

PPP in Trade Facilitation Working Group

PPP in Trade Facilitation key points

Based on the chapter headings of part 2 of *GOOD GOVERNANCE IN PUBLIC-PRIVATE PARTNERSHIPS*

---. Basic principles

1. Definition of PPP → **Lance**
 - a. UNECE PPP Project definition
 - b. Not only about infrastructure, but also investment, development/capacity-building, technical assistance...
2. Definition of Trade Facilitation → **GORDON CRAGGE (in order to make a definition that should cover all of ITPD)**
 - a. UN/CEFACT official definition
 - b. the simplification, standardization and harmonization of procedures and associated information flows required to move goods from seller to buyer and to make payment”.
 - c. Could also involve services (not just goods).
 - d. the International Chamber of Commerce (ICC) defines trade facilitation as “the adoption of a comprehensive and integrated approach to simplifying and reducing the cost of international trade transactions, and ensuring that the relevant activities take place in an efficient, transparent and predictable manner based on internationally accepted norms and standards and best practices”
 - From the Africa Emergine Markets document (on website)
 - (trade facilitation is not necessarily only international, but can also be national)

How to identify the interests between government and trade. The resulting solution is more efficient and transparent.

2.1. Principles of good governance in PPPs → **Maurice, James**

Benefits of a partnership.

Good governance is then that the situation will evolve all the time.

When setting up the project: there was a goal – this needs to be monitored and checked on a regular basis.

Agreement between the partners and benefits and risks expected by all concerned.

Should try to set out the difference between Private-Private partnership and Public-Private partnership... or are these principles the same for all types of partnership?

1. Do not replace existing systems which perform satisfactorily
2. Strong enabling institutions // The choice of public agency in charge //Governance
 - a. Care should be given to the choice of partners (ensure that everyone can bring something to the table with no conflicts of interest)
 - b. individual persons) do not make good partners
3. Business Professionals
 - a. Involving the right people at the right time with the right skill set – within the design and management

- b. Use of consultants // use of suppliers
 - c.
- 4. Design and customization in conjunction with all stakeholders
 - a. Ownership
 - b. Quality standards integration
 - c. Constraints on use
 - d. Open and transparent approaches
- 5. Monitoring and evaluation by an independent third party
- 6. Best practice contract management
- 7. Stakeholders
 - a. Business model should work for all partners
 - b. Involve the appropriate stakeholders at the right time

2.2. Policy → Anders

Policy in this context should be interpreted as:

Policy is where both partner's understandings meet. If there are conflicting interpretations of key aspects (such as IPR), this can cause major problems – their policies need to be compatible. If the policies work together, then it's possible to set up a partnership. The second step would be to set up a business plan (includes environmental aspects, sustainability...).

Legislative aspects have to be taken into account. The legislative framework can dictate or restrict the form that a PPP can take...

Need to set up a calendar of the roll out of the project with the priorities, the benefits, the connections within the project or with other projects...

3. A coherent PPP policy

2.3. Capacity-Building → Paloma

Capacity building on what level? – capacity building of local development

How infrastructures can become more efficient in international trade – making one part of the supply chain more efficient can have positive impacts on other links of the supply chain. If there are not sufficient infrastructures in a given part of the supply chain, it can make the entire supply chain insufficient. How infrastructures are linked with administrative procedures.

1. Sustainability of project / continuous development / evolution /
2. Achieving sustainable development
3. Local capacity building vs. international exploitation
4. Must not create barriers to trade
5. Training and ensuring that the users take possession of the tool
6. Ensure that capacity building is done within the country – build local capacity
7. Change management (human nature is perhaps resistant to change)

2.4. Improving legal framework → Josephine, Giovanna & ICE (IT)

The main laws playing a part in the agreement

If a joint venture between partners in several countries doing a project in a third country – must define the legal framework to be applied.

The authorities that launch the project (make the public proposal) is a key factor (to

determine the legal framework to be considered).

1. Legal framework « fewer, better, simpler » (simplify legal framework as much as possible)
2. IPR obligations (who owns the IPR – government or company...) commercial/legal issue
3. Government provides direction, Private sector provides the drive
4. Instruction to the tenders. Agreements between public and private stakeholders.
5. Legal framework consistent with procurement and project needs
6. Research other contracts that could affect the PPP (overlapping contracts)

7. Exit strategies (the legal framework governing how administration can withdraw from a project [in order to ensure the clarity of contract]) prévisibilité

2.5. Risk → Finland (Jari, Lauri, Markus)

There can be risks that are specific to Trade Facilitation PPPs such as policy change. These can be seen in WTO negotiations, for example.

Another example, if you implement a standard like UNTDED, the time to resolve problems related to other code lists which are only national and the government does not want to risk time to exploit, etc.

“Bottleneck of trade facilitation work”

1. PPP = risk sharing (Core aspect of PPP is the sharing of risks)
2. Complementary objectives and mutual support
3. Appropriate Cooperative risk sharing (risks that private sector can manage, they should take; risks that public sector can manage, they should take)

2.6. PPP Procurement → Maurice & James (Crown Agents)

This should be restricted to PPP procurement process related to Trade Facilitation.

1. Procurement Practice
 - a. Must be done in compliance with local procurement law, but where possible in line with international best practices.
 - b. Terminology has to such that it enables appropriate competition
 - c. Avoid publication in regional language only which doesn't allow other service providers to respond
2. There must be transparency in procurement process
 - a. Proposals of procurement – call for proposal (transparency requirement). Must provide same information to all the tenders
 - b. Best practice must be applied to retendering / unsolicited tenders
 - c. Due diligence (coming into the process – ethical, financial, technical)
3. Quality of service
 - a. How to define the quality in the tendering?
 - b. Identify quality and performance indicators
 - c. sometimes PPP is just to provide technical assistance – in this case, how to define quality
4. Business Data
 - a. sometimes in the tender, development of minimum requirements (server

- needs to provide x number of services to the ships, for example)
 - b. Careful consideration should be given to business data volumes (do not estimate, ensure that there is a critical mass that merit the investment...)
5. Operational and financial sustainability
- a. Profile of partners
 - b. Project must be “bankable”
 - c. Payment needs to be related to quality of service and performance
 - d. Ensuring that the cost of usage does not create an unreasonable financial barrier to trade
 - e. Private sector has to make a reasonable return.
6. Must provide value for money for the tax payer
- a. Limit the ability of the private sector to make super profits

2.7. Putting people first → **SGS Michael**

1. There should be no conflicts of interest with local inhabitants in the development, preparation and delivery
2. Need to consider all stakeholders and users and the context in which the PPP will be delivered
3. Use of local staff
4. Ethical & National Sensitivities (due diligence, constraints on service providers)
5. Alternatives to PPP – local initiative with local stakeholders...
6. 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)

2.8. The environment → **Malcolm?, Guillaume?**

1. The project needs to be appropriate for the particular environment
2. ethical Issues