

PROCUREMENT UNDER THE UNCITRAL MODEL LAW: A SOUTHERN AFRICA PERSPECTIVE

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SUMMARY

In Africa, economic integration, realised through regional integration, is seen as one of the driving factors that will improve the lives of its people. To enable regionalisation, economic growth and to unlock the potential of Africa its infrastructure will have to be improved. Infrastructure will on the whole be realised through public procurement.

The stages for opening up procurement markets, referred to by Yukins and Schooner, is discussed and it is concluded that the states in SADC is still in the initial stages of opening its public procurement markets for regional competition. Although COMESA is not yet in full compliance with all four the stages great strides have been made and have elements of all stages been addressed. Because of the influence the Model Law has already played in COMESA, and the rest of Africa, it would be contra productive should SADC not take the same route as COMESA.

If regard is had to the four categories of procurement rules that serves as barriers to national procurement markets, as set out by Arrowsmith it is clear that all of these are present in most SADC member states. Also in the case of COMESA these barriers still exist albeit to a lesser extent. What is necessary is a phased approach to address all of these barriers. This will be possible under the *UNCITRAL Model Law* as the 2011 *Model Law* does provide for the possibility of complying with international obligations and for states to allow for socio economic objectives in their procurement regimes.

There can be little doubt that the 1994 *Model Law* has already had a marked influence on public procurement regulation in Africa and that the 2011 *Model Law* will in future continue to do so. Public procurement is essential for economic development and is the

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integration and harmonisation thereof on a regional basis the first step In this regard SADC, and especially South Africa, has an important role to play.

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