

## **CONCEPT NOTE**

The High Level Forum on Public Procurement Reforms in Africa organized by the African Development Bank (AfDB), in partnership with the Common Market for Eastern and Southern Africa (COMESA), the West African Economic and Monetary Union (WAEMU), the African Capacity Building Foundation (ACBF), the Organization for Economic Co-Operation and Development (OECD) and the World Bank (WB), will be organized in Tunis, Tunisia, on 16<sup>th</sup> and 17<sup>th</sup> November 2009.

### **I – INTRODUCTION AND BACKGROUND**

#### ***1. The first Forum: the Abidjan Conference***

In December 1998, a first Forum was held in the AfDB Headquarter in Côte d'Ivoire with the participation of 30 African governments. The Abidjan Conference on Public Procurement Reforms succeeded in:

- highlighting key challenges in the modernization of procurement systems in Africa,
- forge a consensus among African governments on the importance of public procurement for the promotion of good governance,
- Furthering the reform of the national procurement systems with a common strategic framework focusing on improved accountability, transparency, and efficiency.

Since the Abidjan Conference, several African countries have embarked on procurement reforms programs with the support of the AfDB, the World Bank and other development partners, and the assistance of Sub-Regional organizations such as COMESA and WAEMU, which adopted regional Directives on public procurement. The procurement reforms currently implemented across Africa, focus on encouraging countries to:

- adopt modern legislation based on the model of United Nations Commission on International Trade Law (UNCITRAL) and, for COMESA and WAEMU Member States, also complying with their regional Directives on public procurement,
- promote a separation of procurement regulatory and execution functions in order to ensure a sound, transparent and fair procurement governance framework<sup>1</sup>,
- strengthen operational efficiency by ensuring quality and capacity of the procurement practitioners, procuring entities, and agencies and providing them with modern operational tools, documents and procedures,
- acquire computerized procurement information systems fully integrated into the national public financial management system,
- develop the control procurement function through review mechanisms and audits, and
- Promote national market liberalization, competitiveness and regional integration.

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<sup>1</sup> This includes the integrity of the system, controls and accountability, anti-corruption measures, access to information, stakeholder involvement, etc.

These major components of the public procurement reforms correspond to the pillars set out by the OECD DAC-World Bank procurement roundtable initiative to assess the performance of country procurement systems.

## **2. A new context: The international financial crisis**

The international financial crisis has now a visible impact on the African countries. According to the AfDB<sup>2</sup>, the financial crisis is sweeping away firms, jobs, revenues, and livelihoods and has become a full blown development crisis. Due to rapidly diminishing stocks of foreign reserves, the crisis is reducing trade, decreasing of recent strong growth, and cutting back the capacity of some African countries to import even basic commodities such as food, medical supplies, and agricultural inputs. **Additional sources of finance are urgently needed by African countries to respond to the crisis.**

Without important external resources, but also more efficient domestic resource's mobilization and preventing waste and corruption in their use, it will be impossible to maintain and sustain the pre-crisis levels of growth or achieve the desired higher MDGs-consistent growth rates. The Committee of African Finance Ministers and Central Bank Governors established to monitor the crisis recommends **sustaining adequate levels of investment**<sup>3</sup>, especially in infrastructure, but also to protect the poor and the vulnerable. **The financial needs are very high:** to sustain these pre-crisis levels of growth, the AfDB estimates that it would require an additional USD50 billion 2009 and USD56 billion in 2010.

To minimize the impact of the international financial crisis, **African Governments have undertaken a series of measures** which include the revision of their budget expenditures, the provision of fiscal stimulus packages, the strengthening of the regulation of the banking sector and financial markets and specific assistance to key sectors<sup>4</sup>. The Committee of African Finance Ministers and Central Bank Governors finds **critically important to preserve the foundations of growth in Africa** through steady policy reforms and by improving the investment climate. With the support of AfDB they are insisting:

- to focus more on results, rather than prescribing rigid policies and actions, and
- to allow countries space to respond to the financial crisis according to their particular needs and circumstances.

This recommendation is in line with the Accra Agenda for Action (AAA) regarding the use of country systems as first option for aid programmes in support of activities managed by the public sector.

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<sup>2</sup> African Development Bank, *An Update on the Impact of the Financial Crisis on African Economies*, Policy Briefs on the Financial Crisis, N°7/2009 11 March 2009

<sup>3</sup> The financial needs are very high: to sustain these pre-crisis levels of growth in Africa the AfDB estimates that it would require an additional USD50 billion in 2009 and USD56 billion in 2010. Furthermore, increasing investment to the level needed to achieve higher Millennium Development Goals (MDGs)-consistent growth rates would require an additional USD117 billion in 2009 and USD130 billion in 2010.

<sup>4</sup> *Impact of the crisis on African economies – Sustaining growth and poverty reduction*, Report from the Committee of African Finance Ministers and Central Bank Governors established to monitor the crisis, March 21, 2009.

## **II – PUBLIC PROCUREMENT GENERAL REVIEW**

Considering that public procurement represents as much as 70% of government budgets across Africa, the strengthening and use of African countries' procurement systems is therefore crucial not only for minimizing the effects of the current financial and economic crisis, but also to restore a level of economic growth and development sufficient to reduce poverty. In this period of severe financial and economic crisis, the efficiency and integrity of African countries' procurement systems will be more critical in achieving these objectives.

### ***1. Positive trends in the public procurement reforms***

Today, a majority of countries have enacted very commendable procurement laws and systems that broadly comply with the UNCITRAL law and the regional frameworks such as for the COMESA and WAEMU region where procurement directives were enacted to contribute to free trade and economic integration in Africa.

The separation of the procurement regulatory and execution functions is also effective in several African countries with the institutionalization of Public Procurement Regulatory Authorities and the establishment of independent review mechanisms. This has strengthened the rights of bidders, and increased the pressure on procurement agencies to comply with regulations.

Public procurement related information is more easily accessible to the general public in many African countries, with the publication of national public procurement journals and their diffusion on the Internet by the means of Web site.

More and more governments' officials and the general public recognize that public procurement is a critical area of good public financial management. This has scaled up its importance in policy decision-making of good public management affairs.

These notable improvements of procurement systems in African countries have certainly put them in a better position to face the current financial and economic crisis than 10 years ago. However, several weaknesses and challenges need to be overcome for these reforms to contribute in mitigating the impact of the crisis and curbing corruption in public procurement in order to facilitate the continent's resumption of economic growth.

### ***2. Remaining weaknesses of the procurement system***

Among the challenges, the major general issues commonly highlighted by different countries procurement system's assessment reports in Africa over the past five years still are:

- **ineffective implementation** of the reformed procurement systems including the building of procurement capacity and institutions;
- effectiveness and efficiency of public procurement systems that are still undermined by **weak capacity and low motivation**, incentives and levels of

accountability on the part of public officials which is delaying economic progress;

- **public procurement reforms have mostly been focused on the process and legislative and administrative aspects of reform**, with emphasis put on compliance with international best practice rather than on the development of procurement policies that are critical for sustainable development and poverty reduction;
- **insufficient fight against corruption**. Corruption risk in procurement remains a key challenge for all African governments: procurement reforms are more likely to be successful when combined with anti-corruption measures in other areas, as well as with broader-based anti-corruption and good governance measures;
- **lack of consensus among IFIs** for the use of national procurement systems,

In African countries where limited financial and human resources are very often major constraints for economic development, a better sequencing and prioritization of the components of procurement reforms is essential for the reforms to be successful in the long run.

### ***3. Defining new priorities***

With the financial crisis, various interventions are made by the Governments to preserve jobs and livelihoods. Different measures taken to preserve employment in some Western countries are considered in Africa as undermining or reducing the global trade and are qualified as protectionist. Several African countries are defending their **ability to use similar measures (including procurement regulations) as part of their development agenda**. They are willing to do so in all range of sectors, but mostly for industrial policy as a means to increase the generation of local value added and support the competitiveness and strengthening of their national Small and Medium Enterprises (SMEs) <sup>5</sup> sector much affected by the Financial Crisis<sup>6</sup>.

Because SMEs account on average for 50-60 per cent of employment at a national level, **consolidating and strengthening SMEs by facilitating the development of more competitive national businesses** through applicable procurement policies, is now recognized by African governments as an important economic development goal. Moreover, public procurement as a medium and long-term development policy instrument has also been explored in few African countries particularly in the context of redistributive policies directed at increasing the economic empowerment of poor and vulnerable social groups.

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<sup>5</sup> For instance, in post conflict/fragile States the programming and execution of public procurement could be developmental and contribute towards defined socio-economic objectives for reconstruction.

<sup>6</sup> Public procurement is seen to define the business environment in a country. To attract new business investors into the country, more African governments understand that fair, transparent and efficient public procurement systems in which investors see the opportunity for development and growth, are crucial.

Furthermore, as African **Governments are trying to invest more in infrastructure** and to increase budgets to do more with the current financial crisis, emphasizing the importance of pro-development procurement systems for the delivery of large infrastructure projects will be critical for the crisis recovery process.

Other policy area of interest in the current economic climate is **pro-poor and gender budgeting** in which improved procurement is a cornerstone, and **environmental objectives** for job creation and better livelihoods (some public administrations have started to implement “green purchasing policies” with promising results).

### **III - FORUM JUSTIFICATION AND ORGANIZATION**

#### ***1. Forum justification***

Ten (10) years after the Abidjan Conference and the implementation of procurement reforms programs, participants at the Tunis High Level Forum will discuss on the ongoing procurement reforms in Africa. They will:

- **review these reforms**, analyze the key constraints and major challenges, and assess their performance and impact on the economic development in order to improve them;
- **define prospects for a better contribution of public procurement to socio-economic development**, pro-poor service delivery systems and good financial governance;
- **promote capacity building and anti-corruption initiatives** in order to obtain expected results. As already highlighted, public procurement involves significant amount of budgetary resources<sup>7</sup>, and if poorly managed it can potentially undermine the economic programs and poverty reduction. Public procurement systems are thus definitely at the center of the way public money is spent; therefore a government’s use of purchasing can be a very significant tool to achieve socio-economic objectives;
- **develop an harmonized approach across the continent** to obtain a maximum efficiency and contribute to the implementation of the AAA commitments

The Forum shall contribute to the ongoing efforts of designing a general operational framework of objectives and indicators for procurement capacity building and anti-corruption programs that can also be supported by harmonized external assistance.

#### ***2. Towards an African Reform Agenda***

The Tunis High Level Forum will be an opportunity for African Governments (and the IFIs) to discuss and come to an agreement on the process that would emphasize the African priorities in the way towards the use of the African countries’ procurement systems as a mandatory mean for medium and long term development policy. To facilitate this use of national procurement systems and conform to the AAA requirement, **the AfDB is finalizing a new strategy on the matter**. In same vein,

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<sup>7</sup> With the debt servicing and the civil servant salaries, public procurements constitute the essential of the public expenditure.

the World Bank has already launched country assessment initiative in a few African countries, whose results will be of interest for the Tunis High Level Forum.

Therefore, the Tunis High Level Forum will **acknowledge the potential of public procurement as development tool**. The Forum will discuss ways to maximize the potential for public procurement to leverage national economic development and investments planning for infrastructure development. In the context of the financial crisis, and contrary to an argument for blanket protectionism, participants will also debate on how best African countries can use procurement reforms to strengthen their business sector in line with their development objectives. The debate will be conducted with a view on **favoring strategic procurement policies and good procurement systems** that are essential to the effectiveness of public spending and public financial management and the promotion of sustainable development.

### ***3. Objectives of the Tunis Forum***

**The general objective** of the Tunis High Level Forum is to facilitate the strengthening of tailored national procurement systems that can support good management of public resources and the economic recovery of African countries faced with the economic crisis, as well as contributes to achieving the Millennium Development Goals (MDGs).

**Specific objectives** of the Forum include:

- Reinforce the dialogue and partnership between African governments and Development Partners;
- Exchange of experiences regarding successful procurement reforms processes;
- Forge an agreement between African governments and IFI on the use and strengthening of country public procurement systems;
- Analyze different scenarios on the financing of well-performing national procurement systems, including the funding of anti-corruption and strategic capacity building initiatives,
- Define a harmonized assistance framework linked to the Accra Agenda for Action and the Paris Declaration for the use of country system.

### ***4. Expected outputs***

The expected outputs of the Forum include:

- Increased awareness among participants regarding the importance of public procurement for economic growth and poverty reduction;
- Improved knowledge about development and implementation of effective pro-development procurement policies and strategies;
- Informed use of country public procurement systems by IFIs, such as the AfDB;
- Agreed consensus on a mechanism to develop harmonized, government-led, performance-oriented programmes for capacity building in public procurement and anti-corruption initiatives ;
- Consolidated body of knowledge about good practice in procurement reforms;

- Established community and network of African procurement officials who can share knowledge and experience;
- Generated actions to be taken by Development Partners in order to support and strengthen public procurement systems.

## **5. Forum Organization**

The Tunis High Level Forum will gather high-level officials, practitioners and experts, in charge of public procurement policies and practices in African public administrations, especially:

- (i) Chairperson of Public Procurement Regulatory/Oversight Authorities;
- (ii) Permanent Secretaries of Ministries of Economy and Finance, and Trade and Industry;
- (iii) Heads/Directors of Public Procurement Agencies and National Tender Boards.

The Forum will also bring together representatives of national Private Sector Organizations (Chamber of Commerce, SMEs Organizations, etc.) and Federation of Civil Society Organizations; as well as representatives of international development organizations and academia.

## **6. Structure and methodology**

The two (2)-days Tunis High Level Forum will start with an **opening plenary session**. The session will introduce the themes of the Forum focusing on the main challenges and approaches/strategies for improving public procurement systems as a vehicle for sustained economic growth in African countries and strengthening of pro-development procurement policy making.

The opening plenary session will be followed by **four (4) thematic parallel workshop sessions**, which will provide opportunities to exchange experiences on existing and emerging challenges of the ongoing procurement reforms in African countries in the context of current economic climate, and discuss innovative approaches and solutions to address the weaknesses and constraints of the reforms highlighted in the concept note as follows:

- Theme 1: Review of public procurement reforms in Africa: lessons learned, risk areas and best practices;
- Theme 2: Public procurement as a tool for economic development: Key components for designing results-oriented pro-development procurement policies;
- Theme 3: Public procurement capacity building frameworks and Anti-corruption initiatives: Assessing the implementation and impact of past initiatives for the design of innovative and appropriate programmes supported by progressive and harmonized financing mechanisms;
- Theme 4: Public procurement reforms and regional economic integration, in particular through the enhancement of competitive integrated common markets: Harmonization of regional monitoring frameworks of national procurement reforms for better results.

Each thematic workshop sessions will begin by short expert presentations on national experience to set the stage for an open exchange of views on key aspects of the workshop themes. Background papers and materials for these workshop sessions will be available for registered participants at least two (2) weeks before the event. Specific emphasis will be put on reviewing concrete experiences from different perspectives with regard to socio-political, economic and administrative contexts in order to understand condition for success.

At the plenary session, moderators will report back on key results of the workshops. During the **closing session**, a panel discussion with different experts will highlight the results and conclusions of the workshops. Based on these conclusions, the closing session of the Forum will be the time to discuss and agree on African perspectives and way forward for ongoing procurement reforms on the continent. **The Forum will end with the endorsement of the Forum final Communiqué, which will be presented as the Tunis Declaration on Public Procurement Reforms in Africa for Sustaining Economic Growth and Poverty Reduction.**

### ***Languages***

The working languages of the Tunis High Level Forum will be English and French, with simultaneous interpretation in both languages at the plenary and workshop sessions.

The Tunis High Level Forum will be organized back-to-back with the Annual meeting of the OECD/DAC Task Force on Procurement.