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OECD
BETTER POLICIES FOR BETTER LIVES

MEMORANDUM OF UNDERSTANDING

for co-operative activities

related to "EXPO Milano 2015"

between the Italian National Anti-Corruption Authority (ANAC) and the Organisation for Economic Co-operation and Development (OECD)

October 2014 – October 2015

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"High Level Principles"

for integrity, transparency and effective control of major events and related infrastructures

Background note

October 31, 2015, will mark the end of the EXPO Milano 2015 experience and, as well as taking stock of the major event and its immediate outcomes and results, it will be necessary to work on consolidating and disseminating its "legacies".

The context in which, with unprecedented huge effort by all interested parties it was possible to open the Universal Exposition on 1st May 2015, is well known. Just one year earlier, when the works for most of the exhibition site had not yet begun, thanks to activities by the judiciary and police forces, came to light corruption phenomena that had tarnished the procurement procedures and undermined public confidence in the event, with the risk that the works would not be finished on time and even that Italy would have to cease organizing the Exposition.

In this scenario, the strong commitment by the Italian Government, the new smart regulation in the sector, the checks carried out by the Italian National Anti-Corruption Authority (ANAC) and by the other institutions involved, and the methodological supervision by the OECD, marked a turning point, making it possible not only to respect the deadline of May 1, 2015, but also to outline a more general model of institutional synergies and integrated checks of a "collaborative" type; this kind of model, as well as focusing on preventing the occurrence of illegality and corruption, make it possible to intervene in itinere, guaranteeing, at the same time, that the works are completed on schedule with the respect for the integrity and transparency.

Over the last few years, right across the world, large-scale events have come under increased scrutiny. The development of procedures to check and supervise such projects and the correct use of resources to realize them, especially the public ones, is an emerging and pressing issue. On these topics it is and will continue to be essential to provide suitable answers to the growing attention of national and international public opinion, and to maintain the confidence of investors and stakeholders in general.

It is within this difficult context international that the OECD and ANAC decided to collaborate in developing a new methodological experience aimed at increasing transparency and integrity in the tender procedures for the major event. Joint working sessions, on site visits, public events and two analysis reports[1] have been delivered within the framework of a Memorandum of Understanding signed in October 2014 between the two organizations.

In exercising its role the OECD used the analytical frameworks previously developed and related to efficiency, integrity and competition in public procurement, namely the 2015

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[1] http://www.oecd.org/expo-milano.htm
http://www.anticorruzione.it/portal/public/classic/AttivitaAutorita/Expo2015

OECD Recommendation on Public Procurement,[2] the 2009 Guidelines and the 2012 Recommendation for Fighting Bid Rigging in Public Procurement.[3]

The Memorandum of Understanding between the ANAC and the OECD has been conceived as a kind of pilot project that may provide a more general control template for institutional cooperation on the supervision of public contracting procedures and of their subsequent performance, in accordance with the highest possible standards and leading international best practices.

Indeed, just as in the case of EXPO 2015, where it was indispensable to construct infrastructures by a given date to welcome visitors, the creation across the world of other large infrastructure projects and major events with a fixed opening date must necessarily aim at efficiently balancing the integrity and speed of the works.

For this reason, within the framework of the Memorandum of Understanding and building on the EXPO Milano 2015 experience, the ANAC and the OECD have drawn more general lessons and principles presenting them as a possible model for the international community and actors involved in delivering large one off events and related infrastructures such as universal expositions, sporting, political and cultural events.

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[2] http://www.oecd.org/gov/ethics/recommendation-on-public-procurement.htm

[3] http://www.oecd.org/daf/competition/oecdrecommendationonfightingbidrigginginpublicprocurement.htm

"HIGH LEVEL PRINCIPLES"

FOR INTEGRITY, TRANSPARENCY AND EFFECTIVE CONTROL OF MAJOR EVENTS AND RELATED INFRASTRUCTURES

Lessons drawn from the OECD/ANAC Co-Operation Project on "EXPO Milano 2015"

adopted in MILANO 12 October 2015

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In October 2014, the ANAC and the OECD Secretariat signed a Memorandum of Understanding (MoU)[4] referring in particular to the supervision and monitoring of EXPO Milano 2015 tender procedures. The joint initiative aimed at improving the transparency, propriety, effectiveness and efficiency of the procurement procedures related to staging EXPO. The agreement also enabled the testing of a general control template for institutional cooperation on the supervision of public contracting procedures, in accordance with the highest possible standards and leading international best practices.

In exercising its role the OECD used the analytical frameworks previously developed and related to efficiency, integrity and competition in public procurement, namely the 2015 OECD *Recommendation on Public Procurement*[5], the 2009 *Guidelines* and the 2012 *Recommendation for Fighting Bid Rigging in Public Procurement*[6].

As the MoU reaches its conclusion this document draws from the lessons learned and summarises the main key findings that will allow better governance and management models for the implementation of future large events and related infrastructures . In fact, the extremely positive experience between the ANAC and the OECD served to test, validate and develop a framework possible to be used in the development of large events and even in the implementation of large infrastructure projects.

Based on this experience and on our shared knowledge the following high level framework for an effective control of major events and infrastructure projects related to them can be presented.

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[4] http://www.oecd.org/expo-milano.htm
http://www.anticorruzione.it/portal/public/classic/AttivitaAutorita/Expo2015

[5] http://www.oecd.org/gov/ethics/recommendation-on-public-procurement.htm

[6] http://www.oecd.org/daf/competition/oecdrecommendationonfightingbidrigginginpublicprocurement.htm

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1.   Transparency, accountability and openness

In light of the specific challenges they raise in terms of visibility and timing, large events and large infrastructure projects are more likely to be exposed to the risk of misuses and misappropriations of public funds, frauds, corruption, collusion and illegality in general.

Transparency on the activities performed by the organisers of large events is fundamental to build public trust and to ensure accountability of their activities.

Openness toward the public can help addressing the civil society's demands for information and reduces possible tensions, and it also involves a social control by the civil society The use of websites, for example, has proved a very useful tool to promote the disseminations to stakeholders and civil society of sufficient information about public tenders, evolution of the project, its governance model, etc., also allowing interoperability with academia or other organised fora around the project.

It is recommended the well-highlighted publication of data in open format and in standardized way, e.g. on websites, so that information is easily accessible and effectively reusable by stakeholders.

2.   Institutional synergies, collaborative supervision and control

Controls and checks are more effective if they are put in practice in a holistic way with the collaboration and the exchange of information and data by all institutions involved in controls.

To this end, it would seem useful to consider a model of "collaborative supervision and control", aimed at   preventing illegality and ensure the   adoption of timely corrective interventions in order to ensure the realization of the works on time.

In this regard, interaction with parties subject to the controls should take place with a problem solving approach through the request of advices and suggestions able to anticipate and avoid the possible occurrence of improper behaviour, non-compliance, and illegality. To this end, real time interaction between controlling entities and contracting authorities, using available digital technologies to the extent possible, is paramount to establish effective communication and procedures that will lead to effective controls.

This will help gaining the confidence and trust of the organising entity which will not feel "under scrutiny" but rather supported by the control mechanism.

3.   Multidisciplinarity and governance structures

Because large events are more likely to be subject to multiple risks, only a multidisciplinary set of controls can contribute to an effective prevention and detection of those risks. If companies or individuals are prepared to infringe the law and for example pay a bribe, they will also be prepared to collude, engage in fraudulent behaviour, money laundry, tax evasion, etc.. Hence the need to set up integrated multidisciplinary teams and governance structures (e.g. steering committees) including central and local authorities, investigative authorities, police, anti-corruption authorities, competition agency.   Identifying at the outset existing national and international best practices in each discipline will ensure targeted and effective controls.

4.   Early and *ex ante* controls

Control mechanisms should be established upfront and ensure rigorous scanning of activities from day one. This sends the right signals to potential illegal conduct and misbehaviours and generates strong deterrence.

Early control mechanisms should not be adopted on an *ad hoc* basis but should be a standard approach. Lack of anticipation and retro-planning may lead to hasty adoption of measures and result in inefficiencies and waste. Controls should also be *ex ante* rather than *ex post* and should be constructive (i.e. identify solutions to the problems identified) rather than punitive (i.e. limited only to the sanctioning of the mistakes identified).

Concerning in particular procurement procedures, the ex-ante third-party controls on the legality of tender documents strengthen and safeguard the probity and transparency of the award procedures used. This mechanism can potentially function as deterrent for future instances of corruption, given the explicit checks on the propriety of each procedural step in the tender. It also helps to restore confidence among operators in the relevant market about the transparency and probity of award procedures and the subsequent management of tenders.

Real time interaction between controlling entities and contracting authorities using available digital technologies to the extent possible is paramount to establish effective communication and procedures that will lead to effective controls.

5.   Comprehensiveness and timeliness

Sample controls may not be sufficient to generate effective deterrence and maximise detection of illegal behaviour. Controls mechanisms must be comprehensive and include all or almost all the activities of the event organiser. Comprehensiveness contributes to the

success of the control mechanism. It is, however, very important to balance comprehensiveness with timeliness of the control mechanisms to avoid that controls hamper the development of these large events, often organised and delivered under significant time pressure.

To this end, it may be appropriate that the supervisory authorities and the entities controlled standardize at the outset procedures and timing of provision of data, documents and control, according to internationally recognized standards.

6.   Adequate resources, skills and training

It is fundamental that the entities in charge of performing controls are equipped with resources (human and financial) to ensure that controls are effective and timely. The use of internal guidance documents, guidelines, checklists and manuals has proven a practical and effective way to perform controls in a thorough, systematic but at the same time speedy manner. Trainings and capacity building initiatives are a necessary way to develop the required skills of the controlling entity's staff and of the entity in charge of the project.

7.   International cooperation and access to data

Large events have almost by definition a cross-border dimension. National controls are therefore limited and imperfect. Cooperation with control bodies in other jurisdictions and liaising with foreign authorities is the only way to access the data and info necessary to check and cross-check foreign suppliers. The ability of the controlling entity to access the data necessary to perform the control is a vital element of any control mechanism. Without data and especially without properly organised data, controls will simply fail. Relying on external/independent advisors could also be useful. Experience shows that designating a third party, such as an international organisation, with methodological experience in the field but not directly involved with the event, in order to assess the correct implementation of the methodology, provides credibility and backing for the control mechanisms.

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The above "Principles", jointly developed by the ANAC and the OECD, constitute an important legacy of the EXPO Milano 2015 experience but by no means pretend to be exhaustive. Other stakeholders are invited to join, take ownership and further develop them based on their own experience