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Round Table
Competition Policy and Public Procurement

Presentation
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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