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**ECONOMIC COMMISSION FOR EUROPE**

COMMITTEE FOR TRADE, INDUSTRY AND  
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**WORK ON INTERNATIONAL COMMERCIAL AND LEGAL PRACTICES <sup>\*/</sup>**

**DOCUMENT FOR INFORMATION**

**Note by the secretariat**

This paper highlights the most important achievements of the Working Party on International Legal and Commercial Practice (WP.5) during 2003 and gives an overview of the activities envisaged in 2004-2007. It supplements the report of the Working Party (TRADE/WP.5/2003/9) which the Committee will be asked **to endorse**.

Additional information on the Working Party is available at the following website address:  
<http://www.unece.org/trade/stdpol>

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<sup>\*/</sup> The present documentation has been submitted after the official documentation deadline by the Industrial Restructuring, Energy and Enterprise Development Division due to resource constraints.

## 1. Background

The Working Party plays an important role in legal and commercial practice within the context of UNECE's role in international trade (the facilitation and strengthening of the integration of UNECE member States, and especially countries in transition, into the European and global economy, and the prevention of the establishment of new barriers to trade within the region). Its primary role is to promote reform and capacity building in new legal, institutional and regulatory frameworks in the transition economies and emerging market economies. Much of this work is also of interest to advanced market economies. In this regard, its work consists in preparing guidelines on best practice and undertakes technical assistance programmes, using extra-budgetary support, and the involvement of the private sector, to assist countries in implementing these guidelines.

Sound legal and commercial practices and effective institutions provide incentives to investors and are accordingly at the heart of successful restructuring and economic competitiveness. To give some examples:

- Without effective governance within public bodies private finance for the modernization of infrastructure, roads, railways, power plants, and telecommunications will not be mobilized;
- Without strong property rights and a dynamic housing market, labour has not the incentive to be mobile and this holds back economic restructuring;
- Without strong courts that enforce contracts, entrepreneurs find many business activities too risky;
- Without effective corporate governance institutions that check managers' behaviour, firms waste the resources of shareholders.

The key developments in economic matters in the next decade will revolve around better enforcement of laws, more competitive institutions and practices, and better access of institutions and legal services to the ordinary citizens. It is in this area that WP.5 has a major role to play. The mission of Working Party 5 is thus to build effective institutions for successful market economies and poverty alleviation. It has a number of programmes, implemented through its subgroups - the UNECE Public/Private Partnership (PPP) Alliance, the Intellectual Property Advisory Group and the Real Estate Advisory Group, which are financed from extra budgetary sources.

- Enforcement of intellectual property rights (IPRs) and related institutional improvement through policy dialogues with governments and the training and capacity building programmes for judges, customs, and police; these programmes also are designed to make IPRs more accessible to SMEs.
- Promotion of public-private partnerships (PPP) for infrastructure development which assists governments to develop successful and sustainable PPP policies, establish national PPP units, achieve good governance and transparency, create sound legal and regulatory frameworks and access new financing tools for privately financed projects in transport, energy, telecommunications, and municipal services infrastructures
- Development of viable markets in property rights and real estate in central and eastern Europe and the CIS so that the benefit and the value of these assets can contribute to economic development and poverty alleviation.

## **2. 2003 Achievements**

Since the last meeting of the CTIED, WP.5 has achieved the following:

- Identified some of the ways of preventing corruption in awarding contracts in PPPs which resulted in a commitment of participating governments and private sector to promote good governance in a set of UNECE guidelines on good governance in PPPs that will be finalized in 2004-2005
- Created a consensus amongst public and private groups and international bodies at the second Land for Development Forum (Rome, Italy, October 30-31 2003) of the Real Estate Advisory Group, to use property rights more effectively for poverty alleviation and the implementation of the Millennium Development Goals
- Initiated the establishment of a High Level Panel on 'Property Rights for the Poor' under the chairmanship of Hernando de Soto, to prepare a toolkit for policy makers on how to bring informal activities into the economic mainstream and thereby raise GDP and personal incomes of the poor and marginalized.
- Raised extra budgetary resources for its programmes mentioned above, namely the Land for Development programme, the IP Advisory group, the PPP Alliance, and the REAG.
- Continued to provide tailor made advisory services and capacity building seminars in improving the enforcement of IP rights through WP.5's Intellectual Property Advisory group, in several countries during 2003, namely Serbia and Montenegro, Kyrgyzstan and Ukraine.

Despite the range of its activities, WP.5 has kept its focus on improving the institutional, legal and commercial practices for economic competitiveness and poverty alleviation

## **3. Overview of the objectives and challenges envisaged in the context of the 2004-2007 exercise**

It is envisaged that during 2004-2007 the Working Party will seek to improve the enforcement of standards and legal instruments through institutional and capacity building and in this work to adopt innovative forms of communication, procedures and benchmarking. The capacity building and reform activity will be focused on the following areas where WP.5 has long and well-recognised expertise:

- Enforcement of intellectual property rights and their accessibility to new partners such as SMEs, as envisaged in the forthcoming regional conference on "Intellectual Property Exploitation in the Internet Era", April 1-2 2004, Warsaw, Poland as well as in consultative meetings, seminars, and training.

- More effective use of land and property rights for poverty alleviation and economic development as envisaged in the ongoing work of the High Level Panel and in the third Land for Development Forum in Rome to be held in November 2004.
- New financing techniques for implementation of public private partnerships for infrastructure in the region as, for example, in the regular PPP Alliance meetings (see below), and in training and capacity building programmes.

In carrying out these priorities, the WP.5 will pursue some further objectives in terms of procedures, benchmarking and communication.

### *3.1. Procedural*

- Steps must be taken to make UNECE member States more aware of the work of the Working Party and its subgroups and to establish the Working Party as a recognized means of dealing with issues of concern to member Governments.
- There should be a greater take up of places on the Working Party by governmental representatives
- Support should be increased to its Expert Advisory Sub-Groups.
- The Working Party should continue to assist member States and private sector to conduct their business and partnerships on the basis of the rule of law and good governance.
- Finally, the Working Party and its Expert Advisory Sub-Groups must pay attention to the need to co-operate with other Working Parties and organizations within the UN and develop joint work with other international agencies in the UNECE region and to avoid duplication.

### *3.2. Benchmarking*

The Working Party must identify targets for achievement and concrete results of its work. To give an example, the PPP Alliance programme is designed to build the capacity of governments to prepare privately financed projects and to establish the appropriate legal and regulatory enabling environment for PPPs. Twenty-four governments have joined the PPP Alliance to date. It is currently co-chaired by Ireland and France. Its meetings examine projects and case studies and how these can be applied for sustainable development. For example, its third PPP Alliance meeting will be held at the invitation of the mayor, in Barcelona, Spain, on the role of PPPs in municipal services for sustainable development as part of UN –Habitat ‘s second World Urban Summit (Barcelona, Spain, September 15-16 2004). The PPP Alliance is also much in demand from its member States, such as Latvia and Romania, which are wishing its help to establish their own PPP Units. The Alliance is also assisting the EU TENs programme with strategies for mobilizing private finance for transport and energy infrastructures.

In order to improve the results-oriented focus of the WP.5's work, the Working Party will introduce a scheme for benchmarking and measuring achievement through establishing a series of indicators in the legal, financial and institutional fields that can help governments establish the best enabling environment for promoting PPPs.

### *3.3. Communication*

The work of WP.5 has been until now transparent and will be transparent in the future with more effort given to use of the website to publicize outputs and activities as well as to educate interested parties about the norms and standards agreed by WP.5. For example it is proposed with the EU to establish a joint website on PPP projects and policies with an educational objective and to share the experience of governments in establishing successful PPP strategies. WP.5 is determined to use the new technologies in order to communicate in a more cost effective way such as video conferencing etc.. Efforts will be made to make widely available all the materials presented at WP.5's activities in the above-mentioned areas.

## **4. Decisions to be taken by CTIED**

To date the WP.5 as a whole is serviced by one senior professional and part of the time of a general staff member. The CTIED is requested to consider the importance of PPPs in the work programme of WP.5 with a view to examining how resources can be raised and applied more effectively for this programme. For example, the Committee may wish to consider some potential synergies between the PPP Alliance and other bodies in the UNECE so that the PPP Alliance can respond more effectively to the increasing demands for its expertise.

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