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Round Table
Competition Policy and Public Procurement

Presentation
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The views expressed are those of the author and do not necessarily reflect the views of UNCTAD.
Public Procurement and Competition Policy

UNCTAD, 9-12 July 2012

Dr. Sean Ennis
Outline

• Public procurement and Competition Policy
• Mauritius Experience
  – Role of Procurement Office
  – Role of Competition Commission of Mauritius
  – Experience so far
General Comments

• Public procurement accounts for approx.
  – 15-20% of GDP in OECD countries
  – 25-30% of GDP in developing countries

• UNCITRAL Model Law on public procurement
  a good starting point for an appropriate
  Regulatory Framework
Bid Rigging

• Form of collusion between bidders
• Takes the form of:
  – bid suppression,
  – bid rotation,
  – complementary bidding,
  – subcontracting arrangements and
  – market allocation
• Price overcharge of around 30-40%
How do we effectively fight bid rigging?

- Effective cartel laws and regulations
- Effective leniency program
- Effective enforcement procedures and institutions and
- Effective sanctions
- Raising awareness of procurement officials and bidders concerning the risks of bid rigging through Checklists and Guidelines
Mauritius

• Small diversified open economy
• Government spending accounts for around 20% of GDP
• Public procurement is around 10% of GDP
• Public procurement based on the UNCITRAL Model Law on Procurement, the COMESA Directive and the World Bank Procurement Guidelines
Institutional Framework

• Public Procurement Act 2006 and Procurement Regulations 2008 establishes the following institutions:
  – Procurement Policy Office
  – Central Procurement Board
  – Independent Review Panel
Role of CCM

• Bid rigging is prohibited by the Competition Act (2007) under Section 42
• Penalties under the CA 07:
  – Agreements reached made null and void
  – Financial penalty shall not exceed 10 per cent of the turnover over a max of 5 years
• MoU with the Procurement Office
• Advocacy activities conducted jointly
• Joint publication of Guidelines on Public Procurement shortly
Conclusion

• No public cases concerning bid rigging in Mauritius so far
• Procurement law and the Competition law are well drafted for prosecuting bid rigging
• Advocacy conducted vis-à-vis businesses
• CCM is closely engaged with procurement authorities to identify potential cases and investigate them
THANK YOU