P0012-ODP1-Project initiation details

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1. Project purpose

The purpose of the project is to draw up and draft a standard model concessions law ("Model Law for PPP/Concessions"). New concessions laws have been enacted by many countries in the past 25 years, but vary widely in quality and content. Some of the more recent ones are very well structured and thought-through. Others, particularly less recent ones, are more deficient. Many countries are now introducing laws of this kind, as part of the process of launching new PPP programmes. This is therefore an opportune time to draw up a standard model form law of this kind, taking into account the most helpful, respected, tried-and-tested precedents in existence.

The Model Law for PPP/Concessions would be available for governments to draw on as they prepare (or revise) their own laws of this kind, providing both conceptual and structural guidance and precedent provisions. Its function would be to serve as a source of guidance and example, not as a ready-made, 'off-the-shelf' piece of legislation. It would need to be adapted as appropriate to each jurisdiction. In this way, it will provide invaluable assistance to countries embarking on PPP programmes for the first time, as well as those looking to improve existing frameworks, and will represent an up-to-date, first-rate standard of PPP legislation of this type. It will stand as a major contribution to the contemporary corpus of publicly available materials and guidance notes on this subject.

Version: 1.0

2. Project scope

The project's initial activity will be to identify support for or against the creation of a Model Law for PPP/Concessions and its ability to promote People First Public Private Partnerships in furtherance of the United Nations Sustainable Development Goals. Members of the team are invited to put forward their views on this question at the earliest opportunity.

The second, substantive activity will be the drafting of a coherent, wide-ranging, Model Law for PPP/Concessions. Various publications in the past (e.g. the UNCITRAL guides) have provided guidance as to the areas such laws should address, the advantages and pitfalls of different types of clause, and the issues affecting them. However, a systematic review of existing approaches and proven precedents, compiled and reflected in a single model concessions law, has not been undertaken outside the CIS countries (where a new 'CIS Model Law' of this kind has recently been developed) . Nor have any efforts to date focused on furthering the UN Sustainable Development Goals. The aim of the project would therefore be to draw up the provisions themselves, setting out a reasonably complete set of precedent clauses and a supporting implementation commentary, based on a compilation and synthesis of empirical evidence, and focused on the achievement of the UN Sustainable Development Goals.

3. Project deliverables

The project deliverables are:

The project will involve a review, compilation and harmonisation of highly-regarded, well-drafted and structured, proven concessions laws currently in existence, based on best practices and other experience-based insights into how a concessions law should be constructed and drafted. The main deliverable will be a new Model Law for PPP/Concessions based on these precedents, together with a relatively short commentary summarising and explaining the scope and operation of its provisions and how they will further the UN Sustainable Development Goals. It will be a comprehensive, fully-drafted document. It is anticipated that it will cover the main areas typically addressed by laws of this kind, including, among other elements: key definitions; applicable sectors for PPPs (and any exclusions); available PPP structures; identification of granting authorities; power and authority of granting authorities; administrative coordination; applicable budgetary mechanisms (if any); applicable regulatory provisions; procurement procedures; review and appeal mechanisms; risk allocation and government support; potential content of concession agreements; finance and security; step-in rights; available dispute-resolution mechanisms; inter-relationship with other laws; supporting regulations. It will focus on established principles, provisions and precedents, which are considered to be of most practical use as a source of guidance to governments, however, rather than attempting to cover every single clause that might be included in a concessions law.

Methodology: The project team will discuss and agree on the library of leading precedents and other reference materials and empirical evidence, the structure and scope of the proposed new model law, its optimum length and scope of contents, and the working processes and timetable for finalising it. We will draw up and agree a set of heads of terms covering the main provisions. The clauses themselves will then be drafted and circulated to the team members and other key stakeholders for comment. Guidance notes to the provisions will also be discussed and agreed.

4. Geographical focus

The focus is global.

Care will be taken to ensure that it is also specifically relevant and applicable to the countries of operation of any International Financial Institutions (IFIs) specifically supporting the exercise.

5. Project team membership and required functional expertise

5.1 Project team

Membership is open to experts with broad knowledge in the areas of PPPs and in particular those with experience in low and middle-income countries.

5.2 Project leader

- Christopher Clement-Davies (c.clement-davies@virginmedia.com)

5.3 Role of the UNECE secretariat

Team members and co-leaders will work under the overall responsibility of the UNECE secretariat, which will appoint a project leader to oversee the entire project process.

6. Project leadership

Project leader	Christopher Clement-Davies
Editor	

7. Resource requirements

Participants in the project shall provide the resources for their own participation. The existence and functioning of the project shall not require any additional resources from the UNECE secretariat.

8. Timetable

ODP Step	ODP Name	Estimated Completion Date	Comment
1	Project initiation	2017 3rd quarter	Project approval by the Bureau of the Working Party on PPPs
2	Stakeholder mobilization	2018 First quarter	
3	Developing the initial draft	2018 First quarter	First version of the model and revised accordingly
4	Public review	(tbc)	Publication of draft model on the UNECE website for public review
5	Endorsement	(tbc)	Endorsement of model by the Working Party on PPPs
6	Approval	(tbc)	Submission of model to the UNECE Committee on Innovation, Competitiveness and Public Private Partnerships for approval
7	Maintenance		