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UNECE INTERNATIONAL PPP CENTRE OF EXCELLENCE

UNECE National PPP Readiness Assessment Report: Tajikistan



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1 INTRODUCTION

1.1 TAJIKISTAN'S VISION

Infrastructure is the basis for a sustainable and inclusive economic growth that creates more jobs and reduces poverty. One of the potential key strategies for achieving this is through the development of a PPP programme. As noted above, this is a widely shared vision in Tajikistan; at the time of this draft report, there is an active public dialogue regarding PPPs, and a draft PPP law is being considered in the Legislature. From transportation to water and energy systems, Tajikistan needs investment and innovation to reduce its reliance on fossil fuels, create capacity for economic growth, and make better use of its natural resources.

Tajikistan needs to modernize its infrastructure, much of which dates to the Soviet era and suffers from years of underinvestment and deferred maintenance. The envisioned improvements will include, among other things:

- a diversified and reliable energy system.
- an efficient integrated multi-modal transportation network;
- an efficient water and sewage system;
- modern health and education systems; and
- a productive agriculture system with reliable irrigation and supply chain agro-food processing.

Currently, the State plays a too-dominant role in the planning and delivery of public services relative to the leading successful market economies. To improve infrastructure-based service delivery, Tajikistan should further involve stakeholders in the planning process, and diversify the mix between public and private service providers by offering more opportunities for private sector participation.

The lack of infrastructure has been internationally recognised as an impediment to economic growth in any economy. PPPs, when properly implemented, can help reduce a nation's infrastructure deficit. With a strong enabling environment, PPPs can help to fulfil the vision for the nation's infrastructure needs by setting goals to align departmental policies, attracting private sector investment and expertise, ensuring best value from government investments, and optimizing project risk allocation. The PPP model has in-built mechanisms which reduce the potential for schedule slippage and cost overruns in delivering major projects, and can accelerate availability of service improvements.

1.2 THE UNECE NATIONAL PPP READINESS ASSESSMENT IN TAJIKISTAN

The vast majority of countries with developing economies or economies in transition, both within the UNECE region and beyond, are at the initial stages of developing national infrastructure investment strategies. Typically, these countries need to improve their understanding, knowledge, capability, and skills, and to establish efficient processes that would allow them to properly develop and deliver their PPP strategies. The UNECE recognised this capability gap and thus embarked on the development of a PPP Toolkit for capacity building. This Toolkit includes a National PPP Readiness Assessment (RA), which can help countries develop their PPP strategies according to best international practice, so that they can better deliver much-needed infrastructure on a large-scale, co-ordinated basis, meeting the needs of their citizens and at a cost that represents 'value for money'.

The National PPP Readiness Assessment Tool forms an important component of the UNECE PPP Toolkit. It offers a new policy advisory service, through UNECE's Team of Specialists for PPP (TOS PPP) and the UNECE International PPP Centre of Excellence (UNECE ICoE), to developing countries and those with economies in transition, to assist them in identifying existing strengths and potential challenges facing them in developing PPPs and in attracting private capital for infrastructure development.

The RA is jointly developed by the UNECE and the host country. Its main objective is to provide an objective, qualitative assessment of the existing environment, together with the development of a plan to help the country develop its capacity to attract private capital and improve its infrastructure development capability.

The RA strategically identifies national infrastructure needs and strategically analyses the national enabling environment. It then considers areas for feasible pilot projects and finally develops an Action Plan.

In 2012, the UNECE secretariat received a formal request from Tajikistan to assist the country in furthering its PPP development. This would be done by undertaking a readiness assessment which will provide a number of recommendations that will form the basis for a strategic Action Plan for PPP development in Tajikistan. Notably, the request was received jointly from the public and private sectors, represented respectively by the Ministry of Economic Development and Trade and the National Association of Small and Medium Business. This underscores the broad interest in PPPs as a tool for infrastructure and service delivery within the Republic of Tajikistan.

In addressing this capability gap in Tajikistan, the UNECE, through its Team of Specialists on PPP, and in cooperation with the Ministry of Economic Development and Trade (and subsequently in 2013 with the State Committee on Investments and Management of the Public Property) and the Association of Small and Medium Business, held a series of meetings with key stakeholders involved in furthering PPP development in Tajikistan (including lead and line ministries, financial institutions, private businesses and representatives of intergovernmental organisations). For virtually all of these meetings, the UNECE Team was accompanied by a representative of the Ministry of Economic Development and Trade, the Association of Small and Medium Business, or both. The knowledge acquired from these meetings, together with the replies to the pre-visit questionnaire, helped to formulate the recommendations contained in this document.

UNECE National PPP Readiness Assessment

The purpose of meetings with stakeholders is to:

- make a thorough examination of the enabling environment and identify challenges that may face a country in its aim to attract private capital for infrastructure development;
- consider areas where potential pilot projects are needed and feasible; and
- formulate an Action Plan to develop PPPs in the country.

The programme of meetings in Tajikistan took place from 24 to 28 September 2012, and it was specifically designed to engage all of the major stakeholders in Tajikistan who are involved with infrastructure development, both in the public and private sectors, as well as major international organisations. Most of the meetings with line ministries were at the level of First Deputy Ministers, while those with the financial organisations and private businesses were at the level of senior executives. A list of the organisations met with is provided at

Annex III. The consultations with the various stakeholders were informal in nature, and the knowledge acquired from these meetings together with the replies to the pre-visit questionnaire provided the basis for the readiness assessment report and the draft recommendations below. In some cases, follow-up discussions were held by telephone or email subsequent to the on-site visit.

Table 1: ‘Six Steps’ to the UNECE National PPP Readiness Assessment

The process to a UNECE national PPP readiness assessment is graphically depicted in Table 1 above, while a more detailed description of the ‘six steps’ is contained in Annex I. Suffice it to say at this juncture that the fact-finding mission, which represents step 1, took place in September 2012, and that this draft report represents step 2. Step 3, corresponding to the consultation and peer review is scheduled to begin in September 2013, concurrent with the working level workshop to be held in Dushanbe. The following table provides the approximate target completion dates for each of the six steps:

Step No.	Description	Target Completion Date
1	Fact Finding Mission	September 2012
2	Preliminary Report	September 2013
3	Consultation and Peer Review	September 2013
4	Working Level Workshop	September 2013
5	Improvement Process & Final Report	October 2013
6	Final Report and Strategic Action Plan	November 2013

1.3 METHODOLOGY

Where possible, primary sources were the main sources of information used throughout this report. These include information obtained from responses to the pre-visit questionnaire (see Annex II) from various stakeholders, and from the consultations with the various public officials, representatives of the business community and the banking sector, and representatives of international organisations.

A number of secondary sources were also used in compiling this report. These were mainly studies prepared by reputable international organisations, such as International Financial Institutions, particularly the World Bank, and Transparency International.

2 RECOMMENDATIONS

The recommendations are structured in a sequenced approach, starting with developing institutions and procedures, including training and capacity building; the importance of infrastructure plans, especially if sectoral plans are presented to the market as one comprehensive national infrastructure plan; and finally the drivers to PPP implementation, including a list of potential sectors where pilot projects could be initiated.

2.1 DEVELOPING INSTITUTIONS AND PROCEDURES

2.1.1 PPP Law

Amend the new PPP law to better conform to international best practice (see Table 2 below).

Recommendation 1

Tajikistan has had an existing Concession Law on the books since 1997 which could serve as the statutory basis for certain PPPs (and, indeed, was used as the basis for the Dushanbe to Chanak Toll Road PPP, for example). However, this law fell far short of international best practice and until recently was ranked as “extremely low compliance” by EBRD, a ranking which indicates a compliance rate of less than 30 percent. A new concession law was enacted on December 26, 2011, but this was very similar to the original law, with only minor improvements. These resulted in an updated EBRD assessment which inched into the lower end of the “low compliance” range, at 31.2 percent. Among other concerns, EBRD notes an unclear definition of concessions, broad discretion to award sole-source contracts (based on undefined “exceptional cases”), lack of regulation of unsolicited proposals, and discrimination against domestic investors.

A new draft PPP law was being considered at the time of the UNECE visit in September 2012, and this legislation became law shortly after. This law implements a number of improvements, including creation of a PPP Unit (referred to as the authorized government body); this body was established in August 2013 under the State Committee on Investments and State Property Management. The new law also provides for feasibility studies prior to procuring PPP projects, and a procurement process which generally conforms to international norms, and introduces prequalification and other beneficial PPP procurement practices.

However, despite many improvements as compared to the earlier Concession Law, this law, in its current form, is still significantly short of international best practice. It will do little to encourage private investment in Tajik PPP projects, particularly foreign investment. For example, although Tajikistan deposited its instrument of accession to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (commonly known as the New York Convention) in August 2012, with an effective date of 12 November 2012, the draft law makes no provision for international arbitration. Instead, disputes would be considered by the Public-Private Partnership Council, a body of senior Tajik government officials, a model which would provide little assurance of an objective hearing to concerned potential investors.

The PPP Law also gives the Public-Private Partnership Council broad powers to waive competitive procurement procedures. Article 22 lists a number of reasons which the Council can invoke to forego competition for a particular project, ending with “for compelling reasons of national or public interest or in the cases of recognition in the interest of local government body”. Neither “compelling reasons” nor “interest of local government body” are further defined. This statute thus provides great latitude for non-transparent contractual transactions.

An additional concern is that the UNECE team was informed that the Concession Law would be left in place after the PPP law was enacted. This could provide the opportunity for agencies which wished to avoid the more rigorous provisions of the new law to promote their project(s) under the concession law.

There is a significant body of experience with PPP law at this juncture, and international best practice is recognized as such because it has been demonstrated to work. This best practice provides clarity, ensures a level playing field for domestic and international bidders, promotes transparent and objective decision processes, and establishes accountability. Tajikistan will not be able to attract large amounts of foreign investment and establish a robust PPP programme until it has in place a legal framework and enabling environment which are reasonably compliant with international best practice.

The key principles for an adequate PPP legal framework are depicted in Table 3 below. These principles are based on the UNCITRAL work on privately financed infrastructure projects,¹ and provide internationally accepted and proven benchmarks against which legislative provisions should be measured.

¹ The UNCITRAL legislative guide is available at: <http://www.uncitral.org/pdf/english/texts/procurem/pfip/guide/pfip-e.pdf>

Table 2: PPP legal framework

Synthesis of key principles for an adequate PPP legal framework

- **Constitutional, legislative and institutional framework:**
 - no undue restrictions for private sector involvement in infrastructure projects;
 - power and capacity of a public authority to award the infrastructure (PPP) projects and to enter into the project (PPP) agreement with the private partner;
 - Identify the sectors where PPPs projects may be awarded and those where they are specifically excluded.
- **Selection of the private partner:**
 - selection criteria and procedures, including on unsolicited proposals, should be clear, open, transparent and efficient;
 - concessions without competitive procedures should be awarded in exceptional circumstances set forth in the law.
- **Government support and guarantees:** public loans, subsidies, guarantees against adverse acts of governments, tax and customs benefits, guarantees related to the project site and other forms of government support should be explicitly set forth in legislation.
- **Repatriation of profits:** crucial that the repatriation of profits is not prohibited by legislation.
- **Tariff setting and tariff control:** restrictions on the private partner's freedom to establish tariffs and fees should follow established principles of "reasonableness", "fairness" or "equity".
- **Step-in rights:** statutory step-in right provisions or at least the possibility of stipulating such provision in the project agreement are crucial for lenders.
- **Expropriation/nationalization and compensation:** adequate statutory protection should be provided to investors, including a transparent procedure for compensation at market value.
- **Termination of the project agreement and compensation:** a clearly established procedure for compensation in case of early termination of the agreement should be available.
- **Dispute resolution:** arbitration in a neutral jurisdiction would provide investors with the assurance that disputes are resolved fairly and efficiently.

Source: based on UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects

2.1.2 Setting up a PPP Unit/Centre/Task Force

It is commonly accepted that governments can build the necessary capacities in a combined approach which establishes new institutions and trains public officials while at the same time using external expertise. However, developing skills inside government presents a major challenge. There are a number of new skills that must be developed for PPPs, such as negotiation, contractual and financial skills. One of the key challenges is that instead of the traditional approaches, which focus on inputs, PPPs require skills that can identify the outputs of projects. These skills are generally not found within governments but these skills may be acquirable. The challenge is to retain skills acquired from the private sector within the public sector.

A PPP Unit, Centre or Task Force should be established within the public sector to house the new skills and this concentration in one body will increase the impact of the acquisition of the necessary skills, the key functions of which are listed in Table 2 below.

Recommendation 2

Table 3: The key functions of the PPP Unit

- help develop and support the management of the project preparation process;
- provide the policy, technical, legal and other support mechanisms to local authorities and government ministries that have the responsibility of putting the project together rather than undertaking the projects itself;
- help the relevant procuring authority to more confidently manage the whole process (including engagement with external advisors) from the development of the initial project design through to the bid evaluation process and post financial close;
- take on the role of consulting with investors and communicate to line ministries their concerns regarding legal and institutional bottlenecks to the implementation of PPP projects;
- develop the market for PPPs, which can provide a consistency of approach across a wider range of projects – thus limiting the chance that the private sector might play one part of the public sector off against another;
- play a crucial role to maintain a strong dialogue with all players in the market;
- hold regular seminars for the commercial advisers – legal, technical and financial; and
- engage with advisers and get their informal advice (which is a form of ‘market testing’) at the various phases of project development.

Source: UNECE Guidebook on Promoting Good Governance in PPPs

Institutional capacity-building is crucial to ensure the proper functioning of the PPP Unit even before its establishment.

The UNECE team notes that, as mentioned above, Tajikistan did begin formation of a PPP Unit within the State Committee on Investments and State Property Management in August 2013. However, this body does not have the full range of authority that an effective PPP Unit should have. Article 6 of the PPP Law, which delimits the “Powers and Activities of the Authorized Government Body”, does not grant the PPP Unit the full range of authorities which would ordinarily reside in such a unit. Instead, the PPP Unit is required to make

recommendations to the Public-Private Partnership Council on which projects to pursue or approve, what issues within the PPP programme warrant further examination, etc. There are thus two levels of government involved, rather than the typical single level, before key decisions can be made. This additional level of bureaucracy may prove cumbersome and delay the implementation of PPP programme activities. One solution would be to establish a threshold of, for example, US\$10 million. Projects with an estimated cost below this threshold could receive final approval from the PPP Unit, while more expensive projects would be elevated to the National Council for final approval. This would expedite the PPP approval process while ensuring that projects of national significance receive scrutiny from a higher-level body.

A related question is organizational placement of the PPP Unit within the Executive, with the Government of Tajikistan placing this function within the State Committee on Investment and State Property Management. Various models have been employed successfully, and experience suggests that the specific location is less important than ensuring that: (1) the PPP Unit has the required authority it would need in its dealings with Government Ministries, agencies, municipalities and private sector entities, in order to ensure PPP is established and implemented successfully and (2) a competent and knowledgeable staff, with the resources necessary to execute their mission. The Ministry of Economic Development and Trade and the Ministry of Finance are two alternative locations. The MoF is perhaps the most common location globally, and this may help with the essential task of integrating the PPP programme with the budget. However, this discussion is for informational purposes only; UNECE does not make a recommendation on organizational location of the PPP Unit of Tajikistan.

2.1.3 Training and Capacity-Building

Capacity-building at various levels was identified by all stakeholders involved in the RA as the most crucial need today to develop PPPs in Tajikistan. Broadly, this may be considered to include: 1. **Human resource development**, which is the process of equipping individuals with the understanding, skills and access to information, knowledge and training that enables them to perform effectively; 2. **Organizational development**, or the elaboration of management structures, processes and procedures, not only within organizations but also the management of relationships between the different organizations and sectors (public and private), and 3. **Institutional and legal framework development**, which entails making legal and regulatory changes to enable organizations, institutions and agencies at all levels and in all sectors to enhance their capacities.

The need for training and capacity-building is by no means unique to Tajikistan and UNECE's experience is that training and capacity-building remain essential in enabling countries with economies in transition to develop their PPP programmes. In devising a capacity-building and training strategy, one should keep in mind that in order to be effecting and enduring, capacity-building and training should be a continuous, progressive and iterative process that is participatory, country-driven and consistent with national priorities and circumstances. Furthermore, this process has to be supplemented with the experiences of countries with a more mature PPP programme, whose best (and not so good) practices and lessons learned remain crucial in avoiding early mistakes and failures.

Implement an extensive training and capacity-building programme to ensure that all stakeholders involved in the PPP process, including public officials, the banking sector, the business community and the public at large are fully aware of the PPP concept and its effective development.

Recommendation 3

The training is envisaged to be:

- project focused (adopting a ‘learning by doing’ approach); and
- once the basic skills are acquired, would eventually be delivered by local trainers, using, at least in part, the many institutions of higher learning already present in Tajikistan.

The subject-matter of training and capacity-building is envisaged to be focused on:

1. the technical aspects of PPPs and infrastructure planning and prioritisation in general; and
2. the need to create more space for the private sector to develop, especially in the modernisation of Tajikistan’s infrastructure.

2.1.4 Knowledge Management/Retention

A training programme alone will not be sufficient to ensure that the public sector retains the expertise necessary for the long-term success of its PPP initiative. Several countries have embarked on PPP capacity-building, only to have the trained civil servants move on to other public sector positions, or be hired by the private sector after their new PPP-related skills increase their value in the marketplace. A well-trained public sector capacity can quickly become hollow.

A knowledge management/retention plan, identifying the training requirements, refresher trainer, and backup capacity, can help to retain this key institutional knowledge. In some cases, structural changes such as deviations from standard civil service pay scales, bonuses, or other incentives have been used to help preserve this capacity.

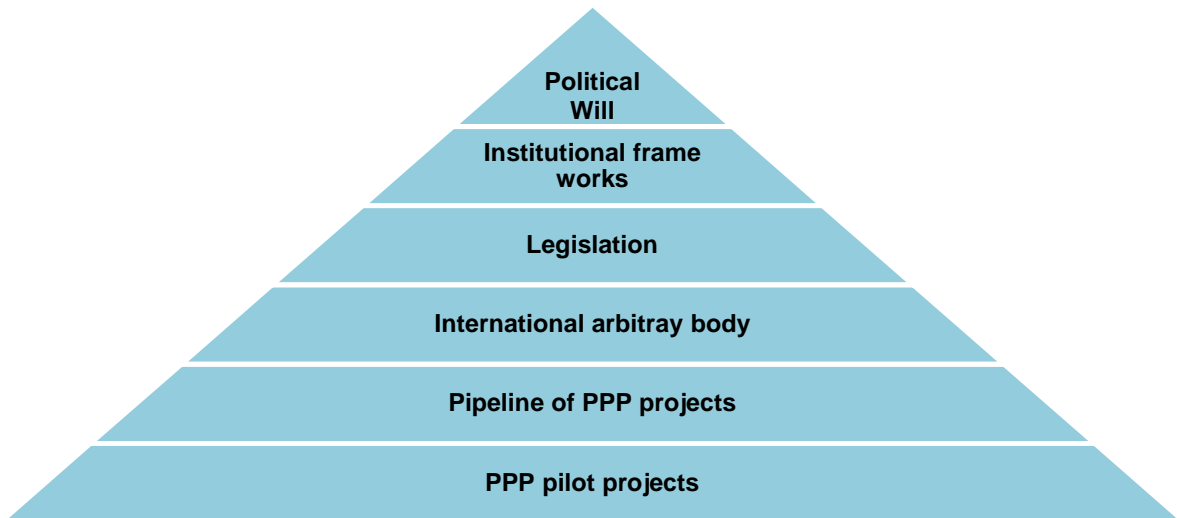
Develop and implement a PPP knowledge management/retention plan within key agencies of the national government.

Recommendation 4

2.1.5 Develop PPP Strategy and Conceptual Projects

Table 4 below visually depicts the key components of a PPP programme, several of which have already been discussed in this report. The PPP pyramid rests on a base of pilot projects, the success of which (or lessons learned from) can help to shape the development of a full PPP programme.

Table 4: Key components of a PPP programme



This naturally leads to three questions:

1. In what sectors might PPPs be used in Tajikistan
2. What PPP models might be employed, and
3. What factors need to be considered?

To begin, it is worth noting that there are two major, fully-implemented PPPs in Tajikistan today. These are the Dushanbe-Chanak toll road, and the Pamir Power Plant.

The contract for the 358 km Dushanbe-Chanak Toll Road was awarded in 2010 under the old concession law. The selected contractor was given a 33-year contract, with tax concessions, to operate, maintain, and improve a major north-south road corridor. Tolls were placed on the previously free road, with the tolls intended to enable repayment of more than \$280 million in loans from China which financed the road improvements.

The contract was awarded without competition or transparency, and the selected firm was a newly-formed entity with no other projects. The firm is registered in the British Virgin Islands offshore zone, and its ownership is murky. Stakeholder consultation about this project appears to have been non-existent, leading to public protests, and the contract lacks performance standards and other aspects of a well-prepared PPP contract. Despite this inauspicious origin to the contract, the concessionaire, Innovative Road Solutions, Ltd., has improved the road's maintenance, reduced road closures due to snowfall, and is making other investments in the roadway. As a consequence, there is clearly public benefit being provided, although whether the benefit justifies the high tariffs along the road is impossible to evaluate in the absence of any studies or other public information.

The Pamir Power Plant, on the Guni River in the Gorno Badakhshan Autonomous Oblast in eastern Tajikistan, is a \$26 million PPP hydropower project which completed the Pamir I power facility, which had been partially operational (two of four turbines) since 1994. This project included participation by the Aga Khan Development Fund, IFC, IDA, and the Swiss government; as a consequence the project design and contract meet international standards. The project continues to perform well (a World Bank Implementation Completion and Results Report, dated June 28, 2011, rates it as "satisfactory"), and has successfully weathered several challenges, including significant damage due to flooding in 2007, and an attempt by the Tajik government to unilaterally increase the interest rate for the government's on-lending to the concessionaire. However, the degree of donor participation in this project makes it an atypical PPP.

In summary, the presence of two completed, operational PPP projects within the country might ordinarily be construed as a positive indicator for further PPPs. In this case, however, the two completed projects serve to highlight some of the concerns potential investors might have about transparency, accountability, and government commitment within Tajikistan. These concerns will need to be addressed before any significant amount of investment can be attracted to similar projects.

The business environment in Tajikistan is challenging, and the bureaucracy burdensome. The World Bank's Ease of Doing Business 2013 ranks Tajikistan overall as 141st in the world, out of 185 ranked jurisdictions. Tajikistan is among the lowest-rated in the world in Dealing with Construction Permits (180), Getting Electricity (181), Getting Credit (180), Paying Taxes (175), and Trading Across Borders (184). On a more positive note, the 2013 evaluation moved Tajikistan from 66th to 25th in Protecting Investors, due primarily to new provisions holding Directors more liable for the actions taken by firms. With this important improvement, Tajikistan improved six places from 2012's overall ranking of 147th.

According to the 2012 Corruption Perceptions Index of Transparency International, Tajikistan is currently ranked 157th out of 176 in the world, with a score of 22 out of 100. This represents a slight decline from Tajikistan's 2011 ranking of 152nd; among the Commonwealth of Independent States, only Turkmenistan and Uzbekistan ranked lower in 2012. This level of corruption, even if just perceived, acts as a significant disincentive in attracting private capital to the country. Greater transparency in the courts and also public procurement processes is normally required in this case. Without transparency, external investors are unlikely to invest in Tajikistan given the other investment alternatives available elsewhere, both globally and within the region, and the absence of international arbitration from Tajikistan's PPP Law.

Not surprisingly, given these challenges, the banking and business sectors in the country are relatively undeveloped, although both commercial banks and businesses exist and expressed interest in expanding their capabilities. However, government intervention in the commercial sector is still a concern, and is manifested in various ways, from banks being directed to make certain loans to blocking of foreign news sources which display unwelcome versions of events. The banking sector has also suffered from the government's decision not to provide full compensation for losses due to loans to cotton farmers, which may limit the banks' willingness to make loans to the agriculture sector in the future. Long-term debt is generally not available in Tajikistan. The government's prevalent role as a service provider also limits opportunities to build private sector capacity.

A relative bright spot is public procurement. The government has established a central authority for public procurement and has public procurement legislation in place (The Law of the Republic of Tajikistan on Public Procurement of Goods, Works, and Services, adopted in March 2006). The public procurement legal framework was assessed by EBRD in 2010 as being in "low to medium compliance" with international standards. The 61 percent compliance rate scored by EBRD in this sphere was double the compliance rate of 31.2 percent for the concession law. EBRD concluded that the public procurement law provides basic regulatory features, but is outdated and provides an insufficient degree of regulation. In particular, the procurement law does not incorporate adequate integrity and efficiency provisions, and allows domestic preferences which severely limit the potential participation of foreign firms.

Local government procurement practices were rated even higher, with an average compliance rate of 80 percent, or "medium to high compliance" with international standards. A challenge here, particularly for foreign firms, is a lack of uniformity and consistency from jurisdiction to jurisdiction, due to the strong influence of local regulations.

Tajikistan's infrastructure is in need of improvement, and many assets have deteriorated over the past two decades due to underinvestment and deferred maintenance. Among the economic and social infrastructure needs which were identified were improvements in:

- Transport, particularly roads and airports
- Water (drinking and irrigated) and wastewater
- Solid waste management
- Power production and transmission
- Healthcare, and
- Education

All of these sectors have seen successful infrastructure and service delivery through PPPs in many countries around the globe. However, in Tajikistan, a key factor will be affordability, which will impact the number and types of PPPs which can be implemented.

For example, one common form of PPP is based on the British Private Finance Initiative (PFI). In such PPPs, a private party designs, finances, constructs, operates, and maintains an asset for the government, and receives periodic (e.g., monthly) payments from the government, based on availability of the asset in accordance with the contract terms. Over the term of the contract (typically 20 to 30 years), the private party, if its performance is satisfactory, will recoup both its initial investment and the cost of operation and maintenance, and make a profit. This is an excellent model, in which the government avoids the upfront capital investment for building or renovating assets and transfers the performance risk to the private sector. Although used in various sectors, the PFI model is particularly prevalent in social sector PPPs, such as schools, hospitals, prisons, etc., where user fees may be impractical or socially undesirable.

In Tajikistan, at the national level, some limited use of the PFI model should be possible. However, the government does not have the capacity to assume the financial obligations associated with a large number of PFI projects. In addition, investors may be concerned over the government's long-term commitment to continue payments for such projects. For this reason, the PFI model should be applied very selectively, and used for high-priority, relatively short-term projects where user fees are not a viable option.

User fees also raise the issue of affordability, for the consumer who receives the service or uses the asset. This is also a limiting factor in Tajikistan; the Pamir Power project, for example, uses a structured set of rates which enables low-income residents of that region to purchase electricity via partially-subsidized tariffs.

One solution, although a partial one, is to look for PPP projects such as energy savings performance contracts or municipal lighting contracts, where the savings produced by more efficient upgrades to existing systems creates a revenue stream which will pay for the private investment and participation.

In view of the above factors, it is recommended that:

At the national level, the PPP enabling environment should be the immediate focus. While a few carefully-selected PPP pilot projects should be undertaken, a major PPP programme will only be successful in an improved environment.

Recommendation 5

<p>The Government should work to improve the business climate, such as the real or perceived barriers related to:</p> <ul style="list-style-type: none"> • doing business in Tajikistan (e.g., the burdensome level of state bureaucracy; active state intervention; system of currency regulations; instability of normative legal framework for business, etc.); • corruption (real or perceived); and • policy intervention to mitigate the costs associated with access to finance, which is so crucial for PPP development. 	<p><i>Recommendation 6</i></p>
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<p>The Government should work to improve the financial climate, for PPPs, including policies aimed at:</p> <ul style="list-style-type: none"> • making lending more accessible to businesses, both to local and foreign capital; • Encouraging long-term lending for infrastructure projects. The absence of long-term debt availability in Tajikistan limits what can be accomplished through PPP development; • making lending terms less onerous to businesses; • stabilising local debt interest rates for long-term infrastructure projects 	<p><i>Recommendation 7</i></p>
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<p>Improve the Public Procurement Law, bringing it into higher conformance with international standards.</p>	<p><i>Recommendation 8</i></p>
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<p>Identify small to medium size PPPs at the municipal level, particularly for functions such as energy efficiency and municipal lighting, which will help pay for themselves.</p>	<p><i>Recommendation 9</i></p>
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2.1.4 Initiate Strategic Outsourcing

Develop a strategic performance and efficiency plan to outsource non-core services to the private sector under performance-based contracts

Recommendation 10

The Government should consider selectively outsourcing services currently performed by the civil service, where there is potential to improve service quality and reduce costs. Many mature PPP markets have employed outsourcing as a first step to full PPP, in order to build confidence in a partnership model with the private sector. This could also be an important tool for building a more robust commercial service industry in Tajikistan.

2.1.5 Mitigate the Effects of Climate Change

Identify potential PPP projects which will help mitigate the effects of climate change in Tajikistan.

Recommendation 11

As previously noted, Tajikistan has been identified as the country most susceptible to adverse impacts of climate change with the Eastern Europe and Central Asia region. PPPs can be an effective tool for mitigating some of these impacts.

For example, climate change is affecting food security in Tajikistan by increasing the frequency of temperature extremes and the prevalence of drought. At the same time, Tajikistan's government-owned irrigation systems are deteriorating and losing capacity. These Soviet-era systems have been poorly-maintained, and the available funding is inadequate to restore them to full capacity or to sustain them there.

A PPP project could be the solution to improving the irrigated water capacity in an area like the highly-populated Khatlon lowlands, which was identified by the World Bank as one of the areas within Tajikistan most susceptible to adverse impacts of climate change.

Such a project would take serious preparation. For example, the current tariffs charged by the Tajik government (1.5 dirhams per cubic meter of water) are inadequate to pay for the cost of maintaining the systems and pumping the water. In addition, the current collection rate is only 60 percent. Yet farmers are currently unable to pay more. Some of this funding gap could potentially be eliminated by teaching farmers how to grow higher-value, rather than traditional, crops. But such a programme takes time to be effective, and to establish markets for this produce. In the interim a donor-funded subsidy may be necessary. In addition, current Tajik law prevents the transfer of irrigation pumps to a private party, and this would have to be revised.

Another potential climate-change mitigating project might be a waste-to-energy PPP plant in Dushanbe. Dushanbe is the country's most populous city and largest producer of solid waste, the open-air disposal of which contributes to greenhouse gas production. A waste-to-energy plant would dispose of these gasses in a more environmentally friendly way, and also provide a stable, year-round source of power. More than 90 percent of Tajikistan's power today is derived from hydropower, and the seasonal availability of water contributes to energy shortages in the winter months. Other reviewers of Tajikistan's infrastructure needs, such as the IFC and World Bank, have also noted the potential for waste-to-energy in Dushanbe.

2.1.6 Inter-Ministerial Infrastructure Board

Creation of an inter-ministerial infrastructure board, with all lead ministries represented at the senior manager or director level (not at the ministerial level), and led by the PPP Unit can help to share knowledge, promote good practice, and develop approaches to cross-cutting themes such as how to effectively attract private capital to Tajikistan, successful project development, innovative financing options and the use of ICT. This board should arrange PPP education and greater understanding of PPP law for public servants, through the PPP Unit. It should also ensure that proper procedures are developed for PPP procurement. The focal points would also facilitate sectoral training and capacity-building provided by international agencies working on PPPs in their respective sectors. The Inter-Ministerial Infrastructure Board would not have the approval and oversight powers currently resident in the Public-Private Partnership Council, which, as previously noted, adds an additional and unnecessary level of bureaucracy.

A successful PPP programme has at its base a robust legal framework that is supported by adequate public sector institutions, and at the very top, the necessary political will to steer the PPP process through its various stages.

Establish an Inter-Ministerial Infrastructure Board, led by the PPP Unit, to help share knowledge, promote good practice, and develop approaches to cross-cutting themes such as how to effectively attract private capital to Tajikistan, successful project development, innovative financing options and the use of ICT.

Recommendation 12

2.1.7 Unsolicited Proposals

Unsolicited proposals can be a powerful tool for accessing private sector innovation. However, they can also, if not properly reviewed and managed, lead to suboptimal infrastructure decisions, such as initiating a relatively low-priority project before a higher-priority one, or approval of projects with low cost-benefit. They can also lead to corrupt or politicized procurement decisions, and loss of transparency.

The PPP Law recognizes this, and establishes requirements in Article 28 for the structured consideration of such proposals. However, the procedures are not entirely clear. Article 28 states that “a contracting authority shall submit the unsolicited proposal and the feasibility study to the Council with a recommendation as to whether the tender meets the requirements (for award)”. This appears to bypass the PPP Unit (“authorized government body”), which would normally make such a recommendation to the Council.

The PPP Law also does not require the contracting authority to consider whether a project proposed by an unsolicited proposal might more appropriately be procured through a competitive procurement process.

Clarify the procedures for consideration of unsolicited proposals in the PPP law.

Recommendation 13

2.2 ELABORATING A NATIONAL INFRASTRUCTURE PLAN (NIP)

2.2.1 National Infrastructure Plan (NIP)

As a longer-term goal, the Government of Tajikistan should consider the development of a National Infrastructure Plan (NIP). An NIP is a multi-year, cross-sectoral plan which helps identify how best to achieve the country's overall objectives for infrastructure development and infrastructure-based service delivery. In this plan, the priorities of individual ministries are subordinate to those of the nation as a whole, which will help ensure the highest possible return from infrastructure investment. The NIP includes all infrastructure projects, including both potential PPP projects and those which will be achieved through traditional construction contracts or in-house labor.

The NIP should include rigorous and transparent funding and affordability analysis. A number of pilot projects should be identified within the NIP as the first to market, after proper initial appraisal (including pre-feasibility studies) has been undertaken. The NIP should be nationally and internationally promoted, to attract widespread interest.

A NIP is a more potent weapon in a country's arsenal than individual plans of line ministries when it comes to attracting infrastructure investment into the country. Due to the intrinsic nature of infrastructure projects, investors in such projects think long term and a NIP assists them to better understand the public sector's long term goals in infrastructure development in a country. The NIP should therefore be considered as a sales tool for encouraging private sector involvement, while at the same time ensures that the line ministries are in tune and work together across all sectors rather than working in isolation with the risk of having one sector (usually transport) much more advanced in its strategy and plans than others (such as health and education).

The UNECE team acknowledges that the development of an NIP will require a major effort. This should be considered a long-term objective, and the lack of an NIP should not be considered an impediment to implementing high-priority, near-term projects.

The National Infrastructure Plan 2011 – United Kingdom

The United Kingdom's National Infrastructure Plan 2011, produced by The Treasury in October 2010, is a good example of a NIP that Tajikistan might want to look to emulate. In essence, the plan sets out:

1. A clear design for the UK's infrastructure (vision);
2. A new strategy for coordinating public and private investment;
3. A new investment in critical infrastructure projects; and
4. A new focus on delivery.

Develop a ten-year, cross-sectoral National Infrastructure Plan, in consultation with local authorities, private sector parties and trades unions with the Ministry of Finance as the lead ministry.

Recommendation 14

2.2.2 Develop Strategic Service Models

In the shorter term, the Government of Tajikistan should develop Strategic Service Models for the delivery of services within each key sector. It is important that these plans be reviewed by all government ministries, in conjunction with local authorities, within their particular sector based upon an area needs analysis. In this way each Ministry would have a high level plan for the location of its services throughout Tajikistan. For example, a Healthcare SSM would contain the location by city or town, of particular health services, extending throughout the country; all services from tertiary, secondary, mental, primary and community and elective care would be allocated to a particular location. The SSM would also identify which services would be provided by civil servants, which by the private sector, and where an integrated public-private model might be considered. The SSM will be a key input to the NIP.

Review existing ministerial/sectoral plans versus the country's need, and develop Strategic Service Models (SSM)

Recommendation 15

2.2.3 Develop Fully Costed Infrastructure Plans

As an input to the NIP, each Ministry/agency should develop prioritized, agency-specific infrastructure plans, to include cost estimates for each project included. These sectoral infrastructure plans would be used to then feed into the development of the NIP. These plans will help agencies identify which projects are affordable in a given timeframe and, where PPP procurement is being considered will also help identify the potential for Government underwriting of projects and/or providing viability gap funding for projects of national importance.

Ministries and Municipalities should develop fully costed infrastructure plans based upon well-developed strategic service models and needs analysis as a first interim step, and an input, to an NIP.

Recommendation 16

2.3 DRIVING PPP IMPLEMENTATION

2.3.1 Governance Environment

The Republic of Tajikistan has a relatively small financial sector, which is dominated by a small number of banks. Tajik credit to the private sector amounted to only 13.5 percent of GDP in 2012, which is extremely low, although nearly double the 7.1 percent level of 2007, which was one of the lowest levels of financial activity in the world. Surveys conducted by the World Bank in 2008 indicated that more than 80 percent of Tajikistan's small to medium-sized enterprises do not rely on the banking sector for either financing or deposits. The survey also showed nearly 30 percent of Tajik businesses did not attempt to secure bank loans due to high interest rates and excessive collateral requirements.

In part, the small number of banks is a result of reform. Beginning in the late 1990s and continuing into the middle of the next decade, there was significant regulatory reform and improved National Bank of Tajikistan (NBT) oversight of the financial services sector. One aspect of the reforms, the raising of the minimum capital requirement for banks to US\$5 million, resulted in a significant consolidation; more than half the banks in the country closed, leaving only nine in operation by 2009.

This consolidation did strengthen the remaining institutions, but overall, the banking sector remains weak. Nonperforming loans were at 17 percent in September 2012, up from 14 percent a year earlier. A key factor has been government-directed lending, which the World Bank noted in April 2013 “has contributed to the deterioration of the loan portfolio by adversely impacting the risk management systems of banks and their financial positions, undermining NBT’s independence as a bank regulator and supervisor, and weakening the credit structure”.

Strengthen the banking sector and increase its capacity to finance infrastructure projects through continued reform, improved oversight by the National Bank of Tajikistan, and cessation of government-directed lending.

*Recommendation
17*

Improvement is also needed in corporate financial reporting systems and commercial accounting systems. A World Bank analysis, “Report on the Observance of Standards and Codes (ROSC) Accounting and Auditing”, published in 2009, concluded: “The Republic of Tajikistan needs to improve and strengthen its corporate financial reporting system to ensure that public interest entities, such as banks and state-owned entities become more accountable and transparent. The rest of the private sector too needs to improve its financial reporting. To achieve both objectives, the country needs enhanced accounting, disclosure and auditing regulations, more power for regulators and professional bodies to enforce accounting and auditing regulations and more extensive, practical and continuing professional education. All of this should be done without adding excessive regulatory burdens on medium-sized, small and micro entities.”

The Government of Tajikistan recognized the need for improvement in this area, and long before this World Bank report had begun the difficult process of introducing International Financial Reporting Standards to Tajikistan. However, additional work is needed in this area. Some ongoing efforts include a World Bank private sector development project, approved in May 2012, which will finance: the creation of a modern, on-line collateral registry; the upgrading of the real-time gross settlement payment system of the NBT; and the further strengthening of the regulatory and supervisory framework for banking (which also relates to recommendation 17, above). In addition, the country’s first credit bureau, CIB Tajikistan, obtained an operating license from the NBT in November 2012. Working with CRIF, an international credit bureau, CIB Tajikistan is working with four local financial institutions to test credit-related products.

Improve corporate financial reporting systems and commercial accounting systems, to support infrastructure financing and build the financial capacity of domestic enterprises.

Recommendation 18

Before deciding to undertake a PPP procurement, best practice demonstrates that the public sector should undertake a feasibility study, or business case analysis, to determine whether the project is an appropriate candidate for PPP: i.e., is it technically feasible, is there private sector interest in, and capacity to, undertake the project, and will PPP provide better value for money than a traditional procurement (if, indeed, the latter is feasible). The PPP Law of Tajikistan recognizes this principle, and Article 7 addresses the Feasibility Study and its approval process. The law, however, is not specific on the content and format of the Feasibility Study, nor on the details of its development. The following discussion is provided to assist in the development of a more detailed policy for the Feasibility Study. It is also

noted that a structured process for project appraisal would benefit the assessment and prioritisation of non-PPP projects as well.

A typical business case approval process for a PPP project is shown below in Table 5, with a more detailed breakdown of the process to Outline Business Case approval shown in Table 6.

Table 5: Key stages of typical PPP project business case process

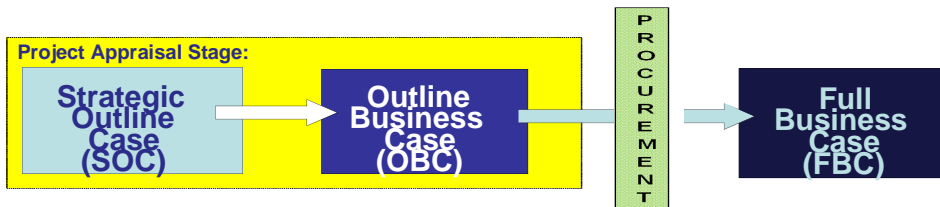
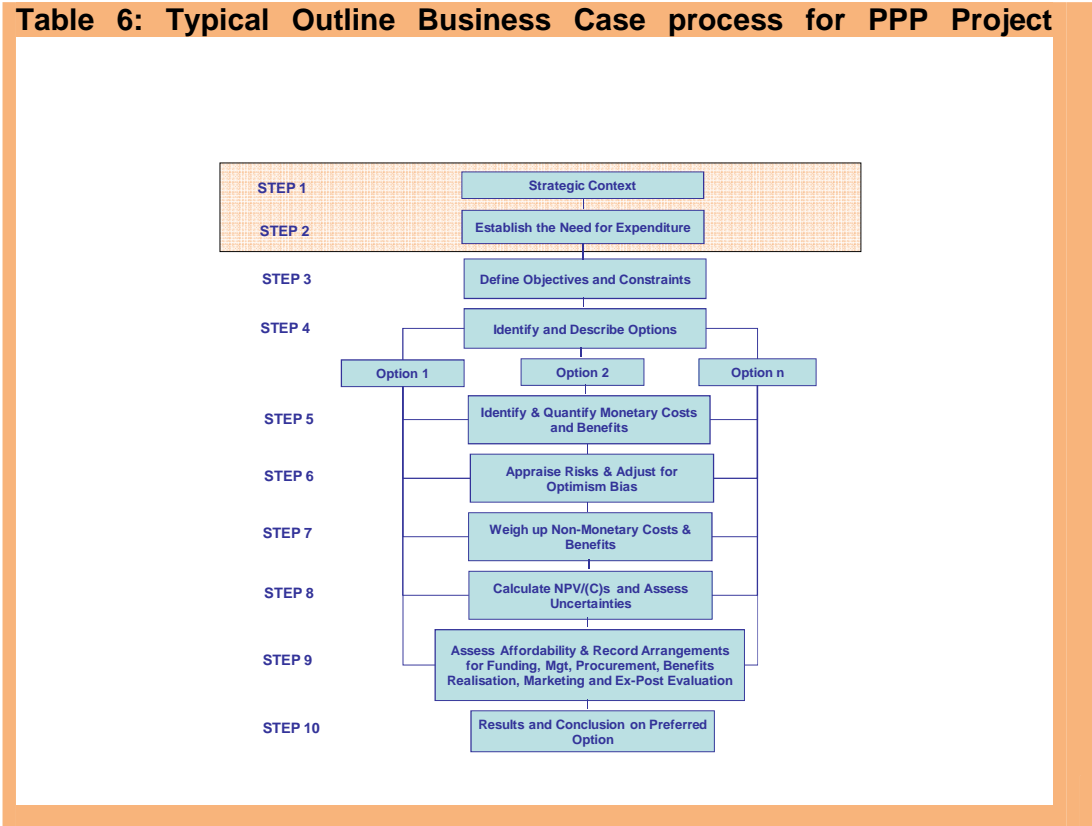


Table 6: Typical Outline Business Case process for PPP Project



Develop a rigorous business case approvals process for the life cycle of any project, from its inception through to operation, especially including programme

Recommendation 19

and project appraisal.

The Government of Tajikistan should formalize and standardize procedures for project identification, selection, and procurement, not just for PPP projects, but for all infrastructure projects. Some of the specific approaches to consider are identified in recommendation 20, below.

Enhance the identification, selection and procurement stages of infrastructure projects, in order to have a better chance of attracting external private sector interest:

- **introduce Most Economically Advantageous Tender (MEAT) concept in bid evaluation;**
- **develop the supply chain arrangements for PPP projects through policy intervention;**
- **ensure that the Value for Money analysis also includes the non-monetary benefits;**
- **introduce Environmental and Social Impact Analysis (ESIA) as matter of course for all infrastructure projects, irrespective of whether they would be procured as a PPP or traditionally; and**
- **Consider “bundling” small scale projects, especially at sub-national level.**

Recommendation 20

2.3.2 Tajikistan Infrastructure Association

The Government of Tajikistan should consider establishing a Tajikistan Infrastructure Association, which would include the inter-ministerial infrastructure board, local authorities, private sector parties and unions to work together to promote successful projects, including using examples of successful PPPs in transition economies and to improve the infrastructure investment climate in Tajikistan is recommended. This association would help to improve communications between Government and the market. It should organise seminars and knowledge sharing events to increase the expertise of its members. This body should also look outwards internationally to network with expert associations such as the International Project Finance Association, in order to become knowledgeable in the shortest possible time.

Establish a Tajikistan Infrastructure Association

Recommendation 21

2.3.3 Local Autonomy

Some thought should be given to the possibility of enabling municipal and local authorities to develop infrastructure more quickly at the local level, without the need to refer to central government and encounter the additional bureaucracy which that brings. Since local governments have higher rated procurement procedures (per the EBRD assessments) than the central government, the capacity should be present to undertake smaller projects, such as PPPs for municipal lighting upgrades, which would introduce more energy-efficient systems, and reduce costs.

Afford greater autonomy and tax raising powers to municipalities and local authorities.

Recommendation 22

2.3.4 Potential Areas of PPP Activity in Tajikistan

PPP is a relatively new concept to Tajikistan, with only two completed PPP infrastructure projects to date, the Pamir Power Plant and the Dushanbe-Chanak toll road. There was also a joint public-private road maintenance project from Navabad to Dushanbe underway at the times of the UNECE team's visit. However, there is significant interest in PPP in Tajikistan, as evidenced by the recent passage of the PPP Law, the creation of a PPP Unit, and the general sense of interest and enthusiasm for exploring PPPs that the UNECE team encountered while consulting stakeholders during the field visit for this RA. Phence a past record of successful completion of projects is not available. However, the stakeholders consulted in the RA did identify a number of possible projects for consideration in any future PPP exercise.

This section provides a summary of these proposals. It is envisaged that after participating in an in-depth training programme the various stakeholders will identify additional, currently unthought-of opportunities.

2.3.4.1 Transportation

Tajikistan has over 28,000 kilometers of roads. Roads in Dushanbe are in generally good condition, but outside the capital there has been deterioration of many roadways due to underinvestment and deferred maintenance. There are 24 airports in the country, of which 17 have paved runways. Again due to underinvestment and deferred maintenance (as well as low utilisation), some rural airports have experienced closures. There are at least 680 kilometers of rail and 200 kilometers of waterway, along the Vakhsh River.

PPP opportunities to consider in transport include new road construction, and maintenance and improvement of existing roads. For new or significantly improved roads, the primary challenge will be affordability. The Dushanbe-Chanak toll road has improved access along this important corridor, but the tolls imposed on users have been highly unpopular, even burdensome, for many travellers. It is unlikely that many other roadways in Tajikistan can use the model of relying fully on user fees to pay for capital investment and on-going operation and maintenance, due to low traffic volumes and low ability of users to pay tolls. An alternative would be a PFI-type road, in which payments were made by the government to the private party. While this could be attempted for a few key projects, affordability will again be a limiting factor, as the Government of Tajikistan does not have the financial resources to commit to numerous contracts with long-term payment obligations. There is also the potential for a hybrid solution, in which a low user fee (toll) which can be borne by users is combined with government payments. However, the opportunities still appear limited in the near term.

A more plausible PPP opportunity, in the near term, is for long-term maintenance contracts, in which a private party undertakes the maintenance of road segment for a period of five or ten years, and required to maintain the roadway to performance standards which are defined in the contract. In return for meeting these standards, the private party receives periodic (e.g., monthly payments from the government. This could be a good opportunity for the government to introduce private sector competition and improved performance and service delivery into the maintenance of the national roads network using performance based contracts. Local companies can then learn from foreign companies and achieve expertise transfer. This approach may also be applied to city streets and traffic systems and has been adopted successfully internationally. This may be a good opportunity for the government to introduce private sector competition and improved performance and service delivery into the maintenance of the national roads network using performance based contracts. Local companies can then learn from foreign companies and achieve expertise transfer. This approach may also be applied to city streets and traffic systems and has been adopted successfully internationally. There is also the potential, where significant capital investments are required, to obtain capital for the rehabilitation of a key roadway from donors, with the government assuming the obligation for the maintenance costs after the rehabilitation is completed.

In conjunction with the above approaches, there is also the opportunity to give the PPP contractor the opportunity to engage in ancillary revenue-generating road services, such as development and operation retail outlets (such as petrol stations, restaurants etc.), alongside the road. Due to the capital investment required, this approach will generally entail a longer contract term, in order for the private party to recoup their investment.

Airport concessions are another common form of transport PPP. In Tajikistan, the low volume of traffic at most airports, combined with a limited capacity for government payments, limits the scope for such agreements. The Dushanbe International Airport, however, is an exception. On April 27, 2012, a €39 million dollar contract was signed with VINCI, a French airport firm, to construct a new international terminal at Dushanbe International Airport, with the existing terminal destined to become the domestic terminal. The cornerstone for the new terminal was laid on March 19, 2013, with completion scheduled for November 2014. The

new terminal will be capable of handling 1.5 million passengers a year, and is designed to provide services in line with international standards. A PPP may be a viable option for the operation and maintenance of this facility.

In the longer term, in conjunction with improved surface transportation and with the goal of developing a truly regional transport infrastructure, Tajikistan will need to construct new transport terminals meeting global standards, simplify border crossing and customs procedures, and open hotels in convenient locations for these major terminals on the country's borders. There may be an opportunity to utilize the PPP approach in developing such logistics centres.

Conduct Feasibility Studies on high-volume, high-priority roadways to determine if the PPP approach will be workable and affordable.

Investigate the introduction of long-term maintenance PPP contracts for roads.

Recommendation 23



Laying the cornerstone for the new Dushanbe international terminal, March 19, 2013.

2.3.4.2 Water and Waste Water

Currently, Tajikistan consumes about 18 percent of the water flow generated within its borders. Water usage by sector is: household consumption, three percent; industrial use, two percent; miscellaneous use, two percent; and irrigation use, 93 percent. About 70 percent of workers are engaged in the agriculture sector, which contributes roughly a quarter of the nation's GDP.

These figures, provided by the Government of Tajikistan's Ministry of Land Reclamation and Water Resources, demonstrate clearly the importance of irrigation to Tajikistan's economy. However, as noted earlier in this report, Tajikistan's government-owned irrigation systems are deteriorating and losing capacity. These Soviet-era systems have been poorly-maintained, and the available funding is inadequate to restore them to full capacity or to sustain them there. The systems is quite extensive: over 6,000 kilometres of irrigation pipelines; nearly 1,000 kilometres of pressure head pipelines; over 7,000 hydraulic facilities; and 479 inter-farm pump stations; plus the supporting electrical infrastructure. The user fees charged to farmers do not come close to paying the cost of operating the irrigation systems, and the current collection rate is only 60 percent.

One potential solution is to obtain donor assistance for the cost of renovating an irrigation system and structuring a PPP to cover only the cost of operation and maintenance. This model has been used to donors in several countries to create sustainable irrigation projects which will not require continuing infusions of government funds. Training should also be provided to help farmers utilize the irrigation water more effectively to maximise their income.

There is also the potential to apply the PPP model to municipal water and waste water systems in Tajikistan. Bankability may be possible as local public finance appears problematic. One solution to this may be greater autonomy for local authorities and higher levels of tax raising powers within municipalities, or else central government underwriting. Inter-municipal bundling may be required in order for any PPP to have the necessary scale.

Investigate use of PPP for irrigation systems, and municipal water and waste water systems.

Recommendation 24

2.3.4.3 Solid Waste

This is also a good candidate for PPP development, again at a municipal level, particularly in Dushanbe. As previously discussed, Dushanbe is the country's most populous city and largest producer of solid waste, the open-air disposal of which contributes to greenhouse gas production. A waste-to-energy plant would dispose of these gasses in a more environmentally friendly way, and also provide a stable, year-round source of power. More than 90 percent of Tajikistan's power today is derived from hydropower, and the seasonal availability of water contributes to energy shortages in the winter months.

Khujand, in the north-eastern part of the country, is the second largest city in the country, with a population of around 160,000 (as compared to Dushanbe's nearly 700,000 residents). It is possible that the waste stream here could be adequate to support a waste-to-energy project, if waste from the adjacent Free Economic Zone and other nearby communities were incorporated. Whether these projects, like the roads development, would require initial government capital for the development, with the operations subsequently outsourced, would require further examination.

Investigate the potential for waste-to-energy PPPs to develop cleaner, safer, and more sustainable energy sources.

Recommendation 25

2.3.4.4 Energy

The country is heavily-reliant on hydropower; more than 90 percent of the power generated in Tajikistan comes from hydropower, with the remainder coming from fossil-fuel burning plants. As noted above, the heavy reliance on hydropower results in seasonal power shortages when the water flow is low. There are three areas where PPPs may be beneficial.

First, hydropower facilities are frequently operated as PPPs. The PPP model could be used to develop additional generating capacity, or to turn existing government-operated plants over to private operators to attract investment and efficiencies.

In addition to this, thought should be given to developing plans for cleaner, safer, and more sustainable renewable energy sources from within the borders of Tajikistan. PPP could help develop this strategic approach to solar, wind, or other renewable power sources, which would reduce the reliance on hydropower, without adverse environmental consequences.

Finally, PPPs can be used for energy savings contracts, such as energy savings performance contracts (ESPCs) or municipal lighting contracts. In an ESPC, private firms are given the opportunity to review the energy efficiency of a public building or buildings. They analyse the potential for reduced energy consumption, through the installation of energy-efficient lighting, windows, improved insulation, modernisation of HVAC systems, etc. The private parties then prepare proposals to make these investments at their own expense, and then be paid by receiving a portion of the resulting energy cost reduction over a period of time (e.g., ten years), during which the private party would be responsible for maintaining the items they've financed and installed. These contracts have proved very effective in reducing public sector energy costs, without requiring public investment. A specialised subset of these contracts is municipal lighting, in which a private firm will take over the operation and maintenance of a public streetlight system, make energy efficient investments, and be paid from the savings. This is a type of contract which could be introduced in a number of Tajikistan's larger municipalities, and they are relatively less complex and of shorter duration than more significant infrastructure projects. A challenge, however, may be that government bodies in Tajikistan have a spotty record of paying utility bills. If these bills are not being paid, the financial incentive for the public sector to undertake such projects is greatly reduced, although reduced burden on the power grid and the environmental benefits of reduced energy consumption remain attractive aspects of energy savings PPPs.

Investigate PPPs in the power sector. Energy savings and municipal lighting contracts should also be considered.

Recommendation 26

2.3.4.5 Healthcare

The Ministry of Health was among the more enthusiastic stakeholders when the topic of PPPs in its sector was raised. There is already some level of cooperation between the public and private sectors in Tajikistan; private pharmacies have been introduced, the government rents space in public health facilities to private providers, and about 150 private health providers operate in the country today.

The UNECE team recommends investigating the PPP model in the health centre, beginning with smaller facilities, such as a medical diagnostic centre or clinic. The private provider could receive its compensation primarily from user fees, and the government could help to keep these fees affordable by offering various incentives. For example, the private provider could be offered free use of government land or facilities, free utilities, waiver of customs duties on specialized medical equipment brought into Tajikistan, tax incentives, etc. In this manner it should be possible to enable the establishment of additional affordable healthcare capacity, while avoiding the need for significant government expenditures.

Investigate small-scale PPPs in the health sector.

Recommendation 27

2.3.4.6 Education

The Ministry of Education already utilises a significant degree of private participation, which is made through private financial donations, donations of goods, and volunteer labour. The Deputy Minister with whom the UNECE team met estimated that private contributions could provide as much as 40 percent of the Ministry's funding. This private participation helped the Ministry achieve the opening of 248 new schools in 2012, and tax incentives have also been used to reduce the cost of school construction.

Private schools exist in Tajikistan, and these schools must meet the government's educational standards. The law on education allows the government to provide financial support to such schools, however, there is no fiscal space to do so.

PPPs could be used in Tajikistan to provide school buildings, with a private party designing, financing, constructing, and maintaining the school building and grounds, and the government providing the education, a model which has been used in many countries. The question then becomes how to cover the cost of the PPP contract, since the government has limited ability to enter into long-term financial obligations. One possibility might be use of land-transfer and other contractual concessions, which would provide a private party ancillary revenue streams in lieu of government payments; another possibility might be to reduce costs by introducing a VAT reduction for private construction of PPP schools (and conceivably other social infrastructure projects).

The Deputy Minister indicated that a study should be undertaken, and a pilot project identified, to see how such concepts could be successfully applied in Tajikistan. The UNECE team believes that this is a logical next step. The UNECE team also notes that PPPs have been used to provide higher education facilities as well, and that these might be considered as candidates for the pilot study, too.

Investigate enabling strategies for school PPPs in Tajikistan.

Recommendation 28

2.3.4.7 Summary

There is a great need for additional infrastructure development and infrastructure-based services in Tajikistan, across multiple sectors. The PPP model has been deployed to deliver such assets and services successfully in many countries. The question then, is given the challenges of financing large projects in Tajikistan, and the limited institutional capacity to undertake complex projects, what pilot projects might be appropriate?

The UNECE team proposes that pilot projects, conducted in accordance with international best practice, be undertaken in three areas, utilizing competitive procurement procedures:

1. A long-term (e.g., five to ten years) road maintenance contract, with payment based on adherence to contractually-established performance standards.
2. Outsourcing of a government service to the private sector, again with payment contractually linked to performance, and
3. An education PPP project.

Additional analysis will need to be performed to identify specific, appropriate candidates for the pilot projects. The projects selected should have strong business cases, as the success

or failure of these efforts will greatly impact the future perception of PPPs in Tajikistan. The pilot projects can also be an important tool to begin building public sector capacity for planning and managing PPP projects, i.e., “learning by doing”, to begin building private sector capacity and creating jobs, and to build understanding and trust between the public and private sectors.

Conduct pilot projects in the areas of long-term road maintenance, outsourcing, and education.

Recommendation 29

3 INFRASTRUCTURE NEEDS IN TAJIKISTAN

International experience in the UNECE countries and beyond have consistently shown that infrastructure investment and development strategies and plans should begin with an understanding of the needs, be it on a national, regional, local or municipal level. Once the needs have been identified, strategic service models should then be developed for the delivery of public services and lastly an infrastructure plan developed for the delivery of the infrastructure required to support the delivery of the services. This sequence of needs assessment, service model determination, and infrastructure planning represents international best practice for the efficient and cost effective delivery of infrastructure, which ultimately improves the quality of life of the citizen and the economic performance of a nation or region, in a meaningful way.

Typically, governments’ needs focus on some or all of the following: growing a sustainable economy; creating opportunities; helping the socially and economically disadvantaged; improving health and wellbeing; protecting the environment; creating safer communities, and; achieving the delivery of high quality and efficient public services.

Quite often public authorities rush into “delivery” mode, since they are understandably eager to see capital works commence, having made assumptions with respect to demand, without having first necessarily undertaken a structured needs identification and subsequent programme and project appraisal, to ensure deliverability of solutions that address public needs. Thus haste, however well-intentioned, can result in suboptimal results.



Map of Tajikistan

One of the key challenges facing governments in the UNECE region and globally is to achieve the right balance between social and economic infrastructure on the basis of available resources. It is therefore important for public authorities to correctly identify their priorities vis-à-vis the economic and social needs in the country.

One of the key questions posed to stakeholders in Tajikistan during the consultations was precisely on what they considered as the key economic and social infrastructure needs today in Tajikistan, and which of needs, in their view, should be given priority.

In respect of economic infrastructural needs, there appeared to be widespread consensus among the respondents and stakeholders that significant investment was required in the sectors of:

1. transportation (particularly roads);
2. water, including both potable and irrigated water, and waste water;
3. waste management, including waste-to-energy;
4. energy, and
5. roads

The PPP model has been proven to work well, internationally in each of these sectors, although an effort will be needed to determine the best PPP models to apply in Tajikistan, and to evaluate the business cases for high-priority projects.

In respect of social infrastructural needs, there appeared to be real opportunity to use PPPs for small-scale projects in the health sector, and potential opportunities in education and social housing. All of these “accommodation” type projects are very well suited to the employment of PPP. Projects to develop these types of facilities often operate on an asset availability based contract,² which in turn leads to improved service at reduced cost to the public sector. The challenge in Tajikistan with this model, however, will be creating a sustainable revenue stream for the private participants, given the government’s limited fiscal space. Small, user-fee based healthcare facilities avoid this problem.

Furthermore, as a longer-term goal, there was interest in developing infrastructure that would directly enable economic development, for example the development of industrial parks or border logistics centres. This type of development can employ a type of PPP, in which limited some public equity is involved, or where public land and/or property would be used as the public sector’s contribution to the partnership.

Several challenges to the delivery of Tajikistan’s needs were raised by respondents. From a funding perspective these included: lack of public capital and of government underwriting; efficient use of public resources; difficulty in accessing foreign capital; lack of available debt especially beyond a tenor of ten years; and onerous lending terms.

Political and institutional challenges identified, included; need for closer working between Ministries; need for greater decentralisation and increased local autonomy and municipal borrowing power; greater inter-municipality cooperation; greater consultation between the government and private sector before decisions are taken; reform of public administration; reduced bureaucracy; improved PPP and commercial skills within the public sector; more

² Where unitary payments are effected on the basis of the asset availability. In other words, if 90% of the asset is available, the unitary payments are also reduced accordingly.

transparent procurement and greater liberalisation and independent regulation of existing markets; and increased outsourcing, to encourage improved performance through competition.

It was confirmed by respondents that neither sectoral Strategic Service Models, nor a National Infrastructure Plan, existed in Tajikistan at the time of the UNECE team's visit.

When asked which was the greater need, economic or social infrastructure, a slight majority of respondents indicated their belief that economic need was of a higher priority than social need in Tajikistan today.

There was widespread agreement across the stakeholder community that both the public and private sector knew very little about what PPP was and how it could benefit the country's economic and social development. This was, however, understandable taking into account the relative dearth of PPP experience in Tajikistan, and information campaigns aimed at raising public awareness, if properly implemented, would ensure that the public became better versed in the topic. It should also be noted that several of the public officials interviewed during the course of the UNECE team's visit were both knowledgeable and enthusiastic about the potential for PPPs.

4 HOW IS TAJIKISTAN PROGRESSING IN THE PPP PROCESS?

PPP is a relatively new concept in Tajikistan and, as such, understanding and knowledge of its basic principles is understandably limited across the public and private sectors. Overall, the PPP process in Tajikistan is at its infancy. However, the feedback received from respondents indicate that there is the necessary political will to enact the necessary legislative framework and set-up the appropriate institutions that would eventually lead from project identification all the way to procurement and actual project development. The implementation of the new PPP Law was seen by respondents as tangible proof of the political commitment at the highest level of the state to significantly increased private sector participation in infrastructure development in Tajikistan. The subsequent creation of a PPP Unit, as envisioned by this law, further strengthens this perception.

4.1 GENERAL CONSIDERATION

It was observed that some confusion exist between the understanding of outsourcing of public services and the PPP model, even to the point where some respondents thought that any contract between the public and private sectors represented a PPP. All respondents duly accepted the need for greater knowledge of PPP within the public, private and civic sectors of society and indeed were unanimous in their desire and calls for support from others with this knowledge to help them develop a greater understanding. All in all, the situation in Tajikistan is completely normal for a country setting out on the initial stages of its PPP “journey”.

Good procurement and commercial knowledge and skills existed within the public and private sectors and these are readily transferable into the PPP area. However, some improvements to the PPP Law will be required before significant foreign investment is likely. On the private side, local banks, companies and firms in all likelihood would need to look to partner with foreign counterparts in order to engage in PPP projects of any significance. Smaller projects, such as a long-term road maintenance project, may be within existing local skills, and attainable with limited technical assistance. Public and private stakeholders alike almost uniformly expressed a need for greater expertise in the appraisal and preparation of projects.

Greater coordination within the public sector and also the inclusion of private sector parties became the norm in other countries with a more mature PPP process, and this coordination and level of engagement should be introduced in Tajikistan to help improve the PPP environment and introduce efficient, effective, and consistent PPP processes.

Political will was correctly identified by a number of stakeholders as the single most important aspect of successful PPP development. This was closely followed, again correctly, by the availability of capital, that is, affordability. Also highlighted was a need for improved capacity and expertise, in both the public and private sectors.

Civic understanding of PPP was understandably low and this would normally follow in due course once the public sector practitioners have more training and experience, and private sector outreach and engagement have begun. The concept of *user pays* seemed to be understood and accepted by the public to a degree but also needed to be promoted, along with PPP understanding. The public outcry over the tolls charged on the Dushanbe-Chanak toll road was cited as an example of how user fee based projects could be a challenge in Tajikistan.

Unfortunately, no compiled data appears to exist recording the historical performance and delivery track record for previous public capital projects in Tajikistan procured traditionally. These statistics would be very helpful in setting the current benchmark for public works projects and give a good indication of what was achievable in respect to timescales and

costs. According to international best practice, the PPP model offers a number of advantages over “traditional” public procurement, especially as it increases the certainty of outcomes (that is, “on time” and “on budget” delivery). The key differences between the two procurement methods are displayed in Table 7 below.

Table 7: PPPs and “Traditional” Public Procurement

PPPs as an alternative to “traditional” public procurement

There are different ways in which the private sector can invest in public infrastructure projects. On one end of the spectrum we find the “traditional” public procurement, while on the other end, we find outright privatisation. PPPs occupy the space between traditional public procurement and privatisation, and are distinctly different from both of these alternatives. In the case of privatisation, for example, accountability for service delivery and ownership is transferred to the private sector, while accountability in the PPP model remains vested in the public sector.

The key differences are:

- specifications in PPPs are measured in terms of “outputs” or “outcomes”, rather than ‘inputs’ as in ‘traditional’ public procurement;
- the private sector is responsible to finance, build and operate the asset;
- the public sector “purchases” the services through regular payments (service payments), or income generated (user fees) over the life of the contract, or a combination thereof.
- in a PPP, any costs overruns remain at the private sector’s risk;
- risks associated with costs of design, construction, operation and maintenance, and demand for the use and service provided by the asset, are transferred from the public to the private sector in a PPP project;
- in a PPP, construction costs are funded by the private sector, thus relieving the pressure on government funding for infrastructure projects requiring significant capital investment; and
- the whole life-cycle approach in the PPP model vis-à-vis traditional procurement ensures that the private sector selects the most efficient and sustainable solution for the long term rather than the cheapest solution in the short term.

It was also observed that some public services have been contracted out to the private sector in order to achieve better value for money for the public purse, although this is still not a common practice. Even this limited experience with private sector service providers is an encouraging for PPP development as PPP is simply an extension of this concept. It would be beneficial to understand the Service Level Agreements (SLAs) and contract management arrangements for these services.

4.2 PPP CAPACITY – PUBLIC AND PRIVATE SECTORS

As expected at this stage of PPP development, Tajikistan does not yet have the necessary subject matter expertise or skills within either the public or private sectors, to develop and deliver a major PPP programme.

The development of a PPP Inter-Ministerial Infrastructure Board, comprising representatives from across government ministries should be created to support the successful development of PPP. One or more PPP focal points from the line ministries and other relevant public

entities would need to be nominated. The focal points would also act as entry points for PPP training and institutional capacity building in their respective sector. This network of focal points will make it easier for international agencies to interact with the line ministries and other public entities when sector-specific activities are planned both in and outside Tajikistan.

Overall, despite some organised training in place, there is a clear need for increased capacity within the public sector and this point was universally identified by all stakeholders. This is true not just in the area of PPP but also in other aspects of infrastructure planning, such as project appraisal, feasibility, business case development, legal issues, procurement, value for money, affordability and budgetary management, approvals processes and contract management (see recommendation on capacity-building and training).

It was observed that there was also a lack of formal PPP co-ordination and knowledge sharing between ministries and government departments. Ministries have access to international best practice, including the growing number of Russian language materials on PPP, but this is not enough for Tajikistan to develop any meaningful PPP activity.

Within the private sector there are several construction companies, which by partnering with foreign companies have the capacity to undertake large capital projects. However, locally there is a shortage of facility management companies, while the lenders, as it will be highlighted below, are not able to provide long tenor debt.

There were no replies on the local architecture market capacity for infrastructure development but one would assume that local firms would partner with leading foreign firms as is normal international practice at the beginning. There appears to be quite good PPP understanding and corporate financial and legal expertise amongst the on-site donor community, which can of course use its international network effectively to import any required skills.

As with the public sector, private sector stakeholders almost unanimously called for the opportunity for training and education with respect to PPP. They also agreed that an education process for the general public was important.

4.3 PPP PROJECT IDENTIFICATION, SELECTION AND PROCUREMENT

All stakeholders concurred that there was no National Infrastructure Plan currently in place. This is needed to identify the national priorities for public infrastructure across multiple sectors (see further the “Recommendations” section above).

Cost Benefit Analysis (CBA) is not generally employed for specific project identification, to date. Infrastructure plans would not appear to be costed, a vital aspect in successful implementation as they need to be linked to budgetary affordability. The Ministry of Finance would normally have ultimate sign off on any plans as they will carry the budgetary accountability role. PPP project budgets would normally be ring-fenced by the Ministry of Finance once the Outline Business Case was completed and before the procurement begins, otherwise bidders will be disincentivised.

“Bundled” procurement, whereby a number of small scale projects are packaged into a single, larger procurement for efficiency and value for money, appears not to have been employed in Tajikistan, to date. This can be particularly effective when used on co-location / community projects in sectors such as solid waste management.

There would not appear to be clear decision making criteria with respect to deciding which procurement path was followed for any given procurement, that is, how to decide whether a project was procured traditionally or through PPP. Generally public procurement is still the “normal” procurement method, although this should gradually change as the PPP Law is

more fully implemented, and more detailed procedures are developed for agencies to use in making such determinations. Value for money analysis appears to be purely monetary, not including the important non-monetary benefits. One aspect of the training and capacity building programme will include practical sessions on the various tools available to assess procurement options, such as the Public Sector Comparator, which is a quantitative benchmarking tool used by the public sector to maximise the value for money concept by allocating risks optimally.

The supply chain arrangements for PPP projects are undeveloped at this stage. This will be an important aspect to be addressed for any prospective foreign parties. The Government can play an important role in addressing this through policy intervention.

Thinking on refinancing would not appear to have been developed as there has been no need for it in the past. It is not clear if this is being considered in the draft PPP legal and policy framework.

In bid evaluation, the concept of Most Economically Advantageous Tender (MEAT), is not currently employed, or indeed recognised. MEAT represents good practice internationally.

4.4 PPP - POST AWARD, DELIVERY, OPERATIONS AND PERFORMANCE MANAGEMENT

As with the other sections, the key point that arose when considering the post award, delivery, operation and permanence management of infrastructure projects was a general lack of understanding.

It was also observed that there appears to be no consideration of a Performance Management System (PMS), post contract, e.g. the use of Key Performance Indicators (KPI) such as delivery milestones and operational availability. This would need to be addressed in any developed Post Award or Contract Management documentation.

The variation / claims process was in place but more clarity was required to better understand how it worked. It would be vital that this process was transparent in order to successfully attract foreign investors and to prevent “low balling”, where a bidder submits a low priced tender to win the work and then submits significant claims post award to ensure profitability, and where the outturn cost to the public purse ultimately ends up higher than the unsuccessful bids.

The Dispute Resolution Process (DRP) was also present and involves the Ministry of Economy but a better understanding of its machinations would be necessary and set out in the Post Award, for foreign investors to be convinced. International arbitration has been used in the past for non-PPP projects.

The concepts of Force Majeure and Change in Law appear to be well understood by all stakeholders. Again, these would need to be set out in any PPP Post Award.

The question of prompt payment by Government was not covered by any of the stakeholders. Given the large sums involved in typical PPP projects, cash flow and therefore prompt payment is vital to success, otherwise bidders will be disincentivised. Acceptable payment terms, linked to the Key Performance Indicators, should be set out in any Post Award.

4.5 THE PPP ENABLING ENVIRONMENT IN TAJIKISTAN

The enabling environment of a country can be loosely defined as the complex sum of conditions that allow or limit its economic and social development, depending on the actions and policies of various actors, especially governments. Conditions vary enormously across

countries, ranging from a disabling or even oppressive environment in some cases, over restrictive or problematic environments, to models of good practice to be followed.

The section should not be construed as providing a comprehensive overview of the enabling environment in Tajikistan, but instead it focuses on those elements in the enabling environment that might have a bearing on the successful development of PPPs in Tajikistan. While the analysis highlights areas in the enabling environment that are conducive to effective PPP development, it also provides a critique (see Section 2 - Recommendations) of the areas where policy intervention should be considered to improve the overall environment, which is so important to attract private capital to finance infrastructure projects in Tajikistan.

The relationship between the existing enabling environment and PPP development

A Government wishing to implement a PPP programme will need to consider early on in the project development whether there are any aspects of the existing enabling environment that would limit the scope of the PPP programme, and ultimately, the infrastructure projects.

All relevant elements of the enabling environment need to be considered, including the macroeconomic, business and financial climates, as well as the governance, legal regulators frameworks.

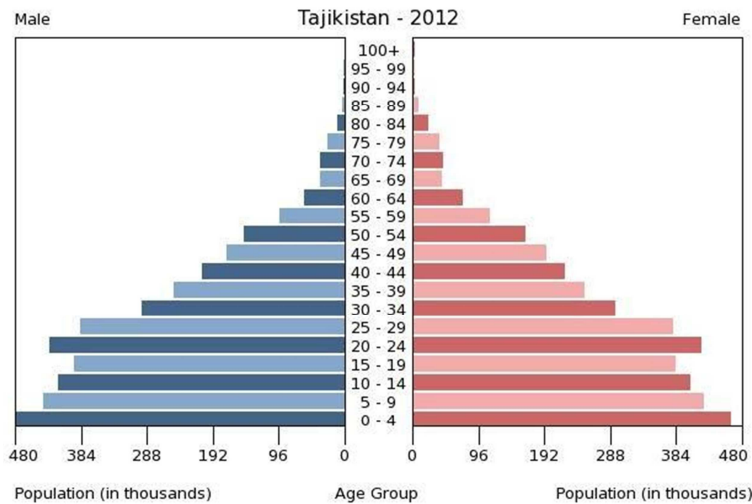
A brief analysis of individual aspects of the enabling environment in Tajikistan relevant to PPP development is considered next.

4.5.1 Macro-Economic Climate

The population of Tajikistan is estimated to be 7.86 million (2012), with the following age distribution:

Age Group	Percentage of Total Population
0-14	33.7
15-64	63.0
65 +	3.3

The median age is 22.9 years: 22.4 for males, and 23.4 for females. A more detailed breakout of population by age and gender is provided below.



The relatively low elderly population reflects low life expectancy; Tajikistan ranks 165th in the world in expected life expectancy at birth. The 2012 life expectancy projections are summarised below:

	Male (years)	Female (years)
Total Population	63.3	69.6

As expected, female life expectancy is higher than that of males, however overall life expectancy is relatively low compared to developed countries. The UK for example, has a male life expectancy of 78 years and female life expectancy of 82 years. Given the maxim that “a wealthy society is a healthy society”, it is clear that greater overall economic development is required to address the underlying causes of shorter lifespans within the population such as improved health and social care infrastructure and improved health promotion. Modern infrastructure would be one of the key elements in increasing Tajikistan’s economic prosperity, and PPPs, if properly developed, can play a significant role in achieving this goal.

The unemployment rate in Tajikistan is 2.2 percent (2009), based on government data. By international standards this is extremely low (16th in the world). However actual unemployment is considerably higher. In the absence of unemployment benefits there is little incentive to self-identify as unemployed, and underemployment is also common. Many Tajiks seek employment abroad, particularly in the Russian Federation, and remittances are an important source of capital. Of those Tajiks employed domestically, 49.8 percent work in agriculture, 37.4 percent in services, and 12.8 percent in industry.

Tajikistan is a well-educated country, with a literary rate of over 99 percent for both males and females. The average male has 12 years of education, the average female 10 years. Education is officially compulsory from ages seven through seventeen, and is delivered in Tajik, with Russian as a mandatory second language. There are 32 higher education institutions within the country. As with any economy, it is important that the courses on offer at the further and higher educational institutes are relevant to improving economic growth and are aligned with industry needs, otherwise the highly skilled workers will emigrate to other economies where opportunities exist for them to apply their skills.

Despite its relatively well-educated workforce, Tajikistan ranks 189th in the world in GDP per capita at US\$2,100 (2011 estimate). Lack of infrastructure, a highly-dispersed and largely rural workforce, and relatively undeveloped capital markets all contribute to this performance.

Tajikistan's key industries are aluminium, cement, and vegetable oil and primary agricultural outputs include cotton, grain, fruits, grapes, vegetables; cattle, sheep, and goats. Tajikistan's top goods exports and imports include:

Exports: Aluminium, electricity, cotton, fruits, vegetable oil, and textiles

Imports: Petroleum products, aluminium oxide, machinery and equipment, and foodstuffs

Turkey is the largest purchaser of Tajik goods. The key export markets are: Turkey 30.2 percent, Russia 8.3 percent, Iran 7.0 percent, China 6.7 percent, South Korea 6.7 percent, Afghanistan 6.0 percent, and Italy 5.1 percent. A plurality of Tajik imports come from China. The key import markets are: China 45.9 percent, Russia 16.4 percent, Kazakhstan 6.8 percent, and the US 4.1 percent.

In a significant development, Tajikistan joined the World Trade Organisation (WTO) in March 2013, concluding an 11 year negotiations process. Tajikistan completed its negotiations on October 26, 2012, when the Working Party adopted the accession package. The General Council approved the Tajik accession on December 10, 2012, and the Tajik Parliament ratified the accession on January 9, 2013. Tajikistan has committed to fully apply all WTO provisions, without recourse to transitional periods. As part of the transition process, Tajikistan has already repealed many trade barriers and enacted over 100 legislative acts and regulations to apply WTO Agreements in its legal framework. These changes will help to modernise and transform Tajikistan's economy, and support future economic growth and development.

Tajikistan is also pursuing membership in the Customs Union with Kazakhstan, Belarus and the Russian Federation, which was founded in 2010. In December 2012, President Rahmon announced that Tajikistan was interested in joining the Customs Union, and proposed formation of a working group to begin this process.

Other key macroeconomic factors are summarized in the table below.

	2010	2011	2012
Annual Inflation	6.5	12.4	6.0*
Annual Change in GDP	6.5	7.4	7.5
Currency Fluctuation vs. Euro	-1.7%	13.8%	4.6%

*Projection from the IMF World Economic Outlook October 2012

1) World Bank definition: Inflation as measured by the consumer price index reflects the annual percentage change in the cost to the average consumer of acquiring a basket of goods and services that may be fixed or changed at specified intervals, such as yearly. The Laspeyres formula is generally used.

2) Inflation is reported by the National Bank of Tajikistan

Note: Based on another source that provided inflation for all twelve months in 2012, 6.0 appears to be the actual inflation for 2012 (Source: <http://www.tradingeconomics.com/tajikistan/inflation-cpi>).

Sources:

<http://www.gfmag.com/gdp-data-country-reports/165-tajikistan-gdp-country-report.html#axzz2I9kCexXK>

<http://knoema.com/atlas/Tajikistan/CPI-inflation>

<http://www.imf.org/external/pubs/ft/weo/2012/02/pdf/text.pdf>

Annual percentage growth rate of GDP at market prices based on constant local currency. GDP is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources.

Sources:

<http://www.gfmag.com/gdp-data-country-reports/165-tajikistan-gdp-country-report.html#axzz2I9kCexXK>

<http://knoema.com/atlas/Tajikistan/GDP-growth>

<http://www.imf.org/external/pubs/ft/weo/2012/02/pdf/text.pdf>

It is noteworthy that the asset register indicates that a great majority of all assets in Tajikistan were owned by the public sector, either wholly or in the form of Joint stock companies. It was advisable that this be rebalanced to reflect a more developed economy. Governments typically established a central asset management unit, whose objective was to realise benefit for the public purse through disposal of surplus assets and looking at PPP / Corporate Joint Venture development opportunities, with a private sector development partner.

There was overwhelming agreement between the stakeholders that the Government of Tajikistan had insufficient public capital available to it and also that infrastructure investment needs far exceed what can be accomplished the budget possibilities.

A number of potential restrictions to the smooth PPP development in Tajikistan were discernible from the analysis of the macroeconomic climate, and were identified in Table 10 below. A number of recommendations were made in 'Section 2 – Recommendations' with a view to address some of these potential restrictions.

As noted earlier in this report, the business environment in Tajikistan is challenging, and the bureaucracy burdensome. Real and perceived corruption is also an existing barrier.

A major improvement occurred in 2013, however, with the introduction of an amended tax regime, which simplifies the tax structure and makes it more efficient by reducing incentives for tax avoidance. The revisions included a reduction in the number of taxes from 21 to 13, a cut in the corporate income tax rates, an increase in the Value Added Tax threshold, the phasing out of the road user tax (which is scheduled to be fully eliminated by 2017), and the streamlining of tax concessions. In the aggregate, these changes should make doing business easier; before the implementation of these changes, the World Bank's Ease of Doing Business index ranked Tajikistan 175th out of 185 ranked jurisdictions in Paying Taxes. The revisions can be expected to improve Tajikistan's rating in this factor in 2014. The downside of the tax reform is that it may result in somewhat lower tax revenues for the Tajik government, which already suffers from limited fiscal space.

Another recent improvement is the establishment of the country's first credit bureau in November 2012. This may help ease the challenge of obtaining credit in Tajikistan, which was rated 180th out of 185 countries in Getting Credit by the World Bank.

**Table 10: Potential restrictions to PPP development –
Business Climate**

Areas to be addressed in the business climate for a smooth PPP development in Tajikistan

Doing business in Tajikistan is not easy by international standards, although there have been a number of recent improvements which offer hope for a more competitive and efficient market in the future. Areas which warrant additional review include the overall high level of state bureaucracy; active state intervention; heavy fines; acquiring electrical service, acquiring construction permits; time to import and export; and number of documents required to import/export.

Another area where there was a clear barrier (real or perceived) was related to corruption. Furthermore, a barrier highlighted by the business community related to the onerous guarantees sought by lenders, some of which are Government-owned, which limited access to finance and increased its cost, which in the PPP context, would impact public sector affordability and ultimately the viability of potential PPP projects.

4.5.2 Financial Climate

A number of potential restrictions to the smooth PPP development in Tajikistan were discernible from the analysis of the financial climate, and were identified in Table 12 below. A number of recommendations were made in 'Section 2 – Recommendations' with a view to address some of these potential restrictions. The banking and business sectors in the country remain relatively undeveloped, although both commercial banks and businesses exist and expressed interest in expanding their capabilities.

Table 12: Potential restrictions to PPP development – Financial Climate

Areas to be addressed in the financial climate for a smooth PPP development in Tajikistan

The banking sector is weak, and is negatively impacted by the Government's practice of directing that certain loans be made. This practice weakens the risk management systems of banks, weakens their financial position, undermines NBT's roles as a regulator, and weakens Tajikistan's efforts to establish a credit culture.

Linked to the above, local banks are currently unable to provide long-term lending for infrastructure projects commensurate to the duration of a typical PPP project of 25 to 30 years. The absence of long term debt availability does constitute a problem to PPP development, especially given that as a rule of thumb, the post-financial crisis debt/equity ratio in a typical PPP project is 80-20. A focus on smaller, shorter term PPP projects can reduce the impact of this constraint, but will remain a limiting factor. It may also be worth exploring financing a medium-term (two to three year) project via issuance of bonds.

Further to the issue of long term debt availability, the margins and collateral currently required by the local debt providers, could impact public sector affordability and therefore the viability of any potential PPP projects.

4.5.3 Governance Framework

It was observed that Government budget setting processes in Tajikistan were similar to those in other countries whereby the strategic element was centrally agreed and set out in the annual plan after which each ministry was responsible for the delivery of the planned works and the control of the budget, with the Ministry of Finance having overall budgetary control. However, it was noted that during a budget year a number of corrections were possible.

All respondents agreed that a large majority of public infrastructure was developed at central government level, with a small amount decentralised to local government.

There was some difference of opinion regarding the development of public works on the basis of need. However, stakeholders generally agreed that the project appraisal process could do with improvement, especially in the area of PPP, which was not surprising given the lack of experience with this type of procurement.

A greater role for the Ministry of Finance to act as gatekeeper, overseeing the appraisal process was called for and this would indeed represent normal practice elsewhere.

Some potential restrictions to the smooth PPP development in Tajikistan were discernible from the analysis of the governance framework, and were identified in Table 13 below. A number of recommendations were made in 'Section 2 – Recommendations' with a view to address some of these potential restrictions.

Table 13: Potential restrictions to PPP development – Governance Framework

Areas to be addressed in the governance environment for a smooth PPP development in Tajikistan

There was strong agreement among respondents that a rigorous business case approvals process, with integrated elements related to environmental and social impact assessments, needed to be introduced to provide transparency and better informed decision making with respect to major public expenditure programmes and projects, and that Government policy intervention in this respect would bring Tajikistan in line with international best practice.

Institutional capacity for PPP needs to be developed, in both the public and private sectors.

4.5.4 Legal Framework

The new PPP Law improves the legal enabling environment for PPP, but does not fully comply with international best practice. This was discussed in some detail in Section 2 of this report. In addition an effort should be made that the PPP Law is fully integrated with other laws that may impact on private investment in such projects, to include potential foreign investors. These laws may include, but not be limited to, the following:

Civil Code;

- Tax Code;
- Customs Code;
- Land Code;
- Law “On investments”;
- Law “On banks and bank activities”;
- Law “On international treaties”;
- Law “On state registration of legal entity”;
- Law “On competition and limitation of monopolistic activity in commodity markets”;
- Law “On licensing of separate types of activity”;
- Law “On state procurement of goods, works and services”;
- Law “On agreements on production sharing”;
- Law “On state duty”;
- Law “On concession”;
- Law “On leasing”.

The UNECE team notes that the PPP Law states, in Article 3, that “In case of conflict of the provisions of this Law with other legal-regulatory acts...the provisions of this Law will be used.” However, this deals only with direct conflicts, and does not address the case where an impediment to the PPP environment exists in another law, and is not mentioned in the PPP Law.

Table 14: Potential restrictions to PPP development – Legal Framework

Areas to be addressed in the legal framework for a smooth PPP development in Tajikistan

The new PPP law should be amended to better conform to international best practice.

A review should be conducted of other laws related to infrastructure and investment, to ensure that they are consistent with the PPP Law, and to remove any impediments to foreign and domestic investment in PPP projects.

4.5.5 Regulatory Framework

International best practice suggests that in order to achieve strong private sector participation in infrastructure projects, a gradual shift in the role of the state from service provider to policy maker, planner, coordinator, facilitator, and buyer of infrastructure services should take place. In line with this shift, the existing regulatory arrangements should be assessed, and the possibility should be considered of devolving the regulatory functions to newly-created independent bodies, with the line ministries keeping the responsibility for policy making and planning in their respective sector. This separation of responsibilities would enhance the credibility of economic regulation and provide the necessary level of confidence to investors that important issues, such as those related to tariff matters, are handled without undue political interference and other pressure. There are essentially two options available to implement such a strategy: either having a separate regulator in each of the main infrastructure sectors; or setting up a single cross-sector regulatory body. International best practice suggests that the first option would be attain better results.

Economic regulation has two main objectives: (i) to ensure that consumers have access to essential services on a sustainable and affordable basis, and (ii) to encourage private sector participation in the development of an infrastructure to provide those services. The functions of the regulatory body are elicited in Table 14 below. The UNECE team notes that Tajikistan has made some progress toward establishment of the regulatory framework.

Table 14 - Typical functions of the regulatory bodies:

1. setting tariffs and other service charges;
2. establishing standards for the terms and conditions of the services provided;
3. setting and enforcing market rules for the sector;
4. monitoring the performance of the regulated entities;
5. issuing, reviewing and cancelling licenses;
6. reviewing agreements; and
7. arbitrating disputes within the sector.

The success of such restructuring will depend to a large extent on public and investor confidence in sector regulators. This confidence will be based on perceptions regarding their technical expertise, efficiency, transparency, consistency and predictability of regulatory processes and decisions, and susceptibility to political and other pressure. To be able to withstand any pressure, the regulatory bodies should have administrative and financial autonomy. The latter can be achieved through use of fees levied from regulated utilities. Good sector regulation also relies on the competence and reliability of other sector participants. If regulated entities fail to submit requests for tariff adjustments, or do so with incomplete or inaccurate data, the regulators will be unable to act, or will act with incomplete information, or be forced to delay proceedings while waiting for the parties to complete the information.

5 CONCLUSION

The Government of Tajikistan has rightly identified modern infrastructure development as a key element in the successful transition of its economy and in its goal to improve the prosperity and quality of life of its citizens.

A sizeable infrastructure deficit exists and it will require significant political will, together with significant capital, both public and private, if a national infrastructure plan is to be successfully implemented. Transparency and addressing some of the issues raised in the recommendations above will be essential if Tajikistan were to successfully attract foreign investment for infrastructure development from international markets.

It is advisable that the Government does not to rush into “doing projects” before it has addressed a number of issues in the recommendations, especially those related to the legal framework, as well as having the correct systems and processes in place. In other words, it is necessary to fully understand the project scope, or the (“what”), before initiating procurement and delivery, (the “how”). Such a course of action perfectly fits within the UNECE’s philosophy of combining formal training and capacity building to address the “what”, with doing projects that represent the “how”. This however requires professional service planning. Otherwise, as has happened in many places before, projects risk failing, capital will leave the country and the opportunity to improve the country’s infrastructure will be lost for many years.

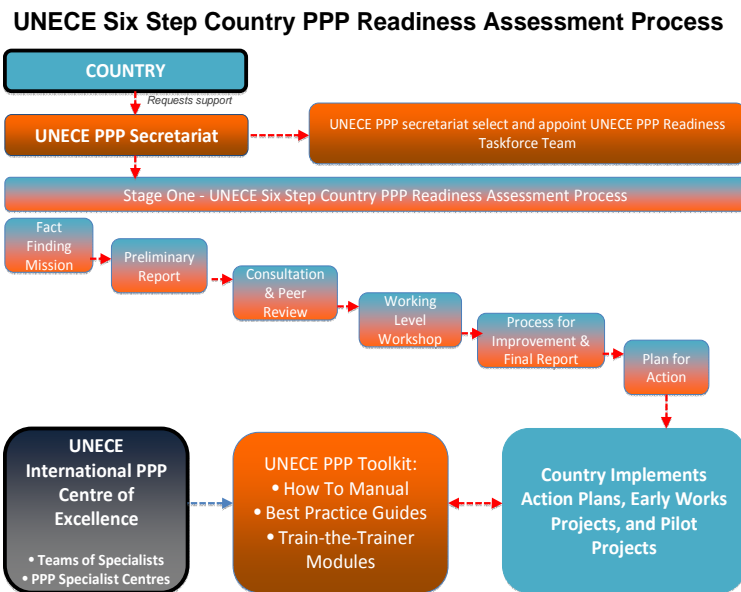
It is therefore recommended that while addressing the PPP legislation, the Government’s first step would be to develop PPP skills and institutional capacity, along with a long term, cross-sectoral, inter-ministerial NIP, whilst at the same time putting in place robust and transparent appraisal, procurement and approvals processes. Once these are in place, and with the appropriate dose of political will, Tajikistan would stand a very good chance of attracting the private capital it will need in order to achieve its infrastructure and wider social and economic goals, to address the needs of its citizens.

It is further recommended that a handful of pilot projects be identified and reviewed, focussing on smaller projects and ideally including small municipal projects , such as municipal lighting or energy savings. These projects can pursued while the above initiatives are underway and, done correctly, will build experience and confidence in the PPP model in Tajikistan.

**UNECE PPP NATIONAL READINESS ASSESSMENT
QUESTIONNAIRE OVERVIEW & STRUCTURE**

OVERVIEW

The primary goal of the UNECE PPP national readiness assessment, of which this questionnaire is a key component, is to identify: the challenges that may face (Name of Country) in its aim to attract private capital for infrastructure development in a neutral and objective way; consider areas where potential pilot project are needed and feasible; and formulate together an Action Plan that will be jointly implemented by the UNECE secretariat/TOS PPP and (Name of Country).



STRUCTURE

PART 1 - NATIONAL OVERVIEW

- 1.0 Economic & Social Need – Drivers for Change
- 1.1 Macroeconomic Climate
- 1.2 Business Climate
- 1.3 Financial Climate
- 1.4 Legal & Governance Environment

PART 2 – PPP FOCUS

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- 2.1 Legal & Regulatory Provision for PPP, Including Financial Risks
- 2.2 PPP Policy Framework
- 2.3 PPP Capacity – Public & Private
- 2.4 Project Identification, Selection and Procurement
- 2.5 Post Award; Delivery, Operations and Performance Management

PART 1 - NATIONAL OVERVIEW

1.0 Economic & Social Need – Drivers for Change

- 101 What are the greatest needs affecting (Name of Country) today?
- 102 Where are the areas of greatest need, geographically?
- 103 Have these needs been researched and identified?
- 104 If so, which social and economic indices have been employed?
- 105 Are these identified needs documented and widely available?
- 106 Have these needs been agreed upon and reflected in government policies?
- 107 Do national sectoral Strategic Service Models exist for the location of public services across (Name of Country), or at a regional level?
- 108 Does (Name of Country) have an existing National Infrastructure Plan?
- 109 What do you consider to be greater; economic need or social need?
- 1010 What is the reason for your opinion?
- 1011 What, in your opinion, are the top five priorities for economic infrastructure?
- 1012 What, in your opinion, are the top five priorities for social infrastructure?
- 1013 What is your opinion based upon?
- 1014 In your opinion, is the electorate supportive of the use of private capital for infrastructure development?
- 1015 How do the needs of your country compare to those of your neighbours?
- 1016 Do you believe there is potential for collaboration with neighbouring countries to develop required infrastructure, where there is mutual benefit?
- 1017 If so, in what geographical areas, and in which sectors?
- 1018 Has any dialogue been had to date regarding such potential collaboration?

1.1 Macroeconomic Climate

- 111 What is the age profile of the 9.5 million population?
- 112 What is the current life expectancy in (Name of Country)?
- 113 What are the current and projected net migration figures?
- 114 What is the current unemployment rate?
- 115 What is the future projected rate?
- 116 How many universities does (Name of Country) have?
- 117 What % of the population is university educated?
- 118 What are (Name of Country)'s natural resources?

- 119 Does (Name of Country) import its energy?
- 1110 What is the energy % split; indigenous / imported?
- 1111 What are (Name of Country)'s top areas of economic activity?
- 1112 What are (Name of Country)'s top exports /imports?
- 1113 Who are (Name of Country)'s largest trading partners?
- 1114 How would you describe (Name of Country)'s transportation network?
- 1115 What is (Name of Country)'s current credit rating? (source?)
- 1116 Is it "Investment Grade"?
- 1117 Do credit ratings exist for local regions or municipalities?
- 1118 What have been the GDP annual figures for each of the last five years?
- 1119 What are the annual GDP projections for the next 2, 5 and 10 years?
- 1120 What is the GDP split; public sector / private sector activity?
- 1121 What is the current public sector cost of capital?
- 1122 What is the current and projected rate of inflation?
- 1123 What is the current fiscal budget balance?
- 1124 What is the current public debt position as a percentage of GDP?
- 1125 Do you believe that the Government has sufficient public expenditure available to it, to deliver a major infrastructure programme?
- 1126 Has (Name of Country) historically failed to meet any of its debt obligations?
- 1127 Has a local or municipal government within (Name of Country) failed to meet any debt obligations?

1.2 Business Climate

- 121 What is the current corporation tax rate?
- 122 Do you believe this to be the correct rate? Please state why, or why not.
- 123 What is the commercial sectoral activity by %?
- 124 What is the size of the total workforce and how is it spread geographically?
- 125 How easy is it for a company, local or foreign, to establish itself in (Name of Country)?
- 126 To your knowledge, what barriers, real or perceived, exist?
- 127 In your opinion, what are the main incentives available to attract foreign investment?
- 128 What are the main barriers to attracting foreign investment into the country?
- 129 What key factors do you think investors consider when assessing a country?
- 1210 How many companies are registered in (Name of Country)?
- 1211 How many of these are indigenous?
- 1212 How many are foreign?

- 1213 What incentives does (Name of Country) offer foreign companies?
- 1214 Are there any restrictions on foreign companies to repatriate profits, also referred to as “transfer and convertibility” (T&C) risk?
- 1215 Do many (Name of Country) companies have Joint Venture, exclusivity or sub-contracting relationships with major international companies?
- 1216 How would you describe business confidence in (Name of Country) right now?
- 1217 What are the reasons underpinning your opinion?
- 1218 How would you describe the business culture in (Name of Country)?
- 1219 Is corruption a problem?
- 1220 Would you say corruption exists more in the public or private sector?
- 1221 Are trades unions prominent in (Name of Country)?
- 1222 Would you say (Name of Country) business culture is protective and insular, or confident and outward looking?
- 1223 How are most businesses constituted?
- 1224 Is there effective provision for bankruptcy and limited shareholder liability?
- 1225 How many major Construction / Development companies are present in (Name of Country)?
- 1226 How many SMEs are registered in (Name of Country)?
- 1227 Does the supply chain operate effectively in (Name of Country)?
- 1228 Do mandatory payment terms exist in public contracts, e.g. 60 days?
- 1229 Do SMEs have access to large government procurements through effective subcontracting arrangements?
- 1230 Are there a sufficient number of educated / skilled workers available?
- 1231 Does the educational system provide workers with the correct skills?
- 1232 If not, where are the skills shortages?
- 1233 How can they best be addressed?
- 1234 Is the physical infrastructure fit-for-purpose, for business needs?
- 1235 Would you describe Government policies as “business friendly”?
- 1236 What changes, if any, would you like to see, to encourage business growth in (Name of Country)?

1.3 Financial Climate

- 131 Is the banking system adequate for business and corporate activity?
- 132 Do you have confidence in the current banking system?
- 133 Please elaborate on your answer.
- 134 How would you describe the strength of the banks’ balance sheets?
- 135 Are the banks sufficiently capitalised?

- 136 Has the government offered any underwriting, guarantees or safeguards to commercial banks?
- 137 Is there sufficient liquidity in the current lending market?
- 138 If so, to what sector(s)?
- 139 How would you describe terms currently offered by lenders?
- 1310 What is the maximum term for which debt is / has been lent (years)?
- 1311 What pricing terms are offered for long term debt?
- 1312 How do these compare with international markets that you are familiar with?
- 1313 To your knowledge, has any private capital ever been invested in infrastructure projects, in (Name of Country), (equity or debt)?
- 1314 How available and reliable are long term debt instruments for infrastructure financing?
- 1315 Is project finance available in local currency?
- 1316 How would you describe government oversight of banking activity?
- 1317 Are you confident that the oversight is of the correct order?
- 1318 Are you confident that the banking sector can meet debt demand?
- 1319 Are local equity providers accessible?
- 1320 Is there an established bond market in (Name of Country)? If so, is it accessible?
- 1321 Have you experienced or are you aware of any difficulties regarding commercial foreign exchange activity?
- 1322 Is there a well developed insurance and pensions market?
- 1323 Is it meeting business needs? If not, how could it be improved?
- 1324 Are credit ratings available for (Name of Country) businesses? (source?)

1.4 Legal & Governance Environment

- 141 Does senior political will exist within Government to support the development and delivery of a National Infrastructure Plan?
- 142 Please describe the current Government process for setting the national public budget and in particular the budget for infrastructure development and specifically the role of the Ministry of Finance.
- 143 Is public infrastructure development currently managed centrally or at a local government level?
- 144 Are all major public infrastructure programmes and projects identified on the basis of need?
- 145 Are all major public infrastructure programmes and projects prioritised using a rigorous Government appraisal process?
- 146 Are all major public infrastructure programmes and projects subject to a rigorous Government business case approvals process prior to procurement?
- 147 Is Government procurement competitive, transparent and fair?

- 148 What is the most common form of procurement for major infrastructure projects in (Name of Country), e.g. construction? Design & Build?
- 149 Has “Competitive Dialogue” ever been employed in public procurement in (Name of Country)?
- 1410 Are public contract award criteria and tender scoring methodologies clear and transparent?
- 1411 How are major public contracts advertised?
- 1412 Do public contracts include terms to favour local businesses over foreign?
- 1413 Is there effective protection for Intellectual Property Rights?
- 1414 Do you believe the judiciary exhibits independence and competence?
- 1415 Are unsuccessful bidders fully notified and given the right of appeal?
- 1416 Do adequate Dispute Resolution procedures exist?
- 1417 Is access to third party arbitration available as part of these procedures?
- 1418 Are labour laws and workers’ rights well established?
- 1419 Is Government and corporate corruption being targeted and eradicated by political leaders?
- 1420 Is there standardisation of major contracts between Government and suppliers?
- 1421 What do you believe the advantages of standard contracts might be to the state?
- 1422 Do you believe there is sufficient community engagement in the development of infrastructure projects?
- 1423 Do major public contracts contain social clauses to benefit local communities?
- 1424 Does the Government provide financial support for low-income users of infrastructure or transportation?
- 1425 Do major public contracts contain clauses to protect the environment?
- 1426 Do major public contracts contain clauses to promote re-skilling and employment of unemployed citizens, by successful bidders?
- 1427 Do major public contracts contain the provision of apprenticeships for young people by successful bidders?
- 1428 Do you believe the press is free to investigate matters of public interest with respect to the award of major public contracts?
- 1429 Are environment laws clear and effective, and all available from a single source?
- 1430 Does Government use Resource and Accounting Budgetary (RAB) accounting and employ international accounting standards (International Financial Reporting Standards)?
- 1431 If so, for how long has it used RAB accounting for public expenditure?
- 1432 Do concessions currently exist and, if so, are they treated on or off balance sheet?
- 1433 Is co-location of public services a Government policy or objective?

1.5 Energy and Environmental Considerations (including clean technologies)

- 151 What are the government's current policies in respect of emission targets and Kyoto?

- 152** Does it have any green or renewable energy infra strategies or plans in place?
- 153** What green technologies are currently employed within the country?
- 154** What scale are they deployed on (Mega Watts)?
- 155 What proportion of the country's power generation is currently through the use of green or renewable energy technologies?
- 156 What is the main form of power generation currently employed in the country?
- 157** What incentives are available to developers of renewable energy projects? [these projects are not viable without some subvention]
- 158** Is power generation independently regulated?
- 159** Is the market liberated?
- 1510 Are the current tariffs subsidised? Is there a regulatory body setting up the tariffs?
- 1511 Is the national grid sufficiently resilient to accommodate major levels of new power generation?
- 1512 Does it require upgrading?
- 1513 Do existing distribution networks have sufficient capacity for increased generation development? Do they require upgrading?

PART 2 – PPP FOCUS

2.0 General PPP Matters

- 201 What would you say PPP is?
- 202 How do you think PPP works?
- 203 How would you describe “risk transfer” or “risk allocation”?
- 204 What risks are normally transferred in a PPP?
- 205 Are you familiar with “output based” specification?
- 206 How would you describe “Value for Money” for the public purse?
- 207 What is your understanding of the “project lifecycle”?
- 208 How would you describe “successful project delivery”?
- 209 What is the best way to ensure performance of the service provider?
- 2010 Are you familiar with “DBFOM”? If so, what does it mean to you?
- 2011 When and why, do you think PPP should be employed?
- 2012 What do you think the benefits of PPP are?
- 2013 What do you think are the main disadvantages and / or risks of PPP?
- 2014 What range of PPPs are you familiar with?
- 2015 What would you say is the single most important aspect of a successful PPP?
- 2016 Is the concept of “user pays” understood and accepted in (Name of Country) civic society?
- 2017 Are communities encouraged to commercially participate in PPPs or major public contracts? If so, how?
- 2018 How is community resettlement and rehabilitation currently provided for in PPPs or other major public infrastructure projects in (Name of Country)?
- 2019 Would you say PPP is well understood within the public sector in (Name of Country)?
- 2020 In (Name of Country) civil society, would you say PPP is understood and accepted as a means to deliver 21st century infrastructure?
- 2021 Are the public aware of the benefits of PPP?
- 2022 What would you say are the main misconceptions, if any?
- 2023 In your opinion, would a public educational programme re PPPs be worthwhile?
- 2024 What has been the traditional relationship between Government authorities and the private sector, in (Name of Country)?
- 2025 Do you think the traditional procurement model has delivered positive economic and social outcomes for the citizens of (Name of Country)?
- 2026 If not, what improvements could be made?
- 2027 Do you have, or know of, any statistics showing the historical delivery track record of public capital projects in (Name of Country), by cost and on-time delivery?

- 2028 Do you have any direct experience in the development or delivery of a PPP project?
- 2029 If so, was that on the public (Government) side, or the private (bidder) side, or both? Please explain your role.
- 2030 To your knowledge, has any PPP activity ever been undertaken in (Name of Country)?
- 2031 If so, what was the experience?
- 2032 To your knowledge, are different levels of Government (local and municipal, as well as national) involved or interested in PPP procurement?
- 2033 How are public services, as opposed to infrastructure, currently provided in (Name of Country)?
- 2034 Are any public services provided to the Government by the private sector, e.g. estate management, facilities management, municipal services?
- 2035 What would you consider to be the three greatest challenges to PPP development in your country?

2.1 Legal & Regulatory Provision for PPP, Including Financial Risks

- 211 Do you know if (Name of Country) has a concessions or a PPP law?
- 212 If so, are PPP contracts designed to be output based?
- 213 Does the PPP law prevail over any other laws dealing with concessions?
- 214 If not, does the Constitution, or other laws, recognise the principles of concession and regulate the granting of concessions in such a way that concessions are legally possible?
- 215 If the country has a Public Procurement Law, is it clear to what extent it applies or not, to the granting of concessions or PPPs?
- 216 Does (Name of Country) have a local public services law for municipalities or local authority concessions or PPPs, and is it clear?
- 217 How do you think the current provision of PPP law reflects on political support for PPP development and the perception of foreign capital investors?
- 218 How many laws currently apply to PPP?
- 219 Can you think of any benefits that a single, clear and attractive PPP legal framework might bring?
- 2110 Have the existing laws been reviewed to ensure they present no barriers to successful PPP development in (Name of Country)?
- 2111 Do the laws / regulations identify the public authorities that have the vires to award concessions and enter into project agreements?
- 2112 Do the laws / regulations make a clear distinction between PPPs and public procurement contracts regarding the transfer of risk to the private sector?
- 2113 Do the laws / regulations make a clear distinction between PPP and licence to operate?
- 2114 Do the laws / regulations make a clear distinction between PPP and privatisation?

- 2115 Can a concession or PPP be granted to a domestic and/or foreign person, or can the shareholders of the PPP Special Purpose Company be domestic and/or foreign?
- 2116 Do the laws / regulations identify the sectors and/or types of infrastructure or services for which concessions or PPPs may, or may not, be granted?
- 2117 Do the laws / regulations provide that a notice of award of a project is to be published and that the public authority maintains records of the selection and award proceedings?
- 2118 Does the public authority have the right to award a PPP without undertaking a competitive process?
- 2119 How does the Government manage unsolicited bids from the private sector?
- 2120 Is the legal basis for private sector participation in PPP clearly defined?
- 2121 Do you think investors are, or would be, comfortable with existing laws and financial regulations which currently apply to PPP?
- 2122 In your opinion, does the judiciary understand PPP?
- 2123 Does the judiciary accept PPP?
- 2124 Do clear procedures exist for acquiring rights of way?
- 2125 Are land and property issues dealt with in a timely way?
- 2126 In most cases would the public sector provide the land for PPP projects?
- 2127 Is planning consent granted for infrastructure developments in a timely way?
- 2128 How many steps does the planning consent process have?
- 2129 How many statutory bodies are involved in the planning consent process?
- 2130 Does a strategic "fast track" planning consent team exist for projects of national significance?
- 2131 If not, do you know if there is any intention to establish one?
- 2132 In a PPP, which party is responsible for obtaining planning consents, licences and approvals?
- 2133 Are the interests of communities, the poor and marginalised protected in the planning process?
- 2134 Are there any provisions limiting foreign participation in investment and/or PPP activity specifically?
- 2135 Are there any barriers to repatriation of profits by PPP investors (T&C)?
- 2136 Has the Government ratified, and does it in practice follow, international conventions on protection of foreign investment?
- 2137 Are there any PPP-specific tax regulations that may deter international PPP investors?
- 2138 Is there a clear system for compensating PPP investors for acts of public sector authorities that change sector-specific economic conditions that were unforeseen during bidding and which are beyond the control of the private sector partner?
- 2139 Is there a clear system for compensating PPP investors for scope changes introduced by the public procuring authority?
- 2140 Is there a clear system for compensating PPP investors for procurements cancelled by the public authority during the bidding process?
- 2141 Are termination rights clearly set out in PPP or major infrastructure contracts?

- 2142 Are all major public contracts subject to EU procurement regulations?
- 2143 Which institutions are, or would be, involved in the PPP process?
- 2144 Which national Government body has, or would have, ultimate responsibility for PPP project approval?
- 2145 Do private sector investors have access to this body and other agencies, prior to procurement?
- 2146 How does PPP, or major infrastructure, delivery governance work?
- 2147 Is the regulatory authority and decision-making hierarchy clearly set out, for each sector of expected PPP activity?
- 2148 Is price regulation sufficiently flexible to allow for major cost changes, e.g. due to scope expansion?
- 2149 Are PPP related laws and regulations for national projects consistent?
- 2150 Do regulations establish clear requirements and oversight mechanisms for project implementation?
- 2151 Is, or would, risk clearly be allocated to different parties according to their abilities to manage them, within a PPP?
- 2152 Has the allocation of risk between the public authorities and the private sector been successful in recent years, for projects of national significance?
- 2153 What do you think are the key factors in the risk rating of a typical PPP project using project finance?
- 2154 Where does "Demand Risk" normally lie, with the public or private sector?
- 2155 Do investors currently have the right to appeal against the decision of a regulator's office?
- 2156 Are property rights enforceable and do they provide proper compensation for expropriation in practice?
- 2157 Do standardised public infrastructure contracts (Standard Form of Contract) exist in (Name of Country)?
- 2158 If so, for which sectors?
- 2159 If not, do you know if there is any intention to develop one?
- 2160 What level of autonomy exists within local authorities or municipalities to initiate PPP projects, which are not considered "strategic" at a national level?
- 2161 How do you see national / local / municipal governments interacting during PPP development, or the delivery of a PPP project?
- 2162 How do public authorities create, or intend to create, the right incentives to attract investment of private capital into PPPs?
- 2163 Are there any general business regulations or practices which might affect the smooth implementation of a PPP?

2.2 PPP Policy Framework

- 221 Is PPP development clearly supported in current central Government policy?

- 222 Does a policy framework exist that identifies PPP as an important tool for the development and delivery of infrastructure?
- 223 Do policy framework documents exist?
- 224 Is there a PPP Model Agreement, or PPP Standard Form of Contract?
- 225 Is PPP policy clearly distinct from privatisation policy?
- 226 Do current procurement procedures accommodate the employment of PPP?
- 227 Institutional Design - does policy clearly allocate authority and responsibility within Government agencies, including oversight?
- 228 Does current policy clearly set out a process for the identification, approval, procurement and implementation of a PPP or major infrastructure project?
- 229 Does current policy dictate transparency in programme and project selection?
- 2210 Are Government ministries encouraged to develop PPP programmes as part of their overall infrastructure investment plans?
- 2211 Does a current PPP pipeline of projects exist?
- 2212 If so, what is the total value, capex, of this programme?
- 2213 Does the current policy framework generate financially viable public proposals?
- 2214 Is project affordability rigorously tested before procurement starts?
- 2215 Has the Balance Sheet treatment of PPP projects been determined by policy makers?
- 2216 Does the policy support a free market, promoting competitive tension?
- 2217 Do stakeholders, including communities, currently have meaningful engagement in major project development?
- 2218 Is Government prepared to offer Viability Funding to support certain PPP developments of national importance?
- 2219 Does policy apply to local and municipal authorities?
- 2220 What factors do you think investors consider when assessing a PPP project?
- 2221 What do you think would be an investor's top priority when assessing a project in (Name of Country)?

2.3 PPP Capacity – Public & Private

- 231 Is there a recognised PPP “Champion” within the (Name of Country) Government, at ministerial level?
- 232 Are the necessary PPP interaction processes well developed?
- 233 In your opinion, do Government agencies and state bodies currently have sufficient skills and understanding of PPP to successfully develop and deliver a national PPP programme?
- 234 Does the public sector possess any meaningful project, contract, legal, financial or commercial management acumen?
- 235 Are staff capable of routine operations in PPP development?

- 236 Do public agencies and authorities employ proper accounting practices when considering Value for Money and liabilities?
- 237 Do public agencies have asset management skills, e.g. the use of Asset Registers and Asset Backed Vehicles (ABVs) for development?
- 238 In which sectors do you believe public sector personnel to be strongest, and weakest?
- 239 Do public agencies have the requisite skills to conduct feasibility studies and risk apportionment studies, including PPPs?
- 2310 Do public agencies have the required skills to develop a rigorous project appraisal and PPP business case?
- 2311 Do public agencies possess the required methods and criteria for awarding PPP contracts?
- 2312 Do public agencies have sufficient skill to successfully engage the private sector in commercial and PPP negotiations?
- 2313 Do public agencies have contract management expertise? (Types?)
- 2314 Is professional training and documentation available to public agency personnel in order for them to improve their skills set?
- 2315 Do local Government agencies possess the same skills profiles as central Government?
- 2316 Are ministries encouraged to develop in-house PPP expertise rather than continually employ external consultants? If so, how is this achieved?
- 2317 Has central Government supported PPP development through the creation of specialist institutions and advisory units?
- 2318 What would you see as the benefit of a specialist PPP unit?
- 2319 Does the Ministry of Finance have sufficient PPP expertise?
- 2320 Does (Name of Country) have a national PPP Centre of Excellence (CoE)?
- 2321 If so, is its interaction with other Government bodies clearly set out and understood within Government?
- 2322 How many FTEs does the CoE have and is it sufficiently resourced?
- 2323 What sectoral experience do its personnel have?
- 2324 Does the CoE have a projects lawyer within it?
- 2325 Does it contain any ex-private sector personnel with commercial expertise?
- 2326 Is the CoE's role clearly set out in public policy and regulations?
- 2327 Does the CoE have access to PPP international best practice and advice?
- 2328 Do other Government agencies meaningfully interact with the CoE?
- 2329 Is there any intention to establish sector-specific PPP units?
- 2330 In your opinion, does sufficient capacity exist in the (Name of Country) private sector to help deliver a large scale, multi-sectoral, National Infrastructure Plan?
- 2331 How many large scale construction companies exist in (Name of Country)?
- 2332 What was their annual turnover for the last financial year?
- 2333 How many staff do they currently have?
- 2334 What sectors have they experience of?

- 2335 Do these companies have any management experience of PPP projects?
- 2336 Does sufficient skilled labour exist locally, or would labour immigration be required?
- 2337 Does the local banking sector have sufficient lending capacity to satisfy the debt requirements for such a programme?
- 2338 Does the local financial sector have sufficient expertise to structure complex PPP transactions?
- 2339 How many large Facilities Management (FM) companies exist in (Name of Country)?
- 2340 What sectoral experience do FM companies have?
- 2341 Are there private sector transportation or water operators in (Name of Country)? (List)
- 2342 Is the local professional advisory market experienced in project development and deal transaction? (financial, legal, design, technical, insurance, technology)
- 2343 Have any of these local companies partnered with, or been sub-contracted by, foreign companies, on past projects?
- 2344 Do any of the local companies, banks and firms have access to knowledge exchange with international PPP experienced companies?
- 2345 Do any of these local companies have offices outside (Name of Country)?
- 2346 Do any of these companies have any PPP experience from abroad?
- 2347 Please list the names of the major utilities in (Name of Country)
- 2348 Are these publicly or privately owned?
- 2349 Are these monopolies or does competition exist?
- 2350 What were their respective turnovers in the previous financial year?
- 2351 Are there any energy capacity constraints that would impact negatively on PPP development?

2.4 Project Identification, Selection and Procurement

- 241 Are all public infrastructure programmes identified, appraised, prioritised and approved using Multi Criterion Analysis (MCA)? If not, then how?
- 242 Are all major public infrastructure projects identified, appraised and approved using Cost Benefit Analysis (CBA)? If not, then how?
- 243 How is the National Infrastructure Plan developed?
- 244 Which bodies are involved in project identification?
- 245 How is project identification linked to public budget allocation?
- 246 Who is the senior public person responsible, the “Accounting Officer” for a major project?
- 247 What role does the Ministry of Finance play?
- 248 Are projects ever “bundled” together in order that they can be delivered in a faster and more economic way?
- 249 How is the procurement path, (PPP or traditional), decided upon?

- 2410 Are PPP projects ever promoted simply to ensure that they do not appear on the public Balance Sheet?
- 2411 Is the PPP process, from inception to appraisal, approval, procurement, delivery, operation and end; set out in transparent and well articulated stages?
- 2412 Are there key milestones clearly shown in each of the PPP stages?
- 2413 Do these stages include appropriate external oversight and peer QA reviews?
- 2414 Are Environmental and Social Impact Assessments (ESIA) carried out for each major public infrastructure project?
- 2415 Is optimism bias (OB) calculated for each major public infrastructure project?
- 2416 Is project affordability stress-tested within each major public infrastructure project?
- 2417 How is Value for Money determined?
- 2418 How is risk analysis carried out?
- 2419 How is legal analysis carried out?
- 2420 Are comprehensive Business Case approvals processes, with accurate budgets, in place for PPP projects? If so, please provide details.
- 2421 Who has lead responsibility for speedy approval of each Business Case?
- 2422 Upon PPP project outline approval, is project funding ring fenced within the appropriate Government budget?
- 2423 Are public officials required to declare any conflicts of interest? How?
- 2424 Are local authorities encouraged to participate in the procurement process?
- 2425 What procurement procedure is used, or intended to be used for PPP procurements?
- 2426 Does this reflect the complexity of PPP projects?
- 2427 Does the construction sub-contractor within a PPP procurement; receive appropriate incentives to deliver on time and to budget?
- 2428 Is the construction sub-contractor liable for defects in the works, for a defined period of time?
- 2429 Do procurement regulations for PPP projects unfairly favour certain bidders over others?
- 2430 Is soft market testing carried out before procurement is commenced for each major project to demonstrate that the project is "bankable" and that sufficient bidder appetite exists, in order to avoid failed and costly procurements?
- 2431 Are bidders given sufficient tendering information, including timescales, in a timely way, to permit them to respond to the best of their ability?
- 2432 Are procurement and scoring / evaluation methodologies clearly set out for the bidders from the beginning?
- 2433 Is the project scope / output specification clearly set out from the beginning of procurement?
- 2434 How is a request for advanced works managed in the procurement?
- 2435 Is the payment mechanism clearly set out from the beginning of procurement?
- 2436 How is refinancing treated within public procurement of PPPs?
- 2437 How is gain / pain share treated within public procurement of PPPs?

- 2438 Are the project management and contract management arrangements clearly set out from the beginning of procurement?
- 2439 Is the concept of Most Economically Advantageous Tender (MEAT) applied in the scoring and awarding of all public contracts?
- 2440 At announcement of Preferred Bidder (PB), is a “Standstill” period applied, to allow unsuccessful bidders leave to appeal?
- 2441 Are there fair and transparent mechanisms in place at PB stage to resolve any challenges from unsuccessful bidders?
- 2442 Between PB and Financial Close (FC), which Government agency will lead negotiations for the public sector?
- 2443 Is the public sector held accountable for its decisions? How?
- 2444 Is the public sector Contract Manager part of the public sector team from the beginning of the procurement?

2.5 Post Award; Delivery, Operations and Performance Management

- 251 In (Name of Country), do you believe that PPP and other major public contracts are properly implemented and effectively monitored by the public sector agencies?
- 252 On contract award, which agency takes lead responsibility for contract management during the delivery and operational phases?
- 253 Is the PPP CoE / Ministry of Finance involved in project implementation, post award?
- 254 Are the public sector contract management costs clearly set out in the Full Business Case, for approval by central Government just before Financial Close and contract award?
- 255 Is a clearly defined Output Specification developed and made available to bidders as part of the bidding process?
- 256 Have Performance Management Systems (PMS) been developed in (Name of Country), for the operational phase of PPP projects?
- 257 Is a relevant PMS reflected in the Project Agreement (PA) and in the Contract Management (CM) documentation?
- 258 What are the key metrics / Key Performance Indicators (KPIs) used to manage performance of a PPP, or other large public contract?
- 259 What penalties / deductions are applied for non-performance by the private sector partner / supplier?
- 2510 How are variations and claims by the private sector partner normally managed in (Name of Country)?
- 2511 How are conflicts or disputes typically managed within CM arrangements for PPP, concessions or other major public contracts in (Name of Country)?
- 2512 Would you say disputes are settled fairly and speedily?
- 2513 How is “Force Majeure” provided for in (Name of Country) PPPs or major public contracts?
- 2514 How is “change in law” provided for in PPP or other major public contracts?

- 2515 Does a mechanism exist for sharing the risk of “change in law” events?
- 2516 Has international arbitration ever been employed for such disputes?
- 2517 Have any major public contracts ever been terminated? If so, under what circumstances?
- 2518 In your experience, are private sector partners / suppliers normally paid fully and promptly by Government in the case of major public contracts?

READINESS ASSESSMENT MISSION ON PUBLIC-PRIVATE PARTNERSHIPS

Dushanbe, Tajikistan, 24-28 September 2012

Agenda

MONDAY, 24 SEPTEMBER 2012	
09.30 – 11.30	Meeting with the Ministry of Economic Development and Trade Mr. Sharif Rahimzoda, Minister Members of Department of Economic Reform and Financial Relations
12.30 – 14.00	Lunch
14.30 – 15.30	Meeting with representatives of the Committee on Environment Mr. Talbak Salimov, Chairman
16.00 – 18.00	Meeting with American Chamber of Commerce and Industry “AmCham Tajikistan”
18.00 – 20.00	Dinner with the Chairman of AmCham Nazir Sharipov
TUESDAY, 25 SEPTEMBER 2012	
09.30 – 10.30	Meeting with representatives of Council on Investments and State Property Ms. M.Mahkamova, Deputy Chairman
11.00 – 12.00	Meeting with representatives of the Ministry of Energy and Industry Mr. K. Hohlov, Deputy Minister
12.30 – 13.30	Lunch
14.30 – 15.30	Meeting with representatives of Tajik Invest Mr. B.Nadjmuddinov, Director General
17.00 – 19.00	Meeting with representatives of Innovative Road Solutions (IRS) , Toll road Dushanbe – Hudjand
WEDNESDAY, 26 SEPTEMBER 2012	
9.30	Meeting with the Ministry of Finance Mr. S.Sokhibov
10.30	Meeting with the Ministry of Melioration and Water Resources Mr. S. Rakhimov
14.30 – 15.30	Meeting with the representatives of the Ministry of Transport N.Khakimov, Minister (his team was present)
15.30 – 16.30	Meeting with the representatives the Ministry of Health Ms. D. Sadykova, Adviser to the Minister
17.00 – 18.00	Working meeting with UNECE representatives

THURSDAY, 27 SEPTEMBER 2012	
9.30 -	The Aga Khan Fund for Economic Development (AKFED) Meeting Mr. Ozodhon Davlatshoev
11.00 – 12.30	Meeting with IFC Mr. Kris David Miller
13.00 – 14.30	Lunch
15.00 – 16.00	Meeting with representatives of the Ministry of Education Mr. F.Ismonov, Deputy Minister
16.00 – 18.00	Meeting with representatives of Council of business associations and NGOs
18.00 – 20.00	Dinner with representatives of Council of business associations and NGOs
FRIDAY, 28 SEPTEMBER 2012	
09.30 – 10.30	Meeting with Asian Development Bank
11.00 – 12.00	Meeting with EBRD (took place after the mission)
12.30 – 13.30	Lunch
14.00 – 16.00	Meeting with representatives of International Organisations (SECO, USAID, EU, DfID, ADB, EBRD, UNDP, Aga Khan Foundation, IFC, the World Bank, GTZ)
16.30	Summing up meeting with the Ministry of Economic Development and Trade