

1.0 OVERVIEW OF THE PROGRAM

The ***South Asia Region Public Procurement Forum*** was held on 26–28 April, 2011 in Kathmandu, Nepal with the objectives of (a) providing a platform for senior public procurement officials, oversight agencies, and development partners in South Asian countries to share knowledge and experiences on good practices with a view to making their public procurement systems more effective in utilization of public resources, (b) allowing the participants to network with each other and enhancing opportunities for improved regional cooperation, and (c) providing opportunity to the participants to learn from a number of experts about the latest developments in public procurement, including Public Private Partnership (PPP), e-Government Procurement, and Procurement Performance Benchmarks using OECD/DAC indicators.

The Forum brought together the senior government officials responsible for public procurement from Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. Besides this, a wide range of policy makers, regulatory agencies and oversight agencies representing both public and private sector from Nepal as well as representatives of development partners. The Asian Development Bank (ADB) and the World Bank (WB) as the co-sponsors of the Forum had representations from the senior level. List of participants is attached as Annex – 1 of this report.

April 26 was the first day of the forum. The activity started with the Registration of the Participants (9:00 – 9:30 am). Prime Minister of Nepal, Mr. Jhala Nath Khanal was the Chief Guest, who inaugurated the Forum’s proceedings by lightening the traditional Nepali lamp - Panas. The opening session was chaired by Mr. Madhab Prasad Ghimire, Chief – Secretary of Government of Nepal and Mr. Avanindra Kumar Shrestha, Secretary, PPMO acted as the moderator and also delivered the welcome address covering background, objectives and expected outcome of the forum. Mr. Paolo Spantigati, Office-in-Charge of the Asian Development Bank and Ms. Christine Kimes, Acting Country Director of the World Bank delivered opening remarks for the forum.

After opening remarks, brief introduction of the key officials of the Government of Nepal (GoN), country delegates and senior staff of the Asian Development Bank (ADB) and the World Bank (WB) including preeminent personalities Mr. Bernard Becq, Chief Procurement Policy Officer and Head of the Procurement Board, WB; Mr. Hamid Sharif, Principal Director, Central Operations Services Office (COSO) , ADB; Mr. Ignatius Santoso, Director, Central Operations Services Office (COSO), ADB; and Mr. Nadjib Sefta, Regional Procurement Manager, South Asia Region, WB was provided at the forum. At the end of the opening session, Mr. Madhab Prasad Ghimire, Chief Secretary delivered the chairperson’s remarks and adjourned the formal opening session of the Forum.

There were two technical sessions – Part I & II and one country presentation on the first day of the Forum, which were chaired by Mr. Krishna Hari Banskota, Finance Secretary, Ministry of Finance, GoN and Mr. Nadjib Sefta, Regional Procurement Manager, South Asia Region, WB respectively.

On the second day (April 27, 2011), there were two technical sessions including country presentations – Part III & IV and were chaired by Mr. Avanindra Kumar Shrestha, Secretary, PPMO, GoN and Mr. Ignatius Santoso, Director, Central Operations Services Office, ADB. The third day (April 28, 2011) was the last day of the forum, which covered the Part V of the technical session, Chaired by Mr. D. A. P. Abeysekara, Director, Department of Public Enterprises, Ministry of Finance and Planning, Sri Lanka; group discussions and presentations on five predetermined themes – Legislative/Regulatory/Architect/Standards; Capacity building; Procurement environment to ensure economic, efficient, transparent, and fair public procurement; Modernization of public procurement; and A mechanism including coordination group to sustain the regional forum and follow up actions.

At the end there was a concluding and wrap-up sessions. This session was chaired by the Chief Secretary of the Government of Nepal Mr. Madhab Prasad Ghimire, in which the outcomes of the group discussions were presented by the respective group moderators (outcomes of the group discussions are presented in Section 4: Overview of the Group discussions of this proceeding). In this session Mr. Nadjib Sefta, Regional Procurement Manager, South Asia Region of the World Bank and Mr. Hiroyuki Maruyama, Principal Procurement Specialist, COSO of the Asian Development Bank delivered closing remarks. Mr. Dhenden Dhondup, of Bhutan representing participants of the Forum expressed satisfaction over the management of the SAPPF. Mr. Madhab Prasad Ghimire, Chief Secretary of Government of Nepal delivered Chair Person's remarks and Mr. Avanindra Kumar Shrestha, Secretary, PPMO, Nepal proposed vote of thanks, which marked the end of the three day South Asia Region Public Procurement Forum.

A program detail is attached as Annex – 2 and some photographs reflecting forum's activities are presented in Annex – 4 of this proceeding.

2.0 KEY MESSAGES OF THE MAIN SPEAKERS IN THE OPENING SESSION

The key messages of the main speakers in the opening session are presented in this section.

Mr. Jhala Nath Khanal, Prime Minister of the Government of Nepal, in his keynote address, highlighted the importance of such a forum where the concerned persons would have opportunity for sharing each other's experiences and views. He also showed his concern over the poor and ineffective public procurement practices of the countries in the South Asian Region and said that poor and ineffective public procurement practices are challenges not only for any particular country but for the government of the region as a whole. He stressed on that public procurement should be able to ensure value for money and should be fully transparent, people oriented and effective.

*Poor and ineffective public procurement practices are challenges not only for any particular country but for the government of the region as a whole.
Public procurement should be able to ensure value for money and should be fully transparent, people oriented and effective.*

Mr. Madhab Prasad Ghimire, Chief Secretary of Government of Nepal, in his Chairperson's Remarks said that public procurement is a fundamental and integral part of the public financial management system and therefore, it has to be used strategically for socio-economic development of the country. He also accepted the fact that there is a lot to do to achieve a competitive, transparent, non-corrupt and completely managed public procurement system.

Public procurement is a fundamental and integral part of the public financial management system and therefore, it has to be used strategically for socio-economic development of the country. There is a lot to do to achieve a competitive, transparent, non-corrupt and completely managed public procurement system.

Mr. Avanindra Kumar Shrestha, Secretary of PPMO, Nepal revealed the fact that most countries spend about 10 – 15 percent of their GDP on public procurement of goods, works and services and hence weak public procurement system will surely cause serious losses of public funds and adversely impact the country's economy and development. In this context, he highlighted the importance of good public procurement mentioning that it plays significant role in improving good governance, public financial management and accountability. He also said that good public procurement system helps in promoting a free market economy that serves judiciously spending of public funds so as to ensure that maximum benefits of public projects reach the general public.

Mr. Shrestha pointed out that the pace of public procurement reforms in South Asia varies from country to country and mentioned that Afghanistan, Bangladesh, Nepal and Pakistan have Public Procurement Acts whereas public procurement in Bhutan, Maldives and Sri Lanka is governed by regulations and guidelines. Public procurement at the Union Level and in most of the states in India is regulated by the GFR and only two States – Karnataka and Tamil Nadu have the public procurement laws. He said that exchange of knowledge and experiences of the public procurement reforms and capacity building among key policy makers and public procurement officials through the forums like SARPPF will benefit all the countries in improving their public procurement system. For networking and exchanging of experiences of public procurement officials and policy makers, Mr. Shrestha stressed on need for holding Public Procurement Forum regularly to learn from the success of similar Forums in other regions.

Most countries spend about 10 – 15 percent of their GDP on public procurement of goods, works and services and hence weak public procurement system will surely cause serious losses of public funds and adversely impact the country's economy and development. Exchange of knowledge and experiences of the public procurement reforms and capacity building among key policy makers and public procurement officials through the forums like SARPPF will benefit all the countries in improving their public procurement system. For networking and exchanging of experiences of public procurement officials and policy makers holding periodic (annual) Public Procurement Forum to learn from the success of similar Forums in other regions is essential.

Mr. Paolo Spantigati, Office-in-Charge of Asian Development Bank and **Ms. Christine Kimes, Acting Country Director** of the World Bank delivered the Opening Remarks at the SARPPF. In his remarks Mr. Spantigati highlighted the importance of experience sharing and learning, capacity building and reform in public procurement practices. He also highlighted the role of PPP, clean and green procurement and participation of civil society in public procurement.

*Experience sharing and learning, capacity building and reform in public procurement practices are very important.
PPP, clean and green procurement and participation of civil society in public procurement are also equally important.*

Similarly, Ms. Kimes expressed that good public procurement is not only a challenge to Nepal but also for the countries in the region and the world too and said that such forums will help translating ideas into practice. Both Mr. Spantigati and Ms. Kimes assured continuation of their support for addressing broader public procurement agendas.

*Good public procurement is not only a challenge to Nepal but also for the countries in the region and the world at a large.
Such forums will help translating ideas into practice.*

Mr. Peter Trepte, Legal Advisor and Consultant in the law and practice of public procurement and public procurement reform, was the facilitator, who presented his observation in the Forum. Mr. Trepte informed the participants that international standards/models are not just to copy, they are to use as reference because they provide guidance for regulating procurement functions. Therefore, it is critically important to understand the objective with reason why the adoption of particular standard/model has become essential in particular context.

Mr. Trepte told the participants that international standards/models are acceptable in different situations. They are to be used to enhance economy and efficiency. According to Mr. Trepte, if private sector participates badly in procurement, it spends more in procurement and loses its profit. In case of public sector, it has a bureaucracy, rules and procedures therefore it requires mechanism to control. Transparency in procurement is the tool to ensure that things are correctly done.

In his presentation, Mr. Trepte mentioned that highest degree of procurement regulation (harsher procurement regulation) does not necessarily ensure control of corruption, but could be a hindrance in making good procurement decisions. He further said that if more emphasis is put on anti-corruption measures flexibility in decision making will be lost. Therefore a balance needs to be maintained. He also highlighted the issues that require flexibility in decision making like environment friendly products are not the cheapest in the market and hence lowest market price does not justify the

procurement of environment friendly products and similarly, the green procurement needs to pay more for the same goods. Answering a question, Mr. Trepte said that in terms of law, enforceability is the important thing therefore he suggested adopting the things that are enforceable and controllable.

International standards/models are not just to copy, they are to use as reference because they provide guidance for regulating procurement functions. Therefore, it is critically important to understand the objective with reason why the adoption of particular standard/model has become essential in particular context.

International standards/models are acceptable in different situations. They are to be used to enhance economy and efficiency.

If private sector participates badly in procurement, it spends more in procurement and loses its profit. In case of public sector, it has a bureaucracy, rules and procedures therefore it requires mechanism to control. Transparency in procurement is the tool to ensure that things are correctly done.

Highest degree of procurement regulation (harsher procurement regulation) does not necessarily ensure control of corruption, but could be a hindrance in making good procurement decisions.

If more emphasis is put on anti-corruption measures flexibility in decision making will be lost. Therefore a balance needs to be maintained.

Flexibility in decision making is required because environment friendly products are not the cheapest in the market and hence lowest market price does not justify the procurement of environment friendly products and similarly, the green procurement needs to pay more for the same goods.

In terms of law, enforceability is the important thing therefore he suggested adopting the things that are enforceable and controllable.

3.0 KEY HIGHLIGHTS OF THE PAPERS PRESENTED

This section provides the key features of the papers – thematic papers and country papers presented in the Forum.

A. Thematic papers

i. *Principles of a Sound Public Procurement System: and Latest Development in the World Bank Policy by Bernard Becq, WB*

Bernard Becq, drawing from experiences across the world and new approaches that the WB has started to explore, discussed on the principles of a sound public procurement system and also the latest development in the WB procurement policy. He informed that the ratio of total procurement to GDP is as high as 19.96 percent in OECD member countries and 14.48 percent of non-member countries. He also informed that public procurement accounts for 70 percent of government expenditure. He explained that public procurement has multiple development outcomes, some of which often overlooked, e.g. being more efficient than R&D subsidies in stimulating innovation.

Recent experience, said Becq, has shown that **regulatory reforms which are hasty responses to scandals or driven primarily by outside pressure do not succeed**. There is an emerging focus on performance and measurable outcomes such as conserving limited resources, improving service delivery, reducing the cost of doing business with the government, and holding public officials accountable, which constitutes an effective entry point for promoting reform enjoying higher and broader political support. The important thing Becq highlighted was that **poor governance and corruptions in procurement invariably reduces development outcomes and are likely to reduce foreign direct investment and entail over spending on capital, under spending on asset maintenance, poor quality infrastructure, and reduced government revenues and for these reasons and because of its complexity procurement is a government activity vulnerable to waste and fraud and corruption, and should therefore be a priority target for strengthening public sector governance and improving the quality of the administration**. Similarly, it is also to be noted here that it is not easy to build sustainable capacity in procurement and reduce corruption when structural civil service issues are not addressed. Procurement reforms are rarely effective if designed and implemented in isolation and not coordinated with a broader public sector strategy aimed at strengthening key related areas.

Discussing the features of the traditional procurement approach (identified with rules, transactions and fiduciary control) Becq further stated that good procurement is the result of a value chain, which goes well beyond rules and processes and includes multiple steps and disciplines from planning to final delivery to beneficiaries. **The traditional model may also be less effective in a context that requires flexibility, innovation and overall broader professional judgment to optimize results with a complex business environment**. Becq mentioned that a new paradigm for public procurement requires awareness of the importance of the links with economic and social outcomes to avoid that regulatory and institutional changes only perpetuate inefficient and/or non-transparent practices and produce limited overall real improvements. Additionally, technology as a tool plays an important role in a modern procurement system. He further added that governance reform proposals for procurement emphasize the need for capacity development.

Briefing the WB's role, Becq mentioned that during the past 15 years countries have made significant progress in modernizing their systems and in most cases, the Bank has contributed to the design of comprehensive strategies or discreet reforms through its analytical work and technical knowledge and policy. The Bank has developed a body of work and experience on procurement policy dialogue. As the way forward and challenges, Becq stated that from the broad angle of public sector management (including procurement) and aid effectiveness, capacity building and progressive reliance on strengthened country systems remain at the centre of the debate. He mentioned that the Bank is preparing a paper focusing on public procurement and governance and anti-corruption (GAC). Mentioning the new P4R instrument, he said procurement arrangements will be different from what they are under the current

traditional investment lending operations and also stated that the Bank has launched a review of its procurement policy. He added that the Bank's guidelines are considered by many outside and within the Bank as reflecting the best international standards.

At the end, Becq concluded with mentioning the debate should not be framed in terms of trade-offs between fiduciary interest of the Bank and development objectives, but rather under an integrated approach aimed at building procurement capacity at both project and country levels, making progress on the use of country systems, and managing more effectively fiduciary risks

ii. Why Public Procurement Reform? By Hamid Sharif, ADB

Explaining the need for reform in public procurement, Sharif said that roughly **15 percent of GDP is spent (conservative OECD estimate for member countries) on public procurement of which 20 percent is lost due to corruption. It shows that about three percent of the GDP is lost on corruption involved in public procurement.** He also pointed out towards the use of funds on useless infrastructure projects that are never finished, and towards the project that provides higher rate of return than health and education. According to Sharif, citizens' expectations are changing and expectation for quality for governance is very high. Furthermore, public procurement uses tax payer's money. Therefore, public procurement reform is important and should address the following areas:

- a. Development of legal framework
- b. Establishment of institutional frameworks
- c. Drafting of standard/harmonized documents
- d. Building capacity of the "enablers" and support the development of private sector
- e. Support initiatives leading to an IT-enabled procurement process

For public procurement reform followings are to be done:

- a. Ensure country-owned policy reforms, which may involve governance assessments and law and policy reform initiatives
- b. Governance and anti-corruption policies, which should consider the accountability, competition, predictability, transparency and efficiency as well as adherence to the Paris and Accra commitments.

Sharif has also summarized the lessons learned, which was the important part of his presentation. The lessons learned are:

- a. Although common reform areas exist, there is no "one-size-fits-all" approach
- b. Complement and be sensitive to circumstances, challenges and government's own priorities i.e. support for country specific reform initiative.
- c. Public procurement reform helps preventing loss of billions of dollars that are due to inefficient and corrupt public procurement practices.

- d. Top-down approaches should give way to dialogues and various partnership building approaches, and
- e. Recognize that procurement practitioners are the enablers of any reform initiative

iii. **Public Procurement in South Asia: A World Bank Perspective by Nadjib Sefta, WB, SAR**

Public procurement is important, Nadjib Sefta said in his presentation, because it spends 15 – 20 percent of the GDP and is responsible for converting limited resources into timely, cost efficient and effective services. **Governance is one of the important and critical functions of public administration and public procurement supports enhancing good governance.** Good procurement practices also help increasing competitiveness, trade (within and between countries) and investment. He also informed that procurement is not only transactions and processes; it is also a multidimensional concept and a complex service function. He also highlighted the following as sound principles of public procurement:

- a. Economy
- b. Efficiency
- c. Transparency
- d. Fairness, and
- e. Development of national industries

Sefta, as also highlighted by Bernard Becq in his earlier presentation, indicated the shifting of the preference of public procurement from **compliance** to **performance**. Performance, said Sefta, is reflected into:

- a. Public financial management system
- b. Contract administration
- c. Capacity of the public and private sectors
- d. Legal and regulatory frameworks
- e. Public procurement tools such as SBD, e-GP and PPP etc. and
- f. Institutions

Furthermore, the paper revealed that public procurement in South Asia Region is creating major opportunities since the volume of public procurement is increasing rapidly (estimated as 20 percent of the GDP) in this region along with its growing economic activities. On the one hand the opportunity has increased and on the other, the challenges are also increasing. There is a demand for timely and quality delivery of services to all beneficiaries. Similarly, **public awareness towards fairness and corruption (F&C) issues are also increasing therefore, government is required to focus on enhancing the oversight and accountability and on anti-corruption mechanism in public procurement.** This has led towards use of innovative tools and approaches such

as PPP and electronic procurement and capacity development of the public procurement personnel and institutions.

The paper also highlighted on the promising developments in this region like enactment of *Right to Information Act* (e.g. in Bangladesh, India and Nepal), introduction of *e-Procurement* (e.g. in Bangladesh, India and Nepal), and use of *PPP modality* (in India). Sefta also pointed out various reform initiatives that are underway.

The important suggestions contained in the paper for moving forward are:

- a. Enhance coverage/scope and implementation of legislative and regulatory framework,
- b. Update SBD and tools in support of modernization and reforms
- c. Monitor bid related complaints and develop dispute resolution mechanism
- d. Develop procurement oversight support, and monitoring functions
- e. Increase integration with the other Public Finance Management Systems
- f. Increase attention to procurement and contract management capacity
- g. Increase business outreach to all bidders (public and private) to enhance competition and contract performance
- h. Develop regional arbitration mechanism
- i. Enhance and disseminate public information on public procurement

Some examples of possible initiatives discussed during his presentation are given below:

- a. Harmonization (Regional Market for Bidders) such as SBDs and e-bidding platform
- b. Establishment of regional arbitration center
- c. Holding regular Public Procurement Forum for policy makers and practitioners
- d. Holding Regional Bidders Conference
- e. Development of accreditation schemes for procurement staff
- f. Organizing regional public procurement training programs

Regarding the WB support to public procurement modernization and reform agendas, Sefta made clear that the main roles of the WB in support of public procurement are in the context of WB co-financed investment projects and in bringing best knowledge and experience to policy makers and contributors to capacity development. In this background he suggested possible area of WB support to public procurement as:

- a. Collaboration and harmonization with other development partners in support of public procurement reforms and capacity building
- b. Regular dialogue with public procurement counterparts in the context of country/state/sector public procurement and modernization
- c. Financial assistance
- d. Support to capacity building

- e. Bank support to e-GP initiatives as an instrument for public procurement reform.

iv. *Role of Civil Society Organization in Public Procurement by Bharat Bahadur Thapa, Transparency International, Nepal*

This paper basically analyzed the effect of corruption on public procurement and the role of civil society in enhancing good procurement practices. Buyer and supplier are involved in procurement and each party has many ways of corrupting the procurement process for example, the buyer may prepare a tailored specification favoring specific supplier, restrict information, leak confidentiality of some suppliers, disqualify potential supplier through improper prequalification process or claim urgency and award contract without bidding. Similarly, a supplier may collude to fix price, provide inferior or improper technical standard, interfere evaluation process, or give or take bribe.

In controlling corruption and to enhance good public procurement, civil society can play role for which, Thapa stressed on the following:

- a. Create awareness on procurement system and on quality
- b. Train social activists on procurement laws and fair practice
- c. Create networks of social workers to detect bad procurement practices and corruption
- d. Monitor and pressurize to maintain transparency and fairness
- e. Organize campaign to support free and fair procurement system and for reform in public procurement
- f. Help public prosecutor while handling cases related to corruption
- g. Create pressure to government and legislature for reform on procurement law when needed

He also suggested to involve civil society as “outsiders” and not to involve them in internal procurement process. They are to be allowed only to act as “watchdog” for monitoring and ensuring that predetermined procurement process based on standard practices has been rightly followed.

v. *Procurement Instruments and Standards (National and International) by Laurence Folliot Lalliot, World Bank, Washington D.C.*

Lalliot presented the following factors as the elements of a sound procurement system:

- i. **Coverage of the procurement system** - a legal framework, which covers Procurement Act to set principles and methods of procurement, rules of advertising, conduct of contract award process and complaint handling mechanism; Implementation of the regulations; Use of guidelines, manuals and SBDs; Specific

institutions; Auditing and oversight mechanisms; and Training strategy for procurement staff.

ii. **Legal elements** – enactment of a Public Procurement Act or any major regulation is a fundamental requirement for a sound procurement system. It helps enhancing transparency, security and stability of the system.

iii. **Institutional elements** – dedicated procurement institution based on the needs of the country for example Procurement Regulatory Body, Advisory Body, Complaint Handling Body and Procuring Entities. Professionalization of procurement staff is also equally important factor for standardization of procurement process and for reliability and integrity of the procurement staff. For professionalization of procurement function there is a need for specific training, specific carrier and specific obligation and duties (guided by specific code of conduct). Collateral legal issues such as budgeting and planning process, anti-corruption measures (Criminal/Penal Act), and Anti-collusion measures (Competition Act) are the other instruments safeguarding good public procurement practices.

iv. **Evaluation tools** – evaluation is the process of analyzing and finding the gaps (if any) between expectation and the actual performance of any system. Procurement is also a system linked to many other systems in the Public Sector Management System. Lalliot indicated Budget system, judicial system, Civil service system and Audit and control system are among the systems linked with the procurement system and OECD-DAC and MAPS are the available tools for procurement assessment.

The international instruments addressing procurement are binding instruments such as UNCAC, Government's Procurement Agreement under WTO, Regional Procurement Provisions such as EU Directives, WAEMU, COMESA etc., Regional Trade Agreements such as NAFTA and Bilateral Treaties. Besides, there are procurement guidelines such as WB, ADB and other MDBs Guidelines, UNCITRAL Model Law on Procurement and FIDIC Documents are among the Soft Law Instruments.

UNCAC procurement principles were also discussed in the session that are worth mentioning here and are as follows:

- a. **The public distribution of information** relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential bidders sufficient time to prepare and submit their tenders;
- b. **The establishment, in advance, of conditions for participation**, including selection and award criteria and tendering rules, and their publication;
- c. **The use of objective and predetermined criteria for public procurement decisions**, in order to facilitate the subsequent verification of the correct application of the rules or procedures;
- d. **An effective system of domestic review**, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

- e. Where appropriate, **measures to regulate matters regarding personnel responsible** for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

The presentations also covered various aspects related to GPA (WTO) harmonization intended to promote international trade by opening the procurement markets to the member states on country by country approach and the EU framework intended to building the internal market. It is also informed that UNCITRAL Public Procurement Model Law was agreed in 1994, which is now under revision, is a model not a treaty and therefore is a soft law. Its provisions are not binding but are only recommendations drafted by an expert group and approved by UNCITRAL Committee. Therefore, **UNCITRAL Public Procurement Model Law is useful for countries lacking procurement legal framework.**

B. Country papers

Afghanistan

Sayed Murtaza, Head of Public Procurement Policy Unit presented country paper on Afghanistan. He mentioned that reconstruction and development of Afghanistan was started in 2002 along with flow of large donor funds.

There was procurement regulation in practice in Afghanistan since 1987, which was replaced by the Rules and Regulations for Procurement of Works in 1989 and Regulation Related to Purchase was adopted as a decree in 2001, which is applicable to goods, routine works and maintenance works. There is no legal reference for service contract and the regulations that are in practice were not able to meet the international procurement standards.

In May 2003 a holistic procurement review was carried out that identified a number of constraints in public procurement systems of Afghanistan. Some of them were – limited procurement capacity at all levels, lack of ownership of procurement function and inconsistency on the structures of line ministries. This review was followed by assessment of public procurement system in 2005, which was supported by the WB and was based on the OECD-DAC indicators. The findings of this assessment were incorporated in the report *Afghanistan Managing Public Finances for Development*. The major recommendations of the report were as follows:

- Establish Procurement Policy Unit (PPU)
- Adopt regulations and SBDs to facilitate implementation of the new law
- Implement large-scale capacity building program for procurement officers of government and private sectors.

Afghanistan started reforms in its public procurement system by enacting Procurement Law in October 2005, which was based on the international best practices. Importantly, this new law required creation of a regulatory body, all ministries and departments shall

have procurement functions, and capacity building through formal training and certification program. As a consequence, Procurement Policy Unit (PPU) was set up in August 2006, Contract Management Office (CMO) and Special Procurement Commission (SPC) were established in April 2007. Similarly, Administrative Review Committee composed of experts was also created for handling complaints of bidders. SPC is the highest authority under the law, which grants approval for high value procurement contracts.

Capacity building function was carried out by a consultancy firm (2007 – 2010) under which three types of training – Basic, Intermediate and Advanced level were carried out including Training of Trainers. Training covered about 1861 persons. Besides, 28 officials underwent CIPS training, of which 12 received the international certification. In November 2008, a crash course was organized for 24 newly recruited Procurement Controllers. Procurement Controllers facilitate the high value procurements and provide procurement advice including help to line ministries in preparation of procurement plans. They also monitor the procurement proceedings, review procurement records and submit reports to Ministry of Finance and based on which the respective ministries will have to improve their procurement practices.

Pursuant to the provision of procurement law, Procurement Management Information System (PMIS) is on operation. Under this, a web site (www.ppu.gov.af) has been developed, which contains the latest Standard Procurement Documents (SPDs), Frequently Asked Questions (FAQ), Help Desk, Job Opportunities and etc. As a pilot phase, PMIS was implemented at three line ministries and based on the feedback of this pilot implementation e-reporting and e-monitoring along with training on PMIS formats have also been completed. Assessment of line ministries for institutional development was done by an international advisor and based on the report submitted by the advisor a Joint Advisory Committee was established. Seven line ministries and six provinces were selected for institutional development. Institutional Development Report for PPU is in the process of finalization.

Afghanistan, now is planning for issuing the remaining SBDs, procurement manual, guidelines and circulars; completing the certification of all line ministries, institutionalizing the PPU with civil service staffs; expanding the accessibility to PMIS via Afghanistan National Fiber Network to other line ministries and developing e-purchasing system.

Bangladesh

A country paper on Bangladesh was presented by Amulya K. Debnath, Director General of Central Procurement Technical Unit. Bangladesh's procurement reform process was started from 1999, when WB and ADB conducted joint review of the Country Portfolio Performance and prepared an action plan. The CPAR, which was prepared in 2002, has identified following lacking in public procurement of Bangladesh:

- Absence of legal framework
- Bureaucratic procedures leading to delay in decision making
- Lack of competent staff to carry out procurement functions
- Poor quality documentation
- Ineffective contract administration

To overcome the above mentioned deficiencies, the CPAR has recommended establishing a policy unit, carrying out reforms, and improving procurement capacity. As a response to these recommendations, Bangladesh had a Public Procurement Reform Project (PPRP) from 2002 to 2007 and the second phase of the project – PPRP II is continuing from 2007 onwards to 2013. As a reform initiative, in 2002 Bangladesh established a nodal procurement agency – CPTU and in 2003 Public Procurement Regulations (PPR 2003) was issued. CPTU launched its web site - www.cptu.gov.bd in 2005. The reform process gained momentum and as a consequence the Public Procurement Act 2006 was passed, which was actually enforcement in 2008. Public Procurement Rules was issued in 2008. In the year 2004 to 2006, 25 national level trainers were developed. In the process of institutionalizing the capacity development function, under the first phase of the capacity development initiative, procurement faculty were developed and significant numbers of public entity officials were trained. Twinning arrangement was also made between ITC-ILO and MIAM/BIM and CPTU.

Capacity development phase II focused extensively in strategic intervention under which all procuring entities of four targeted agencies would have at least one trained staff. In ESCB, procurement faculty was established. Through local institute - ESCB, in collaboration with international firm, 3-week residential training was implemented. Mobilizing the local institutions, short term training was institutionalized and through CIPS, UK and BRACU-IGS, MCIPS and Master in PSM were also introduced.

For behavioral change and to enhance social accountability through public awareness, comprehensive communication strategy has been developed. Nationwide communication campaign was launched (through workshop, newsletter, slogan, bill-board, posters, stickers, street drama, cartoon, TV/radio commercials etc.). Similarly, civil societies were also engaged for better procurement outcomes. For involving civil societies in public procurement, Public Private Stakeholders Committee (PPSC) is functioning, Government – Contractors Forum has been initiated, and approach for Third Party Monitoring is being developed. It is expected that more involvement of civil society less chances of making wrong decisions. Despite of its best effort, Bangladesh has identified following challenges:

- There is lacking of understanding of procurement rules among procuring officials/staff and bidding community.
- Demand for capacity building of all public sector organizations and bidding community but the resources are limited.
- Prevalence of collusive/inappropriate bidding practices

- Interference of political activist at grass root level (Local level) in procurement process
- Inefficient contract management

The best practices related to e-GP, as a part of public procurement reforms in Bangladesh was shared by Amulya K. Debnath. All public procuring entities in Bangladesh are practicing single uniform legal **Bangladesh Country System**. Bangladesh government has worked out **Vision-2021 for Digital Bangladesh** and on the other hand, e-GP is one of the four components of the WB supported Public Procurement Reform Project (PPRP-II).

In order to achieve the better value for money, with improved transparency and efficiency, Bangladesh has introduced e-GP, which was started from April 2004, with the establishment of procurement web portal. In March 2006 e-GP Readiness Assessment was carried out; in June 2006 e-GP Implementation Road Map was prepared. From September 2007 phase wise e-GP implementation was started. For, e-GP implementation Bangladesh now has related Acts and Regulations such as PPA, PPR, ICT Act and e-GP Guidelines as well as infrastructure and web services and supporting system (portal, hardware and software and connectivity). In addition, readiness of the procuring entities and the private sector were also noticed for implementation of e-GP. However, Bangladesh has following challenges to meet for effective implementation of e-GP:

- Expansion of e-Tendering to all government entities
- Awareness building and adoption of e-GP among key stakeholders
- Users capacity building – i.e. of government officials and of bidding communities
- Practical enhancement of the e-GP system so as to fit in the real life scenario, and
- Continuity and self- sustainable arrangement of the e-GP system

Bhutan

Presenting country paper of Bhutan, Dhenden Dhondup, Chief Program Officer of PPPD said that realizing the time and procurement scenario both are changing, the government of Bhutan approached the WB in 2005 to support its reform process. The legal framework – Procurement Rules and Regulations (PPR) was issued in 2009 and SBD has also been developed. Ministry of Finance, on April 29, 2008, created PPPD as Independent Policy Unit, with following mandates:

- Overall coordination of procurement related issues
- Act as oversight and monitoring body
- Provide pre-bidding advises

However, capacity building of procurement personnel, establishment of Independent Review Mechanism of procurement processes and initiation of e-GP to ease procurement process. The scattered and splashed population and lack of know how about e-procurement has hindered the establishment of e-GP in Bhutan.

In order to provide PPPD with implementation support to embed the new systems, raise the profile of procurement and introduce professional qualifications, the Institutional Capacity Building Project for Procurement was designed jointly by the Royal Government of Bhutan and the World Bank, which has following three main components:

- To establish and embed procurement benchmarks and standards which are based on international good practice
- To establish and professionalize a procurement community through a national people development strategy, and
- To strengthen and support the wider roll out of procurement practices, in order to create a 'Body' of procurement knowledge for the Kingdom

The objective of the ICBPP are to assist in professionalization of the procurement cadre (Royal Civil Service Commission), to build institutional capacity to provide procurement training, and to design and deliver training to stakeholders. The overreaching goal is to create an institutional set up for certified procurement training on a sustainable level in Bhutan for all levels of required certification.

As an outcome of the ICBPP, procurement courses were introduced in colleges under Royal University of Bhutan. A module on procurement was inserted in Postgraduate Diploma in Financial Management (PGDFM) course for pre-service candidates. Royal Institute of Management (RIM) has been developed as CIPS center and four staffs (1 from RIM, 1 from RUB and 2 from PPPD) are undertaking MCIPS courses to build institutional capacity. Besides this, nine short courses in procurement have been developed, which will be implemented by RIM to procurement personnel.

More than 500 delegates of the RGoB have received compliance training and other procurement training as part of ICBPP. PPPD is also working closely with Chartered Institute of Purchasing and Supply (CIPS) to develop a national framework of procurement qualifications. It is said that PPPD will work with local institutes to provide pre-service and in-service procurement training. It is to be noted that, Royal Civil Service Rule 2010 is a step forward towards professionalization of procurement procedures in Bhutan.

In order to establish Independent Review Mechanism, clauses imposing duties owed to suppliers, contractors and service providers and defining procedures have been proposed. Regarding e-GP, PPPD has designed a website, which will then act as common platform for advertisement. Similarly, for streamlining procurement function, GPPMD has just been established (April 14, 2011) under the Department of National Properties, which will conduct research in procurement, explore ways to introduce more efficient

procurement methods and where necessary standardize goods/services and undertake central procurement of widely used goods, either by itself or through other specialized agencies of the government. In addition, where relevant, GPPMD will procure directly from the manufacturer.

India

Aravinda Srivastava, Managing Director of Karnataka Urban Infrastructure Development Finance Corporation basically described about the Karnataka Transparency in Public Procurement Act (KTPP ACT) 1999 and Rules. In India, only two states - Karnataka and Tamil Nadu have the procurement law.

Realizing that in the recent past “irregularities in the processing of tenders occurred in the various Government Departments, Public Sector Undertakings, Statutory Boards, etc, due to inadequate publicity of tenders, restricted supply of tender documents and resulting in lack of transparency in evaluation and acceptance of tenders.” Therefore, in order to prevent “recurrence of such irregularities, it is decided to bring about legislation to provide for transparency in the tender processes and to regulate the procedure in inviting, processing and accepting tenders,” KTPP Act was enacted in Karnataka State of India.

Short listing process, as per the procurement guidelines, contains heavy elements of subjectivity and is dependent on evaluators. There are loosely worded Request for Qualification (RFQ) and lack of understanding on part of applicants – incomplete or insufficient proposals. The pre-qualification criteria usually compared to the size of work but ignoring quality of output. The criteria for pre-qualification and joint ventures are to be clear and should also be able to define the objectives.

Srivastava raised the issues related to consultancy contracts as:

- Pay more for quality or weigh the bid price against quality at a pre-determined rate?
- How to measure the beautifully worded CVs?, and
- How to enforce the contract in the situation of scarcity?
- What would be the replacement procedures?

Srivastava also discussed on the PSP contracting issues. The challenges are ideological (the attitude against the privatization), vested interest, lack of correct risk perception (due to long period of contract, lack of understanding of risk for clear allocation and performance requirement), funding viability gap, lack of standard bidding processes, weak market of supplier and absence of a regulator.

He further explained that risk perception of contractors is also very important because it affect both contractor’s participation and bid premium. He stressed in involving contractors in contract management as a part of project team to enhance predictability,

accountability, transparency as well as in developing markets and to encourage performance.

There was also a presentation on Public Private Partnership in Public Procurement by Inderpal Singh, Director (Cost), Department of Economic Affairs, Ministry of Finance, India. He pointed out that public procurement in India is governed by Article 299 of the Constitution which requires all government contracts shall be in writing, GFR 2005, Indian Contract Act 1872, and Sales of Goods Act 1930. He highlighted the PPP Procurements salient features. They are:

- Massive infrastructure projects – need for innovative funding,
- Uncertainties - very difficult to value,
- Require a period to stir up market interest, and
- Competitive pressure for real value for money – for benefit of Government of India.

The presentation also highlighted the scope for e-auction. According to him e-auction:

- Is more robust price discovery mechanism – it has scope for extracting the ‘hold-back’ value
- Makes firms bid more aggressively
- Standardize practices
- Will be more attractive for foreign bidders
- Helps increasing transparency
- Contributes for effective oversight and monitoring, and
- Enhances management and improved procurement

Maldives

Anwar Ali, Officer-in-Charge, Office of Programs and Projects described the Public Procurement System in Maldives. Procurement in Maldives is governed by the Public Financial Law passed in 2006 and Procurement Regulation, which was developed in 2009 with the support of WB. OPP is mandated to administer and implement the contracts for all government offices on infrastructure projects. Only the projects approved by National Planning Council will be undertaken. Ali pointed out that 21 percent of national budget of 2010 was spent on public sector investment projects (PSIP-public infrastructure). There is a need for transparency and competition in public procurement.

According to Ali, Maldives has invested in good governance such as implementation of Computerized Public Accounting System, enactment of Public Finance Law and preparation of Financial Audit Manual were mentioned as examples. As an initiative for establishing good public procurement, Maldives, in January 2011, has established Central Procurement Office (CPO) under the Ministry of Finance and Treasury. Now,

Maldives will implement the Central Procurement System in two phases - in the first phase (started from March 2011), CPO will procure office stationeries and undertake repairs and maintenance in the government offices.

In the second phase, which will be implemented after consolidation of the first phase, procurement of all fixed assets and other goods and services for public sector will be centralized under CPO. It has also been decided to start orientation programs on Central Procurement System for government agencies. Rules and guidelines will also be formulated to ensure smooth and coordinated transition towards the Central Procurement System.

Nepal

Country paper on Nepal was presented by Mukti Narayan Paudel, Joint Secretary of PPMO. Before enactment of PPA in 2007, public procurement of Nepal was carried out under the provisions of Financial Administration Rules (FAR) 1999. The CPAR was prepared in 2000 on joint effort of the government and the WB. The CPAR has made following recommendations:

- Enact separate public procurement legislation
- Apply public procurement legislation to all public entities
- Amend Financial Administration Rules 1999
- Create an Independent Regulatory Body
- Regular review of SBDs
- Training at all levels

Following the CPAR recommendation, Nepal enacted PPA in January 2007, PPR in August 2007 and established PPMO, which is under the Office of the Prime Minister and Council of Ministers, in Aug 2007 and is the lead agency for public procurement in Nepal.

As public procurement reform initiatives, GoN has established Independent Review Committee, issued SBDs, provided Training of Trainers (TOT) and procurement training to more than 700 officials and orientation on Public Procurement Legislation to more than 400 stakeholders. Furthermore, GoN has prepared Phase First (2010 – 2013) of Nepal Public Procurement Strategic Framework (NPPSF) with the support of ADB and WB. As per the NPPSF, PPMO has been envisioned as a leader, regulator and promoter to reinforce good governance in public procurement management. NPPSF has also identified nine immediate outputs to be achieved and 38 immediate activities to be performed. Strategic directions contained in the NPPSF are:

- a. Developing and applying policy, guidelines and standards
- b. Strengthening capacity of procurement entities
- c. Making monitoring and evaluation system functional
- d. Strengthening management of PPMO

- e. Making research and development system functional
- f. Strengthening partnership with private sector
- g. Improving complaint review system
- h. Developing stimulus packages to promote domestic products of small and medium enterprises (SMEs)
- i. Applying ICT to procurement management, and
- j. Making PPMO website operational and effective

On the use of ICT for better public procurement, Nepal has issued directives to use e-GP for procurement of value above NRs. 2.5 million (Approx USD 35,700) on April 17, 2011. As briefed by Paudel, e-Tendering system has been in use for four years, which was developed by the Department of Roads and has been using by more than 12 public entities. Nepal will continue with e-Bidding or e-Submission up to the year 2013 and after this the country will introduce full e-Procurement.

For implementation of NPPSF driven e-GP activities - High level NPPSF Coordination Committee has been formed, a Core Task Force (CTF) in PPMO has been instituted, hired international and local ICT experts to review, design, develop and launch e-GP, single portal has been instituted (www.gepson.gov.np) and restructuring of PPMO has also been approved.

For monitoring activities, High level NPPSF Coordination Committee has been formed, A Technical Working Group (TWG) in PPMO has been instituted and Nepal Public Procurement System Assessment (NEPPSA) based on OECD-DAC benchmark has been initiated as well as NEPPSA based on BLI has also been completed of which validation is to be completed. NEPPSA based on OECD/DAC bench mark will continue to complete CPI and API, which will in turn help developing in-house capacity. The four pillars of Nepal Public Procurement Assessment were – Legal framework, Institutional and management capacity, Procurement operation and market, and Integrity and transparency. However, Nepal has to:

- Implement capacity building program to all public sector organizations and bidding community,
- Implement phase wise the e-GP
- Strengthen local level capacity for public procurement
- Strengthen monitoring capacity of PPMO, and
- Development of comprehensive system of PMMIS

Pakistan

Presenting country paper on status of public procurement in Pakistan, Hafeez Ur Rehman, Managing Director of Federal Public Procurement Regulatory Authority (FPPRA) informed that GFR issued in 1951 (second edition 1979) governed the public procurement whereas it did not cover the procurement of works and services. There was a centralized purchase rule for Department of Supplies. In 1973, there was a

nationalization of large public sectors and there were various overlapping circulars from Ministry of Finance. Provincial governments of the country had their own regulations.

In 2000, with the support of WB, CPAR was prepared, which indicated that Pakistan's procurement practices were governed by outdated rules and regulations. The CPAR, keeping in view the National Procurement Reform Program (NPRP), recommended the followings:

- Enact a modern and transparent public procurement law based on the UNCITRAL Model Law for Procurement,
- Create a small, professionally staffed, independent regulatory agency to develop the procurement framework,
- Abolish anti-competitive practices such as pre-award price negotiations, the mandatory registration and/or pre-qualification of bidders and unfair contract conditions,
- Constitute an interim tribunal or authority to hear and dispose of bidders grievances,
- Amend the Arbitration Act of 1940 to incorporate odd number of arbitrators in dispute handling, and
- Adopt, as interim measure, the WB model documents – SBD and RFP

Rehman further discussed on the requirement of capacity building of the procurement staff, e-procurement, and measuring tools to provide evidence of the success of the reforms as well as about the requirement for professionalization of procurement functions in Pakistan.

There was also a presentation from Pakistan on Building Procurement Capacity through Construction Cost Data. Mazhar Ul Islam, Chief Executive Officer of Pakistan Institute of Costs and Contracts highlighted the activities of Pakistan Institute of Cost and Contract (PICC). He said that time and cost overrun is commonly observed in most of the contracts basically due to unreasonable construction cost and inadequate cash flow. The data maintained in the government departments are also partial and are not updated on regular basis and there is also lacking a data center, which can be referred for cost related data. In this background, the PICC was established in 2009 as a non-profit making research based organization for procurement capacity building and transparency through development of cost data.

The cost data maintained by PICC includes unified schedule of rates - Basic input rates (materials, manpower and machinery), composite item rates and per unit rates of various facilities; Technical specifications; Model BOQ and guidelines; and Standard methods of measurements. The data maintained by the PICC has been used for following purposes:

- Preparation of budget and cost estimates
- Preparation of engineer's estimates

- Cost validation including third party cost validation
- Reference data for price adjustment, and
- Reference data for bidders to prepare their bids

Mazhar Ul Islam also shared benefits observed of the use of PICC cost data. It has been beneficial in terms of:

- Verification for accuracy of project cost
- Transparency in estimates
- Minimizing malpractices and corruption
- Achieving quality construction
- Timely completion of contracts
- Effectiveness in contract administration
- Minimizing cost overrun and financial loss to the national exchequer
- Facilitating cost-plus project execution

Sri Lanka

Country paper on public procurement of Sri Lanka was presented by D. A. P. Abeysekara, Director, Department of Public Enterprises, Ministry of Finance and Planning. He stated that Sri Lanka has Procurement Guidelines and Manual (2006) for procurement of Goods and Works. The procurement guidelines and manual has recognized the procurement of commodities, spare parts, repairs of motor vehicles and equipment as special procurement. Similarly, periodicals and publications, purchasing of fuel, procurement of pharmaceuticals and medical equipment, information system and electronic procurement have also been included as special procurement.

Among the challenges in public procurement in Sri Lanka, Abeysekara mentioned in his presentation, are delays in completion due to lack of procurement knowledge (such as procurement processes), guidelines and market. Likewise, under preparation and lack of experienced and dedicated staff (staffs remain too busy with too many tasks). Procurement process has also been time consuming and collusion in bidding are also observed. For example, same group of suppliers always submit bids and each wins in a regular pattern. All bids are consistently higher than the internal estimates. The interesting matter he presented is that a company always bids higher and then gets a sub-contract from the winning bidder.

According to Abeysekara initiative for procurement reform has been started by the Procurement and Finance Division (PFD). Since 2006, 21 supplements to the procurement guidelines have been issued. Percentage of domestic preference has been increased from 10 percent to 15 percent for domestic contractors when competing with foreign bidders. Various committees – Procurement Steering Committee (PSC), Standing Cabinet Appointed Procurement Committee (SCAPCs), which has appointed 22 committees for 11 major ministries, Procurement Planning Committees (PPC) for

pharmaceuticals and fertilizers, and Standing Cabinet Appointed Review Committee (SCARC) have been formed to recognize and standardize development projects received under unsolicited or stand-alone status. Besides this, public procurement and member database have been maintained.

Abeysekara also mentioned that master procurement plan is prepared and monthly status of procurement as well as monthly procurement expenditure are collected and maintained. Record of the experience and involvement of officers in procurement activities have also been maintained so that they could be appointed in procurement committees in future based on their experience and expertise. Besides this, Periodic meetings with Liaison Officers are also held.

For further enhancement in public procurement functions, Procurement and Finance Division has started reviewing the entirety of existing public procurement system. In order to ensure efficiency, transparency, accountability and integrity in procurement and to ensure best value for money in terms of price, quality and timely delivery, revisions on guidelines and manuals will be made.

4.0 OVERVIEW AND KEY RECOMMENDATIONS FROM GROUP DISCUSSIONS

One of the important aspects of the SARPPF was the focused group discussions on five key areas affecting public procurement practices. The groups and themes of the group discussions were:

- Group 1: Procurement Legislation and Standards
- Group 2: Capacity Building
- Group 3: Public Procurement Environment
- Group 4: Modernization of Public Procurement
- Group 5: Follow-up Actions and Sustainability of the Forum

Overview and recommendations obtained from the group discussions are presented in following paragraphs. Copy of group presentations is included as Annex – 3 of this report.

Group -1: Procurement Legislation and Standards

For establishment of sound public procurement system; effective institutional arrangements for economic, efficient, transparent and fair public procurement; and the standards to be used for Public Procurement Act, the group came up with following recommendations:

- a. There is a need for public procurement legal framework enforceable under court of law under which broader principles and guidelines of public procurement can be issued.
- b. Procurement rules should allow for complaint redressing mechanism which should be backed up by an Independent Review Panel or Body.

- c. There is a need for independent public procurement regulatory function
- d. Since there is no uniform standard applicable in the countries of the region, it is recommended to have harmonized standards that are based on global principles and local conditions for adoption at the regional level.
- e. An independent working group is recommended to explore the possibility of harmonizing the standards to be applied.

Group -2: Capacity Building

Capacity building has received significant attention during the three days Forum's discussions. In the context of SAR, capacity building has been the fundamental of good procurement system. The group members discussed various aspects of capacity building, which shall ensure sustainability of procurement capacity and empowerment of procuring institutions and personnel as well. The recommendations are:

- a. Professionalization of procurement- a separate procurement cadre for both public and private sector needs to be developed at institutional level. For this, procurement courses need to be developed and implemented at university level curriculums to create opportunity for learning and skill development. Besides this, an accreditation mechanism for public sector officials working in procurement units is to be developed.
- b. Capacity development mechanism – a need for proper mechanism to provide adequate opportunity for capacity development in the field of procurement. For this, first identify the stakeholders, for example, government officials, contractors, consultants, suppliers, civil society organization, regulatory/overseeing bodies, auditors, judiciary and media and second, hold interactions with major stakeholders including trade organizations. Third, develop and implement university courses, training modules, mobilize Medias and bill boards and finally, identify appropriate implementing agencies and implement effectively.
- c. Involve stakeholders – establish critical linkage between broader Public Financial Management and Procurement and involve academia and related institutions in procurement capacity development.
- d. Foster regional cooperation - identify the existing institutions in the region for mutual cooperation. Besides this, continue the SARPPF in yearly basis, conduct regular workshop/seminar at regional level and establish web portal at regional level for sharing of experiences.
- e. Impact monitoring – for impact monitoring of capacity development of public procurement, an independent organization is a must which shall carryout impact monitoring on regular basis and provide feedback for updating and necessary modification of capacity development strategy.

Group - 3: Public Procurement Environment

This group examined the public procurement environment - both internal and external. Norms, values, culture, technology, socio-political and economic factors are identified as the external factor influencing public procurement practices. The factors in internal environment are identified as:

- Actors – reflected in individual’s behavior such as professionalism, capacity, and integrity and should be guided by code of ethics.
- Process – shall be defined. There shall be clarity on roles, process simplification, process harmonization, performance measurement and enforcement mechanism.
- Control mechanism – effective use of technical and financial auditing, listen to the voice of the private sector, effective oversight agencies, strong media and active civil society.

After examining the external and internal environment, the group recommended the following for enhancement in public procurement environment of the region:

- a. Promote procurement function as a profession in SAR
- b. Support Supply-side Capacity Building Initiatives (Contractors, Suppliers, Consultants and others)
- c. Establish information and communication mechanism amongst all stakeholders
- d. Promote/encourage Civil Service Organizations and Media for genuine initiatives
- e. Promote/establish South Asia Regional Cooperation mechanism in harmonizing and standardizing public procurement systems in the region

Group - 4: Modernization of Public Procurement

Group discussion was also focused on the modernization of public procurement functions. Three main areas were identified for modernization of public procurement and are:

- a. Choosing new procurement alternatives (non conventional ones)
- b. Use of IT based technology: e-Procurement, and
- c. Modernization of Contact Management

Choosing new procurement alternatives (non conventional ones)

It is suggested to explore new procurement alternatives to the conventional ones such as Framework contract, Public Private Partnership (PPP), Design and build / Turnkey, and Output / performance based contract.

Framework contract is suitable for regularly purchased/off-self commodities, which helps avoiding repetition of same tasks (writing specifications, publishing tender notice/

invitation etc.), where every public entity at lower level may not have required competency hence helps increasing efficiency.

While using framework contract, short-listing process need to be fair and to ensure the suppliers in standing list are really qualified to date a monitoring mechanism shall be developed.

For adopting **PPP** as an alternative, self assessment of the prevailing managerial capacity and legal framework are suggested to be assessed and a favorable socio-political environment is identified as a precondition to assure the envisaged return on the investment made. For successful implementation of the PPP concept identification of feasible and suitable sectors/projects (willingness to pay the tariff or toll levied) is essential. It is recommended to start with simple intermediate models towards PPP than leaping into full fledged PPP.

Under **design and build** modality construction of a bridge with longer maintenance liability period (of 5 years) may be considered and handing over a stretch or road for 10 years can be taken as example of **output/performance based contract**.

Use of IT based technology (e-Procurement)

Use of IT based technology marks the modernization of the process or the systems well as help reducing use of force, intimidation, coercion and possibility of curtailing information and help increasing competition and transparency in public procurement. The group has suggested the following for establishment of e-procurement in the region:

- Implement on pilot basis – apply for some selected projects and/ or identify some threshold for application of e-procurement.
- Plan for phase-wise implementation such as from just establishing a procurement monitoring tool like Procurement Plan, uploading of notice, e-tendering etc.
- Avoid complete repetition, but for more rapid development lessons learnt can be shared, which shall be facilitated by some common partners like MDB.
- Identify legally accepted authentication system (Digital Signature or some other system from any third party) supported by respective country's legal system.
- Work out for possibility of having common portal for the region. Already existing (approved system in one country) may also be used by another country.

Modernization of Contract Management

The third aspect identified for modernization of public procurement is contract management. Introduction of Value engineering and Process re-engineering (in Special

Conditions of Contract) helps moving towards better contractual performance i.e. achieving lower bid price and timely completion of the project. For this, there shall be a provision to encourage contractors to come up with better/cheaper solutions during execution and there should also be provisions/clauses for sharing benefits/savings. Similarly, contract processes can be made simpler and efficient such as introducing payment clause like 80% within 7 days of the submission of Invoice without having to approve/check (subjected to alternations on later Invoices).

Group - 5: Follow-up Actions and Sustainability of the Forum

The fifth group discussed on the mechanism including coordination group to sustain the Regional Forum and follow up actions. The recommendations made were:

- a. Form a SAR Procurement Forum Coordination Group comprising of all the member countries representatives.
- b. The Coordination Group mentioned above shall perform the following tasks as follow up actions on the regional plan:
 - In its 1st meeting decides the hosts for next two Forum Meetings along with the agendas for the next Forum,
 - Hold quarterly meeting via video conference
 - Plan for sustainability of the Forum – contribution by member countries, Agriculture Development Bank and the World Bank
 - Deliberate the concept of **Regional Capacity Building Mechanism**
- c. **Regional Arbitration Centre:** Deliberate on the concept of Regional Arbitration Centre
- d. **Harmonization of SBDs** to possible extent (enhance the commonalities of procedures of bidding and contract documents)
- e. Involvement of **Private Sector and Civil Society** – Holding of Private Sector Forum after every two years? Leaders of political parties will also be invited in PP Forum.
- f. **Creation of Website:** A website is suggested to create and administer by Nepal. Other member countries will provide linkages to their own websites for information and experience sharing
- g. **SAARC:** To work with SAARC Secretariat for inclusion of procurement as a topic for ministerial Committee of SAARC and educate the respective Foreign Ministers regarding the importance of public procurement.

5.0 A WAY FORWARD: KEY DECISIONS AND PLANS OF ACTION

After observing and actively participating in various sessions and discussions, the participants were grouped into five thematic groups, which came up with various important recommendations intending towards bringing further enhancement in public procurement practices of the region (outcome of the group discussions has been presented in Section 4 of this report).

General recommendations, viewing the South Asia Region Public Procurement Forum (SARPPF) as an Institution that may be undertaken at regional level for mutual benefit of the countries in the region are summarized here. Therefore, it is recommended to all the concerned to go through the report and identify the issues and experiences, recorded in the report, that are useful for particular application considering the status of their own public procurement practices. Major recommendations of the Forum are summarized below and as required, for more clarification or for elaboration, texts in the report are suggested to refer:

1. Form South Asia Region Public Procurement Forum Coordination Group (SARPPCG) comprising of all the member countries
2. Hold South Asian Region Public Procurement Forum each year
3. Host a web portal at regional level for sharing experiences
4. Study and develop mechanism for sharing and employing the “lessons learned” to take advantage from each other’s learning and also to avoid repetition
5. Form an independent working group to explore the possibility of harmonizing the standards for application in the region
6. Develop university level procurement curriculums to create opportunity for new cadres in procurement
7. Develop training modules and implement them through appropriate institutions
8. Identify existing public procurement training providing institutions in the region and develop mechanism for working together for mutual cooperation
9. Develop accreditation mechanism for public sector personnel working in procurement unit
10. Promote procurement function as a profession and introduce public procurement cadre in public service
11. Explore the basis for establishment of Regional Arbitration Centre (RAC) and mechanism for its operation
12. Explore the possibility and procedure for holding Private Sector Forum on Public Procurement (PSFPP)
13. Approach SAARC Secretariat for inclusion of procurement topic in ministerial committee of SAARC
14. Promote e-Procurement
15. Promote new procurement alternatives such as PPP, design-build and etc.
16. Modernize contract management
17. Conduct regular workshop/seminar at regional level.