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Construction Industry Development and the Road Sector

Effectiveness of National Construction Councils

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Abstract

The note reviews the objectives, programs, impact and lessons learned from the operations of the three National Construction Councils (NCCs) established to date – in Tanzania, Malawi and Zambia. The Councils share the common feature of being an instrument of public-private partnership in the construction industry backed by legislation providing a governance structure and certain statutory powers and responsibilities. Whilst the business of the NCCs covers all aspects of the industry, there has been a strong focus on the road construction and maintenance given its importance for employment growth and new business development. With this in mind and focusing primarily on the role that NCCs have sought to play in the road sector, the note seeks to provide answers to three specific questions: (a) How effective have these particular structures been in achieving their goals? (b) Does experience suggest that this model might have wider applicability or not? and (c) Would these developments have likely occurred anyhow in the absence of a NCC?

The Context for this review

Programs to support the development of a strong local construction industry have always been seen as an important element of the road sector restructuring supported by the SSATP since the late 1980s. Notably, under the Road Management Initiative (RMI), a series of papers were produced setting out an analysis and a series of recommendations for how countries implementing road management and financing reforms could encourage the development of small-scale local contractors for road maintenance.[1] At that time, restructuring of road administrations was starting to open up new business opportunities for the private sector and to create an environment for efficiency gains in road management. Since then contracting out of maintenance works, dismantling or downsizing of force account and the commercialization or even outright sale of plant and equipment pools has accelerated and the new model has been adopted nearly universally in reforming countries.

For SSATP, it appears to be timely to pay renewed attention to the construction industry, with particular emphasis on the impact that the aforementioned reforms – as well as subsequent actions – have had on the road sector. There are two particular motivating factors here.

[1] Lantran, Jean-Marie: Contracting Out Series Volume 1 Developing Domestic Contractors for Road Maintenance in Africa (December 1990); Volume 2 Contracts for Road Maintenance Works (March 1991); Volume 3 Setting up a Plant Pool (December 1991); Volume 4 Managing Small Contracts: Practical Guide on how to Streamline and Manage Small Contracts for Public Works (April 1993); Volume 5 Road Maintenance and the Environment (August 1994).

Firstly, there is the increasing realization of role that employment generation through contracting in the road sector can play in poverty reduction strategies in Sub-Sahara African countries. Secondly, there is the perception in many countries that progress in the direction of local contractor development has lagged behind other elements of the reform program – and that the business opportunities created by the higher volume and value of road maintenance and construction contracts created by the reform process are being captured disproportionately by foreign firms.

THE CONSTRUCTION INDUSTRY – STRUCTURE AND CONSTRAINTS

The structure of road construction industry in Sub-Saharan African countries is typically dominated by large foreign-based firms, some of which operate in joint venture or association with local firms. There are often a few medium size firms, some of which may be purely local firms, and others may be based in neighboring countries (such as South Africa, Zimbabwe and Kenya in the case of Southern Africa). In recent years, there has been a large increase in the number of newly trained small-scale contractors, some of which are essentially the result of the recycling of staff from downsized force account units. This process has resulted in setting up a large number of small domestic firms. In few countries have effective supporting programs been put in place to assure a relatively constant level of work for these firms. Lesotho however provides a good example of what can be done in this regard. [2] Thus, there tend otherwise to be very high birth and death rates for this type of firm. Only a few small contractors have been able to make the transition to medium scale, although that is a specific national objective in some countries, such as Malawi.

Market access for small contractors is not guaranteed. The difficulties are partly due to the contracting process – frequency, size, conditions imposed by road agencies. These difficulties tend to be exacerbated by a range of issues faced by domestic firms – particularly by all small and/or newly created entrepreneurs. These include: (a) limited access to construction equipment; (b) limited access to capital and credit facilities; and (c) lack of business training and shortage of technical and management skills. Failure to resolve these issues often means that firms cannot meet the requirements for the tenders issued for public sector work.

[2] Seth, Subhash: Training of Small Scale Contractors for Rural Road Maintenance in Lesotho, Technical Note No. 36 (March 2004).

SCACII – A NEW APPROACH

The aforementioned suggests that serious gaps still exist in the enabling environment for construction industry development. Much attention has thus been given to the creation of an appropriate supporting framework, with an emphasis on the needs of local stakeholders. The emergence of one solution to this problem – the national construction council (NCC) – owes much to the 1993 Southern African Construction Industry Initiative (SACII), attended by Ministers from seven SADC member countries: Lesotho, Malawi, Mozambique, Namibia, Swaziland, Zambia, and Zimbabwe. Tanzania had already created a similar structure in 1979. This meeting gave rise to a broad consensus on the need for the following at regional and national level: (a) providing a clear focal point for implementing national construction policy; (b) expanding the role of domestic contractors and consultants through building public-private partnerships; (c) identifying constraints through carrying out comprehensive studies of the local road construction industry, and (d) developing specific programs and measures to address industry constraints. In February 1996, the Southern African Regional Construction Industry Council (SARCIC) was set up, but relatively with little follow-up at regional level. Country level initiatives have proven to be more robust – Malawi creating an NCC in 1996, Zambia establishing an NCC in 1995 to implement the newly approved national construction industry policy (formal enactment followed only in 2003). South Africa has however, the strongest program in the region, as construction industry development has become a critical element of the government's strategy for majority economic empowerment.

Box 1 – NCC Objectives: The example of Malawi

… provides for the establishment of a National Construction Industry Council, for the promotion and development of the construction industry in Malawi, for the registration of persons engaged in the construction industry, for the coordination of training of persons engaged in the construction industry …

NCC – (A) TYPICAL OBJECTIVES AND GOVERNANCE STRUCTURES

In a general sense, the goal of NCCs is to foster the development of the domestic construction industry. There are however some differences in how this is translated into specific objectives in the three cases of Tanzania, Malawi and Zambia. In the case of Malawi Act No. 19 of 1996 creating the National Construction Industry Council (NCIC), specific reference is made to contractor registration and to training (see Box 1). In the case of Zambia Act No. 13 of 2003 creating the National Council for Construction, the statement of objectives covers much the same ground as for Malawi – but notably adds *to provide for the regulation of the construction industry… and to provide for the establishment of a construction school...* In the case of Tanzania Act No. 20 of 1979 creating the National Construction Council, there is no specific mention of objectives although these can be implied from the functions listed in the Act. A key feature of all NCCs is that they are effectively public-private partnerships, creating a forum in which industry problems can be raised and addressed. This is reflected in the governance structures of the NCICs generally elaborated in some detail in the Acts. In Malawi, For example, the NCIC is composed of 20 persons, all appointed by the minister but of whom 15 are drawn from the private sector. Nine private sector members are appointed as representatives of constituent professional associations. The Zambian council consists of 15 persons of whom eight are from the private sector – whereas in Tanzania 12 out of 18 members are representatives of the public sector.

NCC – (B) TYPICAL FUNCTIONS AND PROGRAMS

The functions of the NCCs fall broadly into the categories given below. Box 2 gives more details on the many functions provided for in the three acts cited above.

Box 2 – NCC Functions as cited in Legislation (non-exhaustive)

- ✓ Promote and develop the construction industry
- ✓ Facilitate access of local firms to resources
- ✓ Promote research, development and local materials
- ✓ Promote safety standards
- ✓ Prescribe and vary the categories for contractor registration
- ✓ Recommend conditions under which foreign firms can register
- ✓ Conduct training, and coordinate training done by others
- ✓ Make available information, advice and assistance
- ✓ Publish technical and commercial information
- ✓ Review the process of awarding contracts
- ✓ Monitor and evaluate the industry
- ✓ Exercise disciplinary control
- ✓ Standardize quality control, contract documentation and procurement process
- ✓ Provide advisory services and technical assistance to the industry
- ✓ Advise government on matters pertaining to construction industry development
- ✓ Monitor construction costs, participate in or make arrangements for conferences and seminars
- ✓ Assess the performance of contractors and maintain records
- ✓ Provide data on the size and distribution of contractors
- ✓ Promote the construction of affordable low cost housing

(1) *Formal regulatory functions* delegated by government, i.e. for the registration of contractors and collection of associated charges.

(2) *Development activities* mounted to promote the interest of key clients in the industry, e.g. undertaking of contractor training programs and equipment hire services.

(3) *Advisory activities*, which may be directed either to government (concerning public procurement, industry standards, etc.) or to clients (access to finance, business management).

(4) Dissemination of information through conferences, newsletters and through research.

The mandate of the NCC is a very demanding one with the challenge of not only meeting the needs of a variety of clients through a broad range of interventions, but also having to negotiate some potential conflicts between the functions. Can the same body be expected to handle the formal responsibility of contractor registration (and discipline) and at the same time promote the local industry? Can it carry out objective research into, say, the use of local materials in road construction when interested parties are represented on the council?

Unsurprisingly, the NCCs have not generally been able to mount programs to equally address all the stated functions. This is partly due to capacity constraints, as all councils are supported by relatively modest secretariats. These are also expected to be self-financing, although there has been significant donor and government budget support in the start up phase. The focus has thus tended to be on programs likely to generate most quickly and surely revenues to support operations, and respond most clearly to the expressed needs of client organizations. One issue to be addressed is the extent to which a council should directly undertake programs or work through other parties or agencies. Somewhat against advice and expectation, they have largely chosen to carry out training "in-house" and in the case of Malawi to carry on equipment hire as a business (albeit at the express request of government).

NCC – (C) IMPACT TO DATE

One indicator of success would be the number of local contractors registered. Both in general and in the road sector, the numbers have risen in all three countries. This is perhaps to be expected as those NCCs with a responsibility for contractor registration have an incentive to perform. However, are the local contractors winning an increasing share of the market or not? Indicators here are mixed, though marginally positive. For this, availability of funding and the policies of road agencies are more significant explanatory factors than the NCCs. In the road sector – if not elsewhere – the supply of trained contractors and the number of places on training programs have certainly increased. Some of this achievement represents the impact of NCCs taking over programs started before. Therefore, while not a fully incremental benefit, they may be now more sustainable, especially where NCCs are able to charge participants for all or part of the cost. On the matter of equipment hire, the experience is limited to Malawi. In this case, the NCIC has managed – and accounted for – a pool of graders in a way that is superior to what prevailed before in the government plant pool. The service should however be contracted out to a private equipment lease company in due course. The impact of advisory services has been limited. In Malawi, for instance, an attempt was made to develop new standard bidding documents for small-scale contracts, but these were not adopted. In Tanzania, the NCC has however been more effective in this regard. Concerning client services, there is no evidence that a NCC has yet developed an effective model for addressing the underlying constraints in finance and business practices. Dissemination of information has improved – with a particular good example in Zambia. This has probably helped increase the participation of local firms in public sector bids, but not necessarily assured greater success in winning contracts.

PRELIMINARY ASSESSMENT OF EFFECTIVENESS

What does this tell us about effectiveness of this approach and its potential replicability? The concept of a public-private partnership for the development of the construction industry is a good one. A number of other countries are reviewing whether it would be timely and appropriate to follow suit – this is notably the case for Mozambique and Lesotho. However, the usefulness of the council as a forum is impacted by the existence or not of a suitable policy framework (in existence to some extent in the case of the three countries); and a clear strategic vision and business plan for the NCC (largely lacking in all cases). It will thus become increasingly important for each NCC to establish performance benchmarks and a clearer prioritization of activities. In this process, it will also be necessary to address particular issues that have emerged in the early experience of the NCCs, that is:

(i) **Regulation vs. promotion.** NCCs could continue to carry out some functions related to contractor registration – this would not necessarily conflict with other functions. However, the fundamental emphasis should be on promotion of the industry's needs. It is not evident that NCCs are the right place for regulating the construction industry.

(ii) **Doing vs. facilitating.** NCCs should be primarily about addressing constraints and bottlenecks – and using the extensive networks of council members to get things done. NCCs should only be directly involved in implementation as a last resort.

(iii) **Local vs. foreign**. The primary focus is evidently on the local industry. There have however been differences – at least in the cases of Malawi and Zambia – among NCCs, governments and donors have pushed for reserved procurement or mandatory local/foreign joint ventures as measures for opening up opportunities for local firms, especially for larger, foreign funded contracts. The preferred approach however would be to focus on road maintenance contracts and to better utilize the opportunities presented by slicing and packaging of works, domestic preference margins and by reviewing qualification criteria.

CONCLUDING REMARKS

For the road sector, it is likely that sector policies as well as the reforms of road sector management and financing institutions will be the primary drivers for increased opportunities for local contractors, particularly in road maintenance. The NCCs do have the potential to add value to this process. This is most likely to come from sharply focused promotional activities to help directly address the constraints that local firms face in bidding for and winning contracts in this area.