

# PPP IN TRADE FACILITATION WORKING GROUP

CONFERENCE CALL

JUNE 18 2013, 10:00 CET

## Attendance

### Present:

Lance THOMPSON, Conex (FR)  
Paloma BERNAL TURNES, Georgetown (US)  
Pier Alberto CUCINO, ICE (IT)  
Maurice DIAMOND, Crown Agents (GB)  
Julien HUE, Soget (FR)  
Guillaume LAURENCY, Bureau Veritas (FR)  
Johan PONTEN, SWEPRO (SE)  
Elbereth WENTZEL, Crown Agents (GB)

### Absents:

Josephine BAIAMONTE, CBP (US)  
Giovanna CHIAPINNI, ICE (IT)  
Anders GRANGARD, GS1 (BE)  
Michael KNOX, SGS (CH)  
Malcolm MCKINNON, MCM Consult. (GB)  
Francesca ZADRO, ICE (IT)

## Summary

*(points that may require your attention are in red below)*

### UN/CEFACT – very quick overview of

- the mission of UN/CEFACT.
- the organization of UN/CEFACT and where this project fits in.
- participation in UN/CEFACT working groups (registration, code of conduct, IPR policy)
- confluence website, Forum meeting, ODP
  - Objective is to gather all information and write up the relevant background paper before the autumn forum meeting (time and place is not yet confirmed, but likely the week of October 14, 2013)
  - Confluence website has not yet been created. As soon as this is online, all experts will be notified.

### PPP in Trade Facilitation key points

- Definitions
  - Definition of PPP
    - UNECE PPP Project definition
    - Not only about infrastructure, but also investment, development/capacity-building, technical assistance...
  - Definition of Trade Facilitation
    - UN/CEFACT official definition
    - the simplification, standardization and harmonization of procedures and associated information flows required to move goods from seller to buyer and to make payment”.
- Technical Issues
  - Preparation
    - Careful consideration should be given to volumes (do not estimate, ensure that there is a critical mass that merit the investment...)
    - Do not replace existing systems which perform satisfactorily
    - Involving the right people at the right time with the right skill set – within the design and management
    - There should be no conflicts of interest in the development, preparation and delivery
    - Consideration of stakeholders and users and context

- The project needs to be appropriate for the particular environment
  - Development
    - Design and customization in conjunction with all stakeholders
    - Ownership
    - Quality standards integration
    - Constraints on use
- Commercial Issues
  - Risk sharing // PPP = risk sharing
    - Cooperative risk sharing and mutual support
    - Appropriate risk sharing (risks that private sector can manage, they should take; risks that public sector can manage, they should take)
  - Quality of service
    - How to define the quality in the tendering?
      - quality and performance indicators
      - sometimes PPP is just to provide technical assistance – in this case, how to define quality
      - sometimes in the tender, development of minimum requirements (server needs to provide x number of services to the ships, for example)
    - Payment needs to be related to quality of service and performance
      - Costs and profits
      - Ensuring that the cost of usage does not create an unreasonable financial barrier to trade
      - Operational and financial sustainability
      - Private sector has to make a reasonable return.
      - Offers value for money for the tax payer
      - Use of surpluses
  - Profile of partners
    - Care should be given to the choice of partners (ensure that everyone can bring something to the table with no conflicts of interest) – individuals (natural persons) do not make good partners
  - Other
    - IPR obligations (who owns the IPR – government or company...)  
commercial/legal issue
    - Due diligence (coming into the process – ethical, financial, technical)
- Practical Issues
  - Organizational
    - Strong enabling institutions // The choice of public agency in charge // Governance
    - Legal framework « fewer, better, simpler »
    - Government provides direction, Private sector provides the drive
    - Exit strategies
  - Procurement
    - Proposals of procurement – call for proposal (transparency requirement). Must provide same information to all the tenders
    - Transparency in procurement process
    - Retendering / unsolicited tenders
  - Legal considerations
    - Instruction to the tenders. Agreements between public and private stakeholders.
    - Legal framework consistent with procurement and project needs

- Research other contracts that could affect the PPP (overlapping contracts)
    - A coherent PPP policy
  - Sustainability
    - Sustainability of project / continuous development / evolution /
    - Achieving sustainable development
    - Local capacity building vs. international exploitation
    - Must not create barriers to trade
  - Other
    - Open and transparent approaches
    - Use of consultants // use of suppliers
    - Monitoring and evaluation by a third party
- Ethical & National Sensitivities
  - Putting people first
  - Use of local staff
    - Training and ensuring that the users take possession of the tool
    - Ensure that capacity building is done within the country – build local capacity
    - Change management (human nature is perhaps resistant to change)
  - Business model should work for all partners
  - Involve the appropriate stakeholders at the right time
  - Ethical & National Sensitivities (due diligence, constraints on service providers)
  - Alternatives to PPP – local initiative with local stakeholders...
  - Repatriation of profits – external partner does not drain money out of the country (some countries require setting up joint-venture with local partners and limit expatriation of funds)
  - Language has to be done in such a way to open the competition
    - avoid publication in regional language only which doesn't allow other service providers to respond
    - Must be done in compliance with local procurement law, but where possible in line with international best practices.
- Best practices
  - References to best practices
  - About 90% of all PPP projects are in a dozen countries (Brazil, India, US, Canada, Australia, Great Britain, France, Germany, Spain, Netherlands)
  - Designing solutions that can operate optimally in the local environment
    - Understand the best practice and how this can be adapted to a different local environment (not just a simple transposition)
    - Picking up a solution in country A and using it in country B and finding that it isn't working properly in country B...
  - Different types of best practices exist (identify which type of best practice when submitting):
    - Good documentation
    - Good reputation
    - Value for money
    - Quality of service...
  - Format –
    - Should have some indicators?
    - Some examples of results?
    - Constraints of the project (time limitation, project scope...)
    - Recognition from a third party
- Identification of core documentation on the issue of PPP (Trade Facilitation)
  - Objective here = to identify existing documents which could be used as reference material for PPP projects. Generic information on PPP can be used

within these documents; specific information on Trade Facilitation PPPs would be worked on here in this project. This also permits to identify if there is a need for a UN Recommendation on the subject.

- UNECE PPP Guidebook
- UNCITRAL PPP conference beginning of May

It was suggested that it might be preferable to use an organization in line with the UN PPP “Good Governance” Guidebook of 2008:

- **PART II. GOOD GOVERNANCE IN PUBLIC-PRIVATE PARTNERSHIPS**

- 2.1. Principles of good governance in PPPs
- 2.2. Policy
- 2.3. Capacity-Building
- 2.4. Improving legal framework
- 2.5. Risk
- 2.6. PPP Procurement
- 2.7. Putting people first
- 2.8. The environment

Maurice Diamond from Crown Agents volunteered to reorganize all of the above points into these chapter headings, adding a ninth chapter called “Other”. We could decide what to do with this ‘other’ information afterwards.

Within the definition of the scope of this work, it is necessary to define what are the limits of what is being looked at within this project:

- Are we considering some infrastructure projects which could enable trade facilitation (highways, trade corridors...)?
- ‘Trade Facilitation’ may touch on quite a few topics; are absolutely all of these to be considered here?