



Economic and Social Council

Distr.: General
3 October 2018

Original: English

Economic Commission for Europe

Committee on Innovation, Competitiveness and Public-Private Partnerships

Working Party on Public-Private Partnerships

Second session

Geneva, 20-21 November 2018

Item 4 of the provisional agenda

**Review of the PPP work since the first
session of the Working Party on PPPs
on 21-22 November 2017**

Putting the Guiding Principles on People-first Public-Private Partnerships into practice¹

Note by the secretariat

Background

The following document contains a number of suggested policy recommendations² aimed at governments to voluntarily follow if they are interested in implementing the ten Guiding Principles on People-first PPPs, in response to paragraph 48 of the Addis Ababa Action Agenda on Financing for Development.³

In August 2018, the Bureau of the Working Party reviewed the Guiding Principles and endorsed the topics covered in them (contained in document ECE/CECI/WP/PPP/2018/3). The Bureau also endorsed the recommendations in this document and requested the secretariat to submit them to the Working Party for approval.

¹ This document is late submission because of a late reception of contributions from relevant parties.

² The ECE PPP standards, guiding principles, best practices, declarations and recommendations are adopted by acclamation by the ECE intergovernmental bodies – the Working Party on PPPs and the Committee on Innovation, Competitiveness and PPPs – and do not impose any obligations on member States as their implementation is entirely voluntary.

³ The Addis Ababa Action Agenda is available at:
<https://sustainabledevelopment.un.org/frameworks/addisababaactionagenda>



I. Introduction

1. It is not sufficient to identify the most urgent challenges (e.g. poor, non-inclusive infrastructure policies, inadequate PPP processes and procedures, inadequate consultation mechanisms etc.) and defining principles and guidance, but there is also a need to take steps to try and fix the problem, that is, put the principles into practice. The following is a list of recommendations to implement each of the principles that are available to governments that wish to make reforms. The list is not exhaustive and could complement ongoing policy initiatives at the national and regional levels in various jurisdictions.

Principle 1 – Listen to the people on their preferences for projects and public services, and make sure they see the results and benefits from the projects

2. Governments should clearly state their commitment to Public-Private Partnerships (PPPs) that meet the Sustainable Development Goals: it is not “business as usual” and the political leaders of the day need to give top level support to the People-first PPP agenda *inter alia* by ensuring high-level government support of People-first PPPs for the Sustainable Development Goals and thereby ensuring the regular review of such a declaration that can assess progress in this direction.

3. In addition, the urgency of the problem of increasing the contribution of the private sector to investing for the Sustainable Development Goals calls for a concerted push by the international community.

Principle 2 – Deliver more projects, that are better, simpler and smaller People-first Public-Private Partnerships

1. Projects

4. The following actions could help mainstreaming People-first PPP projects:

- **10 flagship People-first projects** could be developed and implemented. These should have major transformational impacts at different levels and sizes. These projects should demonstrate how embracing **innovation and new technologies** can have major transformational impacts.⁴ The use of mobile phones, for example, increased radically access to services to vulnerable groups, especially women, which helped overcoming their social and geographical isolation and gave them self-development opportunities. These projects should be varied and could include:
 - (i). Large scale cross border infrastructure projects;
 - (ii). Medium-sized social focused projects to improve health and well-being, access to water and sanitation; and
 - (iii). Small people-first community development partnerships.
- Governments, the private sector and civil society have already submitted **130 “People-first Projects” into the ECE database**. These concrete case studies inform

⁴ At the heart of the proposed multilateral dialogue for Belt and Road countries, capacity building is precisely the goal of developing such flagship projects.

different stakeholders about the approach that can be replicated elsewhere while the data base itself gives recognition to those submitting projects. The People-first PPP case studies database needs to be expanded and upgraded with adequate resources.

- There needs also to be a **new impact assessment methodology** that can identify and validate the indicators of People-first PPPs putting into practice the transition of the selection of projects into projects that create “**value for people**” and away from an exclusive reliance on “value for money”.
- An **international prize/award for the best People-first PPP project** could be established to give publicity to the “people-first” approach and celebrate the accomplishments of the model towards social and environmental sustainability across different sectors: water and sanitation, transport, etc.

2. Implement UNCTAD’s action package for a new generation of investment promotion and facilitation

5. UNCTAD’s action package for investment promotion and facilitation could be customized to the requirements of People-first PPPs by national authorities. Sustainable development projects (i.e. in infrastructure, renewable energy, etc.) usually require intensified efforts for investment promotion and facilitation. The most frequent constraint faced by potential investors in sustainable development projects is the lack of concrete proposals of sizeable, impactful, and bankable projects. PPP units could join efforts with promotion authorities in the marketing of a pipeline of projects with priority support at the highest political level.

Principle 3 – Improve the skills at all levels and make sure that women are empowered by People-first projects

6. Developing People-first PPPs will require more effective capacity building for governments – top to bottom - than has heretofore been available:

1. A UN International Centre of Excellence for People-first PPP capacity building

7. Since 2012, there has been an ECE International Centre of Excellence on PPP capacity building approved by the ECE intergovernmental structures. This body could be scaled up and become part of the UN as a whole. For this to happen, the UN regional commissions, UNCTAD, other UN bodies, as well as governments would need to play a stronger role as well as civil society, especially with regards to sharing tools and instruments. The Centre is supported by international specialist PPP centres covering different sectors and approved by their respective government. While these centres are welcome developments in capacity building and in collecting case studies and offering training to governments, these should become operational as soon as possible. Focus should be made on implementation, rather than just the creation of theoretical examples. Exclusivity should not be given to the sectoral centres. After all, no single centre realistically has the resources to cover the whole world. Rather centres can be set up in different regions of the world and cover the needs of both developed and developing countries in triangular forms of cooperation. An improved One UN approach could help develop the right governance so that PPPs fit for purpose and capacity is enabled across the globe.

2. Smart spending on capacity building

8. The investment funds that donors give to single projects would be much better recycled into broad based projects-oriented capacity building for People-first PPPs. Capacity building should include technical support throughout the project life cycle. This means not only providing support for the enabling environment but also by creating projects that make an impact on the 2030 Agenda. Capacity building should deliver results for development. Therefore, capacity building should be orientated towards developing the right policies and strategies for People-first PPPs and developing a pipeline of projects that meet the People-first PPP outcomes. Digital tools are key to enhance this endeavour.

3. International PPP Units' Association

9. There needs to be a transition away from the notion that capacity building is a top down exercise, (i.e. funds being shelled to consultants from donors and then used to help governments typically in isolation from other PPP units). *Existing and operational PPP Units* could help those getting started through “twinning”. The UN and the international financial institutions should help to create a new network of national PPP Units to improve standards and capacity building for the development of People-first PPPs, and support existing initiatives, such as the World Association of PPP Units and Infrastructure Agencies.⁵

4. The private sector

10. The private sector could do more to help the capacity building effort. In the case of women's empowerment, it can play a strong role by adopting the four-point plan to empower women within and outside companies in PPP projects.⁶ Such work can be done with local and national women empowerment organizations and work together to set international targets such as an action plan to receive endorsements from companies for such an empowerment scheme.

⁵ More information on the objectives of the Association is available at:
<http://wapppu.org/index.php/about/ngo-constitution>

⁶ The four-point plan developed by ECE includes the following actions: 1. Enhance the role of women inside companies undertaking PPPs and in the PPPs themselves; 2. Help women-led companies in the supply chain compete in tenders for projects; 3. Make a difference in the communities where they do business - help young women and train them to become the business leaders of the future; and 4. Help women deal with the special challenges they face in their daily lives in the design and operational stage of the delivery of projects.

Principle 4 – Improve legal and regulatory frameworks for People-first Public-Private Partnerships to achieve better governance and a zero tolerance approach to corruption

1. Zero tolerance to corruption

11. Governments could endorse the ECE Declaration⁷ to the Zero Tolerance approach to Corruption in PPP Procurement standard,⁸ thereby committing to put the recommendations contained in the standard into legislation.

2. Improve legislation and citizens involvement in PPP decision taking

12. The United Nations Commission on International Trade Law (UNCITRAL) Guide of 2003 could be updated to take account of new experiences and the people-first approach⁹. A model law on PPP legislation is also needed incorporating specific elements dealing with people-first approaches. In this regard, governments need to establish the consultative machinery for the full involvement of stakeholders starting with involving their citizens in legislative changes. Citizens should play an active role throughout the full life cycle of projects, starting with the design, followed by the procurement and then the operational project phases.

3. Standardize through national and international standard making

13. Governments could work to standardise their various PPP processes, common contractual clauses, other provisions and internal procedures for preparing and approving PPP projects.

14. The ECE International PPP standards have set a benchmark. This can be the foundation for the involvement of civil society and the other UN bodies in setting the roadmap for People-first PPPs involving at the same time the ECE associated specialist PPP centres, especially the one on law, policy and institutions.

Principle 5 – Increase transparency and improve accountability in projects by disclosing full information about projects to the people

Develop international transparency and accountability guidelines

15. An immediate next step that could be initiated by the ECE is to develop transparency and accountability guidelines, starting with five interested countries on a pilot basis. This would also include developing specific disclosure guidelines which could be implemented using a specially developed and customized web-based platform for PPP

⁷ The ECE ZTC Declaration is contained in document ECE/CECI/WP/PPP/2018/4.

⁸ The ECE ZTC Standard is contained in document ECE/CECI/WP/PPP/2017/4.

⁹ UNICTRAL 2003, https://www.uncitral.org/pdf/english/texts/procurem/pfip/model/03-90621_Ebook.pdf

information disclosure for each of these five countries. Once the pilot is implemented, it could be revised, improved and scaled up across the entire membership of ECE.

16. Guidance from existing initiatives on corporate reporting for the Sustainable Development Goals could be of help in such tasks. For instance, the Sustainable Stock Exchange initiative launched by the UN Secretary-General in 2009, a joint effort by UNCTAD, the UN Global Compact, the UN-supported Principles for Responsible Investment, and the United Nations Environment Programme (UNEP) Finance Initiative, calls on stock exchanges to become Partner Exchanges by committing voluntarily to advance sustainability in their market. UNCTAD has provided guidance to policymakers and stock exchanges in this effort and lessons learned could be applied for mainstreaming transparency and accountability in People-first PPPs.

Principle 6 - De-risk projects to promote People-first Public-Private Partnerships criteria

17. Governments, the international community and the international finance institutions should work on several fronts to lower the high risks in middle and low-income countries where the institutions and the capacity to undertake PPPs is weak. Governments could:

(a) Provide guarantees to companies that there will be no unscheduled changes in contracts and support for PPPs throughout the course of their investments;

(b) Undertake national reforms to make their business conditions more attractive through sound macroeconomic policies, an improved enabling environment, among others that can “de-risk” the country;

(c) Introduce incentive mechanisms in the contractual frameworks (such as viability gap funding)¹⁰ and beneficially use legal requirements under Corporate Social Responsibility, where applicable, as means to route the investments and structure projects; and

(d) Use PPP solutions that are based on local practices and competences, rather than seeking high end technology driven solutions from developed countries. Local solutions will be much cheaper, support local manufacturers, provide local employment, and have lower maintenance costs.

18. The international finance institutions could offer more effective international risk mitigation instruments (e.g. financial guarantees and insurance) as the private sector is often confused about these instruments and how to apply them;

19. In this transition period, governments could work with other partners in innovative PPP arrangements such as public-NGO partnerships to help meet demands for essential services and to provide experiential local PPP capability and capacity development.

20. For larger and landmark programmes, governments could consider using PPP models such as the Inverted Bid Model¹¹ to attract finance and to reduce risk.

¹⁰ Viability gap funding was introduced by the Government of India to use funds appropriated from the national budget to provide upfront capital subsidies for PPP projects. Source: <https://pppknowledgelab.org/guide/sections/19-the-role-of-public-finance-in-ppps>

¹¹ The inverted bid model consists of an unsolicited market-led proposal where governments encourage significant private sector innovation and investment.

Principle 7 – Promote “Value for People” in People-first Public-Private Partnerships procurement and not only “Value for Money”

21. Governments need to translate the people-first outcomes into tenders for projects. People-first PPP projects require higher level key performance indicators. Governments used to allow tenders to be won on price and have begun to accept other criteria for selecting such as the “most economically advantageous tender”, which includes other characteristics besides price.¹² The indicators of People-first PPP criteria will vary according to the sector in which the tender is launched and should support the goals of value for people. Guidelines are needed for governments utilising the people-first approach for the selection of tenders and for the output specifications as set down in the people-first contracts.

Principle 8 – Make People-first Public-Private Partnerships environmentally sustainable and “fit for purpose” for the 2030 Agenda

22. Governments could develop a strategy for finding partnerships that can mitigate the risks and adapt their infrastructure to climate change. This should include the metrics associated with the impacts needed to increase resilience (e.g. for buildings, construction etc.) and/or to survive extreme weather events (e.g. flooding, earthquakes).

23. UNCTAD’s action package for the reorientation of investment incentives could be implemented when relevant to people-first PPP projects. Accordingly, investment incentive schemes implicit in contracts could be restructured specifically to facilitate sustainable development projects as part of risk-sharing solutions. The general goal should remain to move incentives from purely “location-based” (i.e. leveraging the competitiveness of a location) towards “Sustainable Development Goals-based”, (i.e. leveraging sustainability traits).¹³

Principle 9 – Encourage blended financing to become an integral ingredient to promote People-first Public-Private Partnerships

24. Impact Investing is growing in importance and is critical for the success of the Sustainable Development Goals. Further steps are however needed to increase its impact, and that includes the development of metrics to guide the impact investing industry. Such metrics can allow financial advisories and the lenders of People-first projects to assess the impact and encourage them to implement People-first PPP projects. But the banks and other financial institutions’ buy-in is very important. The following could be done:

- Develop an impact assessment methodology for People-first PPP; and

¹² The Most Economically Advantageous Tender model has been implemented by the EU. This model does not only disclose the evaluation methodology but also the scoring matrix. The weighting criteria are not only based on costs, but also on quality outcomes. Source:

http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_public_proc_en.pdf

¹³ UNCTAD (2015), Investment Policy Framework for Sustainable Development, p. 149

- Hold high level consultations with financial institutions on the appropriateness of the People-first indicators and the likelihood of them using these in their lending strategies.

25. These tools should take account of the Equator Principles adopted by financial institutions.¹⁴

Principle 10 – Enhance the fiscal sustainability for People-first Public-Private Partnerships and avoid the risk of the so-called “debt traps”

26. Sustainable funding is the life blood of every PPP project and programme. After all, PPPs invite private sector participation in the delivery of public services, but the government is ultimately responsible for the delivery (and payment) for those services, either directly through availability type structures or indirectly through user pay structures where the government may appear to have less risk but ultimately is responsible if the funding or performance fails. Thus, funding sustainability is critical to long term viability of projects.

27. The following could be done by governments:

- Early assessment of budgetary and fiscal impacts of People-first PPP projects;
- Transparency in funding options, risks, short and long-term guarantees and obligations, and contingent liabilities for People-first PPP projects; and
- Ensure fiscal sustainability in all People-first PPP projects and programmes.

¹⁴ See: <http://equator-principles.com/>