

PPP in Trade Facilitation

Conference Call 1, June 18, 2013

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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)

UN/CEFACT

Introduction

UN/CEFACT Mission:

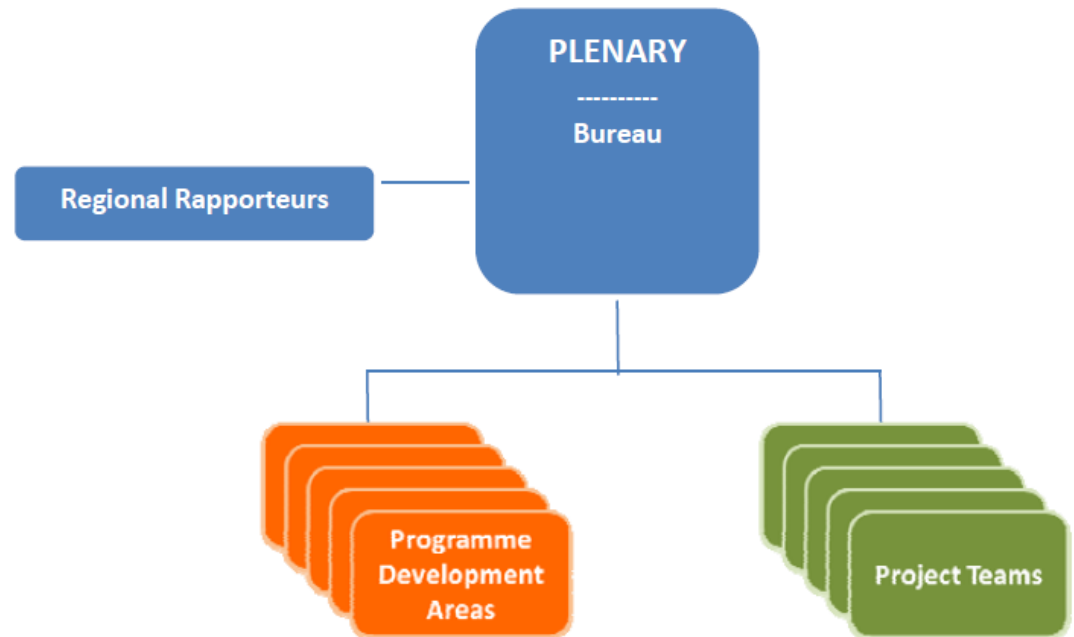
- “...UN/CEFACT supports activities dedicated to improving the ability of business, trade and administrative organizations, from developed, developing and transition economies, to exchange products and relevant services effectively. Its principal focus is on facilitating national and international transactions, through the simplification and harmonization of processes, procedures and information flows, and so contributing to the growth of global commerce. This is achieved by:
 - Analysing and understanding the key elements of international processes, procedures and transactions and working for the elimination of constraints
 - Developing methods to facilitate processes, procedures and transactions, including the relevant use of information technologies;
 - Promoting both the use of these methods, and associated best practices, through channels such as government, industry and service associations...”

UN/CEFACT

Organization & Participation



UN CENTRE FOR TRADE FACILITATION AND ELECTRONIC BUSINESS



UN/CEFACT Heads of Delegation:

http://www.unece.org/cefact/forum_grps/secretariat/hodlist.html

UN/CEFACT

Code of Conduct & IPR

- UN/CEFACT Participation policies:
 - http://www.unece.org/cefact/cf_docs.html
- Code of conduct
 - Impartiality (treat everybody fairly, respect right of privacy of all participants, respect legitimate IPR)
 - Neutrality (avoid promoting individual companies, avoid personal/professional/financial conflicts of interest)
- UN/CEFACT Intellectual Property Rights
 - Waiver obligations (Specifications developed in UN/CEFACT working groups cannot be patented by any participant in that group)
 - Disclosure (if participant has pre-existing IPR that is being developed in UN/CEFACT working group, it must be brought to the attention of the Chair of the Plenary on or prior to first milestones)

UN/CEFACT Forum Meeting

- Next Forum meeting (to be confirmed):
 - Sardinia, Italy
 - 14 – 18 October 2013
- Work schedule from now to Forum meeting:
 - Bring together all of the relevant data
 - June to September (propose three conference calls)
 - Write up a white paper / Background paper
 - September (propose a fourth conference call)
 - Identify if there is a recommended practice to put forward
 - October (to be discussed at the Forum meeting)

UN/CEFACT

Confluence Website & ODP

UN/CEFACT Project ODP (Open Development Process)

- Project inception
- ~~Information gathering~~
- Draft Development
- ~~(Internal Review)~~
- ~~Public Review~~
- Publication
- ~~Maintenance~~

Confluence Website:

- <http://www.unece.org/tradewelcome/areas-of-work/un-centre-for-trade-facilitation-and-e-business-uncefact/projects/current-projects.html>

UN/CEFACT 21st Forum in Geneva

- Preliminary meeting of organized around presentations from various actors
 - UNCITRAL, UNECE (ICoE), SWEPRO, SGS, Crown Agents...
- Some points that came out include:
 - There is interest in the subject and the UN/CEFACT is probably the ideal place to develop this.
 - PPP in Trade Facilitation can be different from PPP in infrastructure; a UN Recommendation could bring guidance on how to approach this.
- Current project scope includes:
 - information gathering,
 - try to identify cases when PPP makes sense from a financial & economical point of view
 - research of existing texts on the subject to see if the information gathered differs (if a UN/CEFACT project could bring an added value)
 - identify if there are recommended practices which could provide short/clear guidance

PPP in Trade Facilitation Key Themes

- 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”.

PPP in Trade Facilitation Key themes

- 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

PPP in Trade Facilitation Key themes

- 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)

PPP in Trade Facilitation Key themes

- 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

PPP in Trade Facilitation Key themes

- 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...

Key themes in UN PPP “Good Governance” 2008 Guidebook

- ***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

Identification of core documentation on the issue of PPP (Trade Facilitation)

- UNECE PPP Guidebook
- UNCITRAL PPP conference beginning of May
- 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.

Identification of Best Practices of PPP in Trade Facilitation

- 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