



**Economic and Social
Council**

Distr.
GENERAL

TRADE/2005/3
14 March 2005

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

COMMITTEE FOR TRADE, INDUSTRY AND
ENTERPRISE DEVELOPMENT

Ninth session, May 2005
Item 5.2 of the provisional agenda

**WORKING PARTY ON INTERNATIONAL LEGAL AND
COMMERCIAL PRACTICE**

DOCUMENT FOR INFORMATION AND DECISION

Note by the secretariat

This paper highlights the main achievements of the Working Party on International Legal and Commercial Practice (WP.5) during 2004 and gives an overview of the activities envisaged for 2005-2007. As the Working Party did not meet during 2004, there is no report for the Committee to endorse.

The Committee is asked to approve the Working Party's request to extend the mandate of its Public-Private Partnership (PPP) Alliance for a further two years (see annex).

Additional information on the Working Party is available at the following website address:
<http://www.unece.org/ie/wp5>

1. Background

The Working Party on International Legal and Commercial Practice produces legal guides, norms and standards in new areas of commercial and legal practice and undertakes technical assistance programmes for the implementation of these standards in pursuit of the role of the Committee for Trade, Industry and Enterprise Development in international trade (the facilitation and strengthening of the integration of UNECE member States, and especially countries in transition, into the European and global economy, and the prevention of the establishment of new barriers to trade within the region).

The key features of its activities are:

- Dedicated subgroups to assist Governments in implementing new commercial and legal practices: the UNECE Public/Private Partnership (PPP) Alliance, the Intellectual Property Advisory Group and the Real Estate Advisory Group (REAG), which are funded from extrabudgetary sources to carry out capacity-building activities in the countries in transition.
- Cooperation with the private sector in these activities, encouraging it to play a bigger role in creating viable property markets, in infrastructure and in innovation in the UNECE region, especially in countries in transition.
- Focusing the work in the commercial and legal field in order to contribute directly to achieving the United Nations goals as set out in the Millennium Declaration, such as making property rights more accessible to the socially and economically disadvantaged; identifying new institutions and practices that can empower the poor and disadvantaged, including women; and removing barriers to and unnecessary regulation in private-sector development.
- Giving importance to the need to cooperate with other working parties and organizations within the United Nations system and to develop joint work with other international agencies in the UNECE region and to avoid duplication.

2. 2004 Achievements

Since the last meeting of the Committee, the Working Party has achieved the following:

- Agreement from the coordinating meeting of the Third REAG Land for Development Forum (Rome, 13-14 December 2004) to establish a High-level Commission project that will place the importance of property rights to poverty alleviation on the international development agenda
- Support for the Land for Development programme from member States, other regional economic commissions of the United Nations, other United Nations bodies such as UN Habitat and the Food and Agriculture Organization
- Acquisition of a new service for member States that promotes awareness and understanding of Alternative Dispute Resolution Mechanisms (i.e. out of court, dispute resolution mechanisms for land, property and economic activity disputes). This initiative came from the United Kingdom Department for International Development to address issues arising from land reform, privatization and transition in six member countries of the Commonwealth of Independent States: Georgia, Kyrgyzstan, Republic of Moldova, Russia, Tajikistan and Ukraine and with it, the resources of a full-time senior programme manager for the UNECE secretariat along with support funding to ensure its ongoing contribution to new commercial and legal practice in transition economies

- Significant contribution to overcoming the barriers to PPPs by emphasizing the importance of governance in successful PPPs presented through a series of meetings, including a joint Conference on the role of PPPs for the revitalization of cities at the second World Urban Forum of UN Habitat, Barcelona, Spain on 13 and 14 September 2004, and through an expert workshop with the Canadian Council for Public-Private Partnerships, in cooperation with the Government of Canada, in Toronto, on 27 November 2004.
- New extrabudgetary resources to support its programmes: e.g. the EU-TACIS projects on mortgage financing for the Russian Federation; and from Tecnoborsa, Italy, in support of its REAG Land for Development programme.
- Continuation of tailor-made high-quality advisory services and capacity-building seminars for improving the enforcement of intellectual property rights in several countries during 2004: including the Conference on “Intellectual Property Exploitation in the Internet Era”, 1-2 April 2004, Warsaw, and the Regional Seminar on the “Role of Intellectual Property and Innovation in Economic Growth”, September 2004, Ministry of Economy, Labour and Entrepreneurship, Zagreb.

3. Overview of the objectives and challenges envisaged in the context of the 2005-2008 exercise

As a result of the increased profile achieved by its programmes in 2004, the Working Party will receive more extrabudgetary support for implementing its mandate in 2005-2008. For example, the UN Development Account in the 2006-2008 biennium will contribute to the work of the PPP Alliance programme.

Land for Development and the proposed High-level Commission on Legal Empowerment for the Poor

REAG will support the establishment of a UN High Level Commission and contribute directly to its various specialised working groups. The Group will showcase the Alternative Dispute Resolution Mechanisms mentioned above, and possibly some others, as evidence-based success for the work of the High Level Commission on Legal Empowerment for the Poor. Specifically, this will mean disseminating the success of pilot alternative dispute resolution (ADR) mechanisms across the CIS region, including mediation; holding of two regional workshops on sharing expertise and best practice in ADR in land, property rights and economic activity; preparing guidelines, providing handbooks and training for Governments on establishing out-of-court mediation and arbitration services, and organizing study tours of countries interested in adopting these mechanisms

Public private partnerships for sustainable development

The PPP Alliance will continue to overcome the technical, financial and legal barriers to PPPs by promoting the use of the social and other values of PPPs and overcome the lack of capacity of Governments to manage, procure and finance projects through capacity-building programmes and training of civil servants. In addition, a project funded by the UN Development Account on capacity-building for PPPs for sustainable development will commence in 2006-2008 in cooperation with the Economic and Social Commission for Asia and the Pacific (ESCAP) and the Economic Commission for Africa (ECA). It will utilise the experience with PPPs to inform countries embarking on PPP strategies so that they can avoid making mistakes and build on successful practices. The PPP Alliance will adopt an e-strategy so that more information on PPPs and best practice can be made available to meet a large demand. This will include establishing a database on PPP service providers and case studies.

The fourth PPP Alliance meeting will take place in London on 25 October 2005, hosted by the United Kingdom Department of Trade and Industry. The meeting will showcase best PPP projects, discuss projects started in cooperation with the Russian Federation and other countries, and identify the capacity-building programmes and materials that can be offered in support of the UN Development project.

Enforcement of Intellectual Property Rights

The IP Advisory Group will increase the activities devoted to the economic development side of intellectual property and valuation. In carrying out its activities in enforcement and capacity building, the Group will do so increasingly with other international organizations such as the World Intellectual Property Organization (WIPO), the World Customs Organization (WCO) and the Organization for Security and Cooperation in Europe (OSCE).

Next session of the Working Party on International legal and Commercial Practice

The next session of the Working Party will take place in cooperation with UNCITRAL on the topic of mediation as an alternative dispute resolution mechanism for empowering the socially and economically disadvantaged, including women. The secretariats of both organizations are discussing suitable dates for this session.

E- strategy

The Working Party will improve the use of the website to publicize its outputs and activities as well as to educate interested parties about norms and standards (see the e-strategy for providing information on PPP projects and policies with an educational objective and to share the experience of Governments in establishing successful PPP strategies). Overall, the Working Party's three subprogrammes shall improve their use of the Internet and establish the links to other bodies undertaking related work.

Cross-sectoral cooperation within UNECE and increased cooperation with other UN agencies

As a result of its prospective contribution to the High Level Commission's work it is important to improve cross sectoral cooperation with various PSBs and subsidiary bodies within ECE and to develop closer cooperation with other UN agencies such as FAO, UN Habitat and the ILO. The WP chairman has begun discussions with the chairman of the Working Party on Land Administration of the Committee on Human Settlements, with a view to jointly support the work of the proposed High level Commission and to present to external bodies a unified UNECE programme, dealing with land and property rights issues.

4. Decisions to be taken by the Committee

To date the Working Party is serviced by one senior Professional and a third of the time of a General Services staff member. The Land for Development programme will enjoy a full-time senior Professional and two assistants. A programme manager services the IP Group. The PPP Alliance, by contrast, has no support staff. The Committee may thus consider the importance of PPPs in the work programme of the Working Party and in the UNECE as a whole, and how the Alliance can meet the increasing requests for its services from member States.

The Committee is also asked to approve the Working Party's request to extend the mandate of its Public-Private Partnership (PPP) Alliance for a further two years (see annex).

The Committee is requested to endorse the Working Party's objectives and directions of work for 2005-2008.

Annex

Renewal of mandate

Note by the secretariat: According to the standing rules of the Committee for Trade, Industry and Enterprise Development, subgroups of subsidiary bodies should, if the work of the group demands, have their mandates renewed by the Committee every two years. The present note makes the request for a renewal of the mandate of the Public-Private Partnership (PPP) Alliance, a subgroup of the Working Party on International Commercial and Legal Practice (WP 5).

Background and mandate

The UNECE PPP Alliance was established in 2001. It grew out of the work of the Build-Operate-Transfer (BOT) Group that had been established in 1996 to prepare guidelines on the ways and means of attracting private finance for infrastructure. The BOT Group was the first body of experts from the public and private sectors, approved by the Committee to provide services to member States on an ad hoc basis. In drawing up its guidelines, the Group held consultative visits with a number of member States, including Hungary, Croatia and Bulgaria. Having completed its work on the Guidelines, the PPP Alliance was established to incorporate a number of new members especially from the PPP Units that had been established in a number of countries, such as the United Kingdom, Ireland, Netherlands, Italy and the Czech Republic. In the case of the Czech Republic, the BOT Group assisted in the establishment of the PPP Unit.

The Alliance agreed on a dual mandate:

- To build the capacity of Governments to develop successful PPPs, including *inter alia* improving the legal framework and establishing PPP Units
- To promote the values of sustainable development. – transparency, governance, accountability and social development and poverty alleviation in the promotion of the PPP concept

Activities in 2004

The PPP Alliance organized two events in 2004:

Third PPP Alliance meeting at the occasion of the UN Habitat Second World Urban Forum, Barcelona, Spain, 13 - 17 September 2004

On September 13 and 14, the PPP Alliance under the auspices of the Second World Urban Forum, organized a conference on the role of PPPs in the sustainable development of cities. Over 100 people from more than 30 countries attended the event. Referring to a number of case studies, the meeting discussed how PPPs had helped revitalise cities in the United Kingdom, Poland, Morocco and Spain and the key lessons for other cities wishing to repeat the success. The meeting also discussed the UNECE PPP Alliance Guidelines on Good Governance in PPPs.

Consultation with the representatives of Canadian business on PPPs in cooperation with the Government of Canada, Toronto, 24 November 2004

The purpose of the meeting was to hear Canada's experience with PPPs and to draw the key lessons that could be used in the Alliance's Guidelines on Good Governance. The experts from Canada made comments on the draft text of the guidelines. Several of Canada's leading institutional investors participated in this consultation. After the meeting a session was held between representatives of the PPP Alliance, the Canadian Government and the Canadian Union of Public Employees (CUPE). The purpose of this meeting was to hear the views of CUPE on PPPs. CUPE also presented the secretariat with documents and materials on the role of PPPs around the world and in particular their impact on employment.

Representatives of the Government of the Russian Federation presented an overview of that country's situation in infrastructure and an analysis of the main issues in financing the infrastructure projects. They agreed on the fact that the Russian Federation was at the pre-PPP stage and needed the help of experts to overcome barriers to infrastructure development.

Activities of the PPP Alliance in 2005.

A mission of the representatives of the PPP Alliance and the Working Party on International Legal and Commercial Practice will take place in Moscow on 21-22 March 2005 with the Government of the Russian Federation. It will include representatives of EU TACIS, the World Bank, the United Nations Development Programme and the European Bank for Reconstruction and Development. The purpose of the meeting is to discuss cooperation and support projects on PPPs in that country. The meeting reflects the priority that the Government of the Russian federation has accorded to the possible role of PPPs in modernising its infrastructure.

The Fourth PPP Alliance meeting will take place on 25 October 2005, in London, with the Department of Trade and Industry of the Government of the United Kingdom

The PPP Guidelines will be finalized and presented for approval to the Working Party at its next session.

Rationale for the renewal of the mandate

In the light of the increasing interest in the use of PPPs by member States, particularly the countries in transition, in renewing their infrastructure, the interest within the European Union in the role of PPPs in the EU's growth strategy and especially in the development of transport and energy networks, and the award of financing from the UN Development Account to the United Nations Economic Commission for Europe, as well as to the Economic and Social Commission for Asia and the Pacific and the Economic Commission for Africa to undertake a capacity-building programme in PPPs for the Biennium 2006-2008, the Working Party **requests** the Committee to renew the mandate of the PPP Alliance for a further two years.

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