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**DIALOGUE AND PARTNERSHIP FOR DEVELOPMENT
THE UN/ECE PUBLIC-PRIVATE PARTNERSHIP ALLIANCE**

Note by the secretariat

The following is an INFORMAL paper presenting proposals and recommendations for the implementation of the UN/ECE Public-Private Partnership Alliance. The proposal to establish the Alliance was made by the UN/ECE Forum on Public-Private Partnership for Infrastructure Development: The Next Steps” (4-5 December 2000). These proposals were subsequently approved by the Working Party on International Legal and Commercial Practice (WP. 5). A meeting of the UN/ECE BOT Group met in London in 21 February 2001 to discuss the establishment of the PPP Alliance where further suggestions and comments were made. These further suggestions are included in the document below.

I. Introduction

A key component of the United Nations’ programme for sustainable development is public-private partnerships. In January 1999, UN Secretary General, Mr. Koffi Annan announced at Davos the establishment of the Global Compact. The goal of the Compact is to enlist the support of enterprises in creating a more humanitarian and ethical basis for globalisation. The following year the United Nations Millennium Summit issued a declaration calling for the development of partnerships between the private and the public sector to address critical challenges of poverty and social deprivation. It called on links to be made with NGOs and the private sector in particular. In the UN “ Financing for development” process leading up the high level global event planned for Mexico in 2002, several regional preparatory meetings recognised the importance of PPPs to achieve development financing goals. In the light of this interest, the key challenge is to transform these mandates into concrete activities that are of benefit to governments, private sector and to achieve real development goals.

Reflecting this interest in PPPs as tools for development and the critical role of the private sector, the UN/ECE Forum on Public-Private Partnerships for Infrastructure Development: The next Steps” (4-5 December 2000), agreed to establish an Alliance of public and private sectors for infrastructure development. This Alliance fundamentally would improve the environment for PPPs in the region with special focus initially on southeast Europe and the Investment Compact of the Stability Pact with the following benefits accruing:

- Accelerated delivery of projects;
- Raised awareness of governments about the potential of the PPP approach;
- Saving of resources through the involvement and pooling of all groups' efforts in achieving clearly defined goals
- Direct involvement of the private sector in delivery of advice and support with the benefit to the private sector of access to officials of interested governments
- Development of pilot projects and facilitating country's initial efforts to establish the appropriate institutions and training;
- Reach-out programmes to NGOs and domestic private sectors including local banks

The Alliance is a business-and action-oriented body to engage governments interested in applying PPPs and to offer them advice and support. It will work closely and supplement existing efforts of other bodies such as the EBRD, OECD, UNIDO and UNCITRAL. The following note describes the challenges, needs and role of the Alliance to address these objectives, as well as the modalities of its operation.

II. Public-Private Partnership for Infrastructure Development: the Record So Far

Role of the private sector

Infrastructure is of critical importance to development. Basic services such as heating, lighting, transport and communications are required by everyone while businesses need access to these services at competitive prices. The infrastructure, particularly in CIS and south east Europe is poor, and requires new resources to either rehabilitate existing services or to develop them almost from scratch. Since the beginning of the economic transformation in the region , new trade patterns have been created and this requires an infrastructure to match. In many CIS countries too, the need to develop new markets for its natural resources requires new, modern and efficient transport corridors. In southeast Europe, the countries of the region are at very different levels of development. The legacy of weak reform and the affects of war, has left many countries in need of massive resources to build up their infrastructure. For EU Accession, infrastructure needs to be substantially upgraded to meet new requirements, particularly in the field of the environment. The development of this infrastructure cannot be met by funds from the public sector or by the international community; hence the critical need for private sector resources.

Incorporating development objectives

Additionally, the PPPs are "enhanced" forms of development. They can benefit consumers with improved services. PPPs can make infrastructure services more accessible to the poor and vulnerable groups. They have a better environmental impact. The mechanisms of PPPs, if done properly, can involve civil society and create real partnership with the communities they serve. They create space for the development of a local private sector. They can expand ownership and create stakeholders in societies, such as through PPPs in social housing. In broad terms PPPs, properly constructed, can meet the goals of sustainable development. However the development objectives in some PPPs in the transition economies are often poorly articulated and this can have negative consequences.

Concept in brief

Overall, PPPs involve contractual relationships between private sector and public sector for the delivery of infrastructure services, sometimes by concession and management contract. They have long histories in some countries, e.g. France, and are being introduced into increasingly in more types of infrastructure, such as health and education, e.g. in the U.K. The financing for projects comes from the private sector, sometimes from development banks and often supported by export credit agencies and international financial institutions. The payback to lenders and sponsors is in some cases through the revenue stream generated by the project. Often, these projects are not backed by sovereign guarantees or paid for by taxpayers. Risk is a critical feature because without sovereign guarantees the affect of unforeseen circumstances can have very severe consequences for partners. Risk minimisation becomes a very important element in convincing private companies to become involved.

Current progress in advancing the PPP concept

Despite the attractiveness of PPPs, there remains a considerable gap between the expectation and potential of schemes and the reality of PPPs actually underway and operational:

Power generating (to be completed)

Water and municipal services

Telecommunications

Transport:

Housing and health

III. Need for economic growth, a framework for dialogue, transparency and good governance, and socially acceptable projects

In the drive to make PPPs a more pervasive means for developing infrastructure, there are a number of essentials that the PPP Alliance will have to address:

Economic growth and concrete results

PPPs are basic tools for development but they need to be linked to economic growth and the stimulation of the private sector. They have to be promoted in a context of a strategy for sound economic growth. In transition economies, at the same time as Governments promote PPPs, they should adopt strategies for increasing and sustaining economic growth. To date the gaps in incomes between states and within states have grown since the economic transformations in the transition economies began. The private sector and new start-up companies are developing fast but more support – better governance and transparency, respect for property rights etc.– is necessary. The ‘catch up’ with the income levels of western countries is particularly important for the feasibility of PPPs, as an impoverished population cannot pay the level of charges/ fees that give the private sector the necessary returns.

There is also a very strong need for private enterprise to actually begin projects in the region. Much advice has been given to transition economies. Government have been very open to taking such an advice. There is now a real need to begin projects with private finance and to achieve benefits for the population. The Alliance accordingly needs to help mobilise private capital for the region and develop concrete projects.

Framework for dialogue

Another essential is dialogue between the public and private partners so that harmony is fostered among all those working towards the same goal. Often projects do not materialise or fail because of inadequate dialogue between the partners. This dialogue should continue after the project has begun. The government must supervise the project in order to ensure that the public interest is protected. The Alliance should stimulate such a dialogue and facilitate the conditions for it to take place within the countries concerned.

Developing PPP skills

Governments need to develop projects, manage them, and negotiate financing and other contracts. In undertaking this work they need training in specialist skills. Partnership will be needed so that officials can spend time in PPP units abroad. The establishment within governments of task forces and PPP units is necessary to pool skills that can be used across the various sector of Government – energy, regional development, finance etc. – where PPPs are typically applied.

Multilateral cooperation

Dialogue also is necessary amongst governments in the region to foster cooperation on developing PPPs. Governments are doing much to implement these new approaches; and the efforts of national and multilateral support is extensive. But there is inevitably some reinventing of the wheel in projects and this can cause unnecessary waste. Exchange of experiences and dialogue can help to avoid this occurring and the Alliance will provide an important opportunity for this to take place.

Good governance and transparency

Good governance and a climate of trust are vital. Weak governance has discouraged investors. The critical challenge is to foster transparency in the course of competitive tendering and other procedures. The Alliance needs to define what is needed and to encourage its members to comply with these transparent procedures and thereby create a benchmark of best practice.

Transparency and the dissemination of full information about projects is also critically important for civil society. The dissemination of information to NGOs etc. can defuse tensions and prevent negative reactions from arising later on.

Popular and socially acceptable projects

PPPs need to be presented more positively. They tend to be perceived as a means of raising prices amongst people, which had previously received services, however badly, free of charge. There needs to be created a close linkage between projects and their social acceptability so that PPPs become popular and desirable. The Alliance will address the objectives of PPPs as set out in the UN/ECE BOT Group's guidelines:

- Promotion of local businesses and of private sectors of the transition economies as partners in PPP projects
- Support for socially weak and vulnerable members of society
- Sustainable projects that improve the environment

IV. Specific Advantages which the UN/ECE Public-Private Partnership Alliance provides

The UN/ECE has been active in fostering dialogue between the public and private sector since the creation of the UN/ECE BOT Group, a group of experts from both public and private sectors. These are the tools that the Alliance can provide governments, which are not being provided elsewhere:

- Neutral forum whereby governments can receive ideas, advice, and an initial response to project proposals and what can be done to make them more attractive for private financing.
- Mechanism for identifying credible and reliable private sector partners
- Resources for developing PPPs. The private sector involvement will act as catalyst for project development
- Promotion of wider development goals i.e. environmental sustainability, poverty alleviation, customer service and local business development, community involvement and good governance and transparency.
- An analysis of the adequacy of the legal framework for PPPs
- Global links to other regional UN economic commissions to develop the PPP approach on a global basis.

V. How the Alliance will work

A. Services to be offered government members

The Alliance will offer the following services to governments:

- Showcasing possible PPP projects to private partners
- Mobilising private sector resources for training and support

- Studies of the environment for PPPs and suggestions on how the PPP concept can be best applied (to be presented at a high level Consultative meeting in the country
- Legal and regulatory advice
- Training and capacity building within national and local governments
- Mediation mechanisms for resolving disputes

B. Modalities

The Alliance will work with

- (i) task forces;
- (ii) membership
- (iii) a steering group
- (iv) UN based support staff
- (v) Trust fund

(i) Task forces;

The following task forces will be established:

Task Force I

- Legal and institutional frameworks need to be improved. In cooperation with the EBRD legal Unit and UNCITRAL Experts, this task force will provide advice on priority legislation, and institution building taking into account the advice of international bodies and the norms of good governance as established by the Alliance. The task force will also have responsibility for finalising the BOT Group Guidelines on PPPs and the Negotiating Platform

Task Force II Municipal and environmental services (water , waste , social housing etc

- The local authorities are increasingly interested to develop PPPs. The first objective of the task force will be to compile contact organisations such as FEDRE, Council of Europe and distribute materials on PPPs.

Task force III Creating opportunities for local enterprise and banks.

- Efforts are need to raise awareness of PPPs and the opportunities which it raises both domestically and internationally for local banks and companies. The task force should design strategies fro involving local enterprises of the region to derive more benefits from new opportunities arising in south east Europe.

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Task Force IV Transport(Road and rail) Applying PPPs in the transport sector of the transition economies

- Transport offers considerable potential for PPPs but as seen above the progress has been everywhere slow.

Task Force V Training & Capacity Building: This sub-group will help develop education training, programmes and guides to help promote best practices in PPPs

Each task force will elect a chair, define a programme of work and report to the PPP Alliance on progress achieved.

(ii) Consultative Visits

Acceptance of Projects for Consultation: The PPP Alliance will respond to requests for visits by invitation. Further consultative visits will be preceded by the writing of a comprehensive analysis of the current situation in the country regarding PPPs; so that visiting member could be most adequately informed. The visit will consist of two or three days, with at least one day focused on the local businesses of the country or region and to introduce them to PPP methodologies. After the consultative visits, in depth training could be followed up by Task Force V. It is envisaged that the Alliance would undertake 4-6 consultative visits per year with more depending on the number of member and availability of persons.

(iii) Membership

Governments; All Governments join free of charge. A membership list will be presented on the Group's website.

Private companies

Private enterprises can join as corporate members. In return they will receive UN accreditation with the required obligations as members of the alliance to comply with the principles of good conduct as set out by the Alliance.

Law firms

Alliance members from law firms will join under arrangement as above and which are common for the participation of lawyers on certain countries' trade and investment promotion missions. (See especially the case of France).

International organisations

International/regional bodies will join as associates.

(iv) Steering group

Members of the alliance can participate at meetings of the Steering group and will have use of all materials prepared for consultations and other activities for the Alliance.

(v) UN Based secretariat

To coordinate this work and to lead advisory missions , it will be necessary to recruit two resource people - a manager and archivist – to work for the Alliance.

(vi) Trust fund

A trust fund will be established under the UN/ECE for remittance of membership fees and other bilateral and multilateral donors. In accordance with UN practice, efforts will be made to attract resources from as wide a constituency of public and private sector bodies as possible.

VI. Cooperation with other national and international bodies

The Alliance will assist the work of other bodies to promote PPPs. The main partners are:

- EBRD
- EU
- bilateral programmes such as U.K., Germany, France etc. (see UK DFID, which has a PPP programme for the least developed countries on promoting PPS for poverty alleviation.
- OECD/UK Government in Southeast Europe , Investment compact for the Stability Pact for SEE and the Regional Flagship Initiative to promote PPPs.
- ITU/ PPPs and centres of excellence
- UNDP : on PPPs in municipal services

Regional Flagship Initiative for South east Europe

The latter work will be monitored by the Alliance. At present the main activities are the following :

- Regional meeting on legal framework in Slovenia
- Consultative meeting in Romania in October/November
- Seminar with Development Banks in Southeast Europe : How they can help finance PPPs.

VII. Code of conduct to promote transparency and good governance

To ensure that members use the alliance in popery ways the members will establish and commit to a code of conduct on their behaviour and professional activities.

The Code will also commit the Alliance members, both government and private sector, to transparent business practices within the context of PPPs. The legal task force will prepare a draft of the Code for approval by the SG which will then be published and placed on the website.

VIII. Marketing of the PPP Alliance

As a new product the Alliance needs to be properly marketed to potential clients. In this regard a team from the Lausanne Business School of Switzerland will carry out a marketing study of the Alliance. Preliminary results will be available in the last quarter of 2001.

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