

Statement

by

ANCE “MDB Working Group” Coordinator

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(EIC Past President)

at

**Confindustria/ANCE – World Bank Meeting
on Procurement Policy Review**

on

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in Rome (Italy)

SLIDE 1

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.

SLIDE 6

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.

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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**.

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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.

SLIDE 10:

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.