

Summary Record

Launching of the MENA-OECD Network on Public Procurement

19-20 September, SSPA, Caserta, Italy

Main highlights:

The Network meeting brought together for the first time senior public officials and practitioners on public procurement from Deauville Partnership countries, from OECD countries as well as representatives from international organisations.

Network members agreed on the objectives and directions for future work on procurement:

i) Sharing good practices and lessons learned among procurement officials. Issues of common interest across DP countries include in particular: access of SMEs to public procurement, e-procurement, prevention of corruption, recourse mechanisms and the involvement of civil society in procurement.

ii) Advising countries in the implementation of the OECD Principles on Enhancing Integrity in Public Procurement. To assess compliance with the OECD Principles possible methodological tools include:

- bilateral peer learning between two countries in the region as well as

- a formal peer review process involving experts from other MENA and OECD countries (upon the request of individual members).

iii) Identifying needs for support and technical assistance, in particular for DP transition countries. The involvement of organisations such as African Development Bank, International Labour Organisation and International Development Law Organisation will help fulfil these needs (e.g. through on-site and on-line trainings).

Opening ceremony for the MENA-OECD Governance Programme Training Centre of Caserta

1. As foreseen in the Deauville Partnership (DP) Open Governance and Anti-corruption Action Plan, the MENA-OECD Network on Public Procurement was launched on 19 and 20 September at the MENA-OECD Governance Programme Training Centre in Caserta, Italy. The Training Centre is a joint effort between OECD and the Italian National School of Public Administration (SSPA, Scuola Superiore della Pubblica Amministrazione). The training centre will provide training programmes and contribute to knowledge exchange among the different countries in the MENA region as well as OECD countries.

2. The network, which was opened at the political level with the participation of Ministers from DP countries and Italy¹ brought together a network of senior public officials and practitioners on public procurement from transition and OECD countries. To ensure synergies in the actions with DP countries

¹ Namely: Mr Filippo Patroni Griffi, Minister for Public Administration and Simplification of Italy; Mr Abdelaadim Guerrouj, Minister Delegate to the Head of Government in charge of Civil Service and Modernization of the Administration from Morocco (also head of the MENA-OECD Governance Programme); Mr Khleef Alkhalaf, Minister of Public Sector Development from Jordan; Mr Isa Al Twejri, Minister of Planning from Libya; Mr Abderrahman Ladgham, Minister Delegate for Transparency and Fighting Corruption from Tunisia and Ms Amani Essawi, Minister's Assistant for International Relations, Ministry of State for Administrative Development from Egypt.

representatives from international organisations, including African Development Bank, International Labour Organisation and International Development Law Organisation, also participated in the launching meeting.

3. The participation and commitment on behalf of their countries expressed by authorities from the region highlight the importance of the work on public procurement for budget support from IFIs and economic development and the drive that the Deauville Partnership offers on governance issues in the region. The session provided also an update on the developments in MENA countries after two years of the beginning of the Arab Spring.

Session 1. Launching meeting of the MENA-OECD Network on Public Procurement

3. In the framework of the Deauville Partnership (Governance Pillar), the G8 and Partner countries decided to set up a public procurement network to assess compliance in partner countries against the OECD Principles on Enhancing Integrity in Public Procurement. The afternoon session of day 1 started work in this direction. The Network meeting brought together senior public officials and practitioners on public procurement from DP countries and beyond, including Algeria, Egypt, Jordan Libya, Morocco, and Tunisia, as well as from G8 and other OECD countries, including Belgium, France, Italy, Netherlands, Portugal, Russia and Turkey.

4. Mr Abderrahman Ladgham, Minister Delegate for Transparency and Fighting Corruption in Tunisia and Mr Carlos Conde, Head of Programme, Middle East and North Africa Governance Programme, from the OECD, co-chaired the opening session. Mr Domenico Casalino, CEO of CONSIP², gave a presentation on the experience of the Italian government with public procurement, which was followed by a discussion involving all participants on identifying policies and measures that have been successfully employed in promoting transparency and accountability in public procurement.

5. Mr Conde presented the background of the creation of the MENA-OECD Network on Public Procurement, highlighting the target audience for the network (officials in charge of procurement processes in MENA countries) and the objectives of the network (to provide a platform for these officials to exchange knowledge and identify solutions for problems in the area of public procurement).

6. Mr Ladgham presented the work of the Ministère de la Gouvernance et de la Lutte contre la Corruption in Tunisia. He also highlighted key findings of a corruption diagnostic study conducted by the Ministry, placing the relevance of a network on public procurement in the context of the Tunisian society.

7. The discussion that followed covered the following remarks. Discussing the option of electronic procurement as a means to reduce opportunities for corruption, there was acknowledgement that not all kinds of goods and services can be procured through such procedures, given the complexity and specificity of some projects. Issues related to security of electronic transactions were also brought forward, to which Mr Casalino responded that ICT solutions available in the market offer a sufficient degree of security for transactions (i.e. electronic signatures to avoid the problem of façade companies).

8. The difficulties experienced by public procurement authorities in communicating their reform and anti-corruption efforts were also noted. There was an indication that the perception of the population does not change at the same pace of reform efforts. The timing of the population is different from the timing of public administration and it is difficult to ask citizens to constantly wait for a longer period of time to see results. Suggestions were made in regards to make information more transparent to citizens and more regular, using

² CONSIP manages services, projects, technology and project management consultancies on behalf of the Ministry of Economy and Finance (MEF) and other Administrations in Italy, covering two main areas: management and development of IT services and the implementation, on behalf of the MEF, of the Program for the Rationalization of Public Expenditure in Goods and Services through the use of information technologies and innovative procurement tools.

channels such as civil society organizations -not only to inform but also to hear citizens demands more regularly as well as to use their capacities in order to monitor reform results.

9. The discussion highlighted that reform efforts tend to focus on the tendering process, while corruption was commonly found at the moment of execution of projects. Some participants noted that the lack of capacity to enforce monitoring and follow up during the execution phase is a major challenge.

Session 2. Professionalising the procurement workforce

10. The session focused on discussing the professionalisation of the procurement workforce given its relevance for the delivery of public services (i.e. health and education) as well as promoting parallel objectives (i.e. fostering small and medium enterprises, SMEs, and environmental protection). Mr Moncef Hamdi, Director General of the Higher Commission for Procurement in Tunisia chaired the discussion, while Mr Ahmed Benbark, from the Tasyeer Training Center in Libya and Mr Peter Reimer, lawyer from the Minister of the Interior and Kingdom Relations in the Netherlands gave presentations on their respective countries' experience in the areas of capacity development and professionalisation of procurement workforce.

11. Mr Benbarka noted that Libya faces historic difficulties in regards to integrity in its public procurement procedures. Most contracts used to be granted with no competition, without adequate design and flawed requirements on quantities. These irregular frameworks were used precisely for corrupt purposes (i.e. to allow contract amendments at later stages). He also noted that tender procedures and guidelines inherited from the previous regime are outdated and need reformulation in all regards, not only in the area of anti-corruption. Finally, Mr Benbarka emphasized the need for Libya to engage more actively with the private sector and civil society organizations with a view to improving procurement procedures.

12. Mr Reimer presented the activities of the PIANOo network in the Netherlands³ and NEVI⁴ and presented the work of different executive commissions within the Dutch government whose work is to improve efficiency of procurement processes and compliance with EU directives. During the discussion it was highlighted the effort to professionalise and build capacity for this type of professionals will demand a long-term investment for both countries and donors involved. Also training will need to be differentiated according to different types of professionals involved in procurement. Efficient procurement has to be organized as team work in which different individuals contribute with a mix of competences (i.e. auditors, credit institutions, service providers, compliance officers, civil servants in other government bodies whose profile may be required for procuring specific projects).

13. Practical suggestions made for the activities of the Public Procurement Network included:

- i) each country should undertake a diagnostic to understand what it needs in terms of building the capacity and professionalising its procurement workforce, either by self-assessment or through a peer review involving experts from other OECD countries,
- ii) the network could structure a training programme for civil servants involved in public procurement that can be delivered online (tailored according to the specific duties of the official in the procurement process); for residential trainings, it could organise a programme to “train the trainers” so they can replicate capacity building activities within their own home institutions,
- iii) the network could organise smaller working groups to discuss specific topics of interest for particular countries.

³ PIANOo is the Dutch Public Procurement Expertise Centre, set up to professionalise procurement and tendering in all government departments, with a view to improving efficiency and compliance with the rules.

⁴ NEVI is the Dutch Association for Purchasing Management. With over 6.000 members, working in the private and public field, NEVI is the principal authority for matters concerning Purchasing in the Netherlands. It is a platform particularly for public procurement professionals to meet, exchange experiences and knowledge.

Session 3. Involving stakeholders: focus on SMEs

14. The use of public procurement to facilitate the access of small and medium enterprises (SMEs) to public projects was the topic of the first session of discussions on day 2. Mr Abdelmajid Aboutaqbout, Head of the Public Procurement Department, Treasury Board, in Morocco, chaired the sessions. Ms Elodie Beth, Head of the Procurement Unit, at the Public Governance and Territorial Development Directorate at the OECD, Mr Paulo Magina, President of the board of the ANCP (National Agency for Public Procurement) from Portugal and Ms Olga Savran, Senior Policy Analyst at the MENA Investment Programme, at the OECD, intervened to highlight different factors and pre-requisites to enable increased SMEs participation in public procurement.

15. Mr Aboutaqbout described the efforts undertaken by Morocco to support SMEs engagement in public procurement, which included among other elements, improved financing mechanisms, simplification of procedures to compete for public tenders, i.e. reducing the number and complexity of required documentation, requirements for preferential purchase of domestic products when possible and for 20 per cent of procurement to be awarded to SMEs. He also noted the efforts to introduce e-procurement and the creation of a database of service and good providers where SMEs can be listed and become known within different public institutions with purchasing needs.

16. Ms Beth introduced the proposed DP Action plans on SMEs and procurement that had been developed in close consultation with representatives from transition countries and discussed the conditions under which public procurement can be used to effectively promote SMEs. Mr Magina presented the experience of Portugal in structuring framework agreements with SMEs consortia in which several small providers group to offer goods or services in larger quantities than one single provider could offer and receive benefits such as simplification in documentation requests. Ms Savran discussed an OECD experience with involving SMEs in consultation processes, via different working groups.

17. Main considerations raised on the possibility of promoting SMEs through public procurement include:

i) in the MENA region, SMEs are the majority of the existing business so the idea that there are large enterprises servicing a market and excluding small players is not necessarily relevant. Public procurement policies in this region need to be thought through from this perspective –it is not a targeting of a minority of enterprises but rather serving the whole market,

ii) public procurement has more objectives than mere efficiency or identifying the best value for money. It is used to fulfill socio-economic and environmental objectives which are not necessarily cost-effective,

iii) SMEs need support in public procurement processes, in order to submit offers that meet the legal requirements, but also after contracts are awarded, in order to fulfill contracts in compliance with the requirements,

iv) key requirements for SMEs to participate in tenders should not only include specific regulatory provisions in favour of SMEs (e.g. preferences, set asides) but also enabling factors such as simplified procedures, use of e-procurement or facilities for payment.

Session 4. Review and remedies system: how to guarantee its independence?

18. This session focused on how to enhance the effectiveness of recourse systems in MENA countries to enable suppliers and bidders to make a complaint about procurement decisions and challenge the award of contracts in case of possible irregularities. Ms Yacine D. Fal, Division Manager from the African Development Bank, chaired the session in which Mr Olivier Moreau, Principal Administrator with SIGMA gave a presentation on OECD/SIGMA⁵ work in this area.

19. During the discussion participants highlighted key challenges faced in this area and recognized that:

⁵ SIGMA is a joint OECD-EU initiative working to promote and strengthen public governance systems and the capacities of public administrations in EU pre-accession countries and neighbouring regions.

- i) several countries in the region have clear gaps in their legal frameworks on recourse mechanisms,
- ii) review and remedy systems are a key element of building trust between government officials and private sector. They should be a key focus of reform processes whenever political windows of opportunity arise,
- iii) to accelerate the handling of complaint procedures, there is a need for training targeted at magistrates and representatives in other types of authorities such as conciliation/dispute settlement courts or mechanisms,
- iv) due consideration should be given to relevant international standards in this area keeping in mind that the concrete recourse mechanism should be adapted to the politico-administrative context in the country, including:
 - European Commission Directives⁶, which calls for the existence of independent review bodies;
 - CNUDCI/UNCITRAL Model Law on Public Procurement, 2011, which includes articles on the right to challenge and appeal and the review to be submitted before an independent body.

Session 5. MENA-OECD Procurement Network

21. This session was dedicated to discuss the characteristics of the Network in terms of composition, mandate and monitoring mechanism involved in the Network. Participants were invited to comment on the issues the Network should prioritize and methodologies which could be used to assess compliance against the OECD Principles for Enhancing Integrity in Public Procurement (i.e. peer reviews).

22. Mr Azzedine Diouri, Secretary General, Ministry of Civil Service and Modernization of Administration from Morocco chaired the session together with Mr Carlos Conde, Head of Programme, Middle East and North Africa Governance Programme, from the OECD.

23. The primary role for the Network is to provide a platform for dialogue and exchange of information on reforms and challenges faced in public procurement. Participants confirmed that key issues for the policy dialogue include: the access of SMEs to public procurement, e-procurement, prevention of corruption, review mechanisms, and the involvement of civil society in public procurement. The Network will help inform reforms through the collection of comparative data across DP and OECD countries on these issues.

24. The network is also meant as a facilitation platform to enable activities between its members. In addition to annual meetings, possible methodological tools include: bilateral peer learning between two countries in the region (e.g. Libya and Tunisia), self-assessments by individual governments of their procurement systems based on the DAC/WB methodology as well as OECD peer review process involving experts from other MENA and OECD countries. These activities will be carried upon the request of individual members.

25. Reactions from participants highlighted their desire to keep the Network active in between meetings, possibly through a website to concentrate information, managed by a small secretariat, which could be housed by the OECD. Also they suggested that activities and documents be available in Arabic wherever feasible.

26. Several countries expressed an interest in taking a lead role in the governance structure of the Network, in particular Tunisia, Morocco and Italy. The proposal for the governance structure of the network will be validated by the MENA-OECD Steering Group at its next meeting in November 2012. The membership is open not only DP countries but also other MENA countries who would like to join this platform for policy dialogue. Also participants called for the involvement of private sector, in particular SMEs, in future meetings of the Network to enable a fruitful public-private dialogue in conducting procurement reforms.

⁶ Directive 2007/66/CE du Parlement Européen et du Conseil du 11 décembre 2007 modifiant les directives 89/665/CEE et 92/13/CEE du Conseil en ce qui concerne l'amélioration de l'efficacité de recours en matière de passation des marchés publics