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## Economic Commission for Europe

Committee on Economic Cooperation and Integration

Team of Specialists on Public-Private Partnerships

Sixth session

Geneva, 23-24 June 2014

## Report of the Team of Specialists on Public-Private Partnerships on its sixth session

### I. Attendance

1. The Team of Specialists on Public-Private Partnerships (TOS PPP) held its sixth session on 23-24 June 2014. Over 150 experts representing national government agencies, the private sector, academic institutions and international organizations participated in the session. They came from the following thirty seven member States: Argentina, Azerbaijan, Bangladesh, Belarus, Belgium, Brazil, Canada, Croatia, Cyprus, Czech Republic, Democratic Republic of Congo, Egypt, France, Germany, Ghana, Greece, Haiti, India, Israel, Italy, Japan, Kyrgyzstan, Montenegro, Netherlands, Pakistan, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Spain, Switzerland, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, and the United States of America. The following international organizations and agencies participated in the session: European Commission, Asian Development Bank (ADB), European Bank for Reconstruction and Development (EBRD), Eurasian Economic Commission, International Finance Corporation (IFC), a member of the World Bank Group, International Telecommunication Union, International Trade Centre, United Nations Development Programme, and the World Bank, and the United Nations Office at Geneva.

### II. Adoption of the agenda (Agenda item 1)

2. Documentation: Annotated provisional agenda for the sixth session (ECE/CECI/PPP/2014/1)
3. The Team adopted the provisional agenda as proposed by the secretariat.

### III. Election of officers (Agenda item 2)

4. The Team elected Mr. Arthur Smith (United States of America) and Mr. Bernhard Muller (Germany) as the co-Chairs and Mr. Steven Van Garsse (Belgium), Mr. Mark

Romoff (Canada), Mr. Sam Tabuchi (Japan), Mr. Valeriu Triboi (Moldova), Ms. Sonia Mezzour (Morocco), Mr. Andri van Mens (the Netherlands), Mr. Hafiz Salikhov (Russian Federation), and Mr. Ahmet Kesli (Turkey) as Vice Chairs.

5. The Team thanked the outgoing co-Chairperson Mr. Leo McKenna (United Kingdom) for his contribution to the Team, and the outgoing vice-Chairpersons, Mr. Charles Solomon (Israel, the first Chair of TOS PPP), Mr. Kamilo Vrana (Croatia), Mr. Bastary Pandji Indra (Indonesia), and Mr. Zhomart Abiyessov (Kazakhstan), for their contributions to the Team.

#### **IV. Developing international standards and best practices in PPPs: the activities of the UNECE International PPP Centre of Excellence, its Specialist Centres and the PPP Business Advisory Board (Agenda item 3)**

6. Speaking on the launching of another stage in the progress of the UNECE towards becoming the pre-eminent United Nations organization in developing international PPP standards, Mr. Michael Møller, Acting Executive Secretary of the UNECE, said that “the objective for the UNECE is to develop core standards that can underpin the effective delivery of projects that will make a difference in achieving the Sustainable Development Goals” and that, “this work will have a direct, tangible and positive impact on individuals across the world.” He also reiterated that the United Nations’ strength lies in an independent and neutral approach that gives credibility to its standards and that the United Nations neither funds projects and nor supports any specific company.

7. Referring to some of the challenges, Mr. Møller stated that, “we must ensure that the standards are not derived from a purely Northern context and applied to the South in a blanket manner. We need South-South and Triangular cooperation in order to develop effective standards that will be used by countries most in need of PPP. This will mean adjusting and adapting the models so that they can deliver services to the poor in low-income countries. He concluded that UNECE’s collaboration with the United Nations Office for South-South Cooperation to help scale up PPP solutions that would support poor and developing countries of the Global South is essential if these objectives are to be achieved.

8. In his keynote speech, Mr. Marc Steiner representing Transparency International Switzerland stated that his organization is focusing on the problem of corruption in public procurement. He also drew attention to the related initiatives of the World Trade Organization (WTO) and European Union (EU). He remarked that the 2012 revision of the WTO procurement agreement, the EU procurement directive and the EU directive on concessions all put the fight against corruption into the context of advocating for good governance and public sector integrity in general. This reflects a certain paradigm shift in that previously, these organizations had addressed corruption only in the narrow sense of creating barriers to international trade or to the free movement of goods, services and capital.

9. This paradigm shift was also echoed by Ms. Elaine Dezenski of the World Economic Forum (WEF). She remarked that when the WEF started its Partnering Against Corruption Initiative ten years ago, the focus was on internal compliance of companies with anti-corruption legislation so that they would be protected from legal liability. In the last two to three years, the focus of the initiative has broadened to consider the negative effects of corruption on economies in terms of weaker competitiveness and on societies in general, as well as its negative effects on the reputation of companies. A reputation for transparency

and integrity is important *inter alia* for global companies, but also for governments, to compete effectively for young talent. The WEF is conducting a public awareness raising campaign among young people in order to mobilize them as employees and voters in the fight against corruption. Based on stakeholder surveys, the WEF has also developed a so-called transformation map with eighteen drivers of transparency in public procurement which, if implemented, can “design corruption out of the system”. Ms. Dezenski stated that the WEF expressed its interest in cooperating with the UNECE in the development of a global standard against corruption in PPPs. She concluded her keynote speech by stating that a global standard could promote a collective action agenda against corruption and could help to develop risk assessments of practices and institutional set-ups fostering corruption.

#### Principles on Zero Tolerance to Corruption in PPP Procurement

10. A number of issues were raised by the panellists on the importance to implement principles on zero tolerance to corruption in PPP procurement in order to attract private sector investment in infrastructure. These are included in a draft Project Proposal on zero tolerance to corruption on PPPs and a Checklist of key issues prepared by the Project Team for discussion by the TOS PPP.

11. The discussion showed broad agreement that corruption is a significant problem and that an international standard would be useful. Corruption is a significant problem because it is wide-spread, because it leads to bad PPP projects with significant costs for governments and consumers, and because it causes the best international investors and PPP managers to avoid certain countries altogether.

12. In part, the pervasiveness of the corruption threat is linked to the fact that some projects, such as national airports, are highly politicized by their very nature and are the subject of intense political lobbying, including from abroad. Corruption is particularly pernicious for PPPs because it threatens to undermine the competitive bidding process which ideally drives the superior performance of PPPs in terms of cost-effectiveness and service quality compared to traditional procurement.

13. Two particular issues that were discussed at length were unsolicited bids and re-negotiations of supposedly final bids after the competitive bidding process had been closed. In both instances are most likely to arise when the public-sector entity lacks capacity or is in a politically weak position.

14. More generally, lack of capacity in the public sector was identified as a serious problem in many emerging markets and less developed countries. This can lead to intransparent and ultimately unsuccessful projects even if appropriate legal frameworks, rules and procedures are in place.

15. By the same token, it was emphasized that the standard should be comprehensive and flexible enough to be relevant to countries at different stages of economic and political development, and here the challenge is to have a standard that is capable to be applied globally.

16. There was a discussion on how best to define corruption for the purposes of the standard, how to treat practices which may not be technically illegal but may nonetheless be considered unethical, and to what extent the standard should also cover the processes of identifying demand and affordability which need to come before the PPP process itself is set in motion. There was broad agreement that the standard should not only focus on best practices, but should also cover the main barriers to a clean and transparent PPP process, so that governments can identify “red flags” which may signal potential corruption problems early on.

17. There was also some discussion on how the proposed UNECE standard would be additional to materials that already exist or are being developed elsewhere, either at national level or for instance by multilateral financial institutions.

#### Implementing Principles on Zero Tolerance to Corruption in PPP Procurement

18. The panel discussion under this topic focused on the form a certification scheme for PPP units and other relevant agencies might take in order to make it effective as a way to incentivize governments to improve the transparency and integrity of PPP transactions. The discussion was based on a draft Project Proposal on the use of a certification scheme to implement zero tolerance to corruption. The panel agreed that a standard on zero tolerance to corruption would only be useful if it was implemented broadly and that it would be critical to provide incentives for governments to do so.

19. There was a discussion on whether there was demand for a certification scheme, which entity or entities should carry out the certification work (one or several entities, existing entities or a newly created entity), and what the relationship of the scheme would be with the United Nations. On the demand side, one panelist from a country with a newly-created PPP unit recognized that this certification scheme could benefit his country and would also attract foreign direct investment into PPP projects.

20. It was also pointed out that the certificate would have to be clearly based on the UNECE standard in order for it to have sufficient credibility to attract high-quality investors and PPP managers, but at the same time the United Nations would have to be protected from any potential liability for PPP projects that might fail in countries that had been certified.

21. There was also a discussion on the certification process itself. It was suggested that in order to make the certificate credible, it should be awarded only after a thorough audit of the whole PPP process over a period of time. It was also suggested that rather than awarding certificates of full compliance with the UNECE standard to qualifying PPP units, it might be preferable to award points on a scale in order to be able to reflect a more nuanced assessment of partial compliance. It was also argued that certificates should be renewable so that improvements, but also deteriorations in the quality of the PPP process could be reflected.

#### Putting PPPs at the hearth of a Health Policy for Universal Coverage

22. The panel in this session discussed a number of issues related to the role of PPPs in promoting national health objectives and used a draft Project Proposal on PPPs in health policy as a background document. Panelists agreed that there is increasing demand for healthcare across the world, driven in part by rising incomes, and that improvements in healthcare will be key to meeting the Sustainable Development Goals. Given the substantial financing requirements and the complexities of delivering healthcare, PPPs can make a significant contribution to providing quality care for all.

23. At the same time, it was agreed that PPPs are not a panacea for providing universal coverage. It is up to governments to commit to this objective and to make available the required resources: PPPs can be a tool to deliver on this commitment.

24. It was also agreed that PPPs in the healthcare sector must be developed within the context of each country's existing healthcare system and policies, as well as its economic situation, which determine both the type of healthcare facilities and services that should be

prioritized and their affordability. This context dependence poses a challenge which needs to be taken into account when developing a set of global standards.

25. The representatives of the business community emphasized the benefits of standards in terms of reducing the costs of bidding for projects and thereby increasing the number of potential bidders and the number and scale of feasible projects.

26. There was a discussion on the appropriate scope of UNECE's work in this area. There was agreement that PPPs can be particularly effective when they involve not only the construction and management of facilities, but also the delivery of healthcare services. At the same time it was agreed that UNECE's work should focus on providing standards for projects that have an infrastructure component, that is, that it would not cover initiatives in which public and private sector entities cooperate, for example, to develop new therapies.

27. There was some discussion on the factors that determine the success or failure of PPPs in healthcare, including the regulatory and legislative framework, political will and stability, and adequate resources and capacity in both the public and the private sector.

28. The discussion also highlighted the need for a comprehensive analysis of good and bad practices so that the standards can be based on objective evidence. It was suggested in this regard that, in addition to case study evidence, UNECE should also systematically draw on the data collected by multinational entities such as the EBRD, IFC, and the World Bank in the course of their work on PPP projects.

29. In summing up the discussion, the secretariat thanked all experts participating in the discussion and informed the Team that a decision on the draft Project Proposals will be taken under agenda item 5.

#### International PPP Standards in Different Sectors

30. The secretariat presented a comprehensive overview of the process of developing UNECE standards, including the use of ICT, and more specifically, a presentation of an interactive platform for exchange of information among PPP experts, where the public has access and can post comments and observations during the public review stages of the standard-setting process.

31. The secretariat also provided the preliminary results to a questionnaire that it disseminated among TOS PPP participants, the Bureau and the members of the PPP Business Advisory Board, in order to identify the priority focus for the development of PPP standards over the coming months. The secretariat explained that there was a very strong preference for PPP standards on: water and sanitation; roads; renewable energy (including energy efficiency); and principles of good governance in PPPs, including dispute resolution mechanisms. The secretariat informed the Team that a decision on the focus areas for subsequent PPP standards will be taken under agenda item 5.

32. The representative of the Russian Federation supported the development of international PPP standards as described by the secretariat, and suggested that the standards should be adapted to the specific conditions in member States, taking into account their legal and regional particularities. The need to adapt the standards to suit the member States was recognised by the Team.

33. The representative of the Russian Federation also suggested that TOS PPP might want to develop an international agreement to: distinguish PPPs from a range of other projects; and describe what is needed for PPP development, including during the

procurement and bidding stages. The representative argued that such an agreement would open markets for companies with the relevant PPP expertise, increase competition for projects, and develop national markets for PPP projects. The secretariat informed the Team that as a first step, and in the absence of a mandate to develop legally-binding instruments, a draft Project Proposal on the topic could be elaborated and submitted to the Bureau for its consideration.

Follow-up discussion on the PPP option to renovate the *Palais des Nations*: Views of the PPP Business Advisory Board

34. The secretariat informed the Team of the work in this area since the last session in February 2013, *inter alia*, the study presented to the United Nations Office at Geneva (UNOG) in May 2013 on the PPP options for the renovation of the *Palais des Nations*, with the main recommendation for UNOG to undertake a feasibility study, including a public sector comparator, as the only internationally recognized tool to determine value for money in an infrastructure project.

35. The secretariat also informed the Team of a study tour in London organised together with Infrastructure UK (Her Majesty's Treasury) in March 2013 where colleagues from UNOG obtained first-hand experience of PPP renovation projects at the UK Treasury and the Ministry of Defence. The secretariat also informed the Team about an initial study carried out by Toyo University in Japan on alternative options to generate revenue by using the UN real estate portfolio in Geneva to finance the renovation of the *Palais des Nations*.

36. Mr. Sam Tabuchi from Toyo University introduced the study on alternative options to generate revenue to finance the renovation of the *Palais des Nations*. He stated that the UN has a very rich real estate portfolio that could be used to generate additional revenue. More specifically, he mentioned that a hotel and a number of apartments could be built on UN land for the sole use of 'international Geneva', that is, member States, delegates and the UN. He suggested that a more in-depth feasibility study be undertaken as a next step.

37. Presentations by representatives of the private sector focused on:

- (a) The experience of the UK Treasury on how PPPs can transform the *Palais des Nations*; and
- (b) An artistic impression of the innovation that the private sector can bring to the *Palais des Nations*.

38. A panel discussion composed of several representatives of the private sector—including developers, lenders and legal consultants – members of the PPP Business Advisory Board (BAB) addressed the question raised by member States in the Advisory Committee on Administrative and Budgetary Questions (ACABQ) in New York, more specifically, if there was private sector appetite in the project,<sup>1</sup> given the specific context of the *Palais des Nations*, including the extraterritoriality principle and the strict United Nations procurement regulations.

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<sup>1</sup> See paragraph 47 of the ACABQ report at its sixty-eighth session contained in document A/68/585 dated 15 November 2013.

39. The members of the BAB remarked that a PPP contract is not dissimilar to any other contract for buying goods and services that the United Nations is a party to. In their view, once the governing legal principles in the contract become clear, the legal issues are not insurmountable from the perspective of developers and lenders. A few examples, including the Channel Tunnel project, were given to make the point that the extraterritorial aspect of the *Palais des Nations* would not hinder private sector appetite in the project. On the issue of the procurement regulations, where it was argued that the United Nations is not allow to enter into a competitive dialogue, it was suggested that there were alternatives to a competitive dialogue in a PPP process.

40. The representative of UNOG thanked the UNECE for offering UNOG the opportunity to better understand the PPP options for the renovation of the *Palais des Nations*. The representative also thanked Toyo University and the UK Government for their support. He added that the legal framework and the procurement regulations were precisely the two main concerns of UNOG about using PPPs in the Strategic Heritage Plan. Referring to the study by Toyo University, the representative stated that UNOG considers these ideas as viable options and reiterated that UNOG is very interested in learning more about income generating options, including a hotel and apartments on United Nations property. He also posed a few questions both on the study by Toyo University as well as on PPPs in general.

41. In summing up the discussion, the secretariat thanked the speakers for sharing their knowledge with the Team and with UNOG, and remarked that there is an agreement with UNOG that this dialogue with the BAB should continue over the coming months. The secretariat also informed the Team that a brief paper with the replies to the questions raised by UNOG will be prepared by the secretariat with the help of the BAB and sent to UNOG in the coming weeks.

## **V. Review of the work of the Team since the fifth session on 5-6 February 2013 (Agenda item 4)**

### **A. Progress report on the UNECE International PPP Centre of Excellence (ICoE)**

#### **(a) Developing international PPP standards and the PPP Business Advisory Board**

42. The secretariat informed the Team that the Committee on Economic Cooperation and Integration (CECI) at its eighth session on 12-14 February 2014 decided that the focus of the UNECE PPP work in 2014 and 2015 should be on developing best practices and international standards on PPPs on areas with strong UN development objectives, including, health, water and sanitation, roads, ICT, renewable energy, and principles of good governance, such as transparency in procurement and zero tolerance to corruption.

43. The secretariat also informed the Team that the PPP Business Advisory Board (BAB) was constituted under the chairmanship of Mr. James Stewart, following the endorsement by the UNECE Executive Committee in April 2014. The BAB has a dual mandate to:

- (a) Advise the ICoE on the elaboration of international best practices and standards; and

(b) Assist member States with the implementation of international PPP best practices and standards through high-level consultative meetings.<sup>2</sup>

44. The secretariat briefed the Team about the two specific activities organized by the ICoE since the fifth session of TOS PPP, namely;

(a) “Defining PPP Excellence: Meeting of the PPP Specialist Centres”, Geneva, 25 June 2013; and

(b) Information meeting on the ICoE with international donors, Geneva, 8 October 2013;

45. The secretariat also informed the Team that the ICoE was granted a special award in recognition to its contribution to South-South cooperation at Global South-South Development EXPO 2013, Nairobi, Kenya, on 1 November 2013.

46. The Team commended the progress report provided by the secretariat on the work of the ICoE, and agreed with its focus on the development of international PPP standards and recommendations in areas that strongly support UN development objectives (health, water and sanitation, ICT, renewable energy, roads and good practice in PPPs, including zero tolerance to corruption).

47. In this regard, the Team welcomed the establishment of the PPP Business Advisory Board and its role in supporting the development of international PPP standards and their implementation.

**(b) PPP Specialist Centres**

48. The secretariat informed the Team that it continued to work with prospective hosts of Specialist Centres with a view to establish new Specialist Centres and to make the existing Centres operational. The secretariat informed that a memorandum of understanding was signed with India in February 2014 to establish a Specialist Centre on PPPs in roads and highways, and that the Centre is expected to be launched in August 2014 and to become operational soon afterwards.

49. Some progress was also registered in a number of other Specialist Centres, most notably the one on PPP legislation, policy and institutions in France, and that on PPPs in ICT/broadband in Azerbaijan, while discussions are still on going with a number of other government agencies to host Specialist Centres in the following sectors: education (Germany); water management (the Netherlands); and renewable energy (Morocco). The secretariat is also in advanced discussions with the Philippines to conclude the Contribution Agreement to provide funding for the ICoE and to make the Specialist Centre on PPPs in health in Manila operational.

50. In view of the role of Specialist Centres hosted in countries in the development of best practice guides as a basis for the development of international PPP standards, the Team took note with appreciation the establishment of the Specialist Centre on PPPs in roads and highways in New Delhi, India.

**(c) PPP options for the renovation of the Palais des Nations**

51. The secretariat referred to the discussion under agenda item 3 and added that there was a scope for more involvement by the BAB with UNOG over the coming months in

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<sup>2</sup> More information on the BAB, including its members, is available at: <http://www.unece.org/index.php?id=32412>

order to allow the UN Secretary-General to make an informed decision to the General Assembly.

52. The Team took note with appreciation the exploratory work carried out at the request of UNOG on the PPP options for the renovation of the Palais des Nations, and encouraged the Bureau, the BAB and the secretariat to provide technical and practical support to UNOG in the further consideration of the PPP model for the renovation of the Palais des Nations in the interest of member States. In this regard, the Team expressed its appreciation to Toyo University for its highly innovative, initial study on alternative ways, including the utilization of the United Nations real estate portfolio in Geneva, for the funding of the renovation of the Palais des Nations.

## **B. Policy advisory missions and capacity-building activities**

53. The secretariat informed the Team of a high-level consultative dialogue held in Moscow, Russian Federation, on 21-22 October 2013 involving prospective members of the PPP Business Advisory Board and senior policy makers from ten countries in Europe, Asia and Africa. The aim of this consultative dialogue was to identify and prioritize the first set of subject areas for international PPP standards and recommendations and to discuss the work plan of the PPP Business Advisory Board with governments in view to organize a number of national consultative missions in 2014-2015. Government representatives from Armenia, Belarus, Moldova, Russian Federation, Kazakhstan, Kyrgyzstan, Philippines, Tajikistan, Tunisia and Uzbekistan, took part in the event and presented their PPP programme and current challenges in implementing PPPs.

54. The secretariat provided detailed information on the policy advisory missions and capacity-building activities held since the fifth session in February 2013, including those in relation to the national PPP readiness assessments in Kazakhstan and Tajikistan.

55. Fact-finding missions and follow-up workshops to the national PPP readiness assessments were organized in the following countries:

- (i) Tajikistan (follow-up workshop held on 17-18 September 2013);
- (ii) Kazakhstan (fact-finding mission held on 11-15 November 2013); and
- (iii) Kazakhstan (follow-up workshop held on 9 April 2014).

56. The secretariat also informed the Team of the PPP activities organized in the context of the United Nations Development Account project on “Building the capacity of SPECA countries to adopt and apply innovative green technologies for climate change adaptation”, in:

- (i) Ashgabat, Turkmenistan (15-17 May 2013);
- (ii) Astana, Kazakhstan (23-25 October 2013);
- (iii) Almaty, Kazakhstan (19-21 November 2013)

57. The secretariat also informed the Team of a number of activities organised in the context of the extrabudgetary capacity-building and training project in Belarus, funded by the European Union and jointly implemented by the UNECE and UNDP. The following activities took place in the following venues:

- (i) International Conference on PPPs: Best Practice and Perspectives for Belarus, Minsk, Belarus (18 October 2013);
- (ii) Study tour for 15 senior Government officials in Belarus, Berlin and Frankfurt, Germany (4-7 November 2013);

(iii) Workshop and roundtable discussion, “What PPP Unit for Belarus? Lessons from international PPP best practices”, Minsk, Belarus (10 December 2013); and

(iv) PPP Days in Belarus, Minsk, Belarus (28-30 May 2014).

58. The Chairperson expressed his gratitude to the PPP experts participating in these activities, especially those who did so on a *pro bono* basis, and to the secretariat for organizing and servicing these activities on behalf of the Team.

59. The Team took note of the policy advisory missions and capacity-building activities carried out since the fifth session in February 2013. The Team also expressed its appreciation to all the experts who took part in these activities for their contribution to ensure that the Team’s policy advisory missions and capacity building activities were successful.

60. The Team expressed its gratitude to the Governments of the Netherlands, the Russian Federation, Vnesheconombank, the European Union, the Eurasian Development Bank and Toyo University<sup>3</sup> for their financial and in-kind contributions towards the work of the ICoE.

## **VI. Implementation plan for the rest of 2014 and proposals for the work plan for 2015 (Agenda item 5)**

### Development of international PPP standards

61. The secretariat introduced Conference Room Paper 1 dated 6 June 2014 and informed the Team that the purpose of this Conference Room Paper was to provide an overview of the development of UNECE international PPP standards as mandated by CECI, and to describe in its Annexes the process by which the standards will be developed. The secretariat reiterated that member States lead this process and have final approval on the voluntary standards.

62. The secretariat also provided a detailed overview of the Open and Transparent Standard Development Process, composed of seven steps, as contained in Annex I. It also added that one of the most important UN principles is that its work must be made available for use by member States free of charge and that the guiding principle under which PPP standards are developed is that the main beneficiary of the standards and recommendations are the member States. For this reason, an intellectual property rights policy has been prepared in Annex IV that is aimed at managing the use and ownership of the intellectual property in the standard-setting process.

63. The Team:

(i) Endorsed the process for developing international standards in PPPs as found in Annex I-III for implementation;

(ii) Endorsed the Intellectual Property Rights policy contained in Annex IV for submission to the UN Legal Office;

(iii) Requested the Bureau to revise - if required - Annexes I-III on the basis of the experience of the first project groups and Annex IV on the basis of any comments from the UN Legal Office;

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<sup>3</sup> Toyo University will contribute a total of \$54,000 in extrabudgetary funding in 2014 and 2015.

- (iv) Invited the Bureau to develop in consultation with the secretariat a Code of Conduct for PPP experts in Project Teams involved in the development in UNECE PPP standards; and
- (v) Requested the secretariat to submit the resulting document(s) to the next session of the Committee on Economic Cooperation and Integration for consideration and approval

#### Project Proposals on international PPP standards/recommendations

64. In introducing the discussion on the Project Proposals, the Chairperson referred to the procedure explained in Conference Room Paper 1 whereby Project Proposals require the support by at least three member States before the standard-setting process could commence in accordance with the seven steps elaborated in Annex I. The Chairperson also informed the Team that the Project Proposals enjoy the support of the Bureau.

65. The secretariat introduced Project Proposals on the following topics:

- (i) Principles on zero tolerance to corruption in PPP procurement;
- (ii) Implementing principles on zero tolerance to corruption in PPP; and
- (iii) PPPs in health policy.

66. A number of delegations and Team members supported the development of international PPP standards as contained in the Project Proposals.

67. The Team endorsed:

- (i) The Project Proposal to develop a standard on zero tolerance to corruption in PPP procurement as supported by the delegations of Belarus, Belgium, and the Russian Federation;
- (ii) The Project Proposal to use a possible certification scheme to implement zero tolerance to corruption supported by the delegations of Belarus, Belgium, and the Russian Federation; and
- (iii) The Project Proposal on the role of PPPs in health policies to achieve a higher quality of healthcare supported by the delegations of Belarus, the Netherlands, the Russian Federation and Turkey.

#### Focus areas for subsequent PPP standards

68. The secretariat recalled the discussion under agenda item 3 where it provided the Team with the results of a questionnaire it circulated among representative of members States represented in the Bureau and at TOS PPP, as well as members of the PPP Business Advisory Board and other TOS PPP participants, to identify the focus areas for subsequent PPP standards to be developed by the Team. The secretariat informed the Team that the majority of respondents requested PPP standards to be developed in the following areas:

- (i) Water and sanitation;
- (ii) Roads;
- (iii) Renewable energy, including energy efficiency;
- (iv) Principles of good governance in PPPs, including dispute resolution mechanisms;
- (v) ICT/broadband;
- (vi) Health;

(vii) Renovation of buildings enjoying from extraterritoriality.

69. The delegations of Germany, supported by the delegations of the Netherlands and the Russian Federation, proposed to add education, more specifically schools, in the list.

70. The delegation of Spain proposed to add smart cities as a topic for the development of PPP standards, while the representative of the Democratic Republic of Congo proposed to add banking in Sub-Saharan Africa to the list.

71. The Team welcomed the development of further international PPP standards in the following areas:

1. Water and sanitation;
2. Roads;
3. Renewable energy, including energy efficiency;
4. Good governance in PPPs, including dispute resolution mechanisms and procurement;
5. ICT/broadband;
6. Renovation of buildings benefiting from extraterritoriality;
7. Schools;
8. Smart cities; and
9. Banking in Sub-Saharan Africa.

#### PPP Business Advisory Board

72. The secretariat introduced the draft indicative work plan of the PPP Business Advisory Board and the sources of funding for its activities in 2014 and the first part of 2015. The following activities are envisaged in the next few months:

- (i) Advise UNOG on the PPP option for the renovation of the Palais des Nations, including holding a meeting in Geneva in July or August 2014;
- (ii) Organize an experience sharing consultative visit in Turkey, with a special focus on PPPs in health in cooperation with the Project Team on PPPs in health policy (tentatively scheduled for October 2014);
- (iii) Advise Specialist Centres and Project Teams in the preparation of their outputs (July to December 2014); and
- (iv) Organize other consultative visits in countries subject to demand by member States and resources.

73. The secretariat explained that these activities will be funded exclusively through extrabudgetary resources, including the financial contribution by Vnesheconombank.

74. The Team took note of the indicative work plan and sources of funding of the PPP Business Advisory Board and called on member States to communicate any requests for its services or any offers to the secretariat.

#### PPP Specialist Centre on water and sanitation

75. The secretariat informed the Team that progress has been made in the development of the PPP Specialist Centre on water and sanitation, with Brazil, India, the Netherlands, Nigeria and South Africa, expressing their interest in the project.

76. The secretariat also informed the Team about the planned international conference on PPPs in water and sanitation hosted by UNECE in Geneva on 21-22 October 2014, in partnership with the World Bank. The secretariat added that the PPP Specialist Centre on water and sanitation is expected to be formally launched at this international conference.

77. The Team took note with appreciation of the progress in the establishment of the PPP Specialist Centre on water and sanitation and calls on member States' participation in this initiative. The Team also requested the secretariat to organise an international conference on water and sanitation jointly with the World Bank in Geneva in October 2014 where the Specialist Centre will be launched.

#### Strategic partnership with the Institute for Public-Private Partnerships (IP3)

78. The secretariat provided an overview of the proposed strategic partnership with the Institute for Public-Private Partnerships (IP3) to provide joint PPP training, starting with a proposed PPP Masterclass in Geneva in August 2014. The secretariat also informed the Team that this partnership enjoys the support of the Bureau.

79. The representative of EBRD supported this initiative and stated that training is a core element of PPP advancement that could lead to a better structuring of PPP projects and could facilitate project pipelines.

80. The Team took note of the partnership with the Institute for Public-Private Partnerships (IP3) to provide joint PPP training; and requested the Bureau to monitor the impact of these training activities over the coming months and make a recommendation at the seventh session of TOS PPP in 2015 as to whether or not this partnership should be extended by an additional year.

#### Planned policy advisory services and capacity-building activities

81. The secretariat informed the Team of the policy advisory services and capacity-building activities planned for the coming months, namely:

- (i) Activities of the PPP Business Advisory Board, including plans for an experience sharing consultative meeting in Turkey in the second part of 2014, and other consultative meetings subject to demand by member States and the availability of extrabudgetary resources;
- (ii) PPP Masterclass for senior government officials, Geneva and Bern, 7-11 July 2014, jointly organized with the European Union and UNDP in the context of the extrabudgetary capacity-building and training project in Belarus;
- (iii) PPP Masterclass, Geneva, August-September 2014, organized as part of the strategic partnership with the Institute for Public-Private Partnerships (IP3)
- (iv) International Conference on PPPs in Roads and Highways, New Delhi, India, 23 August 2014, jointly organized with the Specialist Centre on PPPs in Roads and Highways, where the Specialist Centre is expected to be launched;
- (v) International Conference on PPPs in Water and Sanitation, Geneva, 21-22 October 2014, organized in partnership with the World Bank, where the Specialist Centre on Water and Sanitation is expected to be launched;
- (vi) Participation in the Global South-South Development Expo in Washington DC in November 2014; and
- (vii) Other activities planned as part of the extrabudgetary capacity-building and training project in Belarus.

82. The Chairperson called on the Team to assist the secretariat in delivering its policy advisory services and capacity building activities, and requested participants to undertake specific tasks under the guidance of the Bureau and the secretariat.

83. The Team took note of the schedule of policy advisory services and capacity-building activities planned for the coming months, and called on participants to assist the secretariat in this work, and to undertake specific tasks under the guidance of the Bureau and the secretariat. The Team asked the secretariat to consider additional requests for such activities subject to funding availability.

## **VII. Other business (Agenda item 6)**

### **A. Dates of the next session**

84. The Team agreed that its next meeting be held in June 2015. The secretariat will fix the dates depending on conference room availability at the *Palais des Nations* in consultation with the Bureau.

## **VIII. Adoption of the report (Agenda item 7)**

85. The Team adopted the report of its sixth session and requested that it be published in English, French and Russian.

## Annexes

### Annex I

#### **Process for developing international standards in PPPs**

Annex I presents the process through which PPP standards and/or recommendations are developed. This is referred to as the “Open and Transparent Standard Development Process” (OTSDP). Through this process, all stakeholders will be given opportunities to contribute throughout the UNECE PPP standard development process. The guiding principles under which PPP standards are developed are: 1) a process led by member States who make the final decisions for approval; 2) the active participation of the private sector and other stakeholders; and 3) support for the SDGs.

The seven stages of the Open and Transparent Standard Development Process are as follows:

#### **1. Project initiation**

A “project” (i.e. the preparation of a UNECE standard in a mandated sector or process) officially starts when the project proposal has been approved by the Bureau of the TOS PPP, and it has received explicit support (written expressions of support or oral interventions during TOS PPP sessions) of at least three Governments. The Bureau of TOS PPP can approve a project proposal in-between sessions of TOS PPP, as long as the proposal is supported by at least three Governments. The Project Proposal must include the purpose, a clearly defined scope, a list of deliverables, geographical focus (which is ‘global’ by default), a list of team members including the Project Leader (where appropriate), resource requirements, and estimated development schedule and the final deliverable (see project proposal template in Annex II). The Bureau of TOS PPP will report regularly to the TOS PPP on projects approved and under development.

#### **2. Stakeholder mobilization**

Once a project proposal is approved, the UNECE secretariat will start mobilizing a network of all key stakeholders in order to set up a Project Team to prepare the draft of the standards. Project Leaders are also encouraged to name one or more Editors to assist the Project Leader in his or her work. If there is no Editor, the responsibility for project drafting and the recording of comments and responses will fall upon the Project Leader. All participants in the Project Team must agree to the intellectual property rights policy contained in Annex II. The UNECE secretariat provides administrative and technical support to the Project Teams tasked with developing an initial draft of the standard.

#### **3. Developing the initial draft**

The first project draft, using the project template in Annex III, will be prepared by the Project Team and it will be reviewed by the PPP Business Advisory Board (BAB). Following feedback from the BAB the draft will be circulated for a public review. Before the public review stage, the UNECE secretariat will invite key stakeholders for their

feedback on the initial draft, including other UN Regional Commissions and international organizations such as the World Bank, the ADB, the EBRD, the EIB/EPEC, the OECD, UNCITRAL, UNCTAD, IPFA, and CICA (key stakeholders). Sufficient time, not exceeding one month, would be given for input from the BAB and key stakeholders.

The involvement of the private sector in the process is crucial considering its vast expertise and knowledge on PPPs projects in different countries.

#### **4. Public review**

After taking into account the feedback received from all key stakeholders the UNECE secretariat will place the draft of the standard on the UNECE website for a 60 day period. A notification that the draft is available for public review, with the deadlines and description of the public review process will be sent to all TOS PPP and CECI delegates as well as their networks of experts.

The draft standard needs to be inclusive, representing the general interests of the largest possible number of countries and stakeholders. Therefore, all the comments received during the public review stage need to be taken into account, be properly logged in and registered, with the Project Team's responses, on a public website.

If significant changes are made to the draft as a result of comments made during the public review, then the revised standard must be posted again for public review, for an additional 30 days. This cycle should be repeated as many times as is necessary to develop a consensus standard of high quality. The definition of "significant" is to be decided by the Project Team, in consultation with the TOS PPP Bureau and the secretariat.

#### **5. Endorsement**

Once the public review is over the Project Team, through the UNECE secretariat will, submit the draft standard to the TOS PPP Bureau for review and endorsement. The TOS PPP Bureau will either endorse the draft or identify the next steps for the Project Team. If endorsed by the TOS PPP Bureau, the draft standard will be sent to the TOS PPP for its review with a recommendation for endorsement.

#### **6. Approval**

The final draft will be reviewed by TOS PPP and if endorsed, the draft will be submitted to CECI with a recommendation to approve it. After approval by CECI, the document can be published for distribution and voluntary implementation by member States.

#### **7. Maintenance**

After publication, the recommendations/standards can be reviewed to take account of new developments. Guidelines for maintenance procedures will be prepared by the Bureau of TOS PPP.

## Annex II

### Project Proposal Template

A project proposal is a short document that describes a concept that will lead to a PPP 'standard' and will be developed by a Project Team. The Project Proposal must include the purpose, a clearly defined scope, a list of deliverables, geographical focus (which is 'global' by default), a list of team members (where appropriate), resource requirements, and an estimated schedule for developing the final deliverable.

#### Project Name

##### 1. Project purpose

The purpose of the project is to develop a UNECE standard on.... [what does the Project Team aim to achieve]

##### 2. Project scope

The scope of the project is.... [what is included and what is excluded in the proposed project]

##### 3. Project deliverables

The project deliverables are:

[ name of deliverable 1 ] – [description of deliverable 1]

[ name of deliverable 2 ] – [description of deliverable 2]

##### 4. Geographical focus

The focus is global.

##### 5. Project Team membership and required functional expertise

Membership is open to experts with broad knowledge in the area of [...] especially in low and middle income countries.

##### 7. Resource requirements

Participants in the project shall provide resources for their own participation. The existence and functioning of the project shall not require any additional resources from the UNECE secretariat.

##### 8. Timetable

Detailed description of key milestones with dates from project initiation to submission for approval by the intergovernmental process.

## Annex III

### Project Template for PPP Sectors<sup>4</sup>

Annex III contains a standard of a Project Template to be used for all PPP sectors. The Project Template consists of a model PPP project that has been developed on the basis of an analysis of best practices from case studies (good and bad) and experience. It contains information that public sector officials at all levels – and especially in countries that lack a track record in PPP – ask for, or need to know, evaluating the PPP options. This project template was developed and used by the Team of Specialists on PPPs in its advice to the United Nations Office at Geneva on the feasibility of using PPPs for the renovation of the Palais des Nations (see study<sup>5</sup> prepared in May 2013 by the UNECE secretariat under the auspices of the TOS PPP Bureau).

1. Acknowledgements
2. Background and Purpose
3. Executive Summary
4. Section I: Evaluation and Analysis of the PPP Models in [a Sector]
  - 4.1. Recent international trends in the use of PPP in [a sector]
  - 4.2. Advantages and disadvantages of the various PPP models in [a sector]
  - 4.3. The PPP model chosen for [a sector]
5. Section II: Feasibility of the PPP Model within the Socio-Economic Context
  - 5.1. Legal perspective
  - 5.2. Business case using the 'Five-Case Models' framework<sup>6</sup>
6. Section III: Optimal Allocation of Risks
  - 6.1. Risk matrix
7. Section IV: Financing Model
  - 7.1. Sources of funding
  - 7.2. Payment agreements
8. Preliminary Recommendations and Conclusion
9. Annexes
  - 9.1. Comparison table of the different PPP models
  - 9.2. Relevant literature

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<sup>4</sup> The Project Template only refers to PPP sectors (health, water and sanitation, renewable energy) and not to PPP processes (procurement, risk allocation, policy). This template will be adapted by the secretariat in consultation with the Project Teams and the Bureau to accommodate specific processes.

<sup>5</sup> The study is available at:

[http://www.unece.org/fileadmin/DAM/ceci/documents/ICoE\\_PPP/ICoE/Report\\_PPP\\_option\\_for\\_PdN\\_FINAL.pdf](http://www.unece.org/fileadmin/DAM/ceci/documents/ICoE_PPP/ICoE/Report_PPP_option_for_PdN_FINAL.pdf)

<sup>6</sup> The Five Case Model comprises the Strategic Case, the Economic Case, the Financial Case, the Commercial Case and the Management Case. It was first developed by the United Kingdom and its use has spread to other countries.

## Annex IV

### **Intellectual Property Rights Policy governing the development and use of UNECE PPP Standards**

#### **Background**

It is an important UN principal that its work much be made available for use by member States free of charge. The guiding principle under which PPP standards are developed is that the main beneficiary of the standards and recommendations are the member States. Intellectual property rights (IPRs), mainly copyright, are generated throughout the development of PPP standards, third party IPRs may also be used, and this intellectual property rights policy (IPR policy) is aimed at managing the use and ownership of this IPR.

#### **UNECE PPP standards as public goods**

In order to promote the widest adoption of the PPP outputs, they can be implemented freely and without any restrictions. The Bureau of the Team of Specialists on PPPs will not recommend the approval of a standard if it is aware that third parties' IPRs exist in the draft standard or other output that are not freely available for use without any restrictions.

#### **Intellectual Property Ownership and Waiver**

All new intellectual property generated throughout the development of the PPP standards belongs to the UNECE. As a condition for participating in the Project Teams, Project Team members agree to waive their rights to enforce any prior IPRs used in the PPP standards and other outputs against any party using the standard or output.

#### **Transparency and Confidentiality**

The UNECE and the members of the Project Teams have no duty of confidentiality with respect to any information transferred between them. No information transferred that is subject to any requirement of confidentiality or any restriction on its dissemination will be considered for inclusion in any part of the PPP Open Standard Development Process (described in Annex I), and there must be no assumption of any confidentiality obligation with respect to any contribution.

#### **Disclaimer**

The following disclaimer must be included in the publication, on the website and in any other form of presentation of UNECE PPP outputs covered by the IPR policy.

The UNECE draws attention to the possibility that the practice or implementation of its outputs (which include but are not limited to standards, recommendations, norms, guidelines and technical specifications) may involve the use of a claimed intellectual property right. Each output is based on the contributions of participants in the PPP standard development process, who have acknowledged that all new intellectual property rights

generated belongs to the UNECE and have also agreed to waive enforcement of their existing intellectual property rights used in the PPP standards against any party using the outputs.

The UNECE takes no position concerning the evidence, validity or applicability of any claimed intellectual property right or any other right that might be claimed by any third parties related to the implementation of its outputs. The UNECE makes no representation that it has made any investigation or effort to evaluate any such rights.

Users of UNECE PPP outputs are cautioned that any third-party intellectual property rights claims related to their use of a UNECE PPP output will be their responsibility and are urged to ensure that their use of UNECE PPP outputs does not infringe on an intellectual property right of a third party.

The UNECE does not accept any liability for any possible infringement of a claimed intellectual property right or any other right that might be claimed to relate to the implementation of any of its outputs.

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