to foster WB capacity to effectively manage contracts of smaller sizes, which are particularly common among the borrower countries, characterized, rather than by the supply of goods, by the supply of services at the local level;

4) to implementation and strengthening of the fight against corruption and fraud, still remain a priority especially in order to use national procurement systems more heavily, in particular helping emerging countries to improve (or introduce) similar practices;

5) What has changed is also the global context. The WB finances projects for which the supply of goods are mainly produced in developing countries (DCs), with a strong predominance of the new economic giant countries (BRICS), while the so-called First range countries (mostly developed) have now specialized in more sophisticated exports, high-value technology;

6) Moreover, in aligning with the gradual modernization of procurement systems, which occurred during the last few years (UNCITRAL, WTO and the EU), the World Bank intends to improve its Guidelines, maximizing the best practices of other international experiences. The goal, in fact, is to achieve a better degree of transparency, competition, innovation, as well as environmental and social sustainability.

7) The goal to consolidate the use of e-procurement, moreover, must be read in this direction, encouraging the use of technology and electronic platforms, in order to simplify the services delivery by public administrations.

8) Finally, also in terms of procedures and internal practices, the World Bank intends to undertake a review that meets the criteria of efficiency and efficacy, clarity and promptness of action (staff, internal mechanisms for evaluation of inquiry, etc.). This component is extremely important, considering that, over the years, the WB has increased the contracts awarded having as object the management of its operational machine.

**REVIEW METHOD**

The WB has indicated the principles / criteria on which it intends to base the modernization of procurement system:

- Procedures / models “adjusted” for each specific need of purchase.
- Focus on the concept of risk and risk management.
- Increased use of national procurement systems and harmonization of models between countries in the developing world.
- Increased commitment in fighting corruption and improving governance.
- Increase the procurement added value for borrower countries and its overall efficiency.
- Extend the ability to intercept new needs.

From an operational point of view, the WB’s review provides a comparison with their “clients” and several stakeholders on the various areas of interest, to verify what improvements can be adopted in the procurement system.

One of the first phases was scheduled to be completed by December 2012, when first suggestions would have been provided to:

1) outline the framework within which the evolution of procurement policies is to be placed;

2) define the guiding principles for changes to the guidelines and dictate the application standard;

3) identify the parameters and profiles to change, indicating adequate justification.

As part of this first phase, the WB has hold and continues to hold meetings and seminars presenting its review and discussion with the institutions of the countries concerned (and their stakeholders) on targets and profiles involved.

A second phase will be launched in early 2013 and will continue for the whole year; it will include the preparation of the new document policies and the initial discussions about the changes in the Board of the WB, with further steps in consultation with the stakeholders.

INITIATIVE AND INTEREST OF CONFINDUSTRIA AND ITS ASSOCIATIVE NETWORK

Confindustria has proceeded with a prior consultation of its own, more interested associations, in order to highlight comments and useful suggestions for the review of the WB’s Procurement Policy and Procedures.

Confindustria’s initiative is based on the fact that Italian enterprises, even though with varying degrees of intensity, are very interested in participating in WB tenders, although the percentage of awarded contracts to them is quite small.

In comparison to the total awarded contracts by the WB in the period 2006-2011, a 3,7% mid-annual quota was awarded to Italian enterprises. In comparison to the various types of contracts, works covered a 5,3% quota. More limited were the quotas relating to consultancies or services (1,2%) and of goods
(1.1%). In 2011 alone, the contracts of the WB were quantified as equal to around $13 million, of which only 2.7% ($355.4 million) was assigned only to Italy.

In comparison to the potentials expressed by Italian enterprises on the foreign markets, a corresponding quota is noticeable only in works contracts but in any event a modest one, while quotas in the supply of goods and services are almost marginal.

Contracts of the World Bank assigned to Italian enterprises 2006-2011

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</thead>
<tbody>
<tr>
<td>Consultancy</td>
<td>0.46</td>
<td>0.84</td>
<td>4.12</td>
<td>0.42</td>
<td>0.70</td>
<td>0.80</td>
<td>1.22</td>
</tr>
<tr>
<td>Civil Works</td>
<td>0.88</td>
<td>5.33</td>
<td>3.40</td>
<td>4.34</td>
<td>13.31</td>
<td>4.36</td>
<td>5.27</td>
</tr>
<tr>
<td>Goods</td>
<td>2.62</td>
<td>0.76</td>
<td>0.53</td>
<td>1.18</td>
<td>1.34</td>
<td>0.28</td>
<td>1.12</td>
</tr>
<tr>
<td>All Contracts</td>
<td>1.32</td>
<td>3.36</td>
<td>2.85</td>
<td>2.99</td>
<td>8.72</td>
<td>2.73</td>
<td>3.66</td>
</tr>
</tbody>
</table>

Source: World Bank, December 2011

There are, therefore, significant possibilities of increasing the competitive ability of Italian enterprises in the WB procurement. To this scope, the review promoted by WB represents a crucial element, especially if it will be directed to valorize the technological and qualitative profiles of Italian enterprises. The main goal is to strengthen Italian enterprises offer in order to match the WB and above all, the countries beneficiaries’ demand, in terms of investment programs.

**WB’S POINTS OF INTERVENTION AND FIRST OBSERVATIONS**

Generally speaking, WB considers that it is paramount to act upon some crucial issues in order to effectively review the procurement guidelines. Hereby some considerations for each of them, upon which the Associative System has elaborated its own reflections and suggestions (as with the other reflections conducted by the WB attached to the present Note)

**A) CORRUPTION**

The environment in which WB mainly operates is that of the developing Countries, where high levels of corruption have been recorded. This hinders the correct carrying out of tenders and a fair evaluation of the different competitors. In this sense, the possibility of establishing ethical codes or similar could be evaluated, committing the borrowers to provide assurances for a correct carrying out of tenders. Furthermore, it could be useful to appeal to independent observatories that would “check” the process of the evaluation of the offers, reducing the risks of infiltrations and disloyal agreements. The WB’s involvement could be strengthened especially in the phase of the contract adjudication, above all to reduce the risk of awarding contracts at dumping prices (see over).
In order to make these guidelines even more effective, it could also be useful to strengthen the Bank’s sanctions policy by empowering the Bank to take legal action against representatives from Member States, in proven cases of fraud and corruption.

B) TRANSPARENCY

Transparency remains a crucial element to ensure a correct and competitive evaluation of tenders, and must be strengthened through the wide and constant publication of the competition's documentation on the WB’s website, as well as on the borrowers’. Moreover, it is evident that increasing the transparency of the procedures, it will contribute to a more effective opposition to corruption in tenders.

C) ABNORMALLY LOW BIDS

The matter of the abnormally low bids (ALB) assumes great importance for Italian enterprises. Even during the debate on the reform of the EU directives on public procurement tender, it arose the need to introduce a mechanism that would provide with the automatic exclusion of those bids registering abnormally low prices (up to 50% lower compared to the others bids).

ALB are a form of unfair competition and can thrive particularly well under the World Bank and other MDBs’ procurement rules which base the award of construction contracts on the lowest evaluated tender price. Contracting Authorities use this criterion because it offers the simplest method of evaluation, which is also the most defendable in the case of a complaint, and, according to conventional wisdom, it is also the system least prone to corruption. However, Contracting Authorities, users, operators and also financiers of construction works may be negatively affected by ALB as they can lead to poor Value for Money.

In the WB contest, it would be necessary, therefore, to introduce a procedure that allows an easy individualization of the ALB, with the purpose of avoiding excessive reductions practiced by countries (particularly the emerging ones) whose productive context (in terms of social and environmental safeguards) is markedly different from that of the most advanced countries (First Band).

D) USE OF LOCAL PROCUREMENT SYSTEMS

While adhering to the goal of promoting a greater qualification of the procurement systems of the borrowers, it is necessary to reflect on the fact that, increasing the reliance on local mechanisms of procurement, the risk is to multiply rules and procedures that the enterprises need to know in order to access tenders, with particularly negative effects for the small contracts. This could have the consequence of drastically reducing the competition, as well as limiting the circulation of know-how, material, goods and services coming from the various bidder countries, in detriment to the borrower itself.
Granted that, in order to maximize such local systems, it is also necessary to contribute to endorse and to introduce (where absent) a legal contractual and institutional frame to give suitable guarantees to the bidders, but, above all, to strengthen the developing countries' abilities. In this sense, it is necessary for the WB to provide support with specific technical assistance to these countries, including through on-the-ground training of the staff responsible for tenders.

E) THRESHOLDS

Along the lines of the above existing EU Directives, it would be advisable, furthermore, to foresee different thresholds on the basis of which International Competitive Bidding (direct WB involvement in the preparation and carrying out phase of the competitions) National Competitive Bidding and the Local Shopping (the appeal to BM could be confined to the vigilance and the control on the activity of the borrowers ex-post) should be used.

F) SUSTAINABILITY AND QUALITY

In line with the objectives of environmental and social sustainability strongly supported both at community and international level (EU, GPA-WTO, Rio+20 etc.), it is necessary to ensure that tender notices require bids to comply with environmental sustainability criteria, e.g. referring to the concept of “life cycle of the product”.

In this sense, it is underlined that the European Committee has introduced, within the proposals of revision of the UEs directive in subject of public contracts, the concept of cost and life cycle of the product, beyond the simple setting related to “lowest price”. In such way, in fact, the aim is to ensure that government purchases are not only aimed at negotiating a lower price, but to get the best quality product (resistance, quality of the materials, impact on pollution, efficient production cycle, etc.).

Consequently, the award should be implemented according to the criteria of the “most economically advantageous tender” (MEAT), in a logic of quality and value for money. In this sense, we propose, at least in the case of large and complex civil works, that awarding the contract on the basis of MEAT or respectively “Value for Money”, rather than the lowest price, would be more appropriate to ensure the Bank’s goals for cost-effectiveness.

In this sense, the role of procurement must also be seen in performing its function of “support” to the economies in the developing world, particularly in evaluating the offers in terms of their ability to impact the area they are intended for through advantages of a structural nature (in economic, financial, social, environmental and occupational terms).
G) **E-PROCUREMENT**

e-procurement should certainly be implemented. In particular, the use of technology platforms enables to reduce the time of award process, as well as provides better control and monitoring of the progress of the part of the tender.

H) **DISPUTE SETTLEMENT**

Dispute settlement system is an important element of international construction contracts and the final tool that allows a Party to enforce its rights on a contract basis. We consequently suggest to promote effective contractual, on-site, real time dispute settlement tools, such as Dispute Boards. Furthermore, the Bank should better facilitate the enforcement of Dispute Board decisions and international commercial arbitration awards.

I) **PUBLIC-PRIVATE PARTNERSHIPS**

Within the World Bank Group, the rules and procedures of the IBRD and IDA are geared towards the collaboration with public sector entities in borrowing countries whereas the IFC and MIGA instruments are essential in attracting private sector investment in developing countries. Despite this well-established and comprehensible distribution of tasks, it could be suggested that the IBRD could take a more pro-active role in promoting PPPs in the infrastructure sector, in particular with regard to the promotion of best practice examples and provision of additional development finance (both equity and guarantees) in case of Infrastructure PPPs, including municipal and regional projects.

L) **PREQUALIFICATION CRITERIA**

The pre-qualification process provides Contracting Authorities with an opportunity to define the standard of competition by setting out minimum requirements to be met in terms of tenderers’ technical ability, financial position, capacity and experience. In order to ensure coherence with other Bank policies, an efficient solution could be to provide with a prequalification process. That process could also reflect the Bank’s broader policy goals by scrutinizing each bidder’s capacity to comply with the Bank or other international standards on environmental management, health & safety, corporate governance and with the Bank’s goal to finance inclusive growth and the local income.

M) **RISK MANAGEMENT SYSTEM**

Among the others, one of WB main goal could be to optimize its internal risk management system regarding the capacity of its Borrowers as well as its project management system. With regard to its internal Risk Management procedures, the Bank should provide training programs for World Bank staff to be mandatory for all operative management levels, with the Bank’s Executive Board being involved in controlling tasks of overriding importance. As regards
its Project Management System, the Bank needs to check that: (1) risks are allocated to the party that is in the best position to control and manage the project's risks; (2) Geo-technical Baseline Reports are provided by Borrowers / its Contracting Authorities; (3) risk matrixes are applied to identify all the risks involved in the project.

N) GREEN PROCUREMENT

Proven benefits associated with Green or Sustainable Procurement are not limited to environmental impact, but can include everything from social and health to economic and political benefits. Besides allowing public authorities to achieve environmental targets such as cutting emissions, saving energy and avoiding air, water and soil pollution, Green Procurement also sets a positive example to private consumers and helps raise awareness for environmental issues. In economic terms, Green Procurement often leads to savings of both money and resources when life-cycle costs are considered. In this sense, it could be a general goal for the World Bank to study closely the potential benefits of Green Procurement and possibly incorporate incentives to employ it in its Procurement Policy.
Intervento Gorjux

Acknowledgements

- Banca d’Italia
- Ministry of Economy and Finance
- Ministry of Foreign Affairs
- Ministry of Economic development

to have invited Confindustria and its Associative System to participate to this meeting.

Express our deepest appreciation to the World Bank for having involved also Confindustria in the consultation process related to the review of their procurement policies and procedures.

We are committed in increasing the participation of Italian companies in WB procurement and of consequently increase their share in WB contracts.

We appreciate and strongly support the method and the participatory approach adopted, in which the public and private sector are summoned to cooperate for the definition of a new procurement structure. We feel this approach is very practical and it will deliver benefits to both developing and developed economies.

Confindustria shares the firm belief that good procurement is a driver of economic growth.

In fact, a good procurement market, at every level,
- will contribute in modernizing the developing economies,
- will stimulate innovation,
- will promote a sustainable industry, and
- will foster good employment policies.

We are aware that a number of key issues have been already identified by the Initiating Discussion Paper, as well as by the consultations that the WB has promoted worldwide.

Amongst others, an intense use of e-procurement, a stronger fight against corruption, a much more efficient use of WB funds.
To contribute to this ongoing participatory process, we at Confindustria have carried out internal consultations amongst those components of our system that are more involved with international tendering.

Some of these components are attending this meeting and will share with us their specific suggestions and recommendations immediately after me:

- ANCE (representing the construction industry),
- OICE (representing the consulting engineering) and
- Federprogetti (promoting the joint supply chain engineering – plant engineering – civil infrastructure).

Also, we have built on our experience related to EU procurement regulations, and namely the reform process started at the end of 2011. That process, started from a Green Paper and a wide consultation among the 27 EU Member States, with the goal to achieve a much more competitive, efficient and transparent EU procurement market.

Starting from the raw inputs, we have summarized the outcomes of this internal consultation in the following points.

1. **Fight against corruption**
   - We are firmly convinced that a modern and efficient procurement market should be based on a legal framework that must be respected by all bidders.
   - That goal could be reached using ethical or similar Codes, that commit the borrowers to assure a correct carrying out of tenders, thus enforcing the Bank’s sanctions policy by empowering the Bank to take legal action also against representatives from Member States in proven cases of fraud and corruption.

2. **More transparency**
   - Transparency must be strengthen and secured.
   - Amongst other means, we support an extensive use of timely web publishing of complete information at every stage of the tendering process, both on the Bnk’s web site as well as on those of the borrowers' contracting authorities.

3. **More focus on sustainability and quality**
   In line with the internationally shared objectives of environmental and social sustainability:
   - It is advisable that tenders foresee effective clauses for environmental compliance, as well as introducing concepts such as life cycle costing, etc.
   - We support awarding contracts based on concepts like the Most Economically Advantageous Tender, Value for Money, Outcomes in terms of local develop-
ment, rather than at lowest price. We believe these concepts would better help in ensuring cost-effectiveness, at least in the case of large and complex civil works.

- Concepts such as knowledge transfer and use of local manpower should also be part of the evaluation criteria, as keys in moving towards the overall objectives of poverty reduction through economic development.

4. Green Procurement

- Proven benefits associated with Green or Sustainable Procurement are not limited to environmental impacts, but can include everything from social and health to economic and political benefits.
- In this sense, it has been suggested that the World Bank closely studies the potential benefits of Green Procurement policies and takes steps to support the use of green procurement procedures.

5. Use of country systems

- In principle, we agree on the goal of enhancing the procurement systems of the borrowers.
- However, we recorded the greatest concern of our companies in facing several different sets of policies and procedures – one per country of operation.
- Also, the recommendation was given that use of country systems requires a local legal and institutional framework strong enough to guarantee the bidders for the fairness and transparency of the process, as well as adequate institutional capacity (namely the capacity of the procurement staff)
- It is desirable that the Bank undertakes effective capacity building actions on-site, including thorough training, for the staff responsible for tenders management.

6. Risk management

- It has been recommended that the Bank optimizes its internal risk management system regarding the capacity of its borrowers as well as its project management system.
- As regards its Risk Management procedures, the Bank should deliver training to its staff at all operational management levels, with the Bank’s Executive Board controlling tasks of overriding importance.
- As regards its Project Management System, the Bank needs to check that: (1) risks are allocated to the party which is in the best position to control and manage the project risks; (2) Geo-technical Baseline Reports are provided by Borrowers/Contracting Authorities; (3) risk matrixes are applied to identify all the risks involved in a project.
7. Public-private partnerships

It has been suggested that the Bank should take a more pro-active role in promoting PPPs in the infrastructure sector, in particular with regard to the promotion of best practice examples and provision of additional development finance (both equity and guarantees) in case of Infrastructure PPPs, including municipal and regional projects.

8. Pre-qualification

- A pre-qualification process provides Contracting Authorities with an opportunity to define the standards for a tender by setting out minimum requirements to be met in terms of tenderers' technical ability, financial position, capacity and experience.
- In order to ensure coherence with other Bank policies, an efficient solution could be to adopt a pre-qualification process.
- That process could also reflect the Bank’s broader policy goals by scrutinizing each bidder’s capacity to comply with the Bank or other international standards on environmental management, health & safety, corporate governance and with the Bank’s goal to boost inclusive growth and local income.

9. e-Procurement

- We support a more extensive use of e-procurement procedures. In particular, the use of web platforms enables shorter timeframes, better control and monitoring of tender progress, and overall transparency.

10. Dispute settlement

- The dispute settlement mechanism is an important element of international construction contracts and the ultimate tool that allows a Party to enforce it rights under a Contract.
- We consequently support effective contractual, on-site, real time dispute settlement tools, such as Dispute Boards.
- Furthermore, the Bank should better facilitate the enforcement of Dispute Board decisions and international commercial arbitration decisions.

11. Abnormally low bids

- Italian enterprises have strongly pointed out the issue of ALBs.
- We strongly support that the tendering mechanism is improved to effectively manage ALBs, in order to avoid excessive discounts practised by countries (particularly the emergent economies) whose productive contexts (in terms of social and environmental safeguards) are very different from those of the most advanced countries (First Band).
- This issue strongly emerged also in the framework of the discussions on the reform of the EU procurement policy.
I would like to thank the organizations for inviting Federprogetti to participate in this table of consultations about Procurement Review, giving voice to all the associations and companies we represent. Our companies have been worked all over the world stand out in the global market for the high quality of the work produced and a deep know-how, achieved through a constant technological development and continuous investments in research and development, in Compliance With Laws and Regulations, creating Sustainable Development.

Federprogetti aims to enhance the supply chain of Italian civil and infrastructural engineering and industrial plant industries. Our mission is: to strengthen and promote this sector in an international context to create a point of exchange between industrial companies and the research centers.

The Federation, therefore, promotes a series of meetings and activities with the aim of facilitating dialogue among prominent institutional, corporate and university representatives who are involved in developing technical, economic and legal proposals.

Federprogetti represents **2,000 companies**, with about **340,000** skilled engineers and technicians, through 6 Associations: **Anie, Animp, Anisgea, Assomineraria, Oice e Uami and** Companies as Aggregate Members (Abb, Ansaldo Energia, Ingegneria & Software Industriale, Maire Tecnimont, Pensotti Fabbrica Caldaie Legnano, Rizzani De Eccher, Rosetti Marino, Saipem, Terna). Our global turnover is **113 billion** euros, of which nearly 50% is generated abroad.

Federprogetti is specialized on Sectors of:

- Power
- Oil&Gas, Chemical & Petrochemical
- Transport Industry
- Plant Electrical and Electronics
- Plant Environmental Protection
- Other Manufacturing Industry

Globalization changed the political world and the economic system, so procurement system requires new regulations that preserve our companies from corruption and fraud, particularly prevalent in developing countries, allowing them to continue to develop local content.

Today, we are pleased to contribute, through the best practices of international experience of our companies, establishing new guidelines for the procurement review, to modernize the entire system of procurement. Along with WB pursue the achievement of a greater degree of transparency, competition and innovation, in compliance with environmental and social sustainability.

The most important issues related to the procurement policy and procedures review could be grouped in two main items: corruption, transparency, local borrower procurement systems and e-procurement procedures that are administration related problems; abnormal discounts, thresholds, quality and sustainability that are economic related problems.

Referring to the administrative issues we agree with all the procedures that increase the transparency, facilitating at the same time the participation to the WB tenders also from the SME. We agree with the e-procurement procedures and with all the facilities that limit the bureaucracy. For example a pre-qualification system based on the Italian SOA principles can be useful to reduce the administrative effort in participating to the tenders.

But, in this particular period of global financial crisis, the economic related problems seem to prevail to ensure a free worldwide concurrency.
The Italian enterprises have to sustain a number of costs related to HSE and welfare policies for the workers. Those rules, that are common with the other European enterprises, are causing, to our companies, production costs dramatically greater than the costs of the companies from the emerging countries.

The same problems are related to the quality of the products, taking into account the application of the economic and environmental sustainability approach to the entire life cycle of the products.

The main issue for an equilibrate worldwide concurrency is related to a correct and balanced evaluation of the offers received from suppliers coming from different countries. It is necessary to set that the compliance with the more advanced HSE and welfare rule, mandatory for the Italian enterprises by law, is also observed by every competitor, specifying the cost related to these issues in the economical offer.

This approach could solve the problem of the abnormal discounts, that usually come from the emerging countries suppliers.

It should be necessary, whenever it is possible, to establish in the tender a reference price, to be used to indicate a discount, instead of a free economical offer. This approach requires that the experts of the borrowers analyse deeply the technical constraints of the tender and define a range of quality and price consistent with the offer.

Without an approach of “best value and best quality for money” the Italian enterprises will be more and more discouraged to participate to the WB tenders, especially for the little ones organized locally by the borrowers.
Speech by the representative of the Ministry of Foreign Affairs.¹

The last 4-5 years have seen a remarkable change in our perception of the economic and financial environment we are moving in. The financial and economic crisis, together with other crises notably of the prices of agricultural commodities and the petroleum products, have contributed to affirm the need to achieve more coordination and cooperation.

This was clearly seen at the G8 and at the G20 level – the raise per se of the G20 has been a proof of the change. The IFIs have shown great ability in responding and in adapting to the new environment. Few other Organizations and groupings have shown this ability to such an extent.

The existing tools had to be improved and to be reviewed. New products have been launched by the Bretton Woods institutions. Those around this table and in the room are fully aware.

We also had done the same. The Italian Ministry of Foreign Affairs has completed its second reform in less than 12 years. All three Directorates General that have competence and interest have given a contribution in co-organizing today’s event. There are structures now that are better organized to handle the policy and technical challenges and to ripe the opportunities that we have. Everyday collaboration with other Italian structures is stronger and we are ready to go the extra mile in that sense.

The tools are therefore reviewed and adapted, an important reform effort has been accelerated. The procurement work that is carried out at the World Bank is an important part of the ample on going work.

The new emerging economic and financial balances have meant a lot to Italian companies. Our companies have a very strong manufacturing tradition with a high specialization in the production of intermediate goods. Two needs have emerged.

On one hand Italian companies have been called to redefine their boundaries with a geographical expansion of their activities with a new attention towards countries with higher growth rates, emerging markets but also elsewhere and on the other hand the need to introduce internationalization policies that are more complex and structured than simple export. Policies like productive integration and other forms of economic and commercial partnerships with local enterprises.

¹ Speech of the representative of the Ministry of Foreign Affairs by Counsellor Basilio Toth (Directorate General for Global Affairs) on behalf of Minister Plenipotentiary Inigo Lambertini (Directorate General for the Country System).
This is all the more true when for example you look at Italian building contractors. This is a category where the turnover from works performed abroad is a huge part and where global leader companies have started as simple subcontractor and then gained the role of general contractors.

The reaction of institutions in the wake of the international financial and economic crisis has been to reinforce the tools in support of internationalisation processes of our enterprises well aware of the fact that the external component is crucial for the Italian economic recovery.

The activities of our economic diplomacy unfold mainly at a macro level with interventions aimed at political stability and to the opening up to reforms in the various countries contributing therefore to the creation of a stable and sound context able to protect our interests and in which Italian companies can conduct business successfully.

Coming now to economic diplomacy at a micro level, the Italian Ministry of Foreign Affairs maintains a linking role with other institutions both public and private for the internationalization and promotion of the Country System through an integrated approach that gives emphasis to our excellence in the economic, technological and scientific field.

Such activity has a fertile soil in the recognized excellence and the high quality goods and products produced by our enterprises. Such excellence has its roots in creativity and Italian ingenuity and is inspired by the territory. This is for example the case of enterprises that work in the field of infrastructure, that are used to deal with extremely complex and diverse geographical situations (for example one only needs to have a look at the landscape to understand that to build a highway in Italy is much more challenging than in a number of other countries). The ability to find solutions to diverse and complex situations makes Italian companies better versed than others in finding solutions elsewhere too where complex territorial configurations can be encountered working in partnership with others or through triangulations in third markets.

The role of the Ministry of Foreign Affairs is mainly to provide market intelligence assistance through the Italian Embassies and Consulates we are in a position to provide specific, detailed information on the opportunities that exist in various markets abroad. Allow me here to recall that the Italian network of Embassies and Consulates is one of the widest worldwide. We have build therefore information sharing tools of easy use that enable our enterprises to be informed about tenders and competitive biddings on time. The Italian portal ExTender is consulted and 50% of the competitive biddings and tenders won by Italian companies have been disseminated through the ExTender programme. Today the new ExTender (this is a
tool we are constantly reviewing and updating) is also covering tenders and competitive biddings launched at the multilateral level.

Where we are experiencing increasing constraints for wellknown reasons of public spending limitations is from the financial point of view. We are also very carefully working to achieve the level playing field in our multilateral work whether that is at the OECD, for example or elsewhere and we have also contributed to the launch of innovative schemes of export credit. Allow me here to recall that whatever the criteria you chose Italy is the third European Union provider of export credit products. We are however all the same all the more frequently asked to help out in participation of Italian companies in international procurement, tenders and bidding procedures.

This is very simply the reason why we see the revision of procurement policies of the World Bank are important to us. We expect that not only price will be the predominant element but also that the most efficient project will be at parity of other conditions winning.

We do hope that from this format and this meeting today practical indications will emerge. You can count on the Ministry of Foreign Affairs collaboration and support in all your work.
Let me first thank the Bank of Italy for hosting today’s meeting.

I also want to congratulate Confindustria and its affiliates on the excellent work done. They are among the leading actors in today’s exercise, and we look forward to hearing their reactions to a very interesting set of documents.

Last but not least, let me express gratitude to Mr. Becq for being with us today, to discuss the World Bank’s unprecedented effort to fully revisit its procurement policies.

As shareholder, I would like to concentrate my comments on a few general issues on the table.

**First, the Bank’s procurement policy has to be based on a clear, but limited, set of objectives and principles.**

This has been the case so far and it has served the Bank well.

More and more, public procurement is seen by many as a strategic government function aimed at achieving a multiplicity of economic and
social goals: protecting the environment, promoting competition and innovation, supporting disadvantaged domestic groups, etc. We have to avoid the risk of overloading the procurement policy with too many objectives; it might not be the right instrument to use.

The same is true for principles. In this context, however, some new concepts deserve more attention. Among them, I am particularly pleased to see higher emphasis given to the idea of “whole-life-cycle costs”, of “going beyond costs” and, in general, of “value for money”.

At the same time, opportunities offered by new technologies don’t have to be missed. E-procurement can be an effective tool to enhance not only efficiency, but also openness, transparency and accountability.

Italy has an extensive experience in this field, and we would be glad to share it with the Bank and its clients.

**Secondly, the proposed move away from one-size-fits-all to a more flexible approach for procurement, needs more clarity.**

Flexibility and country-specificity are recurrent words in the “Initiating discussion paper” prepared by the Bank.

The need for greater flexibility emerges from the wide and growing diversity among borrowing countries in terms of needs, capacity to apply the Bank’s procurement policies and procedures, and the quality of their legal and governance systems.

Bank’s guidelines are perceived as too complex and cumbersome, in particular in weak contexts, at the cost of limiting development effectiveness.
While the above considerations might indeed be correct, there is a need to better clarify “how” and “when” greater flexibility is desirable.

In my view, it is not desirable if it implies compromising on basic principles of sound procurement such as a level playing field, accountability and transparency.

**Thirdly, changes should be made to the Bank’s monitoring role.**

There should be increased emphasis on quality control, risk identification, management and mitigation.

In this context, the Bank could consider redirecting part of its effort from the tendering phase to upfront project design and contract execution.

Moreover, the Bank could consider enhancing the complaints mechanism. The document indicates that the number of complaints is limited compared to the number of contracts financed by the Bank and has remained stable over time. This is indeed an encouraging sign of the quality of the Bank’s procurement work. However, more could be done in terms of complaints follow-up and communication.

**Finally, a stronger effort to increase harmonization is paramount.**

References in the document to the need to step up action to achieve greater harmonization are somewhat timid.

Multilateral Development Banks and development partners have recognized long ago the benefits of greater convergence and harmonization of policies and practices, including in procurement, to enhance aid effectiveness.
The Rome Declaration on Harmonization dates back to February 2003. Quoting from the Declaration: “the wide variety of donor requirements and processes… are generating unproductive transaction costs for and drawing down the limited capacity of, partner countries”.

Much has been done, but much remains to do to increase harmonization.

At the same time, we need to be realistic and recognize that differences will persist, but benefits and higher efficiency could still be achieved through mutual recognition, at least among MDBs, of procurement policies and practices.

I would strongly welcome the strengthening of the Bank’s leadership on this issue.

Let me conclude, by wishing the Bank all the success in this review exercise.
The issue of public procurement has become central in the agenda of national governments, especially in first decade of the twenty first century. In this time frame the international trade scenario was typified by two phenomena which, though of similar importance, were treated by specialists and decision-makers with a peculiar disparity.

First and foremost, there was the widely acknowledged “shifting wealth”, phenomenon characterised by the rise of new players on the international economic stage. Their growth in terms of wealth and consumption has steadily gained visibility, especially when compared with the Western economies which have effectively stagnated, and the Euro–Atlantic area with its sovereign debt crisis.

Countless analysts have focused on the BRICS group (Brazil, Russia, India, China and South Africa), and on the way in which these countries, though characterised by diversified economic structures and development strategies, have succeeded in generating strategic synthesis and political leadership on a global scale.

On the contrary, the attention which has been devoted to the new players in this international game (specifically the BRICS) has not been matched by the same degree of effort and attention to come to terms with the fact that the overall rules of the game have been undergoing radical transformation.

Therefore the first decade of the XXI century has been not only, a decade of new players, but also the silent, steady emergence of a set of rules which are very different from the standardised rules established over the previous decades by the World Trade Organisation with the Uruguay Round: a mosaic of preferential agreements, free trade regional areas, and tariff exemptions which has wrought profound changes on the overall picture, rendering it at the very least, uneven.

A scenario in which bilateral trade agreements which ought to have been complementary (and in a certain sense residual) to the form of Multilateralism which developed with the WTO negotiations and in the Bretton Woods system as a whole, have steadily acquired greater qualitative and quantitative importance, heralding a return to "variable geometries" and protectionist attitudes with new forms of customs regulations, subsidies and dumping.

Ten years after it was first inaugurated, the Doha Round seems to have become more a warning about the fundamental crisis of the multilateral system than a goal on which to focus diplomatic efforts and negotiating resources.

In 2010, the WTO listed over 300 bilateral agreements classified according to the development level of the contracting parties, their geographical scale, the number of participants and the level of market integration. Most of the bilateral agreements/Free trade areas, have, in fact, a specific focus on public procurement.

For this reason today’s event, part of the consultation process recently launched by the World Bank in order to review its operational procurement policy and procedures, is very important and gives all the stakeholders the opportunity to present their input on the issues to be addressed, the key recommendations and principles to guide these policies and their changes.
The transformation of the Bank’s procurement policies from dealing with stand-alone infrastructure projects to national procurement systems across a broad array of sectors and delivery mechanisms as well as the increasing role of developing countries as suppliers for goods and services open a new scenario that needs a well focused analysis.

In particular let me stress the importance of the principle of value for money. The principle of value for money when procuring goods or services does not necessarily mean selecting the lowest price, but rather the best possible outcome for the total cost of ownership. Consequently Value for money is achieved by selecting the most appropriate procurement method for the risk and value of the procurement, and not necessarily by using a competitive tender.

The objective of the review is ambitious in consideration of issues such as: the aim to create a set of principles of public procurement and a platform by which the Bank can both advocate and model best international practices; sometimes conflicting principles such as transparency, fair treatment, access, economy and competition; the need to balance the weight of the Bank’s efforts on specific operations from procedural compliance to risk management, borrower capacity, performance, and outcome; distinguish between results (the ends) and process (the means); flexibility to adapt different approaches; a fiduciary system of controls and recourse mechanisms; promote convergence with emerging international standards; achieve greater cost-effectiveness and value-added in the use of its own resources.

In addition, Bank’s interest in this review goes beyond specific Bank-financed operations and aims at improving development effectiveness by strengthening public sector management, improving governance and anticorruption and promoting sustainability.

In this framework, today’s event represents a unique opportunity for Italian stakeholders to provide feedback and key recommendations to guide the review and identify and frame the key issues that ought to be addressed.

Federico Eichberg
Ministry of Economic Development
World Bank

Procurement Policy Review

Banca d’Italia
Rome – January 16th 2013

Speech of the Representative of OICE, Dott. Francesco Fiermonte

1. Introduction

Italian consulting companies consider World Bank’s procurement policy and procedures satisfactory.

Transparency and standardization facilitate the comprehension of procedures and enables to concentrate on substance and quality.

This approach, in line with the new tendency of the European Directives, is particularly appreciated because it increases the efficiency of the procurement procedures in the common interest of bidders and clients.

2. Awarding and abnormally low tenders

OICE considers that in the phase of contract awarding, quality evaluation must prevail on economic evaluation.

So far as consultancy services are concerned, procurement policies should shift from QCBS
(Quality/Cost based Selection) to QBS (Quality based Selection) integrated with a following economic negotiation.

Leaving the economic negotiation at a following stage is the only way to improve the selection of the most qualified bidders.

Abnormally low bids are the most sensitive issue for consulting companies.

At a national level, the abolition of professional minimum standards has determined a situation whereby average rebates reach 42%.

Our Associated companies indicate that WB procedures follow a similar trend.

Even though the economic bid has a 20/30% impact on the global score this situation must be kept under control in order not to affect global bidding quality.

In order to contain this problem a solution could be the of automatic exclusion of bids that go beyond a predetermined value of the average bidding.

“Rebates” beyond a certain percentage of the bidding threshold should be automatically excluded.

However in this case participants would tend to concentrate on the lower value limit of the economic offer impacting on the price competition.

For consulting services the economic bid must be tightly linked to a quality standard. This should prevent that an abnormally low bid fits to a predetermined quality standard.

3. Guarantees

With respect to the guarantees requested for advance payments consulting companies request a more flexible approach.

They suggest that beyond bank guarantees, insurance guarantees should be equally accepted.
4. Local procedures

So far as **procurement procedures** are concerned, OICE recommends to stress on standardization. Local procurement mechanisms should be avoided or restricted to low value contracts under close supervision of the Bank.

OICE recommends to reduce as much as possible the “Use of country systems” or of procedures that differ from standard WB procedures. Differing procedures correspond to barriers that condition companies participation ability.

OICE recommends to strengthen the training of officers of the Executing Agencies that must deal with local procurement procedures in order to secure transparency and harmonization of WB procedures.

5. Template Harmonization

In order to facilitate applications of consultancy firms for prequalification and award phases it would be useful to create and adopt a standard form or template (for CVs and references) for all IFI’s.

6. Fragmentation contracts

Consulting companies consider that some tenders suffer an excessive fragmentation into small consulting contracts that are insignificant for engineering companies. Bidding costs for tenders of 100,000.00 $ or of 1,000,000.00$ are substantially equivalent.
7. Transparency

Transparency in every step of the selection is paramount in order to prevent discrimination in the awarding process.

Lack of transparency will impact on buyers worthiness and dissuade most qualified bidders to participate to the tender.

Transparency standards should be assured in the phase of EoI (Expression of Interest).

Companies complain for late replies or total absence of replies after the submission of the EoIs or during the tender. This is a handicap for bidders.

Information flow must therefore be organized and monitored in a more efficient way in order to prevent discrimination.

8. E-Procurement

OICE considers that E-procurement does not perfectly fit the consulting sector because quality and intellectual contents cannot be fully expressed with these procedures.

Furthermore some companies have complained that in some countries they have suffered difficulties in submitting their bid due to incompatibilities of IT systems or for difficult access to IT platforms in the period preceding the deadline.