



# HIGH-LEVEL PRINCIPLES FOR INTEGRITY, TRANSPARENCY AND EFFECTIVE CONTROL OF MAJOR EVENTS AND RELATED INFRASTRUCTURES



# **HIGH-LEVEL PRINCIPLES FOR INTEGRITY, TRANSPARENCY AND EFFECTIVE CONTROL OF MAJOR EVENTS AND RELATED INFRASTRUCTURES**

*In co-operation with*



**A.N.A.C.**

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**Autorità Nazionale Anticorruzione**

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## FOREWORD

Over the last few years, following a series of scandals, large-scale events such as the Olympic Games or Universal Expositions have come under increased scrutiny across the world. Checking and supervising such projects, and ensuring that their realisation does not involve the unnecessary use of resources, have become pressing issues, especially for public events. It is essential to provide solutions and assurances to maintain the confidence of investors and stakeholders in general and to provide answers to the growing attention of national and international public opinion.

One famous example is the EXPO Milano 2015. One year before the opening, while the construction works had barely started, the judiciary and police forces shed light on corrupt acts that had tarnished the procurement procedures. Not only did these wrongdoings undermine public confidence in the event, they even jeopardized the whole project with a risk of not meeting the deadlines. It took an unprecedented effort by all interested parties to eventually open the Universal Exposition on 1<sup>st</sup> May 2015.

Strong commitment by the Italian Government, new smart regulations in the sector, checks by the Italian National Anti-Corruption Authority (ANAC) and by the other institutions involved, and methodological supervision by the OECD made it possible. Beyond respecting the timeline, the cooperation that developed emerged as a more general model of institutional synergies and integrated checks of a “collaborative” type. This kind of model, focused on preventing the occurrence of illegality and corruption, makes it possible to intervene *in itinere*, guaranteeing timely delivery and respect of integrity and transparency principles.

The OECD and ANAC were instrumental in developing this new methodological experience aimed at increasing transparency and integrity in the tender procedures. Joint working sessions, on-site visits, public events and two analysis reports<sup>1</sup> were delivered, under their Memorandum of Understanding. The OECD based its contribution on the previously developed analytical frameworks related to efficiency, integrity and competition in public procurement, namely the 2015 OECD Recommendation on Public Procurement,<sup>2</sup> the 2009 Guidelines and the 2012 Recommendation for Fighting Bid Rigging in Public Procurement.<sup>3</sup>

Drawing from this specific cooperation between ANAC and the OECD it is actually possible to 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. Taking stock of the immediate outcomes and results of the project, this report presents the consolidated “legacies” of the experience and a model that can be applied to many other large infrastructure projects that face the same challenges of balancing the need for integrity in processes and tight deadlines.

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<sup>1</sup> <http://www.oecd.org/expo-milano.htm>  
<http://www.anticorruzione.it/portal/public/classic/AttivitaAutorita/Expo2015>

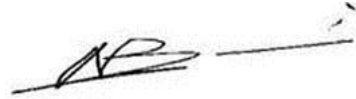
<sup>2</sup> <http://www.oecd.org/gov/ethics/recommendation-on-public-procurement.htm>

<sup>3</sup> <http://www.oecd.org/daf/competition/oecdrecommendationonfightingbidrigginginpublicprocurement.htm>

This experience is an excellent example of how formal recommendations can successfully be implemented, building on a concrete project to draw more general lessons and principles. It provides a new model for the international community and actors involved in delivering large one-off events and related infrastructures such as universal expositions and sporting, political and cultural events that gather the world's attention for a week to a few months and leave a long-lasting imprint.



Raffaele Cantone  
President of ANAC



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## **“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**

In October 2014, the ANAC and the OECD Secretariat signed a Memorandum of Understanding (MoU)<sup>4</sup> 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*<sup>5</sup>, the 2009 *Guidelines* and the 2012 *Recommendation for Fighting Bid Rigging in Public Procurement*<sup>6</sup>.

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.

#### ***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.

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<sup>4</sup> <http://www.oecd.org/expo-milano.htm>

<http://www.anticorruzione.it/portal/public/classic/AttivitaAutorita/Expo2015>

<sup>5</sup> <http://www.oecd.org/gov/ethics/recommendation-on-public-procurement.htm>

<sup>6</sup> <http://www.oecd.org/daf/competition/oecdrecommendationonfightingbidrigginginpublicprocurement.htm>



## ***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.

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



## ANAC – FIRST PRELIMINARY REPORT

### Background

With the Law Decree no. 90/2014 of 24 of June, transformed into Law no. 114 of 11 of August 2014, the President of ANAC (*Autorità Nazionale Anticorruzione* – National Anticorruption Authority of Italy) was committed functions of supervision and guarantee of the fairness and transparency of the procurement procedures related to the implementation of the EXPO2015 in Milan, due to open May next year.

To enable performance of these duties, article 18(7) gives the President of ANAC the power to make proposals to the Italian Government's Single Commissioner for Expo Milan 2015 and to the company Expo 2015 S.p.A. This power also covers the "recommendations", which are discussed in greater detail in this report (see below). Also, As part of this assignment in July 2014 ANAC established a special operational unit (UOS) to monitor the projects of the EXPO 2015<sup>7</sup>.

In October 2014, ANAC and the OECD signed a memorandum of understanding (MoU) referring in particular to the supervision and monitoring of EXPO 2015 tender procedures. The MoU aims to put both organisations' anti-corruption experience into practice, in order to ensure the transparency, propriety, effectiveness and efficiency of procedures relating to staging EXPO Milan 2015. The agreement represents a pilot project that will have a direct impact on the EXPO, to which it explicitly refers. However, it may also provide a more general control template for institutional cooperation on the supervision of public contracting procedures, under the terms mentioned above, and of their subsequent performance, in accordance with the highest possible standards and leading international best practices.

In exercising its role the OECD is considering the analytical frameworks previously developed and related to the subject matter, namely the 2008 OECD Principles for Enhancing Integrity in Public Procurement<sup>8</sup>, the 2009 Guidelines and the 2012 Recommendation for Fighting Bid Rigging in Public Procurement<sup>9</sup> (all jointly referred hereafter as the OECD Principles). Additional OECD publications were taken into consideration, especially the Progress Report in implementing the aforementioned 2008 Principles and the upcoming draft Recommendation on Public Procurement, whose public consultation took place last August/September<sup>10</sup>.

A preliminary review of selected available documentation related to the project was conducted, focusing on the supervising methodology and on the transparency, integrity of procurement procedures. The existing governance model and inter-institutional arrangement was also verified.

### Current Governance model

The appearance of ANAC as an oversight body for the EXPO 2015 changed the existing governance structure and forced the celebration of additional inter-institutional arrangements, namely with the entity responsible for the development of the exhibition, EXPO 2015 S.p.A. (EXPO)<sup>11</sup>.

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<sup>7</sup> [www.anticorruzione.it/?cat=93](http://www.anticorruzione.it/?cat=93)

<sup>8</sup> [www.oecd.org/corruption/ethics/procurement-principles.htm](http://www.oecd.org/corruption/ethics/procurement-principles.htm)

<sup>9</sup> [www.oecd.org/daf/competition/oecdrecommendationonfightingbidrigginginpublicprocurement.htm](http://www.oecd.org/daf/competition/oecdrecommendationonfightingbidrigginginpublicprocurement.htm)

<sup>10</sup> The draft *OECD Recommendation of the Council on Public Procurement* was opened to public consultation until 30 September 2014 at: [www.oecd.org/gov/ethics/draft-recommendation-on-public-procurement.htm](http://www.oecd.org/gov/ethics/draft-recommendation-on-public-procurement.htm).

<sup>11</sup> Expo 2015 SpA is a public corporation instituted by Decree of the Prime Minister of October 22, 2008 as currently amended. Its purpose is the planning, organization and management of the event "Expo Milano 2015". Ownership is divided among the Ministry of the Economy and Finance (40%), the Region of Lombardy (20%), the Municipality of Milan (20%), the Province of Milan (10%) and the Chamber of Commerce for Industry, Agriculture and Handicrafts of Milan (10%).

From a preliminary analysis, and considering the different stakeholders that are part of the institutional framework (government, implementing agency, municipality, internal audit, external audit, social control and oversight bodies), the existing governance model and established procedures allows ANAC to exercise its authority.

In this regard, ANAC is now responsible for issuing a prior visa of procurement processes, taking into consideration the legitimacy of the tendering and awarding process in what concerns transparency. For that purpose the UOS has developed detailed checklists and control mechanisms that are applied individually to the tender documents and awarding procedure.

With the establishment of the UOS several rules, procedures and control mechanisms were set as to monitor and exercise “a priori” control of the procurement processes (Linee Guida ANAC 17.07.2014).

The establishment of ex-ante control mechanisms, although not a common practice for Supreme Audit Institutions in OECD countries (only Chile, Italy and Portugal exercise it with regularity) seems adequate for the enforcement of additional integrity measures, necessary to be addressed in the current development stage of the project, and after the recent events.

In fact, this approach could prove useful mainly in specific contexts, such as EXPO 2015, that have already been affected by instances of corruption which have not only contaminated existing tenders but also threaten to undermine future contracting procedures. Indeed, to be effective, ex-ante controls of documents concerning the award and performance of public contracts for works, services and supplies of goods, by an entity separate from the contracting authority, cannot cover all public tenders but must focus on individual, specific cases with a "high risk of corruption". For these reasons, using this control system in specific cases, as per article 19 of Law Decree 90/2014, by establishing a UOS within ANAC, must be viewed in itself as responding to multiple public-interest objectives: it enables the creation of an innovative system of ex-ante third-party controls on the legality of tender documents, with particular regard to Italian laws and regulations on transparency; it strengthens and safeguards the probity and transparency of the award procedures used; it could potentially function as a way to dissuade future instances of corruption, given the explicit checks on the propriety of each procedural step in the tenders; it helps to restore confidence among operators in the relevant market about the transparency and probity of award procedures and the subsequent management of tenders.

However, it is worth noting that the ex-ante control of documents concerning award procedures and the performance of public contracts for works, services and supplies of goods, by a party separate from the contracting authority, could exacerbate the time it takes to complete tenders. The entities responsible for assessing risk must ensure that the ex-ante control clearly identifies the best ways to ensure control effectiveness, without having an excessive effect on the swiftness and efficiency of the administration of the tender. The establishment of a threshold by ANAC for the exercise of the prior control mechanism is a good step forward to balance the efficiency of the process. We recommend that the threshold level should be periodically assessed vis-a-vis the achieved results and the expectations of end users.

### **Existing transparency and integrity measures adopted by the EXPO**

The EXPO developed several tools for communicating the transparency measures it adopted for the Exhibition. The most relevant ones are displaying in the event’s website and there is a special section dedicated to transparency. This section contains several sub-sections: financial overview, the contracts awarded, legal notes, governance, commissioner and delegates and sustainability, each of them with additional sub-sections.

The transparency section is announced at the very bottom of the webpage and it is necessary to

scroll down the entire home page to get there.

Further to the transparency section, the EXPO is advertising ongoing procurement procedures and inviting potential suppliers to present bids in a separated section, immediately visible from the home page in the top banner<sup>12</sup>. This practice is aligned with the OECD principles.

### **Preliminary remarks and recommendations**

The following remarks and recommendations derive from applying the OECD principles to the analysis of the documentation on control methodologies and practices.

The OECD's experience essentially shows that the implementation of OECD principles has brought positive results in terms of the transparency and integrity of contracting procedures.

#### ***1. Publication and communication:***

Given the recent events and in order to promote the work ANAC is producing and advertising in its own website, we suggest that a new placement should be found for the transparency part, for instance by creating a new link in the top banner. Additionally, new links should be developed to present in a better manner the oversight role ANAC is performing. For the time being it was not easy to go directly to this assignment in the EXPO's website and there is a clear asymmetry of importance when compared to the visibility of UOS in ANAC's website. More evident link and information display will allow the visitor of the event's website to have an immediate perception of the transparency component for the EXPO.

Clearly, the introduction in the meantime of these (and other) accountability measures will gradually bring about convergence in the pursuit of the goals of the UOS's supervisory activities. They will help to ensure greater transparency of the "reinforced" safeguards relating to award procedures, contractual documents and the consequent proper staging of the EXPO, thereby improving stakeholder confidence.

The process begun with the Open EXPO platform – which the Authority is using to assess areas of cooperation to make procedures and controls more accountable – is another positive step.

#### ***2. Procurement process:***

In line with the OECD principles, the EXPO would further benefit from the full use of the e-Procurement platform that is utilising<sup>13</sup>.

It is the OECD experience that the use of e-Procurement assures a proper and adequate visibility of the procurement process for the interested stakeholders, whilst improving the image of the contracting authority in terms of anti-corruption. For the moment, the procedures are being carried both in the e-Platform and in paper format. Under an agreement with the Lombardy Region's "Arca Lombardia" system, the EXPO company is not using the e-procurement platform for all procedures. Given the short time to completion and inauguration of the EXPO 2015, we suggest that maximum effort should be placed to assure that the e-Procurement platform is used for a maximum number possible of new procedures.

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<sup>12</sup> [www.expo2015.org/en/opportunities-for-businesses/take-part-to-tenders/competitive-tenders-in-progress](http://www.expo2015.org/en/opportunities-for-businesses/take-part-to-tenders/competitive-tenders-in-progress)

<sup>13</sup> EXPO is using the Arca Lombardia (Purchasing entity of the Lombardia Region) Sintel e-Procurement platform [www.arca.regione.lombardia.it/cs/Satellite?c=Page&childpagename=DG\\_CRA%2FPage%2FCRABandiSintelLayout&cid=1213479876340&p=1213479876340&pagename=DG\\_CRAWrapper](http://www.arca.regione.lombardia.it/cs/Satellite?c=Page&childpagename=DG_CRA%2FPage%2FCRABandiSintelLayout&cid=1213479876340&p=1213479876340&pagename=DG_CRAWrapper)

In light of the existing objective limitations, it is however laudable that *all* existing contracting procedures are published in the transparency section of the EXPO site, and that those managed through the e-procurement platform are marked with a dedicated link to the system.

### **3. Possible areas for improvement:**

#### *a. Guidelines (Linee Guida ANAC) –*

The *Linee Guida* (Guidelines) govern the supervisory and control activities performed by the President of ANAC and the UOS for the ex-ante verification of the legitimacy of documents pertaining to the award and performance of contracts for works, services and supplies of goods for the realisation of projects and activities connected to the staging of the major event Expo Milano 2015. The *Linee Guida* focus especially on compliance with transparency procedures set out in Law no. 190 of 6 November 2012, and on compliance with the relevant aspects of the company Expo 2015's observance of legality agreements entered into with the Prefecture of Milan.

In this perspective, the *Linee Guida* includes a list of procurement acts and activities related to the Expo Milano 2015 which should be provided by EXPO 2015 to be reviewed *ex ante* by ANAC.

The documentation listed for the various phases of the contracting procedures appears to cover the performance of ex-ante controls comprehensively. Information on sub-contracting procedures could also be requested if it is thought that they may be useful for the purposes of preventing and combating corruption.

According to the OECD principles on how to reduce collusion in public tenders, sub-contracting is an important element in the overall assessment of a procurement process, given its importance and the need to establish a solid and coherent transparent supply structures and could potentially be taken into consideration, if deemed helpful, for the purposes of anti-corruption controls.<sup>14</sup>

#### *b. Recommendations (Raccomandazioni ex art. 19 comma 7, DL n. 90)*

The recommendations submitted in accordance with the powers referred to in article 19(7) of Law Decree 90/2014 contain instructions for the contracting authority EXPO 2015 S.p.A on the proper management of tendering procedures connected to the staging of the event.

Section 1 deals with bidding documentation. Letter a) recommends limiting the use of the best offer (“offerta economicamente più vantaggiosa”) in case of awards of standardised goods and services.

In general, this rule could make it harder to achieve the best price for equivalent levels of quality. However, considering the specific context, it is worth underlining that this was a deliberate decision that, despite its limitations, was made specifically for the EXPO as a result of existing or potential instances of corruption, considering the discretionary nature of the awards. This is a central point of the strategy of controls adopted by ANAC for the EXPO, so it should be seen as a necessary decision for achieving associated contingent goals. It is, however, important to note the exceptional nature of the

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<sup>14</sup> Sub-contracting is a way used by colluded bidders to redistribute the illegal gains from the cartel. Where possible within the limits of the UOS *ex ante* control, it would be useful to include in the review bid proposals of subcontracting from the winning bidder to competing bidders. Such proposals, if found to be suspicious and not properly justified by the proponent, could be brought to the attention of the Autorità Garante della Concorrenza e del Mercato (AGCM) for further investigation, in light of the MoU recently entered into by ANAC and AGCM ([www.agcm.it/component/content/article/8-comunicati-stampa/7342-protocollo-dintesa-anac-agcm-contro-la-corruzione-firmato-da-cantone-e-pitruzzella-nuovi-criteri-per-il-rating-di-legalita-alle-imprese.html](http://www.agcm.it/component/content/article/8-comunicati-stampa/7342-protocollo-dintesa-anac-agcm-contro-la-corruzione-firmato-da-cantone-e-pitruzzella-nuovi-criteri-per-il-rating-di-legalita-alle-imprese.html)). In order for UOS to detect suspicious cases of sub-contracting, it should consider the following factor: (i) if the sub-contractor was an actual or potential competitor for the main contract; (ii) if sub-contracting has legitimate justifications; and (iii) if the contracting authority has imposed sub-contracting disclosure requirements to participating bidders.

circumstances that led ANAC to this decision, and the need to preserve the principle of competition in tenders, whereby it is in the interest of the contracting authority and of society in general that the public administration procures goods and services at the lowest possible price, assuming equivalent levels of quality.

Letter d) recommends avoiding granting the awarding committee too much discretion in terms of awards on the basis of multiple criteria. The OECD Recommendation and Guidelines for Fighting Bid Rigging recognise that collusion can be favoured if the precise weighting criteria that the award commission will use to assess the different awarding factors are disclosed in advance of the tender.<sup>15</sup>

As with the previous point, though, in order to limit the scope for discretion and the associated potential threats of corruption, this measure must be considered to apply within the exceptional context of the controls for Expo 2015 designed to ensure the legality of tender documents, with particular reference to transparency laws and regulations.

The last part of Section 1 refers to elements that should be included in the terms of reference. The same OECD Guidelines recommend that bidders should sign a Certificate of Independent Bid Determination (CIBD). CIBDs require bidders to disclose all material facts about any communications that they have had with competitors pertaining to the invitation to tender. In order to discourage non-genuine, fraudulent or collusive bids, and thereby eliminate the inefficiency and extra cost to procurement, procurement officials may wish to require a statement or attestation by each bidder that the bid it has submitted is genuine, non-collusive, and made with the intention to accept the contract if awarded.

Section 4 deals with sub-contracting. The OECD Principles recommend imposing disclosure requirements on bidders to make it more difficult for them to use sub-contracting as a mechanism to implement a collusive agreement.

The information set out in section 4 of the recommendations on anti-corruption controls, in combination with the rules set out in Italy's Public Contracting Code, mainly coincide with those tested and recommended by the OECD on anti-collusive agreements<sup>16</sup> and can therefore be considered beneficial for the specific purposes in question.

*c. Checklist call for tender (provided as part of the Application Operation Management material)*

The checklist is widely used and is endorsed by the OECD in its recommendations and guidelines on collusion in contract procedures, and in the toolkit for applying the public procurement principles. Using such a checklist can only be viewed favourably in terms of combating corruption. The current checklist focusses on discretionary award criteria (“punteggi discrezionali”) and to participation requirements which might be too stringent (“requisiti di ammissione di ordine generale ovvero di carattere economico-finanziaria e/o tecnico-professionale stringenti”).

Even though the current checklists only cover the broad lines of some of the aspects investigated as part of the controls, extra items from the OECD checklists could be added to the checklists used for

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<sup>15</sup> [www.oecd.org/competition/oecdrecommendationonfightingbidrigginginpublicprocurement.htm](http://www.oecd.org/competition/oecdrecommendationonfightingbidrigginginpublicprocurement.htm)

<sup>16</sup> According to OECD principles, if sub-contracting is to be allowed, the intention to sub-contract should be stated at the outset and not after the award. Restrictions on sub-contracting should be outlined in the public call for tender and respected in the contractual framework. Bidders should be legally required to provide certain disclosure requirements in their bid submissions. For example they should: i) advise the contracting authority of their intention to sub-contract, ii) clearly identify the firms to which they are sub-contracting, and iii) explain why sub-contracting is necessary for the proper performance of the contract. Section 4 could make these criteria explicit.



EXPO if, for specific procedures, there was a desire to investigate possible instances of collusion as well.<sup>17</sup>

*d. Checklist contract awarding (provided as part of the Application Operation Management material)*

Similar considerations can be made with reference to ANAC award checklist. The current version makes some references to red flags for collusion (see, for example, Q5 on coordinated bids or Q10 on personal links between bidders). The checklist, however, could be expanded and enriched with reference to other red flags for detecting bid rigging cases that are included in the OECD Principles.<sup>18</sup>

Paris, December 18, 2014

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<sup>17</sup> For example, the checklist used by ANAC in its *ex ante* review could also include references to the following factors (i) whether the contracting authority did a proper market study before going for tender, (ii) whether there are features in the tender that might increase participation costs and/or reduce participation of potential bidders, (iii) if the technical specifications are favouring a certain supplier or creating a lock-in situation, (iv) whether the tender favours communications between bidders, and (v) how participation requirements and awarding criteria are defined.

<sup>18</sup> These may include references to: (i) opportunities that bidders have had to communicate with each other; (ii) relationships among bidders (joint bidding and sub-contracting); (iii) suspicious bidding patterns and/or pricing patterns; (iv) unusual behaviour by bidders; and (v) clues in documents submitted by different bidders.

**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)**

**SECOND INTERIM REPORT**

**Background**

This interim report covers the second phase of activity of the OECD Advisory Board under the memorandum of understanding (MoU) between the Organisation for Economic Co-operation and Development (OECD) and the ANAC (*Autorità Nazionale AntiCorruzione* – National Anti-corruption Authority of Italy) referring in particular to the supervision and monitoring of EXPO 2015 tender procedures. The MoU aims to put into practice the anti-corruption experience of both organisations, in order to ensure the transparency, propriety, effectiveness and efficiency of procedures relating to staging EXPO Milan 2015.

In exercising its role the OECD is considering the analytical frameworks previously developed and related to efficiency, integrity and competition in public procurement, namely the 2015 OECD Recommendation on Public Procurement<sup>19</sup>, the 2009 Guidelines and the 2012 Recommendation for Fighting Bid Rigging in Public Procurement<sup>20</sup> (all jointly referred hereafter as the OECD Principles).

This interim second report summarises the work carried out during the first three months of 2015. In particular:

- The first part of this report summarises the main aspects of the discussion in the institutional meetings between the OECD Advisory Board, the Prefettura di Milano and management of EXPO 2015.
- The second part of the report focusses on the control of procurement procedures from ANAC's Operative Unit Special EXPO (UOS), which has been created especially to monitor the procurement procedures of EXPO 2015<sup>21</sup>, and in particular will comment on a selected number of control procedures in light of OECD best practices.
- The third part of the report offers a few remarks based on the experience with the specific control procedures put in place by the Prefettura di Milano for EXPO 2015 to prevent infiltrations of the organised crime in the works of EXPO 2015.

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<sup>19</sup> [www.oecd.org/gov/ethics/recommendation-on-public-procurement.htm](http://www.oecd.org/gov/ethics/recommendation-on-public-procurement.htm)

<sup>20</sup> [www.oecd.org/daf/competition/oecdrecommendationonfightingbidrigginginpublicprocurement.htm](http://www.oecd.org/daf/competition/oecdrecommendationonfightingbidrigginginpublicprocurement.htm)

<sup>21</sup> [www.anticorruzione.it/?cat=93](http://www.anticorruzione.it/?cat=93)

## 1. Summary of the institutional meetings

### 1.1 Meeting with the Prefettura di Milano

At the Prefettura the members of the OECD Advisory Board met with the President of ANAC and selected members of ANAC's UOS, the Prefect of Milan, the Chief of Staff of the Prefettura, and executives of the Prefettura in charge of the activities of the Specialized Section of the Prefettura di Milano responsible for monitoring large infrastructure projects (Sezione Specializzata del Comitato di Coordinamento per l'Alta Sorveglianza delle Grandi Opere, or CCASGO).

The main purpose of the meeting was to discuss the control procedures put in place by the Prefettura to prevent infiltrations of organised crime in the procurement of works for EXPO 2015. These controls are exercised by the Prefect di Milano pursuant to Art. 3 quinquies of Decree 135/2009, converted with amendments by Law no. 166/2009, which instructs the Prefect to coordinate the activities aimed at preventing organized crime from affecting in the award and execution of public contracts (so called "anti-mafia control").<sup>22</sup> According to Decree 90/2014, the President of ANAC may attend meetings of CCASGO, which are chaired by the Prefect of Milan, in order to benefit from the strong synergies between the institutional controls of the Prefettura and those of ANAC, and to ensure an effective exchange of information between the two institutions. This provision thus formally establishes a close link between the anti-mafia control procedures and the anti-corruption control procedures. It is for this reason that ANAC and the Prefettura di Milano have established a close institutional cooperation on EXPO that could be considered at national level as a best practice of institutional synergies and integrated control procedures.

Concerning the methodology for the anti-mafia controls, the info gathering and investigation is conducted by the Prefettura with the Police, with the support of the Interagency Group for Expo Central (Gruppo Interforze Centrale per l'Expo, GICEX) and the Anti-Mafia Investigative Department (Dipartimento Investigativo Anti-mafia, DIA) through access to available databases and the cross-checking of the findings with the DIA database (SIRAC). This "fast-track procedure"<sup>23</sup> allows a preliminary screening of the factors identified in the law as *indicia* or "circumstantial evidence" for infiltration by organised crime. If any of these factors is detected, the Prefettura proceeds to a closer review. Such closer review, for example, looks at whether one is dealing with "ordinary" crime, which is not relevant to the activities and responsibilities of the Prefettura, or with "organized" crime and therefore relevant to the anti-mafia controls of the Prefettura. The controls based on information retrieved from databases are then backed up with on-site inspections by the Police which involved numerous direct accesses to the construction sites. These controls "on the field" are "targeted" on the basis of the findings from the database research. The Prefettura considers that this combination of database controls and on-site inspections for purposes of detecting in a preventive way possible infiltrations of organised crimes in public works will set up an example that will be followed in the future at national level.

The meeting also touched upon the theme of the international dimension of the anti-mafia controls. Various EXPO country pavilions are built under the procurement rules and regulation of foreign countries, to which there is no direct and automatic application of the Italian legislation. In these cases, therefore, the preventive anti-mafia controls do not apply, unless this is agreed on a

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<sup>22</sup> The anti-mafia controls are complementary to the *ex-ante* controls made by the UOS of ANAC according to Art. 30 of Decree 90/2014, converted with amendments by Law no. 114/2014. See for more details the first OECD/ANAC interim report.

[www.anticorruzione.it/portal/public/classic/AttivitaAutorita/Expo2015/\\_expo?id=ca777b500a778042556851ff0960d517](http://www.anticorruzione.it/portal/public/classic/AttivitaAutorita/Expo2015/_expo?id=ca777b500a778042556851ff0960d517)

<sup>23</sup> The database checking through the fast-track procedure allows controls within just 15 days, which are reduced to 7 for applications by EXPO 2015 S.p.A.

voluntary basis with the foreign country.<sup>24</sup> The Prefettura explained that some foreign representatives, showing great confidence in the Italian system, requested the application of the special anti-mafia procedures of the Italian legislation and controls. This made it possible to detect the presence of firms with anomalies. These firms were promptly removed from the construction site, following access to the site by the police forces.

## 1.2 Meeting with EXPO Milan 2015

The meetings with the senior management of EXPO 2015 S.p.A. took place at the headquarters of the company EXPO and was attended by the members of the OECD Advisory Board, the President of ANAC, members of ANAC's UOS EXPO, the Prefetto di Milano and his staff, and by the Government Delegated Commissioner (Commissario Unico Delegato del Governo) for EXPO Milan 2015 and CEO of the company EXPO, and by the EXPO's staff responsible for procurement activities and for the project Open EXPO.

The meeting offered the opportunity to discuss issues raised in the first interim Report of the OECD Advisory Board in particular regarding the transparency principle in relation to information disclosed by the company EXPO on its website. EXPO 2015 acknowledged the points raised by the OECD, but stressed the progress had been made on this issue in recent months also with the support of ANAC. EXPO committed to promptly improve the content of EXPO's corporate website to meet the highest standards of transparency and to complete the publication of data on procurement procedures, especially with regard to the early years of the activity of EXPO.

The discussion moved to the flow of information between EXPO and ANAC and to the controls of legality on the activities of EXPO, with particular regard to the methods, outcomes and impact over time. EXPO explained that the controls on its procedures aim at preventing both infiltrations by organized crime and corruptive phenomena. EXPO representatives and the President of the ANAC emphasised how these controls have a "cooperative nature" and, in addition to prevent illegality, allow to intervene *in itinere*, i.e. while the procedures are ongoing, with a "constructive" rather than a "destructive" approach.

As for the *ex-ante* controls of the legality made by ANAC, according to EXPO, UOS has always had a problem-solving approach which is apparent in the opinions sent by UOS to the contracting authority on the procedures under review and in continuous, real time contacts between including EXPO and UOS to ensure that the contractual procedures of EXPO meet from the very first moment the standards required. Controls are also very timely as UOS is able to respond to requests from the contracting authorities within an average of five days.

Furthermore, EXPO also pointed out that this system has its costs. The interaction between EXPO 2015, the President of ANAC and the UOS has certainly led to a considerable amount of work for the contracting authority. However, this upfront commitment has had absolutely positive outcomes in the subsequent phases of the procedures.

3.1 The discussion also emphasised the importance of two instruments introduced by Art. 32 paragraph 1 of Decree. 90/2014, converted with amendments by Law no. 114/2014, namely the possibility for the President of ANAC to request the Prefect (i) to order the renewal of the corporate bodies of companies involved with criminal activities, by replacing the individual(s) involved; or alternatively, when the company does not comply, (ii) to appoint an extraordinary commissioner to

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<sup>24</sup> The Prefettura also explained that even if sites of foreign countries are not subject to inspections by the Police or to the anti-mafia procedures, they are still obliged to provide all data related to resources and personnel entering into their construction sites. This information is inserted into a database that can be consulted by police and other control agencies for preventive screenings of companies, and to activate, therefore, targeted access.

run the company and ensure the full implementation of the obligations under the procurement contract.<sup>25</sup> To date, these measures have been applied only in 4 cases concerning EXPO.

## **2. Review of procurement procedures from UOS**

Since its establishment in July 2014, the UOS developed a comprehensive framework for controlling the public procurement procedures of EXPO 2015. This framework includes:

1. the definition of *Linee Operative* (Operative guide);
2. the setting-up of 7 models of Check Lists;
3. the publishing of *Linee Guida* (Guidelines);
4. the setting-up of the *Raccomandazioni* (Recommendations).

### *2.1 UOS procedures – An overview*

Since then and using this framework, UOS, after July 2014, revised all public procurement procedures of the EXPO. When there are unconformities in the processes, UOS requests additional information to EXPO S.p.A , prior to the clearance. UOS also meets regularly with the procurement technical units of EXPO 2015, either in Rome or in Milan, holding more than 20 meetings so far. The average response time of UOS is 5 working days between the arrival of the process and the issue of the response, in order to allow the processes to continue without major interruptions or delays, which can be considered as an internationally accepted good practise for review bodies.

It is important to stress that 53 (around 1/4) of the EXPO pavilions are not included in the list of procedures revised by UOS as they were commissioned directly by the EXPO participating countries. As explained above, these works do not follow Italian public procurement legislation and therefore are not subject to the anti-corruption control of ANAC. EXPO is responsible for the construction of 140 pavilions.

The OECD Advisory Board met with the UOS in Rome and discussed the methodology used by the unit, the major challenges, achievements and conclusions from the work. Table 1 presents a summary of the work developed by the UOS as of 16 March 2015, detailed by type of procedure and outcome. As of this date, the UOS had reviewed 153 procurement processes, with a total procurement value of around EUR 589 million, with 60% of the processes related to tenders. In 136 processes UOS received the process from EXPO, in additional 17 it took the initiative to request clarifications and information from the contracting authorities (CA).

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<sup>25</sup> Under Art. 32 paragraph 1 of Decree. 90/2014 these measures can also be applied in cases of disqualification orders by the Prefect of Milan following an anti-mafia control and if there is an urgent need to ensure the completion of the contract.

**Table 1 – Procurement procedures reviewed by UOS**

	No.	With comments from UOS (unconformities and legal issues)
<b>Procedure/Tenders</b>	92	80
<b>Settlement agreements</b>	2	0
<b>Additional agreements</b>	4	4
<b>Sponsorship</b>	3	3
<b>Request for information</b>	17	0
<b>Conventions</b>	4	4
<b>Tender committees</b>	8	5
<b>Awardings</b>	18	13
<b>Random controls<sup>26</sup></b>	2	0
<b>Intermediary note</b>	3	0
<b>TOTAL</b>	153	109

Source: ANAC, March 16, 2015

In 109 (72% of the cases analysed) of the procedures the UOS detected unconformities or potential failures to meet legal requirements, and requested the correction of the process in one or several aspects as exemplified in the processes analysed below. For 107 procedures Expo 2015 S.p.A. has adopted the corrections formulated by the UOS and/or eventually provided the explications and the additional documentation required (some other cases are still under analysis).

## 2.2 Analysis of selected control procedures of UOS

In order to better understand the methodology applied by UOS to the review of procurement processes of EXPO 2015, the OECD Advisory Board analysed in more detail 5 procurement processes controlled by the UOS, selected due to their size, typology and characteristics (Table 2). The chosen procedures represent around EUR 250 million, 42% of the total value reviewed by the UOS.

For the analysis of these procedures the OECD applied an analytical framework that included (i) the analysis of documentation and process instruction, (ii) the application of principles described in the Linee Guida of ANAC/UOS vis a vis the OECD principles and (iii) the follow-up process with EXPO and validation of the corrective measures.

In each of the above mentioned procedures it was possible to verify that UOS applied thoroughly its control framework. The processes analysed by the OECD include check-list validations and information about the procurement procedures, usually with a technical note issued by UOS about the type and object of procedure, commenting the awarding criteria, the conditions of the supply of the goods or services and contract details. They also included a note issued by the coordinator of the UOS control section with remarks and recommendations whenever necessary. In some cases these recommendations included the analysis of the object of the contract, identified incongruences, the changing of the awarding criteria, the elimination or changes in the technical specifications in order to increase competition or the improvement of requisites to assure the quality of the delivery of the goods or services. The analysis was always formalized in a letter with the assessment of each

<sup>26</sup> Art. 6.2 Linee guida del 17/07/2014

procedure sent by the President of ANAC to EXPO. In the referred processes it was possible to conclude that EXPO accepted and followed the recommendations issued by ANAC.

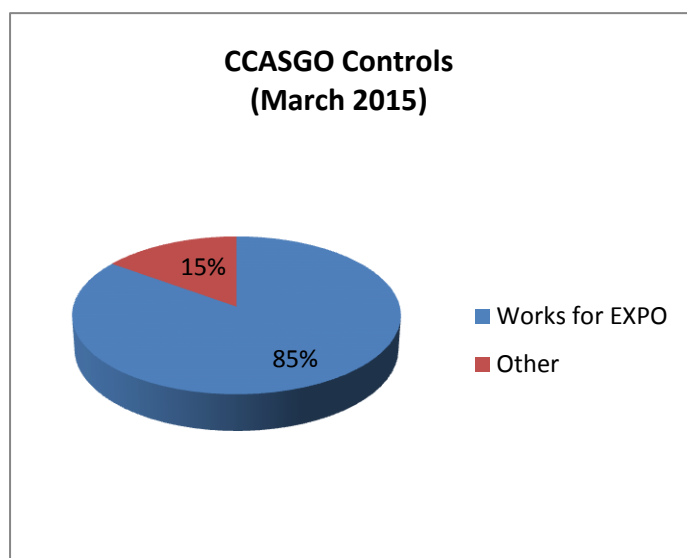
**Table 2 – Selected procedures for further analysis**

Procedures	Amount (EUR)	Type
<b>Linee guida accordo piastra</b>	178,000,000	Settlement Agreement
<b>Servizi di vigilanza</b>	23,580,852	Tender
<b>Sistema viario molino dorino - autostrada dei laghi</b>	20,994,000	Tender
<b>Realizzazione albero della vita - allestimenti tecnologici</b>	3,829,439 <sup>27</sup>	Tender with sponsorship
<b>Sponsorizzazione intesa san paolo "banking partner"</b>	23,100,000	Sponsorship

Source: ANAC

Moreover, even in the cases where the validation from ANAC was not mandatory, like in the case of pure sponsorship agreements, excluded from the Linee Guida, ANAC provided comments and recommendations, following the application of the principles of the guidelines.

### 3. Review of anti-mafia control procedures of the Prefettura di Milano

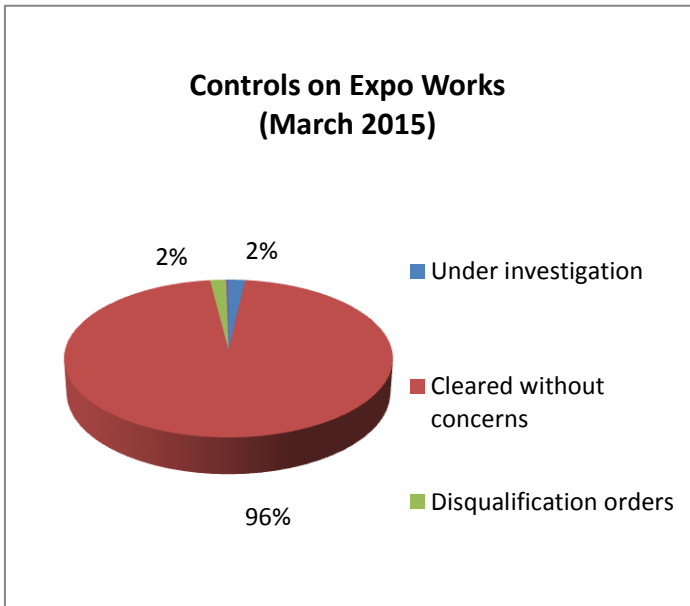


Source: Prefettura di Milano

Another important control mechanism put in place for the EXPO 2015 is the one performed by the Prefettura di Milano and the CCASGO and targeted to controls under the Anti-Mafia legislation. For that purpose, the Prefettura obtained additional powers that include the possibility of debarment and on-site inspections.

From information at our disposal it appears that since 2011 to 21 March 2015 the Prefettura di Milano inspected 5233 files, of which 4445 (85%) related to the works of the EXPO.

<sup>27</sup> The total value of the project is of EUR 10 million, the remaining amount is given through a sponsorship contract.



Source: Prefettura di Milano

Only 77 files out of 4445 are under investigation and the other 4368 are concluded. This is an extremely significant data compared with the 1665 files, with 789 under investigation, inspected as of 8 August 2013, which indicates a clear growth in the activity, also related to the increased rhythm of works towards the final phase of the EXPO project. The OECD Advisory Board also positively noticed that the cases pending investigations dropped from 65% in August 2013 to 2% in March 2015, indicating a significant improvement in the efficiency of the control procedures by the Prefettura.

Of the 4 445 controls made up to March 2015, 96% had found no connection to organised crime, and in 2% of cases the control found concerns which led to a disqualification order.

As the result of the controls and on-site inspections, the Prefettura di Milano issued 79 disqualification orders (to 54 different companies), preventing them from operating any longer not only on the EXPO project but more generally from participating to public works. This is considered to be the most important control activity of this kind ever performed in Italy for a public work.

Disqualification orders can be a very effective tool as they have a strong deterrent effect. In that context, due consideration should be given to impact on competition in already concentrated markets.

The experience of the anti-mafia controls of the Prefettura di Milano and more in general of EXPO also shows the importance of establishing close relationships with similar control bodies in other jurisdictions, improving overall coordination and governance. Access to information is key to identify red flags, i.e. suspicious cases that would require closer scrutiny. Most large infrastructure projects see the involvement and participation of international firms so that actions to promote legality and adequate, effective and dissuasive control mechanisms cannot always be merely at national level. In the next years the convergence of the different national legal systems towards common standards and the exchange of information to combat illegality will be more and more central themes of the international debate.

### Remarks and Recommendations

The experience with the anti-mafia controls of the Prefettura di Milano and the anti-corruption controls of ANAC represents a model for integrated controls and institutional synergies which allows for a "co-ordinated institutional response" to organized crime and corruption. This model breaks away from the traditional silos approach to controls by different institutions and organisations, which is inevitably linked to *ex-post* detection of problematic situations rather than to an *ex-ante* contribution to better and more effective procurement procedures. Moreover this is a model of "collaborative controls" characterized by an interaction with the contracting authorities that allows preventing illegality and eventually adopting corrective measures in order to ensure the realization of the public works on time.

The experience with EXPO appears to respond more effectively to the needs of large public and social events that must be perceived "corruption-free". This is possible thanks to the recent "smart



regulation”, i.e. to an intelligent regulation with targeted controls. Among the positive effects of this system, the OECD Advisory Board stresses that this system acts indirectly as a deterrent to further corrupt conduct and helps restoring the confidence of market operators on transparency and fairness of awards and the subsequent management of the contracts.

The experience of EXPO 2015 so far has demonstrated that it is possible in a short time with appropriate measures and tools to radically change the frameworks for legality controls and the perception that stakeholders have of public contracts particularly when large works or events are at stake. The system put in place for EXPO 2015 combines efficiency and legality and can be used potentially as a model for other large events around the world. For example, the OECD considers that some elements and best practices emerged from this project with ANAC can be a source of inspiration to foster integrity of other large infrastructure projects. In Italy, the model put in practice for EXPO in last few months could be eventually replicated in other context such as, for example, the works for the 2024 Olympic Games for which Italy has put its candidature forward.

Paris, March 30, 2015



**A.N.A.C.**

Autorità Nazionale Anticorruzione



**MEMORANDUM OF UNDERSTANDING**

**for co-operative activities**

**related to “EXPO Milano 2015”**

**between**

**The Italian National Anti-Corruption Authority  
(A.N.A.C.)**

**and**

**The Organisation for Economic Co-operation and Development  
(OECD)**

## Preamble

The Organisation for Economic Co-operation and Development (the “OECD”) is at the forefront of work on preventing bribery and corruption around the globe. Experts and staff across the OECD are engaged in devising new and innovative ways to effectively fight corruption. OECD initiatives about corruption include the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions-which is the first and only international anti-corruption instrument focused on the “supply side” of bribery transactions-as well as more targeted training, capacity-building, and knowledge dissemination initiatives aimed at specific groups.

In Italy, Law No. 190/2012 has introduced a system of norms to fight corruption which is similar to prevention-based models already in practice in other countries. Law No. 190/2012 was adopted not only to align the Italian legal system with guidelines in international conventions of which Italy is a signatory (the 1997 EU Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the EU, the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the 1999 Council of Europe Criminal Law Convention on Corruption, the 2003 United Nations Convention against Corruption - UNCAC) and to implement the recommendations addressed to Italy by the competent OECD and Council of Europe Bodies on the occasion of the mutual evaluation procedures conducted until now, but also to respond to popular demand as a result of instances of corruption that continue to come to light.

Law No. 190/2012 has identified, in the Italian context, the National AntiCorruption Authority (“A.N.AC.”), and other institutions called to act collectively to prevent and counteract corruption and illegality in the public administration. Among other measures, Law No. 190/2012 modified in part the Criminal Code and introduced tools aimed at preventing corruption that complement existing measures in the field of transparency and integrity.

A.N.AC.’s mandate and functions were recently extended and reinforced by the Decree-Law 24 June 2014, No. 90, converted into law with amendments by Law 11 August 2014, No. 114, which, among other measures, provides for the dissolution of the Authority for the Supervision of Public Contracts (the “AVCP”) and its organisational and functional integration with A.N.AC.. The legislators’ choice to anchor the supervision of public contracts (previously performed by the AVCP) in the system of corruption prevention outlined by Law No. 190/2012, represents a significant intervention intended to sharply affect the fight against corruption in Italy. The integration of the functions of the two institutions, and the consequent extension of the powers of A.N.AC., in fact establishes the conditions for a more effective oversight of the scope of contracts and public procurement, where a substantial portion of corruption originates, as affirmed and widely agreed by studies and in reports by international roundtables in the field.

Italy, and in particular the city of Milan, will host EXPO 2015. The preparations to welcome participants from all over the world include the construction of infrastructures and the provision of services, which presents both an opportunity that cannot be missed and a challenge that involves a great variety of institutional actors and stakeholders working together. EXPO 2015 also represents an opportunity for both the OECD and A.N.AC. (together the “Parties” and individually a “Party”) to share and apply their knowledge and expertise regarding public procurement, anti-bribery and anti-corruption in order to ensure that preparations for EXPO 2015 are transparent, fair and effective.

With this in mind, and with the shared goal of putting their anti-corruption experience into practice in order to ensure the success of EXPO 2015, the Parties agree to the following Memorandum of Understanding (the “MOU”), which may serve as a model for future co-operative activities of a similar nature between the Parties:

### **1. Purpose of the MOU**

This MOU between the Parties sets out the conditions for co-operation in order to achieve the following common objectives:

- increasing transparency and accountability of the procurement procedures related to EXPO 2015;
- increasing investors’, stakeholders’, and other actors’ confidence in the major event “EXPO Milano 2015”;
- identifying potential causes and eventual instances of corruption in the context of EXPO 2015 to prevent and counteract it; and
- reinforcing the know-how of both Parties regarding the prevention of and fight against bribery and corruption.

All the activities conducted under this MOU are subject to their inclusion in the Parties’ respective programmes of work and budgets and to the availability of funds. They shall be carried out in accordance with their respective rules and practices.

### **2. Forms of Co-operation**

The Parties will co-operate by various means, which will include, but will not be limited to:

- sharing of methodologies;
- exchange of information;
- supervision of the oversight of procurement procedures related to the major event “EXPO Milano 2015”; and
- joint organisation of events, workshops and initiatives promoting transparency, accountability and reliability, involving EXPO 2015 stakeholders.

### **3. Contributions of the Parties**

A.N.AC. will contribute to the co-operative activities in one or more of the following ways:

- exchanging information with the OECD about methodologies as well as activities and practices of oversight of procurement procedures related to EXPO 2015;
- in co-operation with the OECD, organising and promoting joint events, workshops and other initiatives involving OECD personnel and experts, the Advisory Board (as described in Article 4 below), A.N.AC. representatives, other institutional actors, investors and other EXPO 2015 stakeholders; and
- providing logistical support for the joint activities of the Parties (meetings, summits, etc.).

The OECD will contribute to the co-operative activities in one or more of the following ways:

- overseeing an Advisory Board (described in Article 4 below) composed of three OECD staff members who will share with A.N.AC. their own knowledge on the most advanced methodologies and on the best practices in the field of procurement oversight and the prevention and counteraction of bribery and corruption;
- organising, in collaboration with A.N.AC., joint events and other initiatives involving EXPO 2015 stakeholders, particularly with the aim of promoting transparency, accountability and reliability; and
- providing funding for travel and accommodation expenses for members of the Advisory Board in accordance with the OECD Staff Regulations, Rules and Instructions and other relevant OECD rules, policies and practices.

#### **4. Advisory Board**

The OECD will select the individuals to be part of an Advisory Board composed of three OECD staff members. The Advisory Board will work under the sole supervision of the OECD. The Advisory Board will, as part of its work:

- meet A.N.AC. and “EXPO 2015 special unit” representatives to exchange information and to share knowledge on the methodologies and experiences of the prevention and counteraction of corruption, particularly those already put into practice or that could be put into practice for EXPO 2015;
- meet EXPO 2015 stakeholders to gather relevant information about this major event, especially regarding procurement procedures; and
- periodically produce, on the basis of the information and data collected, a report targeted at A.N.AC. assessing the progress and outcomes of the monitoring and supervision by A.N.AC. and by the EXPO 2015 special unit, as well as on the fairness and transparency of the procedures related to the implementation of the works of the major event "EXPO Milano 2015". The Parties will agree on the contents of this report that should be disclosed and the methods for their dissemination in order to ensure that it is well known by as broad of an audience as possible.

#### **5. Intellectual Property**

The Parties recognise the importance of protecting and respecting intellectual property rights. This MOU does not grant the right to use any work created outside the framework of this MOU, of which one Party is the author or holds the intellectual property rights.

Intellectual property rights over any joint work created by the Parties’ co-operative activities under the MOU of which both Parties are the authors will be jointly held by the Parties. Each Party may use and reproduce these works separately, subject to an appropriate acknowledgment of the other Party’s contribution to the work and provided that each Party will seek the written consent of the other Party before eventually granting any license to a third party. Without prejudice to the above, any joint publication will be subject to a separate written agreement by the Parties.

## **6. Disclosure**

The Parties may disclose to the public this MOU and information with respect to activities carried out under this MOU in accordance with each Party's relevant policies.

Any sharing of confidential information between the Parties will be subject to their respective policies and procedures relating to the disclosure of confidential information. Each Party will take any necessary action to protect confidential and/or classified information of the other Party.

## **7. Responsibility**

Each Party will be responsible for its own activities and for its staff members, including their acts and omissions. In particular, a Party will not be responsible for eventual damages or injuries to any of the other Party's staff members.

Each Party (the "First Party") will hold the other Party and its staff harmless from any claim or damages, however caused, arising in connection with the activities carried out by the First Party or its staff, unless the damage results from a wrongful act of the other Party or its staff.

## **8. Duration**

This MOU will come into effect upon signature by both Parties for a period of one year.

The MOU may be extended and/ or modified by mutual written agreement between the signatory Parties.

## **9. Termination**

The MOU may be terminated by either Party by providing three months' prior written notice to the other Party.

In such a case, the Parties will agree, if appropriate, on the measures to ensure that the activities initiated under the MOU are brought to a prompt and orderly conclusion.

## **10. Divergence of Views**

Any divergence of views between the Parties arising from or relating to this MOU, including those on the interpretation or application of any provision therein, will be amicably settled by the Parties.

## **11. Supervisors of MOU implementation**

Each Party designates below its representative with the overall responsibility for implementing this MOU, including responsibility for the formulation of working plans for the activities to be undertaken pursuant to it:

For A.N.AC.: Mr. Raffaele CANTONE, President

For the OECD: Mr. Nicola BONUCCI, Director for Legal Affairs

Given the content and purpose of the MOU, which requires the direct engagement not only of the Parties but also of a number of Italian institutions, this Memorandum of Understanding is also signed by the Minister of Agriculture, Food and Forestry Maurizio Martina, who has been delegated by the

President of the Council of Ministers of Italy to chair the Coordination Commission for the activities related to EXPO Milan 2015.

Done in Milan, Italy, in two original copies in English and two original copies in Italian. In case of divergence between the Parties on the interpretation of the MOU, the English text prevails.

For the  
Italian National Anti-Corruption Authority

For the  
Organisation for Economic Co-operation and  
Development

Mr. Raffaele CANTONE,  
President

Mr. Angel GURRÍA,  
Secretary-General

Date

Date

Milan, October 3<sup>rd</sup>, 2014

Milan, October 3<sup>rd</sup>, 2014

Signature

Signature

Delegated by the President of the Council of Ministers of Italy

Mr. Maurizio MARTINA

Italian Minister of Agriculture, Food and Forestry Policies,

Date

Milan, October 3<sup>rd</sup>, 2014

Signature

## **ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT**

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# High-Level Principles for Integrity, Transparency and Effective Control of Major Events and Related Infrastructures

For further information

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