FIDIC 2014 MDB HARMONISED CONTRACT CONFERENCE

DAY 1 – Monday June 2, 2014

Morning Chairperson: Pablo Bueno, FIDIC President

09.00 – 09.10
Session 1: Welcome Comments

Pablo Bueno, President FIDIC
Chris Browne, Head of Procurement, World Bank
Flemming Pedersen, President EFCA
Daniel Tardy, President CICA
Ambet Yuson, General Secretary BWI

09.10 – 09.30
Session 2: Overview of Key Issues from 2012 and other Experience
What were the key findings/conclusions from the previous MDB conference in 2012 and in general since 2005?

Chris Browne, Head of Procurement, World Bank, USA
Chris Wade, Special Advisor, FIDIC Contracts Committee, UK
Fiona Murie, Global Director of Health and Safety, BWI, Switzerland
Roger Fiszelson, Director General CICA, France
Philip Jenkinson, Chair FIDIC Contracts Committee (Atkins UK)

09.30 – 10.30
Session 3: Developing a Procurement Strategy – Selecting the Right Project
Development Effectiveness – How can procurement be used as a strategic tool in achieving core objectives of recipient countries, as well as financial institutions, taking into account key issues such as sustainability, integrity, and capacity building

Chris Browne, Head of Procurement, The World Bank, USA
  ❖ An outline of the Bank's Procurement Reforms, including key features in the revised Effective Development strategy
Chris Wade, Special Advisor FIDIC Contracts Committee, UK
  ❖ Featuring key ingredients of the procurement process from a FIDIC perspective
Ike van der Putte, Member FIDIC SDC Committee, Director International Environmental Affairs, RPS,NL
  ❖ FIDIC’s PSM & PSL
    How tools such as PSM and PSL can assist in determining the right project and the best procurement strategy, reflecting client/customer priorities

10.30 – 11.00 - Coffee Break
Session 4: FIDIC Harmonised Contract

A review of experience with the Harmonised Contract in practice. In some jurisdictions it is welcome, as it is not able to be modified. Are contracts utilising the dispute avoidance skills of accredited adjudicators, or only on an ad hoc approach to resolve disputes? What are the pros and cons of using such a modified international standard? How has the engineer’s role changed, and its impact?

Nabeel Khokhar, Director, Driver UK
- Managing a Pink Book contract
Leo Grutters, Civil Engineer, FIDIC Adjudicator; Member of FIDIC President's list, Germany
- Dispute avoidance features of the Pink Book
Felix Prieto, Procurement Technical Coordinator, IDB, USA
- Use of the Harmonised contract in Latin America

Session 5: Global Experience with the Harmonised Contract, including bi-lateral agencies and Governments

The popularity of the Harmonised Contract appears to be growing, as it is also adopted by bi-lateral agencies and some governments.

Claus Schreiver, Vice President, KfW Banking Group, Germany
- Advantages of a harmonised approach to contracting
Anthony Sullivan, Implementation Consultant, Vietnam
- Asian experience with the harmonised contract and other forms
Ahmed Benbarka, Tayseer, Libya
- How FIDIC can help in conflict zones
Benoit Chassatte, AFD, France
- Standard Bidding Document for Large Works with High Environmental & Social impacts

Session 6: IFI Experience with other FIDIC forms of contract

There have been requests to harmonise other FIDIC contracts for bank-funded projects, with the design build approach growing in favour. Does this suggest a possible suite of harmonised contracts might follow the new Rainbow Suite?

Evgeny Smirnov, Senior Procurement Specialist EBRD, UK
- Harmonised Red or Yellow – Is there a case for further harmonisation?
Shigeo Nakagawa, Loan Procurement Policy and Supervision Division, JICA, Japan
- Rationale for a bespoke Design/Build contract form
Jonathan Saiger, Senior Director, Compact Operations MCC, USA
- Experience with D/B in Africa

Session 7: The New Suite of FIDIC Contracts

An overview of the new Rainbow Suite of FIDIC contracts, with focus on new or innovative modifications eg. Claims procedures, and issues adopted from the Harmonised Contract and other sources. Likely impact on the Harmonised Contract.

Svend Poulsen, Chair FIDIC Update Task Group; Project Director Atkins
Aisha Nadar, FIDIC MDB Advisor; Consultant, Sweden
16.15 – 17.15

**Session 8: Regional Issues**

How do different legal systems impact on the functioning of the contract? What are the major differences between Common Law, Civil Law and Sharia Law in the use of the international standard contract? A fundamental principle of development agencies is to build the capacity of borrowing countries. Should the use of internationally accepted SBBs continue to be mandated if and when national agencies develop acceptable procurement policies and practices?

**Lukas Klee**, Head of Legal, Metrostav, Czech Republic
- *The case for international practice in un-developed markets (East Europe)*

**Sarah Thomas**, Pinsent Mason, Partner UK
- *Comparison of different legal jurisdictions*

**Dick Appuhn**, Consulting Engineer, Italy
- *A contracting view on the perils of non-standard conditions*

17.15 - 17.30

**Day Summary** by **Pablo Bueno**, FIDIC and **Chris Browne**, World Bank

18.00 – 19.00

**FIDIC Cocktail function**

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**DAY 2 – Tuesday June 3, 2014**

**Morning Chairperson: Philip Jenkinson, Chair FIDIC Contracts Committee**

09.00 – 10.30

**Session 9: Borrower/Client issues**

An open session exploring issues such as Capacity Building, Evaluation Panels, Project implementation & Monitoring, the interface between funders and borrowers – before, during and after the project.

**Vinay Sharma**, Head of Procurement, African Development Bank
- *MDB experience with Executing Agencies*

**Patrick Batumbya**, Rep. Uganda Road Authority
- *Practical experience in project implementation*

**Joel M Wanyoike**, Kenya Road Authority
- *Client experience with MDBs*

10.30 – 11.00 - Coffee break

11.00 – 12.30

**Session 10: Funding issues & Project Preparation**

Projects today typically utilise multiple sources of funding. Can or should the lead funder provide the SBDs? Views from different players on harmonised procurement and adoption of international standards. What are some of the key issues in preparing a project? What lessons have been learnt? How can borrowers, funders, and providers collaborate more effectively?

**Michel Démarre**, Past President EIC
- *The benefits of a well prepared project*

**Jonathan Saiger**, Senior Director, Compact Operations MCC, USA
- *Issues related to parallel funding*

**Public Procurement Agency, Brazil** (nominated by IADB)
- *Multi-funding issues in Latin America*

**Mongolian Ministry of Roads and Transport, MRT, Mongolia**
- *Experience with ADB and other funding agencies*

12.30-13.45 - Lunch Break
Session 11: Specific Issues in Contracts

Contract provisions, or specifications? The MDBs acknowledge the effectiveness of specific references within the contract to pursue certain standards such as labour, health, and safety. What impact is likely from the emerging trends to internationalise standards on the environment and sustainability? Green procurement is now mandated by some governments. New procurement strategies and/or modified contracts.

Ike van der Putte, Member FIDIC SDC Committee, Director International Environmental Affairs, RPS, NL
- The critical importance of sustainability in developing procurement strategies

Fiona Murie, Global Director of Health and Safety and Construction, BWI, Switzerland
- Health and safety issues, and impact on contract forms

Mark Finegan, Deputy Chief Engineer, United Nations World Food Programme, Italy
- Social objectives supported by contract

Nick Gardner, UNOPS, Head of Construction Management, Sustainable Infrastructure Practice, DK
- Standard forms to support specific agendas, especially in conflict zones

Session 12: Integrity/Corruption

The only section of the Harmonised Contract which recognises the specific requirements of individual banks. How has this affected the market? What will be the likely impact of emerging legislation? Integrity in the procurement process is also a core development objective. What impact has there been from National Competitive Bidding as opposed to International Competitive Bidding? How do harmonised contracts help to fight corruption?

John Ritchie, Member FIDIC Integrity Management Committee, Canada
- Use of integrity in procurement to reduce risks

Peter van Veen, Director, Business Integrity Programme, Transparency International, UK
- Corruption in construction – is there a unified approach?

Uwe Krenz, World Bank Liaison Officer, European International Contractors EIC
- It takes 3 to tango – why FIDIC internationally?

European Investment Bank
- How good procurement can support the battle against corruption

Session 13: Wrap Up – Best Procurement Practice: Key Issues Emerging

P Bueno, FIDIC
C Browne, World Bank
P Jenkinson, FIDIC
F Kehlenbach, EIC