

**UNITED NATIONS
ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC**

**Report of High-level Expert Group Meeting on
Infrastructure Public-Private Partnerships for Sustainable Development**

Tehran, 11 to 13 November 2012



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I. INTRODUCTION

A. Background

1. The High-level Expert Group Meeting (EGM) on Infrastructure Public-Private Partnerships for Sustainable Development was organized as an integral part of the Third Ministerial Conference on Public-Private Partnerships for Infrastructure Development in Asia and the Pacific, hosted by the Government of the Islamic Republic of Iran. The Meeting was designed to provide an opportunity for representatives of public sector agencies involved in the development of PPPs for infrastructure development to share knowledge and stimulate new ideas to address the development challenges and opportunities for the region. The Meeting reviewed the implementation of the Jakarta Declaration on Public-Private Partnerships for Infrastructure Development in Asia and the Pacific which was adopted at the Ministerial Conference on Public-Private Partnerships for Infrastructure Development in Asia and the Pacific, organized and hosted by the Government of Indonesia in Jakarta in April 2010. The Meeting also had before it a draft Tehran Declaration on Public-Private Partnerships for Infrastructure Development in Asia and the Pacific (Annex III), which was to be submitted to the Ministerial Conference for further consideration and adoption.

B. Organization of the Meeting

2. The EGM was hosted by the Government of the Islamic Republic of Iran through the Institute for Management and Planning Studies affiliated to the Vice Presidency for Strategic Planning and Control of the Islamic Republic of Iran. It was organized and conducted by the ESCAP secretariat in Tehran from 11 to 13 November 2012. It was chaired by Mr. Dong-Woo Ha, Director Transport Division of ESCAP and co-chaired by Dr. Davood Manzoor, Deputy Vice-President for Planning, Vice-Presidency for Strategic Planning and Control. The programme of the Meeting is contained in Annex II to the report.

C. Attendance

3. The Meeting was attended by representatives from the following member and associate member countries: Afghanistan, Bangladesh, Bhutan, Brunei Darussalam, Democratic People's Republic of Korea, Fiji, Indonesia, Islamic Republic of Iran, Japan,

Kyrgyzstan, Lao People's Democratic Republic, Mongolia, Nepal, Pakistan, Philippines, Republic of Korea, Russian Federation, Samoa, Sri Lanka, Tajikistan, Thailand, Turkmenistan, Tuvalu, Uzbekistan and Vanuatu.

4. Representatives from the following intergovernmental organizations and non-governmental organizations were present: Asian Institute for Transport Development and Islamic Development Bank.

5. The list of participants is attached as Annex I to the report.

D. Opening of the Meeting

6. Two opening statements were made by Dr. Mohammad Nahavandian, Head of the Islamic Republic of Iran Chamber Of Commerce, Industries and Mines, and Dr. Noeleen Heyzer, Under-Secretary General of the United Nations and Executive Secretary of ESCAP. Both speakers highlighted the contribution that PPP could bring to sustainable economic development. They further stressed the importance of good governance in the establishment and implementation of PPPs and the need for PPPs to reconcile economic growth with poverty alleviation and responsible management of natural resources.

II. PROCEEDINGS

A. Public-Private Partnerships modality for Infrastructure Development

(Item 2 of the agenda)

7. Under this agenda item presentations were made by the following experts: Messrs. Peter O'Neill, John R. Moon, Mr. Hyoung-Kwon Ko, Cherian Thomas and Ali Saedi.

8. A presentation by the ESCAP secretariat outlined the PPP modality for the development of economic and social infrastructure and considered the ways in which it differed from more traditional financing and development modalities. Issues considered included the purposes, common misconceptions, characteristics and complexities of the PPP mode for infrastructure development.

9. As an introduction to the proceedings, the Meeting was informed of the various modalities for private sector engagement including some earlier variants of partnerships between the public and private sectors. Insights were offered into defining the components

and advantages of PPPs, that utilised the skills and assets of each sector, required asset transfer and/or transfer of operating rights whilst sharing balanced risks and rewards. PPPs enabled access to private sector finance to supplement national funds availability. PPPs utilised a payment system that is based on results not the process of infrastructure provision and so increased ownership benefits whilst employing whole life-cycle costs.

10. The possible benefits of PPPs were set out including the opportunities for more sustainable development that required structured processes, transparency, clear roles and responsibility as well as stated objectives and expectations that took into account evaluation of risks and external variables such as tax regimes and interest rates. It was emphasised that a partnership is based on understanding each sectors role and developing cooperation and trust. Consequently, business plans, guaranteed revenue streams with incentives for efficiency improvements were needed. The capacity of public and private sectors to undertake a successful PPP needed to be enhanced. Statutory, institutional and political support also needed to be set in place.

11. In a second presentation, the secretariat provided an overview of the level of investment in public-private partnerships by region and sector over the period 1990-2011. In this respect it was noted that the total PPP investment in the ESCAP region had been around US\$ 823 billion. The region attracting the largest investment was South Asia followed by Southeast Asia, Central Asia, Northeast Asia, Southwest Asia and the Pacific. The largest sector was energy followed by telecommunications, transport and, water and sewerage.

12. The Meeting acknowledged that the implementation of PPPs faced a number of barriers and constraints. According to an ESCAP survey, prominent amongst those were a lack of ownership of, and support for PPP programmes; poor understanding about PPPs by decision makers in governments; a lack of capacity in both the public and private sectors concerning project identification, development, procurement and implementation; the absence of, or inadequate, coverage of PPP legal regimes and/or institutional frameworks, the absence of a clear definition of the PPP process, and the non-availability of model concession agreements.

13. While the above barriers and the lack of capacity to remove them had led to an underutilization of PPP modalities or the failures of some projects implemented under PPP,

the Meeting heard that tools existed to help them gauge their readiness to embark on PPP implementation. In particular, the Meeting was informed of the PPP-readiness self-assessment model developed by ESCAP to assist governments in identifying key areas that they needed to address in order to involve the private sector more actively in the development process (the Meeting was informed that the tool can be downloaded from the ESCAP website).

14. An important follow-up action is the establishment by governments of an institutional environment conducive to PPP. This often means adapting areas of public sector frameworks, in particular taking regulatory, legislative and governance measures as well as understanding roles and risk transfer that needed to be set in place.

15. The Meeting participants were briefed about the experience of the Republic of Korea in introducing a successful PPP programme in the country. A presentation from the Ministry of Strategy and Finance provided the details of the PPP framework, some key performance highlights and PPP policy direction in the Republic of Korea.. The framework provided a new option for public service delivery under fiscal constraints, utilized the private sector's efficiency and innovation and also provided an institutional arrangement for stable and long-term investment opportunities for the private sector. The PPP Act provided opportunities for 48 types of infrastructure facilities in 15 sectors. Two types of PPP models namely Build Transfer Operate for economic infrastructure and Build Transfer Lease for social infrastructure were followed. The selection process of projects ensured their relevance, value for money and fiscal discipline in government. The Government also provided a range of incentives which included construction subsidy, tax incentives, termination payment and minimum revenue guarantee to promote PPPs as well as to make projects commercially viable. The Government also established an infrastructure credit guarantee fund to support PPPs. Meeting participants were briefed about the experience in the Republic of Korea where as of December 2011, a total of 600 PPP projects had been signed for an aggregate value of about US\$80 billion. Success factors in the Korean experience were listed as (i) a solid legal framework of international standards, (ii) strong government commitment in support of PPPs and (iii) the central role of the Ministry of Strategy and Finance of the Republic of Korea.

16. The Meeting was informed that officials from the Republic of Korea stood ready to share their experience and assist other member countries in refining their approach to PPP through ad hoc meetings or Memorandum of Understanding.

17. The Meeting was informed that proper risk evaluation and sharing were critical to the successful completion of a project under PPP in terms of time, costs, quality of assets and services and returns to investors. In this respect, the Meeting was made aware that risks went well beyond the project planning stage to encompass the entire project life cycle, including construction and operation.

18. Major risks were, at the planning stage, inadequate feasibility studies and poor bidding procedures; at the completion stage, land acquisition modalities and environmental clearances; and at the operating stage, below-standards services. Furthermore, other non-technical risks not directly relating to the project were also to be taken into account and suitably addressed. Such risks were, for example, environmental and social risks, force-majeure risks, and/or governmental actions. The Meeting was informed that high-quality contractual arrangements were key to risk management.

19. The Meeting noted that the financial instruments complying with Islamic Law were being used in some countries for financing of infrastructure projects. In that respect, a special presentation considered the needs of Islamic finance for PPP projects, the principles of such financing arrangements and the Shariah (Islamic Law and principles) compliant financial instruments for project finance. The Islamic financial instrument “Istisna” was suitable for project finance. Two types of Istisna namely Ijarah Istisna (a fixed-income instrument) and Musharakah Mudarabah (an income-based instrument) may be available in an Islamic capital market. In an Istisna type of financing arrangement, a concessionaire can ask a contractor to supply an asset meeting certain specifications within a specified period of time. Considering the legal relationship between the project originator (i.e. the government agency), the Special Purpose Vehicle (SPV) (or the project company) and the contractor, two types of arrangements were available. In the first type, known as parallel Istisna, the Government agency permits the project company or SPV to execute the project through an Istisna contract. The SPV procures the asset from a contractor. The SPV sells Istisna sukuk to the public through the capital market and settles its payment with the contractor. The second type of Istisna through hire-purchase, is similar to the first one in terms of raising debt from the capital market. However, in this particular arrangement, the

Government agency purchases the asset from the SPV on a hire-purchase basis. The Meeting learned that a significant number of projects was being financed through Islamic Finance instruments.

B. Implementation of the Jakarta Declaration on Public-Private Partnerships for Infrastructure Development in Asia and the Pacific

(Item 3 of the agenda)

20. The Meeting recalled that the Jakarta Declaration was adopted by the Ministerial Conference on Public-Private Partnerships for Infrastructure Development in Asia and the Pacific, organized and hosted by the Government of Indonesia in Jakarta in April 2010. Subsequently, the Commission at its 66th session held in May 2010, adopted resolution 66/5 on “Implementation of the Jakarta Declaration on Public-Private Partnerships in Infrastructure Development in Asia and the Pacific”. The resolution underlined the strength of the public and private sector working together to combine their resources to supply and maintain infrastructure facilities and services, and invited members to, inter alia, review and assess their Public-Private Partnerships, sectoral and other relevant policy frameworks and action plans for infrastructure development.

21. The Meeting was apprised of a range of activities undertaken by Governments to implement resolution 66/5. In particular, the following delegations provided an overview of PPP activities in their countries.

22. **Bangladesh.** Bangladesh has prior experience in developing and delivering PPP projects. A policy framework was formulated in late 1990 and other institutional arrangements were created to facilitate PPP project implementation. It also managed to implement a number of PPP projects in the power, telecommunication and other sectors. Despite these early initiatives and experience of project implementation, Bangladesh faced difficulties to initiate a comprehensive PPP programme across multiple sectors in the country due mainly to the absence of a dedicated framework and institutional arrangements in 2009. In view of the huge investment requirements in infrastructure, the Government had taken a new initiative to revitalize the PPP framework and other institutional arrangements. These new initiatives included a new framework providing the details of various institutional arrangements; creation of a PPP Office within the Prime Minister’s Office, a PPP Unit within the Ministry of Finance and a new financing institution (BIFFL)

created to access long term financing. Budgetary provision had also been made for TA for project development and Viability Gap Financing (VGF) to embrace project viability. Manuals and guidelines had been prepared, the draft of a new PPP law finalized, and a list of potential projects had been prepared.

23. **Bhutan.** The delegation of Bhutan informed the Meeting that it had enacted several major reforms, including an Economic Development Policy and Foreign Direct Investment Policy. Key priority sectors identified for investment under these policies include ICT, transport and waste management. He noted that to date, Bhutan had implemented two PPP projects, including one in the hydro-power sector, and is looking to develop PPP in other sectors. The country faced several challenges in utilizing PPPs, such as the need to develop the capacity of both the public and private sectors in managing PPP projects. In that regard, he welcomed the opportunity provided by the Meeting to learn about experiences that have taken place in other countries.

24. **Brunei Darussalam.** The delegation of Brunei Darussalam informed the Meeting of his Government's objective to improve its quality of life. To attain this objective, the Government of Brunei Darussalam was contemplating the use of PPP modalities for infrastructure development with special emphasis on the education, health and industry sectors. He observed that, at this point in time, PPP were relatively under-utilized in the country and that the Department of Economic Planning and Development had been designated to oversee the implementation of projects under PPP modalities. Two vehicles are being planned to drive forward the PPP agenda in Brunei Darussalam, namely: (i) a steering committee to set the strategic direction and frameworks for PPP implementation and (ii) a central PPP unit to administer PPP policies and work with relevant ministries/agencies to implement projects.

25. **Fiji.** After briefly introducing the salient features of his country, the delegation of Fiji described the current status of public-private partnerships in Fiji. Noting that the objective of the 2006 Public-Private Partnership (PPP) Act was to promote PPPs in capital project implementation, he highlighted PPP projects being implemented in Fiji, in particular in road and port infrastructures; construction of government offices; and an e-ticket bus fare scheme being implemented by the Ministry of Education with private sector companies. In addition, local governments were also undertaking projects in roads and waste collection that were PPPs in nature. Despite these successes, the delegation of Fiji noted that the take

up of the private sector in PPP projects was still limited, and suggested that this may be because the terms and conditions were not attractive enough to solicit their interest. In this regard, he expressed his interest in learning from the experiences of other countries in order to encourage greater private sector involvement in PPPs.

26. **Islamic Republic of Iran.** The delegation of the Islamic Republic of Iran outlined development of their public-private partnership policy framework through the enactment of specific legislation such as the 1987 law “Partnership of banks and other financial and monetary institutions in transport sector projects” and the 2002 “Foreign Investment Promotion and Protection Act”. The delegation noted that the Fifth Five-Year Development Plan (2011 - 2015), had expanded the application of PPP to sectors other than transport to include water and wastewater, electricity power plants, the oil industry and ICT.

27. The delegation further informed the Meeting that, to facilitate implementation of PPPs projects, three committees had been established on "Procurement", "Guarantees" and "Concession agreement models" managed by Vice-presidency for Strategic Planning and Control.

28. Since 1993, the Islamic Republic of Iran through foreign direct investment had implemented 21 projects valued at over US\$ 2 billion based on various contractual agreements, including joint ventures, buy backs and build-operate transfer (BOT). In the transportation sector, 18 freeway projects with more than 2,000 km length have been started using PPP modalities. In the energy sector, 12 thermal power plants are being constructed in public-private collaboration with nominal capacity of 7,000 MW. These power plants will generate more than 20 billion kwh annually. To supply drinking water, 38 water desalination plants have been constructed in BOO model. Total annual capacity of these plants is 90 million cubic meters. In addition, since 2005, a number of capacity-building activities had been undertaken by line ministries in collaboration with national institutions and international organizations such as the World Bank and the Islamic Development Bank.

29. The delegation outlined a number of studies and policy issues which were considered to be of importance. These included the support of growth through entrepreneurship; the development of general and sectoral PPP policy frameworks; long-term financing, including Islamic finance; developing portfolios of bankable projects;

developing capacity for risk management for both the public and private sector; inclusive and transparent infrastructure development; enhancing regional cooperation in PPPs; and managing the impact of taxes.

30. **Nepal.** The delegation of Nepal recognized that poor infrastructure explained the country's poor ranking in the Global Competitiveness Survey. It further acknowledged that PPPs were a new approach in Nepal and that current institutional arrangements were not conducive to PPP, thereby generating a lack of confidence and trust. Aware of this situation, the Government of Nepal had prepared an action-oriented policy document, including setting up a PPP centre and enunciating mechanisms for financing. A PPP unit would be established in the Prime Minister's office with PPP cells in line ministries. PPPs would at first be applied in the energy, road, health, education and solid waste management sectors. Four projects have already been identified for implementation under PPP, including two projects in the road sector and one in hydro-power.

31. **Pakistan.** The delegation of Pakistan informed the Meeting of recent progress made in the establishment of PPPs in Pakistan. He provided a brief background to the role of the Infrastructure Project Development Facility, which was located within the auspices of the Ministry of Finance, such as the development of guidelines and standardized documents and the establishment of a legal and regulatory framework, including the introduction of a federal PPP law. He also gave details of several major projects, including the Karachi-Hyderabad and Lahore-Islamabad motorway projects; a railway track access project; student accommodation; a Bus Rapid Transit Scheme in Islamabad, and several major hydropower projects.

32. **Philippines.** The delegation of the Philippines provided a list of projects in the transport sector which were being rolled out in the current year and the next year. Among other projects, these included extension of three light rail lines in Metro Manila, six airport projects, one BRT project, an integrated transport project involving three bus terminals and their connection with other modes, and a toll road project. These projects when implemented would promote a more inclusive and sustainable development in that country. Most of these projects would be implemented under the PPP scheme, some of which would also receive government's financial support. The Meeting was informed that the Department of Transport and Communication had received the largest budgetary allocation in infrastructure to start implementing these projects in 2013.

33. **Sri Lanka.** The delegation from Sri Lanka provided some basic data about the country, including the status of its transport development, and informed the Meeting about their Government's objective to raise the country from a lower middle income to middle income status by 2016. In this regard, the delegation described the various government plans and policy framework, including the Ten Year Development Framework 2006-2016 which includes an investment strategy for increasing the share of private investment, including the growth of FDI from 2 % of GDP at present to 5% of GDP by 2016. In this regard, the Delegate described some of the major road and expressway projects being planned under the National Road Master Plan up to the year 2017, part of which the Government intended to develop on a PPP basis. He then went on to describe the broad categories where PPP arrangements were being established and described the various government agencies involved in these arrangements. Finally, he informed the Meeting of the government's plan to use PPPs in order to establish and develop more special economic zones for various purposes such as an IT Park or industrial parks

C. Addressing selected planning and policy issues in Public-Private Partnerships

(Item 4 of the agenda)

34. Under this agenda item presentations were made by the following experts: Messrs. Anthony Smith, Hyeon Park, Mohammad Shamsur Rahman, Adil Anwar and Sumant Chak.

35. Recognizing that the success of PPPs requires, amongst others, a clear basis in policy, a series of presentations were made highlighting the broad-based support needed to facilitate successful PPPs.

36. A special presentation was made on the policy, legal and regulatory frameworks necessary for attracting potential investors and delivering successful PPP programmes. The discussion focused on the main elements of these frameworks and highlighted their impact on the implementation of PPPs. It was stressed that potential obstacles to PPP implementation as identified in the review process should be removed before proceeding with the procurement. The discussion also covered the areas of the applicable laws to PPP including company law, commercial contract law, foreign investment law, property and planning law, tax law, environmental law, security/pledge law and insolvency law that

needed to be reviewed. In its concluding part, the presentation offered some lessons from successful PPP programmes, highlighting the importance of a well-defined legal framework, well-developed concession contracts incorporating a shared risk-reward structure, and a simple transparent procurement process.

37. As regards procurement, the Meeting noted that most countries had procurement laws to ensure transparency, fairness, enhance competition and bring value for money to the procurement agency. Contrary to practice in some other countries, Pakistan used the legal framework for public procurement as it had no specific legal framework for procuring PPPs. In Pakistan, different methods of procurement were followed depending on the complexity of the project. However, in all cases, an open competitive method of procurement was the principal method of procurement. Pakistan also had developed standard contractual terms for PPP project procurement in the infrastructure sector. Standardization of contract documents aimed to achieve a generic risk allocation structure between the public and private parties across a range of infrastructure sectors. It also aimed value for money to the procurement agency and affordability of the people. The presenter also outlined some model provisions in PPP contracts including elements related to performance reporting, independent certifier, risk allocation, relief events and force majeure, termination, effects of termination and dispute resolution. Following discussion on the topic, a request was made to the United Nations to consider developing a general framework for procurement that could satisfy the varied requirements of the multi-lateral and bi-lateral funding agencies as well as comply with national regulations.

38. The Republic of Korea (ROK) introduced a wide range of incentive schemes to induce private investors to PPP market in the wake of the Asian financial crisis in 1997. In his presentation Dr. Hyeon Park considered these incentive schemes in ROK which included, among others, risk-sharing schemes such as minimum revenue guarantee, and infrastructure credit guarantee fund. In addition, direct and indirect financial support such as construction subsidy and tax incentives were also provided to meet any urgent challenge of filling infrastructure gap. Following implementation of government policies to promote the PPP market, there were 600 PPP projects signed as of at the end of 2011, amounting to about 80 billion USD. These PPP projects had contributed to enhancing the quality of lives of people by supplying required facilities at the right time. In some cases, rapid expansion of the PPP programme, however, had created some additional fiscal burden to the

competent authority. There were criticisms that some contracts allowed private project companies to enjoy higher rate of return than government's bond rate, even though most of the project income risks were born by the government. Consequently, some incentive schemes such as minimum revenue guarantee were abolished in 2009. The Korean experience demonstrated that PPP was justified only when it expanded fiscal space and increased the value of tax payers' money. From the point of Government policy makers, it was essential to keep a balance between PPP market promotion and fiscal discipline in government.

39. A presentation on capacity-building highlighted the importance of human resource development towards creating an environment for effective management of PPP projects. It noted that there was a need to build capacity of both the public and private sectors in a number of areas including: PPP concepts and rationale, project appraisal, financing PPPs, risk management, the procurement process, contract management and regulatory mechanisms.

40. The presentation highlighted practices in India where the Department of Economic Affairs (DEA) had been designated as the nodal agency to promote PPP in infrastructure, including capacity building in government. It had initiated a National PPP Capacity-Building Programme (NCBP) and invited India Development Finance Co. Ltd. (IDFC), a leading integrated financial institution, to assist in the process. After assessing the training needs for different levels of government officials, the NCBP through IDFC had joined with various government training institutions in the country to run courses with specific curriculum designed for each group.

41. The presentation also noted that there was considerable experience within the region in implementation of PPPs and consequently regional cooperation represented an effective means of sharing experiences and building capacity. In this respect, the presentation briefed Meeting participants on the PPP training courses that had been conducted by the Asian Institute of Transport Development (AITD), in line with its stated mission of promoting regional cooperation, some of which had been convened in cooperation with ESCAP. He apprised the Meeting of a number of instances where guidelines, model documents, toolkits and case studies were readily available on websites including: Australia <<http://www.infrastructureaustralia.gov.au/>>, India <<http://pppinindia.com/>> and the Republic of Korea <<http://pimac1.kdi.re.kr>>.

42. In conclusion, he apprised the Meeting of AITD's new campus at Dwarka, New Delhi and offered the facilities to countries of the region for PPP and other infrastructure education and training courses.

43. A presentation was made on the PPP process in Bangladesh that existed prior to the current policy 2010. The process began with the identification and initiation of PPP projects, which usually was done in two steps. In the first step, a master list of development projects is prepared and in the second step, decisions were made whether to implement a project using public finance or private finance. The designing of a commercial contract framework was very important as it incorporated elements such the mechanism for setting tariff or user charges, the intervention procedure of the regulatory authorities, and broad commercial conditions including government incentives and risk sharing arrangements. The process of selection of the concessionaire was done in two phases. After the completion of the preparatory works related to procurement, Expression of Interest (EoI) was invited. Afterward, the qualified firms were invited to submit their bids. Based on the inputs from the investors, project configurations were redefined. The second stage tendering was done with technical and financial evaluation to select technically responsive investors from the participating investors. Financial evaluation was done based on the maximum royalties to the government or minimum annuity payment from the government or minimum tariff to be charged or minimum subsidy to be given etc. The winning bidder was invited for negotiation and after successful negotiation the contract was signed.

D. The role, structure and functions of public-private partnerships units and programmes

(Item 5 of the agenda)

44. This item took the form of a panel discussion, the members of the panel including senior officials of PPP units and other PPP experts.

45. A presentation was made by the ESCAP secretariat to introduce the item and propose a number of issues for consideration of the panel. The presentation noted that the management of successful PPP projects and programmes was dependent on capacity of government agencies in a range of specialized functions including: identification and development projects; evaluation of alternative financing options; optimal risk transfer; negotiation of contracts; and management of projects and contracts. However, the

necessary skills for such tasks was often lacking in the public sector. As a result, some governments had created PPP units to consolidate the necessary skills and bring forward portfolios of suitable projects across all sectors.

46. It was also noted that PPP units were normally established under law or administrative decree. The location and form of units varied widely, ranging from cells within a senior and/or sectoral ministry through semi-autonomous/ state-owned companies to separate corporate entities.

47. A review of PPP units showed the role, organizational structures, functions, staffing and funding varied significantly between countries.

48. The panel discussion commenced by considering the location of PPP units within public administration systems. It was noted that in some countries units were located centrally within the Ministry of Finance or the Prime Minister's Office, while in others they were located in line ministries or both centrally and in line ministries. At the provincial or city level they were located in the Chief Minister's or Mayor's office. In Pakistan, for example there were PPP units or cells at the central level (Infrastructure Project Development Facility – IPDF, under the Ministry of Finance), at the sectoral level (National Highway Authority) as well as the provinces of Punjab and Sindh.

49. During discussions a broad consensus was reached that the location of PPP units depended upon the maturity of PPP development in the jurisdiction. In the early stages of development there were limited numbers of PPP experts which dictated a centrally located unit however, as the market matured units could be established in line ministries. The panelists were however of the view that activities such as the standardization of documentation needed to be kept centrally. In the United Kingdom, for example, the central PPP unit, Infrastructure UK, controlled documentation for the education, health, defense and waste management (each of these sectors used the same basic standardized documentation, with necessary sectoral adjustments).

50. In discussing the location of the central unit, it was noted that PPPs created contingent liabilities and consequently there was a need to consider their fiscal management. Some panelists argued that it was therefore necessary to locate the central PPP unit in the Ministry of Finance. Other panelists argued that contingent liabilities could

be addressed without the unit being located in the ministry of finance. Yet another panelist suggested that PPPs needed strong political support and “clout” which could be provided by the Prime Minister’s Office but not necessarily by Ministries of Finance as Ministers of Finance tended to be technocrats.

51. The panelists also discussed the relationship between the PPP unit and its parent ministry. It was noted that the challenge was to bring into the unit experienced transactions advisors. In this respect, there were three main options namely: a PPP cell within government, a cell within government with advisors (usually with external funding); and some form of joint venture between government and a private sector entity. It was noted that there tended to be a number of difficulties with the PPP cell in government including staff being attracted to the private sector by much higher salaries or mobility policies of civil services. Both of these make it difficult for the PPP unit to retain expertise.

52. The functions of PPP units can include: advice on policy and programmes; project development and evaluation; marketing/promotion of projects; ensuring uniformity of policy standards; quality control, standardization; technical assistance to government agencies; financial support for project; knowledge transfer, training, resource material; and providing support in the procurement process. The debate amongst panelist centered upon whether the functions of PPP units should focus on projects or whether they should include projects and policy. Some panelists proposed that units should focus on projects and leave policy to government. Others argued that with their experience PPP units were better placed to provide policy advice. The importance of the line agency or executing agency in being responsible for and have ownership of their projects was stressed.

53. Recommendations for setting up new units based on the lessons learnt from existing units included suggestions that the identification and appointment of a visionary and credible leader as was the identification of an uncomplicated starter project.

54. Panelists noted that every PPP unit has unique features and experiences. Consequently, the sharing of information and experiences between PPP units in the region could make a significant contribution to their capacity building. One panelist noted that ESCAP’s distance learning course on PPP contracts, which was moderated by a legal expert, was an effective means of capacity building.

55. In conclusion the Meeting noted some of the lessons from a World Bank PPIAF study on PPP Units including: countries with less effective PPP programmes tend to have less effective PPP Units; a PPP Unit may not be very effective without high-level political support; relatively successful PPP Units directly target specific areas of deficiencies in government agencies; the authority of a PPP Unit must match what it is expected to achieve; and the location in the government is among the most important design feature of a successful PPP Unit.

III. DRAFT TEHRAN DECLARATION ON PUBLIC-PRIVATE PARTNERSHIPS FOR INFRASTRUCTURE DEVELOPMENT IN ASIA AND THE PACIFIC

(Item 6 of the agenda)

56. Mr. Zarie Zare, Counsellor and Deputy Permanent Representative to ESCAP, Embassy of the Islamic Republic of Iran to Thailand, presented a draft ministerial declaration on public-private partnerships for infrastructure development in Asia and the Pacific which had been developed by the Government of the Islamic Republic of Iran in collaboration with the ESCAP secretariat, and circulated for review.

57. The Meeting deliberated on the draft declaration contained in Annex III and recommended that it be submitted to the Third Asia-Pacific Ministerial Conference on Public-Private Partnership for Infrastructure Development, for further consideration and adoption.

IV. CONCLUSIONS AND RECOMMENDATIONS

58. Following extensive discussions on each of the issues presented, the Meeting reached the following conclusions and recommendations.

59. The Meeting noted that rising capital costs, increasing demand for infrastructure and budgetary constraints were making it difficult for countries in the region to meet their infrastructure needs. In this regard, the Meeting noted that public-private partnerships were a critical modality to fill these financing gaps.

60. The Meeting noted that the private sector had a role to play in contributing their know-how, innovation and efficiency gains, thereby leading to more efficient delivery of infrastructure that supported sustainable development.

61. The Meeting noted that since the adoption of the Jakarta Declaration on Public-Private Partnerships for Infrastructure Development in 2010, many countries in the region had taken concrete steps towards setting up enabling environments for PPPs in their countries. These included the enactment of PPP and related laws; the establishment of PPP units in central government offices, and training activities for public officials. The Meeting also noted that since the last Ministerial Conference, understanding and knowledge amongst government officials on PPPs had increased.

62. The Meeting noted that despite progress, the PPP modality remained underutilized for a number of reasons. Some of these reasons included the lack of clear legal and regulatory frameworks for PPPs; lack of political support and understanding amongst government officials; lack of capacity in both the public and private sectors in developing and managing PPP projects, and the persistence of “viability gaps” which make PPPs unfeasible. These factors also contributed to a lack of viable PPP projects and the slow take-up of PPPs by the private sector in some countries.

63. The Meeting took note of the wide range of experiences described by experts and representatives from PPP units in Bangladesh, India, Pakistan and the Republic of Korea. Noting that countries which had set up PPP Units were the most successful in implementing PPP projects, the Meeting recognized that the establishment of PPP Units contributed greatly to the promotion of PPPs in countries of the region. In this regard, the Meeting requested the ESCAP secretariat to devise means of coordinating and supporting networking arrangements. This would contribute to the sharing of information and would also assist countries wishing to solicit independent advice from regional experts.

64. The Meeting recognized that private sector involvement could lead to more sustainable and inclusive outcomes that increased the contribution to poverty alleviation, greener growth, mitigation of climate change and disaster risk reduction. The Meeting also noted that PPPs provided new employment opportunities as well as an opportunity to include social entrepreneurs, private foundations and small and medium-sized enterprises in infrastructure delivery. In this regard, the Meeting noted that further analytical work should be undertaken to look at ways of enhancing the contribution of PPPs to sustainable development outcomes, as well as poverty alleviation, climate change mitigation, disaster risk reduction, long-term employment and equitable end-user impacts.

65. The Meeting encouraged the United Nations and other multilateral development organizations to continue to assist in developing PPP capability in developing and implementing projects. A request was made to the United Nations to consider developing a general framework for procurement that could satisfy the varied requirements of the multi-lateral and bi-lateral funding agencies as well as comply with national regulations.

66. The Meeting expressed its appreciation to the experts who gave their valuable time to share their expertise with countries and confirmed that there was great merit in learning from their knowledge and experiences about PPP processes across the region. The Meeting also thanked the Government of the Islamic Republic of Iran for its efforts and generosity in hosting this High-Level Expert Group Meeting as part of the 3rd Asia-Pacific Ministerial Conference on Public-Private Partnerships for Infrastructure Development.

V. ADOPTION OF THE REPORT

67. The High-level Expert Group Meeting on Infrastructure Public-Private Partnerships for Sustainable Development adopted its report on 13 November 2012 in Tehran.

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PROGRAMME

Sunday, 11 November 2012

0800-0900 hours Registration

0900-0940 hours **Item 1**
Opening of the session

- *Welcome Address by Dr. Mohammad Nahavandian, Head of the Islamic Republic of Iran Chamber Of Commerce, Industries and Mines*
- *Opening Statement by Dr. Noeleen Heyzer, United Nations Under-Secretary-General and Executive Secretary of the Economic and Social Commission for Asia and the Pacific*

0940-1000 hours Coffee break

1000-1230 hours **Item 2**
Public-Private Partnerships modality for Infrastructure Development

- (a) Features of Public-Private Partnerships.
 - *Presentation by Mr. Peter O'Neill, Chief, Transport Policy and Development Section, Transport Division, UNESCAP*
- (b) Principal barriers/constraints to successful public-private partnerships.
 - *Presentation by Mr. John Moon, Consultant, Transport Division, UNESCAP*
- (c) Creating an environment conducive to public-private partnerships.
 - *Presentation by Mr. Hyung-Kwon Ko, Director General, Fiscal Performance Management, Ministry of Strategy and Finance*
- (d) Risk management in public-private partnerships.
 - *Presentation by Mr. Cherian Thomas, Chief Executive Officer, Infrastructure Development Finance Company (IDFC), IDFC Foundation*
- (e) Islamic financing.
 - *Presentation by Dr. Ali Salehabadi, President, Securities and Exchange Organization*
 - *Presentation by Dr. Ali Saeidi, Executive Deputy, Securities and Exchange Organization*

- 1230-1330 hours Lunch break
- 1330-1500 hours **Item 3**
Implementation of the Jakarta Declaration on Public-Private Partnerships for Infrastructure Development in Asia and the Pacific
- *Country statements and presentations (National experts are invited to apprise the meeting of their country's progress in infrastructure development through public-private partnerships, including the areas outlined in the Jakarta Declaration)*
- 1500-1520 hours Coffee break
- 1520-1700 hours **Item 3 (continued)**
Implementation of the Jakarta Declaration on Public-Private Partnerships for Infrastructure Development in Asia and the Pacific
- *Country statements and presentations (continued)*

Monday, 12 November 2012

- 0900-1030 hours **Item 4**
Addressing selected planning and policy issues in Public-Private Partnerships.
- (a) Policy, legal and regulatory frameworks.
 - *Presentation by Mr. Anthony R. Smith, Farne Project Consultancy*
 - *PPP Consulting*
 - (b) Government support to PPP projects.
 - *Presentation by Dr. Hyeon Park, Executive Director, Public and Private Infrastructure Investment Management Center (PIMAC), Korea Development Institute (KDI)*
 - (c) Processes and procedures for implementing public-private partnerships, including effective management over their life cycle.
 - *Presentation by Mr. Muhammad Shamsur Rahman, Group Manager Commercial, Infrastructure Investment Facilitation Center (IIFC)*
- 1030-1050 hours Coffee break
- 1050-1230 hours **Item 4 (continued)**
Addressing selected planning and policy issues in Public-Private Partnerships

(d) Procurement.

– *Presentation by Mr. Adil Anwar, Chief Executive Officer, Infrastructure Project Development Facility (IPDF)*

(e) Capacity building for PPP development.

– *Presentation by Mr. Sumant Chak, Senior Fellow, Asian Institute of Transport Development*

1230-1330 hours Lunch break

1330-1500 hours **Item 5**
The role, structure and functions of public-private partnerships units and programmes

– *Panel discussion facilitated by the ESCAP secretariat.*

1500-1520 hours Coffee break

1520-1600 hours **Item 6**
Presentation of a draft Ministerial Declaration

– *Introductory presentation by the Government of Islamic Republic of Iran.*

1600-1630 hours **Item 7**
Other matters

Tuesday, 13 November 2012

1630-1700 hours **Item 8**
Adoption of the report of the meeting

Item 9
Closing of the meeting

DRAFT**Tehran Declaration on Public-Private Partnerships for Infrastructure Development in Asia and the Pacific**

We, the Ministers and government representatives attending the third Asia-Pacific Ministerial Conference on Public-Private Partnerships for Infrastructure Development, held at Tehran, Islamic Republic of Iran, 14 November 2012,

Reaffirming the pivotal role of economic and social infrastructure, including but not merely limited to transit and transport facilities and services, water, wastewater treatment, solid waste management, drainage system, energy and power supply, Information and Communication Technologies (ICTs), education, health, welfare, tourism and recreational facilities in achieving sustainable development, disaster risk reduction in supporting development and achieving the Millennium Development Goals,

Taking note of ESCAP resolution 64/4 of 30 April 2008 on the implementation of the Seoul Declaration on Public-Private Partnerships for Infrastructure Development in Asia and the Pacific and ESCAP resolution 66/5 of 19 May 2010 on the implementation of the Jakarta Declaration on Public-Private Partnership for Infrastructure Development in Asia and the Pacific,

Recognizing that insufficient and unsustainable infrastructure and related services have strong adverse effects on economic growth which will prevent the countries' efforts to realize their full development potential in the region,

Emphasizing that, typically, infrastructure development requirements are significantly larger than budget provisions and public finance and that innovative solutions are needed in order to find adequate financial resources for the development of infrastructure, improve the efficiency of infrastructure operations and create incentives to promote the maintenance of infrastructure through appropriate policies and coordinated actions in the region,

Reiterating the importance of cooperation among the public and private sectors to bridge the gap between the required financial resources for infrastructure projects and the availability of finance through their partnership, within and among the nations in the region,

Further noting the value of the creation of specific financial arrangements for infrastructure development which would help to promote investment in infrastructure by the private sector in the region,

Recalling the outcome document, "The future we want", of the United Nations Conference on Sustainable Development held in Rio De Janeiro, Brazil, from 20 to 22 June 2012, which recognized the active participation of the private sector in contributing to the achievement of sustainable development, including through the important tool of public-private partnerships,

Noting that public-private partnerships are a key strategy for building sustainable infrastructure and delivering related services, especially in the context of the global economic downturn, which threatens to reverse the development gains made by countries in the Asia and Pacific region;

Recognizing that the sustainability of public-private partnerships is being undermined by a number of constraints in business environment, legislative, regulatory framework, institutional arrangements, financing, human resources and implementation process,

Further recognizing the important contribution that the United Nations bodies and specialized agencies, international financial institutions, and other relevant organizations are making in order to assist countries in reaching their full development potential,

Noting the discussion during the Ministerial Round Table on Enhancing Regional Cooperation in Infrastructure Development, including that Related to Disaster Management, at the 62nd session of the ESCAP Commission¹, on the establishment of a new institution, that is, an Asian investment bank along the lines of the European Investment Bank, as an important option to bridge the gap between the required financing for infrastructure development and the resources available,

Agree on the important role of public-private partnerships for the development of physical infrastructure in economic and social development, particularly transport infrastructure including Asian Highway, Trans-Asian Railway and dry ports and international transit corridors in the ESCAP region and connecting with other regions, such as the ESCWA and ECE regions;

Confirm that the provision of infrastructure and related services that contributes to sustainable development outcomes needs to be given high priority in our national development agendas,

Agree that the effective use of the cooperatives and non-profit organizations capacities in public-private partnership is one of the complementary factors in enhancing the development and provision of infrastructure facilities and services in the region,

Invite countries of the Asia-Pacific region, as appropriate, to consider the sustainability of their public-private partnerships by reviewing and assessing their:

- (a) Public-private partnership advocacy initiatives;
- (b) Opportunities to engage the private sector in infrastructure provision that supports sustainable development;
- (c) Public-private partnership strategies, policy frameworks and action plans for infrastructure development, as well as legislative, regulatory and institutional arrangements for public-private partnerships at the general and sectoral levels in order to identify any barriers to their effectiveness;
- (d) Financial instruments and capacity to meet long-term equity and debt needs of infrastructure projects;
- (e) Portfolio of bankable and sustainable infrastructure projects which could be offered to the private sector for financing;
- (f) Capacity for risk management in both public and private sectors and its impact on public-private partnership projects,

¹ UN ESCAP Annual Report (19 May 2005–12 April 2006), paragraph 390 (d), p.34.

Further invite countries of the Asia-Pacific region to integrate sustainable development considerations into public-private partnership projects;

Also invite countries of the Asia-Pacific region to make their public-private partnership projects more inclusive and transparent by:

(a) Involving all relevant stakeholders including, where appropriate, cooperatives, academic institutions and non-profit organizations in the full public-private partnership cycle;

(b) Increasing the accountability of relevant stakeholders and the transparency of the public-private partnership process,

Encourage countries of the Asia-Pacific region, as appropriate, to develop their active engagement in regional cooperation initiatives, aimed at the provision of sustainable infrastructure and related services, including: developing energy pipeline and electricity grid networks; regional and subregional transportation networks; exchange of information; standardization of contracts, processes and procedures; sharing of experiences of both successful and unsuccessful PPP projects; and provision of training and technical assistance,

Request the United Nations bodies and specialized agencies, the relevant offices of the United Nations secretariat, international and regional financial institutions, bilateral donors and other organizations:

(a) to assist countries of the Asia-Pacific region in meeting infrastructure development challenges through: (i) regional and interregional cooperation in the development of public-private partnerships; (ii) the organization of meetings and regional networking arrangements aimed at promoting the exchange of experiences and information; particularly on disaster risk reduction and water resource management; (iii) promoting the use of ICT-based products, networks, services and applications, and to help countries overcome the digital divide as stipulated in World Summit on the Information Society Plan of Action of December 2003; (iv) to mainstream ICTs in their work programmes and to assist all levels of developing countries, to be involved in the preparation and implementation of national action plans to support the fulfillment of the goals indicated in the World Summit on the Information Society Declaration of Principles and the World Summit on the Information Society Plan of Action of December 2003, taking into account the importance of regional initiatives;

(b) to assist countries of the Asia-Pacific region in conducting an applied study on the positive and negative impact of taxes on public-private partnership infrastructure investment projects in the region and in launching a process for establishing a working group comprising of interested Asia and Pacific countries to devise Islamic financial instruments for financing public-private partnership projects;

(c) to assist countries of the Asia-Pacific region, on a mutually agreed basis, in their capacity-building programs, including public-private partnership policy framework formulation, legislative and regulatory reform and the administrative arrangements for public-private partnerships;

(d) to work collectively to establish an Asia Pacific network of public-private partnership units and programmes which would, amongst other matters, provide ad hoc advisory and training services, disseminate information on public-private partnerships and coordinate regional meetings of national public-private partnership units and programmes with

the aim of developing public-private partnership programmes that contribute to sustainable development;

(e) to provide technical assistance, upon request, to help increase the public-private partnership readiness of countries of the Asia-Pacific region, giving special emphasis on Least Developed Countries (LDCs), Landlocked Developing Countries (LLDCs), and Small Island Developing States (SIDS), including but not limited to: (i) preparing regional financing and risk management tools to reduce transaction costs; and (ii) developing risk mitigation mechanisms against exchange rate misalignment, environmental adverse impacts, and natural disasters;

(f) to encourage financial and monetary institutions as well as international development banks to invest on public-private partnership bankable projects, especially in the transport, energy, water resources, Information and Communication Technologies (ICTs) sectors;

(g) to explore ways to facilitate cooperation among countries of the Asia-Pacific region on public-private partnership projects in their effort towards: (i) streamlining financial flows and motivating investment especially through attracting foreign direct investment to public-private partnership projects; (ii) setting up forums to invite private sectors of different countries to cooperate in public-private partnership projects; and (iii) encouraging and inviting countries of the Asia-Pacific region to consider setting up an Asian investment bank;

(h) to expand their supporting activities on public-private partnerships through cooperation with all regional arrangements and organizations,

Express also our deep appreciation to the People and Government of the Islamic Republic of Iran for generously hosting the third Asia-Pacific Ministerial Conference on Public-Private Partnerships for Infrastructure Development and for their warm hospitality and the excellent arrangements of the meeting,

Welcome the offer of the Government ofto host the fourth Ministerial Meeting on Public-Private Partnerships for Infrastructure Development in Asia and the Pacific.

Tehran, 14 November 2012