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### **Draft Guiding Principles on People-First Public-Private Partnerships for the United Nations Sustainable Development Goals**

Conference room paper submitted by the secretariat

#### *Summary*

UNECE is currently elaborating the draft Guiding Principles on People-First Public-Private Partnerships (PPPs) for UN SDGs with support from experts, project team leaders, and associated Specialist Centres.

Expected outcome: Paper will be sent to specialists in several international organisations including the UN Regional Commissions the World Bank, the World Economic Forum and the OECD.

The Working Party is requested to take note of the draft revised guiding principles, which are circulated for information and discussion.

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## Introduction

Over the years the UNECE has maintained that Public Private Partnerships (PPPs) can be used as a tool for sustainable development. In UNECE's 2008 Guidelines on Good Governance in Public- Private Partnerships, one of its seven principles called for a 'People first' approach to PPPs. In 2015, the United Nations adopted the UN Sustainable Development Goals (SDGs) and the 2030 Development Agenda (2030 Agenda), calling for the use of and improvement to partnerships between the public and private sector. The UNECE at its PPP Forum in March 2016 further identified that a new PPP model is needed in order to realize this new Agenda and further adopted a new terminology called 'People first' PPPs.

## The UN SDGs and importance of partnerships

It is critical for achieving the 2030 Development Agenda to mobilize new investments, especially in low and middle income countries, in high quality infrastructure projects. Infrastructure investments overall is a key driver of development and social progress, creating jobs, higher productivity and boosting trade. Such investments can directly eradicate poverty by inter alia achieving universal access in different infrastructure and social sectors, such as health and education, renewable energy and water and sanitation etc. Across central Asia for example inadequate roads and rail transport limit producers' ability to get their products to market and lift communities existing at the margins of societies, out of poverty.

### *Climate change*

A further critical challenge is climate change and the need to promote investments in resilience and the enhanced risks to everyone and especially the poor. These include *inter alia*, both specific vulnerabilities such as flood controls, levees, floodgates, alert systems, mobility and capacity to assist the affected and rebuild afterwards and general infrastructure, such as buildings, roads, cities, housing, etc. These are necessary not optional as they contribute to long term sustainability and ensuring current development gains are safeguarded for future generations.<sup>1</sup>

### *Financing gap*

A huge amount of funding will be required to achieve the SDGs. This has been calculated at between \$3.3 USD trillion to \$4.5 USD trillion on an annual basis up until 2030 for developing countries (UNCTAD, 2014). Capital investment is just one part of what is needed; however, more investment and operational expenditures will be needed as well, that is, in the operation and maintenance of these assets. For example, in some sectors, such as health, the training of new doctors, nurses, and other staff will be considerable.

And while this task in the most ideal of situations be undertaken by the public sector, it is simply not feasible for governments alone to make up the shortfall in the huge financing required (from inter alia, increased taxation, higher productivity, ODA etc.). Of course the private sector is needed not just for financing; since private sector participation under these schemes also provide technology, services or even capacity building frameworks, under performance-based agreements.

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<sup>1</sup> Unlike the previous Millennium development goals, a special role for implementing this agenda in the important SDG number 17 is given to 'Partnerships'. And within the different types of Partnerships mentioned - public- public, public - civil society and multi-stakeholder partnerships, the one where most attention has been addressed are Public Private Partnerships. This is hardly surprising given the quantum of investment in infrastructure that needs to be mobilized for the achievement of the UNSDGs. See UN Sustainable Development Goal 17 and specifically 17.17

*A pause to reflect*

Given the centrality of PPP in the UN 2030 Development agenda, those expecting a dynamic UN wide programme promoting Public-Private Partnerships in support of the UNSDGs, could be forgiven for feeling rather disappointed. No campaign has begun to advance PPPs for the UNSDGs while government agencies responsible for PPP have still to acknowledge the SDGs as a reference point for their work? Indeed, there is, it can be suggested, something of a 'wait and see' approach towards the role of PPP and the SDGs.

*Reasons for the pause: model not 'fit for purpose'*

Why should this be so? There are two reasons for this 'pause' in the promotion of PPP for the UN 2030 Development Agenda? First of all there is some doubt over whether the PPP model is 'fit for purpose' for the UNSDGs. Some argue that the SDGs by delegating a key implementation role for the UNSDGs to non-state actors such as the private sector or civil society, is an abrogation of the responsibility of Government themselves.

In addition, there are many who argue that PPP is not the right model and are already calling for it to be replaced by something else. Civil Society Organizations, for example, argue strongly that private companies making profits cannot lead this process as this will inevitably result in the detriment to public welfare and to the lives of citizens.<sup>2</sup> They argue that PPP 'privatizes the rewards and socializes the costs'. Moreover, it is not just the civil society organizations that have doubts on the merits of PPP. Governments too in the Addis Ababa Action Agenda offered less than full scale, unambiguous support for PPPs, calling in fact in para 48 of the Declaration, for the elaboration of Guidelines on PPP.

Overall, it can be said that there is no evidence nor experience that the traditional model of public-private partnerships is a guarantee of the successful achievement of the UN sustainable development goals. The model does not automatically lead to the benefits that are needed and requires adaptation and revision.

*Limited expertise on PPP*

Secondly, and notwithstanding the highly professional role of UNDESA in mobilizing and coordinating the interagency task force on infrastructure, the expertise on PPP within the UN organization is relatively limited and rather scattered. The UNECE has some expertise but its mandate in preparing international PPP standards only applies to its own Commission and member states, not the globe. This lacuna in knowledge and expertise in PPP is hardly surprising as PPP is fundamentally a financing tool and thus expertise is much more found within the Multilateral Development Banks, such as the World Bank. They have lead responsibility for the development of many tools and knowledge products on public-private partnerships and are far and away the main depository of much of the International PPP best practice.

Thus the lack of a strong, expert and unified UN driving PPP is another factor in explaining the pause at present. And what is missing is a united UN on this topic going forward. Clearly guidelines are a way to go forward on this and at the same time avoiding the risks – encountered when developing guidelines on multi stakeholder partnerships that UN agencies 'do their own thing' and craft guidelines for PPP that contradict each other.

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<sup>2</sup> As stated in Hall (2015, p.3), "private sector corporations must maximize profits if they are to survive. This is fundamentally incompatible with protecting the environment and ensuring universal access to quality public services."

*Aim of People first*

People first PPPs is a model that has as its core objectives sustainable development and putting people first. This is in contrast, to date, with PPPs that have been mainly done for efficiency and ‘value for money’ reasons. With the adoption of the 2030 Agenda, the challenge for governments and the private sector is therefore to undertake PPPs according to a broader set of criteria and not just value for money, but those that create ‘value for people’.

In essence this means PPPs being measured according to a number of impacts that are in line with the SDGs, such as a projects increasing access to essential services, especially to vulnerable groups, having particularly strong economic effectiveness and transformational impact, being replicable, cutting or significantly reducing Co2 emissions, making infrastructure more resilient, and engaging with all stakeholders.

*Aim of these Guiding Principles*

The principles have three main aims:

1. Identify the new roles and responsibilities that will be required of governments and private sector in order to lift the PPP model onto a new level.
2. Outline key elements to a people first approach to PPPs, and particularly those that will need to occur in order for PPPs to take place in developing and low income countries. These adjustments refer *inter alia* to necessary legal, policy and institutional adjustments and revisions in international PPP best practices, new approaches to project risk, renewed accountability to citizens, and undertaking important new initiatives such as women’s empowerment and building capacity to undertake People first PPPs.
3. Bring together different parts of the UN system, especially the regional commissions, and with the World Bank and the other development banks, behind a common set of principles to guide PPP promotion activity going forward.

**Organization**

The document is divided into the following Parts:

- Part I Experiences and Key Learning
- Part II Guiding Principles
- Part III Next Steps

**Part I: PPP Experiences and Key Learnings**

The PPP model needs to be changed to meet the challenge of the UN 2030 Development Agenda. To this end it is worth asking the following questions:

- How have PPPs in different sectors evolved and what challenges do they face in order to contribute to a more inclusive and sustainable development?
- How can cooperation between the public and private sectors be improved and made more effective based on the overall experiences to date?
- What should be the model for PPP that should prevail?

- (i) ***How have PPPs in different sectors evolved and what challenges do they face in order to contribute to a more inclusive and sustainable development?***

#### *Water and Sanitation*

As observed by the World Bank, “today at least 663 million people lack access to safe drinking water and 2.4 billion lack access to improved sanitation” and “(b) by 2050, at least one in four people is likely to live in a country affected by chronic or recurring shortages of fresh water”, although the total number of people who have access to water or wastewater services from the private sector exceeded a billion for the first time in 2013. There is a huge gap, therefore, between what is being provided in water and sanitation services and what is needed to meet the UNSDGs.

The key challenge for virtually all water and sanitation systems is the public’s sensitivity to tariff rates. Governments are naturally reluctant to raise tariffs<sup>3</sup> yet keeping tariffs low (or non-existent) is a hurdle to private investment and attracting businesses to enter these markets and improve water and sanitation service levels. Nevertheless the global need for improved water and sanitation is enormous and all systems still face significant capital costs in order to implement or extend water and sanitation systems to meet this demand.

Despite these challenges, over the past decade several areas of private sector involvement in water and sanitation have shown promise - in the reuse of waste water for irrigation, small-scale water and sanitation systems, and urban water and sanitation solutions.<sup>4</sup> Stand-alone PPPs in desalination and wastewater treatment plants have also been successful,<sup>5</sup> as well as performance based, efficiency gaining lease and management contracts that can, for example, which have been successful in reducing leakage in systems or expand overall connectivity.<sup>6</sup>

#### *Energy*

The energy sector has undergone significant change over the past decade with renewable energy generation, in particular solar and wind, becoming more efficient and relatively competitive on a cost comparison basis. However, much of the globe still relies on coal based generation and there is no end in sight for increases in energy demand. So while governments often have more choices for energy generation, they struggle to meet demand, grow their generation and distribution capacity, in particular extending their networks to the underserved and poor areas, and doing so in a green and environmentally friendly way. These challenges are set against the backdrop of ever tighter public budgets and needing to provide energy to customers who often times are unable to pay for the true cost of service.

The key challenge then for governments is increasing access to power while overcoming the significant upfront costs required to establish or extend power generation and distribution networks. The PPP mechanism is an important tool for governments in managing this challenge as it can bring private investment, as well as new technology, innovation, and improved efficiency, to their energy capacity and systems. In fact new technologies; smaller, stand-alone systems; grid connected and off grid distributed generation capabilities<sup>7</sup>; and truly renewable

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<sup>3</sup> In case an upward adjustment of the tariffs is needed, this is preferably undertaken well in advance to launching the PPP tender, to avoid any association with private sector participation and hence any backlash which could hamper billing and collection by the private operator.

<sup>4</sup> For example, the New Cairo Waste Water Treatment Plant successfully uses urban waste water to irrigate regional agricultural areas which reduces both the quantity of pollutants dumped into the Nile River and the overall fresh water use. Manila Water has successfully implemented PPP to increase their urban water supply coverage from, for example, 26% of the East Zone population in 1997 to 99% of the whole city today.

<sup>5</sup> Examples can be found in Brazil and Saudi Arabia.

<sup>6</sup> Ho Chi Minh City, Vietnam has implemented this model with success.

<sup>7</sup> Examples of grid connected distributed generation projects can be found in rural India and Jamaica

sources<sup>8</sup>, show great promise for transforming the sector, further creating jobs and mitigating climate change,<sup>9</sup> and promoting energy security and equity in energy service provision.<sup>10</sup>

### *Health*

The provision of healthcare infrastructure and services is a massive obligation for both governments and the private sector. Some estimates place the cumulative expenditure on healthcare infrastructure over the last decade to be over \$3.6 trillion.<sup>11</sup> And when adding services, that estimate reaches \$68.1 trillion.<sup>12</sup> Meanwhile, many global citizens still lack access to even the most basic healthcare services and the SDGs call on governments to serve even more citizens, help those that are poor and most at risk, and take significant steps toward providing true, universal access to care -- all of which would add to the already hefty price tag.

The challenge for governments, then, is not to spend more, but to be more efficient and effective in the provision of healthcare, and increase their overall capacity to provide care and expand the reach of that care. PPPs in healthcare have helped alleviate some of this pressure and have been particularly successful when used for the creation, expansion, and rehabilitation of healthcare infrastructure, but they continue to face challenges when focused on the provision of services.

PPP success stories in healthcare services certainly exist though, with general wellbeing programs<sup>13</sup>, programs to improve facility management and performance<sup>14</sup>, and targeted care, like delivering vaccines to remote regions of Africa<sup>15</sup>, all showing great promise. Models exist then for Governments to focus their efforts, build partnerships that increase access to healthcare, improve the distribution of health services, and undertake economically effective and replicable initiatives.

### *Roads*

The transport sector continues to be one of the most robust PPP markets, in particular PPPs in roads, because they benefit from a relatively long track record of projects, occurring in many jurisdictions, and they have been somewhat ‘proven’ in the marketplace. This fact coupled with the ability of roads to make a significant, positive impact on lives and economic prosperity, makes PPPs in roads an attractive option for governments to consider.

As the World Bank noted, “roads have the potential to be a significant asset to any country – both in terms of the physical investment and the social and economic benefits”<sup>16</sup>; and they have demonstrated their ability to increase economic activity, the movement of goods, and the interconnectedness of people.

<sup>8</sup> Cabeolica Wind Farms in Cape Verde. The wind farms with 11 wind turbines have been fully commissioned to supply 25% of the country’s electricity demand and approximately 50,000 Cape Verdeans are given access to electricity.

<sup>9</sup> Noor II and III solar power plants in Morocco. CO2 emissions avoided are estimated at 521,670 tons per annum thanks to this 350 MW solar power plant, which is a big step towards Morocco’s commitment (to reach 2000 MW renewable energy by 2020) to climate change mitigation.

<sup>10</sup> Olkaria III Geothermal Plant in Kenya. This project made the cost of power to the end user became less than that generated from fuel oil or other alternative energy sources. This in effect assists in holding down the cost of electricity to consumers as well as for the industry.

<sup>11</sup> PwC citation

<sup>12</sup> Id.

<sup>13</sup> ‘Lets Play’ program is a partnership between IKEA and UNHCR and is designed to protect the rights of children to play, thus providing psychological support for refugee children, improving their psychological resilience and overall wellbeing.

<sup>14</sup> The National Kidney Transplant Institute of the Philippines entered into a PPP for total laboratory automation which improved equipment but also provided enhanced management training, resulting in increases to the number of patients capable of being treated at the facility and greatly improved facility efficiency.

<sup>15</sup> GAVI Foundation example, need citation

<sup>16</sup> World Bank PPP Knowledge Lab

The challenge then for governments in the road sector and in roads PPPs is simply choosing the right project(s) and programme. Should new roads be implemented, or should governments undertake the refurbishment or expansion of existing roads?<sup>17</sup> Which road projects will bring the most benefit while saving taxpayers money?<sup>18</sup> What aspects of the road systems can be modernized, made more secure, more resilient, and strengthen economic networks.<sup>19</sup> Which projects mitigate the potential negative effects of roads on the environment?<sup>20</sup> What road projects will be most flexible, expandable, and responsive to the long term transport objectives of the region and country?

(ii) *How can cooperation between the public and private sectors be improved and made more effective based on the experiences to date*

***Project focused; no concerted policy for PPPs***

Overall, PPP efforts have tended to focus on projects rather than transformative infrastructure policies that put people first. This is because in most countries PPP is simply that: about individual projects, tackling individual problems, and confined often to specific sectors. Rarely has the model been used as part of a comprehensive, well visioned, national infrastructure plan. Only when PPP projects become part of a transformative infrastructure policy plan can the necessary scaling up take place that is called for by the SDGs. Only with multiple projects in concert across multiple fronts will the initiatives significantly contribute to the challenges facing the planet, eradicate poverty and fight against climate change.

***Capacity building***

Countries undertaking PPPs, especially the low income ones, generally lack the skills and capacity to deliver pipelines of projects. In most cases they lack the basic institutions such as PPP units that can deliver the scale of projects needed, but they also lack the personnel and technical capacity to successfully deliver projects. In fact, many of the problems that projects encounter are caused at the outset of the project by the respective public authorities not undertaking the proper due diligence, e.g. accurate demand studies, thorough cost benefit analysis, etc. There is accordingly often poor decision taking surrounding projects and when and how to do them. Everything from basic capacity building to better coordination within and amongst the government and the ministries, and properly empowering PPP units, should be improved.

***High risk***

The risk of undertaking sophisticated and complex and expensive projects where the prevailing socio-economic conditions are lacking and where the public sector capability is weak results in a high risk environment and a high risk to project success. Such high risk accentuates the lesson that if the PPP model is applied blindly, the entire economy of a country can pay a heavy price.

***Innovation***

PPPs have failed to innovate in a way that overcomes the long term nature of contracts and the tendency to 'lock in' a technology or technical approach that after a certain number of years simply becomes outdated or redundant. If project technology is furthermore based on demographics which are subject to change, it is

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<sup>17</sup> See for example the State of Virginia's high occupancy lanes project

<sup>18</sup> The Dakar Diamniadio Toll Highway has provided Senegal a new development impetus by helping close the mobility and access gap between communities and jobs, markets, schools, hospitals, and other essential services, making their lives better and creating new opportunities for development.

<sup>19</sup> The Colombian government concession for the construction and expansion of Ruta del Sol highway, which connects the capital, Bogotá, with other large urban areas of the country's interior and Caribbean coast, when completed will help foster the country's competitiveness by improving road and travel conditions for passengers and goods.

<sup>20</sup> The Thiruvananthapuram City Improvement project in India and road concession not only provided a high-quality road but also addressed CO2 emissions and environmental issues with the planting of trees and other measures, such as capturing of water runoff.

a recipe for creating long term obligations on one hand, and solutions that are destined to fail on the other.

Technology, with the proper degree of long term flexibility built in, is not to be feared however. In fact the rise of technological innovation can bring opportunities. For example, cities around the world are using new Information and Communication Technologies (ICTs) to gather data and insight and supply the necessary services and solutions for urban problems in a more effective and efficient way, leading to the creation of so-called Smart cities. These smart cities are more flexible and often can provide more timely, effective and innovative solutions to the ever changing challenges that urban areas face. ICT infrastructure and projects, where the payment methods or the risk allocation profile might be different from traditional PPPs, can therefore bring appropriate flexibility rather than contractual rigidity to long term partnerships.

***Multiple conditions are needed adding to the complexity of projects***

PPP projects require a number of situational conditions to exist. From functioning Capital Markets to a legal environment that is robust; public governance system able to offer transparency and create an effective PPP delivery system; a private sector willing and able to accept higher risks of investing in low-income country; political stability; and a strong consensus amongst various groups towards the value of PPP, are all required for PPPs to positively take shape. As a result, PPPs have often been a tool for developed countries where predictable conditions exist, where clear incentives exist, and where the market economy is long-standing and mature, and where strong institutions and laws prevail. Since many of these conditions, by contrast, are not met in low income countries, it is difficult to apply the PPP model at a large scale in some low income and developing countries.

***Cities will play an important role in achieving the SDGs***

The world is congregating more and more in urban centres and in cities. PPPs have to therefore adapt to the reality of cities and leverage that fact that cities are, ultimately, an agglomeration of people, firms and institutions and offer the potential to exponentiate their benefit. This spread of positive externalities that a PPP can lead can benefit all within the urban context. Local authorities should investigate how implementing specific projects within the urban context can have deeper and more complex effects on the economy, the livelihood of the citizens, and inform their analyses of the benefits and costs of the project.

***(iii) What should be the model for PPP that should prevail?***

It is argued that because of the challenges and problems often associated with the PPP model that the best approach would be to abandon the model altogether as not ‘fit for purpose’. However it is important not to overlook why PPP came into fashion in the first place. PPPs took hold in an attempt to fix a weakness of the traditional public procurement system. Traditionally procured and delivered projects often go over budget (almost by up to as much as 60 per cent of the total budget cost), tend to not be delivered on time, and tend to be a ‘build it and forget it’ approach to public infrastructure.

For these reasons PPP was used to bring in private sector efficiency, deliver projects on time and to budget, make better use of public budgets, and instil better stewardship and long term operational and maintenance approaches in public infrastructure and service delivery. It is interesting to note that over time PPP through competition actually made the traditional procurement more efficient. But arguably because of scarce resources and limited public sector alternatives the option should not be a return to the *status quo ante*; rather it should be to build on the experiences and move the project model onto a higher level where sustainable development and ‘people’ are the cornerstone.

Accordingly, what is needed is a ‘people first’ approach to PPP inspired by the UN 2030 development agenda.

## **Part II: The Guiding Principles for People First PPPs in Support of the United Nations Sustainable Development Goals**

### ***Background and Organisation:***

The following Principles have been elaborated under the auspices of work carried out by the UNECE Working Party on PPP. They are based on a review of the evolution of the PPP model as presented, and some key learnings in the implementation of the PPP model as outlined in Part I. The Guiding Principles are organised as follows:

1. Aim and scope
2. Some preliminaries
3. Principles :
  - Advancing the People first model
  - Policy frameworks for People first PPP
  - Building the Capacity of Governments
  - Accountability
  - Risk mitigation
  - Procurement of People first PPP
  - Environment
  - Innovative Financing

### ***Aim***

The following sets out the principles for promoting a new ‘people first’ PPP model that will support the implementation of the UN SDGs.

### ***Definitions***

A working definition for ‘people first’ PPP is:

*“ a long term contractual relationship where private sector takes on some of the risks and assists the government with other partners in the design , build , operation maintenance of infrastructure assets that support and are aligned with sustainable development and with ‘people’ at the core.”*

### ***Voluntary***

While voluntary, the principles are designed to be implemented and reported upon by all stakeholders.

### ***Supported by one UN***

In the spirit of the SDGs and 2030 Development Agenda all efforts are made to present these as the collective work of all the UN Regional Commissions, moving eventually to the whole UN system.

### ***Government targeted***

The main audience for the Guiding Principles are Governments: at the same time they address other stakeholders, namely the private sector and Civil Society; both sets of groups will have to play critical roles in order for the people first PPP model to be made effective

### ***Mandated by the Addis Ababa Action Agenda***

The purpose of the document is to respond to the request by governments in Paragraph 48 of the Addis Ababa Action Agenda (AAAA) which called for guiding principles for public-private partnerships (see below the suggested issues that need to be addressed in the elaboration of such guiding principles):

**Box 1. Principles to be taken up in the Guiding Principles for PPPs**

Considering these stated commitments in the Addis Agenda and the intent behind them, the following principles (the AAAA Principles) for the effective governance of PPPs can be extracted from the Addis Agenda:

- Careful consideration given to the structure and use of blended finance instruments;
- Sharing risks and reward fairly;
- Meeting social and environmental standards;
- Alignment with sustainable development, to ensure “sustainable, accessible, affordable and resilient quality infrastructure”;
- Ensuring clear accountability mechanisms;
- Ensuring transparency, including in public procurement frameworks and contracts;
- Ensuring participation, particularly of local communities in decisions affecting their communities;
- Ensuring effective management, accounting, and budgeting for contingent liabilities, and debt sustainability;
- Alignment with national priorities and relevant principles of effective development cooperation.

***Some Preliminaries***

The complexity of projects, the imbalance between the advisers supporting the private partner and those representing the public sector, the weakness of governments in the financial aspects of PPPs, their lack of experience and knowledge on the industry and prospective partners, legal and regulatory framework issues etc. – all these factors restrict governments’ capability in delivering a pipeline of effective projects.

In addition, PPPs because of their high technicality and financial focus have tended to exclude the ‘people’ in important decision – taking. As a result, there have been too many ‘closed door’ deals, unfettered by public opinion. Diversity, too, has been insufficiently respected – women, minorities, displaced persons etc. – further limiting PPP from reaching their full potential.

Does this matter? Surely PPP is simply about finding the finance for large scale infrastructure projects? Are not the social and environmental impacts merely an optional extra? Many argue PPPs are already complicated and do not need this added complexity.

It does matter, however: ‘People first’ PPPs require that Governments and other partners adopt new roles and responsibilities while those, up to now, largely excluded groups, directly involved and affected by the project, need to be given a far greater role. Accordingly, the following precepts can be stated:

(i) Governments should protect the public interest and keep the focus on sustainable development and the people;

(ii) Governments should fix the overall policy, the guidance for government departments, identify the projects, mobilise interest, and back projects publicly, unequivocally, and continuously through the length of the project and beyond the various governmental terms of office;

(iii) The beneficiaries should be involved in the design of the projects as an obligation, not as an option. Projects should include representatives of the local users and remain open to all stakeholders – leaving no one behind;

(iv) Every project should be measured for its impact, and rules put in place for the dissemination of information on their impact, so that views and comments can be made;

(v) Civil society needs to be consulted at each stage – not out of ‘tokenism’- but in spirit of informing the project’s leaders of what needs to be changed to make

it compliant with people's needs and with the SDGs. Civil society should in turn be the validators helping cooperatively the designers with advice on how to make the project better;

(vi) The value for money (VFM) principle should be broadened to incorporate the principles of 'value for people' and the commensurate procurement structured to achieve these new principles.

## **Principle Number 1: People first PPP**

### ***'Delivering Effective People First PPP's'***

*PPP has a negative reputation amongst ordinary people, the mass media and many civil society organisations which reflects a lack of trust in the model itself. PPP needs to change in order to become a more effective and valuable tool for the UNSDGs, increasing access to water and sanitation, energy, health etc. especially to socially and economically vulnerable groups in society and in an environmentally appropriate way.*

### ***What are People first PPPs?***

#### ***Key drivers for people first PPP are found in the SDGs themselves...***

The development needed in the SDGS bears several characteristics that need to drive the type of PPPs to shape the PPPs that are needed:

- Transformational – considerable economic impact and enhanced coverage
- Inclusive – no one is left behind
- Equitable – overcomes inequalities
- Environmentally Sound – moves economies to low carbon futures increases resource utilisation and efficiencies
- Climate Change Resilient – adapts infrastructure to withstand the vagaries and intensities of new weather patterns

### ***...and have a focus on 'Value for People'.***

People first PPPs create 'value for people' and are based on a vision of PPP that is about improving the quality of life of communities, particularly those that are fighting poverty, such as by creating local sustainable jobs. Projects should address the critical challenges facing humanity, fighting hunger, poverty, and promoting human wellbeing by increasing access to essential services, tackling a social agenda for social cohesion, overcoming inequalities, achieving gender equality and empowering women; and disavowing all forms of discrimination based on race, ethnicity, creed and culture.

Projects should bring resilience into infrastructure and mitigate risks and adapt it for climate change; cut Co 2 emissions and take on the practices for the circular economy developing more sustainable production and consumption patterns (See box 1).

### Box 2. Five Criteria for identifying People first Public Private Partnerships

#### *Increase access to essential services and lessen social inequality and injustice;*

- **Increasing access and equity**, means that *access* to essential services, such as water and sanitation, energy, etc. should be increased to people, especially to the socially and economically vulnerable. A good example of a pro-Poor PPP was the Pamir power project in East Tajikistan that regularly suffered power outages in a very poor region. Thanks to this project, this essential service was provided over a 24 hour period to all citizens, those who could not pay were subsidized. Furthermore, people-first PPPs should aim to promote social justice and making essential services accessible without restriction on any grounds, e.g. race, creed, etc. to all;

#### *Enhance resilience and more care with the environment;*

- **Developing a resilient infrastructure** and moving to a circular economy improving environmental sustainability, cutting CO2 emissions to move to a green economy and developing ‘circular’ not linear projects;

#### *Improve economic effectiveness;*

- **Demonstrating project economic effectiveness:** projects must be efficient, successful, achieve value for money and be transformative in that they have a measurable impact by removing economic barriers or creating new means for integrating groups into the global market place;

#### *Promote replicability and the development of further projects*

- **Be replicable and scalable so the particular project** or approach can be repeated and/or scaled up as needed to attract the investment and transformational impact required by the 2030 Agenda for Sustainable Development. This criterion also needs to consider whether the local staff and the governments have the capacity or receive the necessary the training and knowledge to do similar projects going forward; and

#### *Fully involve all stakeholders in the projects.*

- **Engaging all stakeholders** that are either directly involved in the PPP project or directly or indirectly affected in the short and/or long run, including in particular women and minorities.

#### *Why they need to be promoted?*

PPP projects bring the positives of both the government – protection of public interest, regulatory powers, and public authority, and the skills, capacity, technology and efficiencies of the private sector to deliver essential services for the good of the ‘people’; and no other model for long term partnerships has quite the same potential to achieve sustainable development with people at the core.

In addition, the traditional PPP model, because of its technicality and financial focus, has tended to leave the ‘people’ outside. In addition, it has not necessarily contemplated environmental impacts of projects. In the real world, proposals that take for granted the interests of the people that are impacted by a project, soon find out that their project’s costs escalate, delays occur, and because of a lack of a clear and effective community engagement and stakeholder management strategy the project suffers.<sup>21</sup> But it is more than simply a business strategy that is needed. It is a new vision for PPP itself and new actions on the ground to make this new model a reality.

#### *How can the model become mainstream?*

***First of all, use the PPP contract to incentivise the private partner to develop people first projects ...***

The contracts can in the ‘output specifications’ and in the key performance indicators which holds the private partner to account, set out targets that are linked directly or indirectly to sustainable development, including the need to engage with

<sup>21</sup> Putting the fourth ‘P’ into PPP

stakeholders. In this way and through such encouragement private partners can and will take a transformative, inclusive and pro poor approach to projects and engage with stakeholders in a variety of new innovative ways.

*... and adopt more innovative approaches to projects development ...*

Adopt both a top down and bottom up approach to promote new models for PPP: governments encourage business and civil society to support the new model and local communities – small business investors, women’s groups, bankers and local subnational authorities

*.. as well as new platforms and practices that can deliver projects.*

For example cities are a very useful platform for creating new projects: cities are already the agents of change against climate change. They are at the front line where problems of pollution, congestion, access to essential services and poverty are being faced; they have an agglomeration role – bringing all the parties together – business, community, NGOs, academia, consumers, local and national governments – in partnerships to solve problems. They can be valuable assets and be transmitter belts of best practices and new projects to other cities as part of increasingly cooperative international networks of cities. <sup>22</sup>

*Through the emergence of mega infrastructure regional development programmes offer other opportunities for a people first approach to PPP...*

Engage and participate in regional infrastructure programmes that involve PPP and multiple mega infrastructure projects – linked highways, rail and ports, with multiple power generation and transmission assets along the way to provide production facilities, complemented by complex digital high way systems to support the information needs of commerce and cities on these routes, such as projects like China’s Belt and Road Initiative. <sup>23</sup>

Engage and invest development aid sources in small-scale projects for fragile states and high-risk markets, so that infrastructure gaps are also targeted, promoting replicable People-First Projects.

*... and can help align the new approach and model with international best practices and standards.*

The UNECE International PPP standards, establishing models and tools that can improve the impact of projects, thereby helping governments to both design the projects at the outset and revise projects once they have started to make sure the projects fit the new SDG requirements.

Areas of Action: Cities are a critical means of progress and access and action for the gestation of projects (taking the city as a laboratory, a means for coming together, a sources of top level ideas and projects, a means to find solutions through the use of smart technologies etc...

**Compliance with UN SDG 17:**

The number of people first PPPs in the country.

**Examples of case studies:**

The following case studies enshrine the principles of ‘doing well and doing well’ and of ‘people first’ PPP:

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<sup>22</sup> The Barcelona international Centre of excellence on PPPs for sustainable cities ( IESE) is engaged in development best practices in PPPs in cities in networks stretching from Europe to Latin America

<sup>23</sup> The UNECE has a MoU with NDRC of the Government of China to develop a three pillar capacity building project for the B&R and in support of the UNSDGs. Other initiatives include the Programme for Infrastructure development in Africa (PIDA) and the Infrastructure in South America Initiative.

### **Lesotho – Queen Mamohato Memorial Hospital**

The PPP hospital – the first of its kind in Africa – providing both facilities and clinical services has improved the quality of health care, providing services that previously were not found in the country and has increased the coverage of the population by 30 percent. PPP in health is expected to equalize care to all populations, including better maternal and children health conditions, critical for an equitable health system.<sup>24</sup>

### **Cape Verde (Renewable Energy)**

Four Wind Farms PPP in Cape Verde, using the PPP mechanism, produces around 40% of the total energy needs of the island, replacing imports of expensive and environmentally polluting fossil fuels.

### **Philippines (Water)**

Manila inhabitants suffered from severe water shortage, poor quality and they had to rely on street vendors to meet their needs. A PPP in water covering the eastern part of Manila and following consultations with poor urban dwellers has successfully improved the water supply coverage from 26% of the East Zone population in 1997 to 99% today. Customers now pay 20 times below the rates previously charged by water vendors.

### **Ethiopia (Energy Access to Shire Refugee Camps)**

A special cross sector partnership including UNHCR and Iberdrola provides regular supplies of electricity to refugees in the Shire Refugee camps many of whom have no or negligible financial means.

### **Tajikistan (Hydro Power)**

The Pamir PPP Hydro Power in east Tajikistan, combining commercial success and social and economic effectiveness solved the problem of intermittent power supplies and insufficient heating in winter for the poor. Today, as a result of this explicitly pro poor PPP, citizens have all day power supplies. Moreover, the project has been extended to include the whole country and even outside to neighbouring Afghanistan. The project involved many stakeholders including IFC, the Aga Khan Foundation as well as SECO, the latter providing a subsidy for those unable to pay for the service.

## **Principle Number 2 – Policy first for people first projects**

*Governments should design a policy with project pipelines that are not one off, ad hoc and optional: a bold new vision of the infrastructure required for the SDGs is required and a delivery plan in which People first PPP will figure. An important adjunct of the policy is a legal and regulatory framework, contracts and institutions etc. :*

*The PPP process requires coherent policies that lay down clear objectives and principles, identifies projects, sets realistic targets and the means of achieving them, with the overall aim of winning the support of the population for the PPP approach.*

<sup>24</sup> The project has come with scrutiny by OXFAM and others for the share of budget going to this one project.

**The Government should develop a holistic policy framework and programme of development linked to PPPs ...**

The Government should identify the people's needs for services and where they are greatest taking account of their commitments to the SDGs.

**... Setting clear goals, objectives and timelines for the use of PPPs for the SDGs**

There should be a new emphasis on using PPPs with clear sustainable development criteria with a more dynamic focus/ force and society's involvement in people first PPP with all stakeholders including national and local governments , the private sector, civil society and NGOs working together on poverty eradication and sustainable development projects not to mention women's empowerment issues as well. Ideally there should be also a clear reference in policy statements and infrastructure national plans to the UN SDGs (see box).

**The Well-being of Future Generations Act (2015) in Wales**

The Welsh government is the first government in the world who set up a new legal framework – the Well-being of Future Generations (Wales) Act, 2015 - to clear legal requirements on public sector in delivering Sustainable Development Goals, which is compliant to the UN SDGs.

This will require going further than just saying this, but will have to define the steps each PPP will take to ensure economic growth benefits and reach all the way to the poorest and the most vulnerable; so that the benefits do not accrue only to those already running businesses and other more privileged actors. This will require especially best practice models and templates, sectorial guidelines, norms, and standards to bring this forward.

***It should identify participatory projects geared to generating sustainable growth***

There needs a focus too on the notion of 'well prepared projects' as defined in the Addis Ababa Action Agenda .

***..with Governments taking the lead ...***

PPPs do not happen all on their own. It is up to the governments to decide what use they wish to make of PPPs, to identify appropriate PPP projects and to ensure that they have the capabilities to procure them in an efficient and effective way. Government must establish an appropriate legal and regulatory environment for the PPPs, define clearly and publicly formulated objectives for the project; and monitor performance after project completion. Public civil servants have a new role in PPPs and a sound public management is therefore required if policy objectives are to become a reality.

***... Identifying the right projects 25....***

Projects selected should be precisely the ones that increase equity, contribute to the eradication of poverty, protect the environment, and improve access to services, as well as being replicable and scalable, and economically effective so that major socio-economic transformation can be achieved from these models.

***... and ensuring suitable preparatory work is done beforehand.***

Governments should ensure that a proper preparatory and identification process is undertaken before moving ahead with a project, including a robust socio economic analysis and thorough review budgetary feasibility and necessary support.

<sup>25</sup> Project Planning and Prioritization, MAEDI, ETIC PPP , 2015 Paris France

***Prioritize the right types of projects and apply a balanced approach to project development***

Social infrastructure and municipal services – health, education water and sanitation etc. and a focus on vulnerable groups, the young and old, the sick, minorities, immigrants etc. Involve people and take a bottom up approach, engage ‘people to people’, and be sensitive to cultural aspects and smaller scale needs that can still bring people together in trade and commerce. Balance the micro with the macro initiatives and pursue those large scale, cross border, mega transport and energy projects that, like smaller projects, can bring transformational effect.

***Prioritize sustainability...***

For example, not just building a road but ensuring that the road is constructed of high quality, low impact, resilient materials and design, and has beneficial impacts on outlying communities allowing these to connect economically with new markets, creating local jobs, etc. Projects that are designed so that they interact with others and have a high developmental impact while being economically effective, such as multimodal transport projects linking to new manufacturing activities and logistics centres from which revenues can be generated to support the costs for the development of the new infrastructure.

***... and connectivity...***

Government policy needs an integrated approach to achieve impact, and scale, matching their delivery capability, with projects that are proven to be efficient, effective, scalable, and replicable in the international market, avoiding over large, ‘one off’ projects that are not part of a long term plan or strategy or, conversely, are too small and have insignificant impact.

***Governments should raise the profile of the PPP programme and move it up the policy agenda both inside Government ...***

*Governments need to improve coordination inside the Government. One way to this end is to establish an inter-Ministerial Task Force in infrastructure policy and set up an action plan on the delivery of people first projects setting targets and timelines for their accomplishment. Infrastructure construction and providing public services is a vital public interest, the safeguarding of which requires all government departments and ministries to actively participate in PPP policy making and specific project operation.*

***... and outside with the private sector and civil society.***

Policy should set down clearly how the government will engage with the private sector and how the private partner can collaborate with the PPP programme. It is important that governments engage with the private sector only after a clear policy has been published – not before.<sup>26</sup>

***There are still no shortcuts to developing a robust and strong legal framework<sup>27</sup> ...***

Laws relating to commercial contracts, company law, taxation, employment, competition, finance and security, insolvency, specific infrastructure sectors, property, the environmental, foreign investment protection, intellectual property, public procurement, expropriation and compulsory property purchase, and many others, are all important. The existence of adequate legal provision in these and many other areas is of paramount importance because even a select few serious

<sup>26</sup> In Amsterdam the city authorities developed first the policy to reduce congestion and improve air quality and reduce waste by first setting their plan and then discussing with Cisco how to operationalise it.

<sup>27</sup> See section below on de-risking.

deficiencies in any of them could present insurmountable obstacles to realizing effective implementation of PPPs.

*... but the framework needs to be clarified and improved upon...*

In order to create a clear, cohesive, stable and workable legal environment that will attract private investors to PPPs, governments need to review their relevant existing legislation thoroughly, and should amend, repeal or adopt certain laws and regulations, cutting down on unnecessary processes and approval mechanisms, giving power of approval to a single authority and the ability to secure interests in the assets to be created while permitting the repatriation of profits. Critical is the approval to the use of land for infrastructure development that needs to be speeded up.

*... and accelerated to allow for a scaling up of PPP project initiatives...*

Many PPPs have tremendously long gestation periods and a huge percentage never see the light of day because of inefficient project preparation approaches and failure to use tried and tested standard models.

*Standardisation is one of the core PPP building blocks in accelerating PPP initiatives...*

Experiences demonstrate that those countries where PPP developed well also had standardised approaches, project preparation, contracts and implementation procedures.

*... and standard PPP models, approaches are needed...*

While some aspects of PPP cannot be standardized; certain sectors and in some cases market leaders have developed truly standard approaches and contractual provisions that are used time and again but they are not internationally observed or readily available to governments. Other industries in contrast, like the FIDIC in the construction industry, have fully standardised approaches and contracts which are used all over the world and greatly improve project outcomes while reducing overall project preparation and transactions costs

*... while standard contracts give assurances to governments that their interests are being protected ...*

People first PPPs require that the public sector receive a good deal and there is no taint that the public interest has been undermined. Especially vulnerable are Governments, engaging in PPP for the first time, and facing a 'leap into the dark', as they have no real basis on which to negotiate the terms and conditions of the PPP, nor can they rely on time tested norms and experiences learned from traditional procured contracts.

*... and that a more 'level playing field' between them and their private partners can result...*

It is not surprising then that the terms and conditions of some PPP contracts are criticised for being overly favourable to the private entity. Not only have the private entities negotiated (and operated under) the same or similar contracts on multiple occasions, but they often have exclusive access to the greatest amount of project specific details and tolerances, experienced advisors, and industry expertise.. By contrast, the public sector often does not have access to such information, nor the resources, the experience, source of knowledge on similar projects and best practices upon which to rely.

*...while standardisation also reduced the time and transaction costs for both the public and private sectors...*

Standardized approaches and contractual elements accelerates the process of formulating, soliciting, negotiating, and awarding PPP projects and can lower

dramatically the transaction costs related to the project, accelerate the procurement and delivery of projects, and thereby permit more projects to be done.

*Every project is of course different...*

PPP contracts must also reflect the laws of the location where the deal is taking place and each jurisdiction is unique. Standardisation should not result in rigidity and inflexibility or promoting form over effective substance.

*... but nevertheless, standardized approaches can provide governments with a much needed capacity boost in contract negotiation*<sup>28</sup>

For example, they would allow governments to focus on negotiating non-conforming elements of the transaction and merely adapting the standards to the specifics of its own country's legal environment.

#### Recommendations

**Standardised PPP approaches and contractual elements** should be elaborated to lower transaction costs and assist Governments in their negotiations with private partners. Such a standardised contract should be balanced and elaborated under the auspices of the United Nations

**A PPP model law** should be elaborated taking account of best practices as developed by the UNCITRAL Guidelines the legal framework for undertaking PPPs for the SDGs. Such a law should be responsive to gender. It should allow for redress where rights of peoples are harmed by PPPs in the jurisdictions where the project takes place.

### **Principle Number 3 - Improving Capacity Building**

*Scaled up projects need scaled up Governments capable of delivering world class projects that have transformational impacts.*

**Building the capacity of governments is critically important ....**

Not only skills around policy, but also 'on the ground' to deliver actual projects. These project skills concern project finance, legal contracts and negotiations, and to deliver projects at local, city, and community level PPP. effectiveness is dependent upon the necessary institutional capacity in countries to effectively create, manage and evaluate them.

**.... and the size of the step-change is considerable...**

It does not just involve increasing the models by a factor of 10 or 100 but rather the increase will have to be in the order of a factor of 1,000 and 10,000 in the number of projects and needing to deliver to millions of people in the world. How can this step change be carried out?

**.... so that an enhanced supply, quality and effectiveness of capacity building as well as high quality consultancy and advisory services, will be required.**

The supply – both qualitatively and quantitatively - of capacity building services in PPP has to be increased; in the area of the materials required for such a capacity building purpose the World Bank's PPP Lab has brought a new dimension to the provisions of top level information and guidance for practitioners. New bodies will need to introduce training in PPP – UNITAR within the UN system can act as a catalyst for other UN agencies in this regard and other PPP qualified training

<sup>28</sup> Progress in standardization is being made: EBRD model law for CIS countries and UNCITRAL's authoritative Guidelines on PPP legislation is well underway.

bodies. Moreover, good capacity building has to be paid for and cannot be done on the cheap.

**Consulting and advisory services will have to be improved<sup>29</sup>**

There are different methods for hiring advisers open to Governments and often the real need for experts and advisors can be divided into two:

- Advisory services that assist governments in developing well prepared policies, programmes and projects, including regulatory systems to support PPP initiatives and such administrative streamlining as the creation of standard feasibility templates, tender documents, and/or project agreements.
- Advisory services that assist governments in drafting project specific tender documents and assist in the procurement of the opportunity, including but not limited to, legal, technical, financial, insurance, and other necessary experts that see the procurement process through to commercial and financial close.

**In addition, the training needs to be targeted....**

It is important to avoid training that is too general and attempts to deliver ‘everything you want to know’. Instead, the focus should be on delivering projects that meet the core of people first PPPs and aspects such as defining in the contract the key ‘output specifications’ that are most likely to achieve sectoral SDG targets.

**... and a ‘learning by doing’ approach adopted...**

Experience shows that the best results can be achieved if capacity building is project focused and those that will be trained are trained through the conception, delivery and operation (and evaluation) of actual projects. This gives more depth, real life applicability, and better coherence to capacity building and training efforts.

**...and given the scale of the challenge, the private sector should play a bigger role ...**

The private sector needs to play a bigger role in training employees in PPPs and demonstrate a commitment to ‘investing’ in not just projects, but in the jurisdiction in which they will operate and the people and their capabilities. It furthermore cements the private sector’s commitment towards the development of their local partners and governments – both national and local. There are several examples where this is successfully taking place.<sup>30</sup> After all, sustainability and long term project objectives depend on a project being able to be run when the private partner leaves.

**... while existing national PPP units should also be encouraged to support the capacity building efforts of public sector PPP units, especially in low income countries ...**

There is a need to ‘professionalise’ the officials that worldwide work in public sector PPP units, with the emerging profession itself being responsible for setting international standards and certification schemes that can allow more effective capacity building to take place. UN and the World Bank might increase cooperation in this area to allow more opportunities for the PPP units to meet together. The private sector could benefit too from the opportunities to learn of emerging PPP projects in countries though such international cooperation.

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<sup>29</sup> Some guidance is set down by M Frilet in ‘Expert and Consultancy Advice in Low Income Countries for Drafting Regulations and Developing People first PPP Projects Meeting the SDGs: A Major Issue Deserving Innovative Approaches

<sup>30</sup> For example, in Ethiopia, the Shenzhen Urban Metro Company of China has built an affordable light rail system which has transformed travel in the city, training everyone in the company in the process.

**yes on the capacity building****As the people first model moves forward**

It is envisaged that capacity building could conduct not just governments but a wide variety of different stakeholders.

**...different methods of capacity building should be used**

Capacity building would not be about just teaching PPP courses/Procurement etc., but would be about developing the right instruments, such as incubators and accelerators to foster innovative new technologies etc., building on all the previous capacity building efforts.

**Principle Number 4 – Strengthening Accountability*****Making People first PPPs accountable to the public sector and other key stakeholders***

*Projects benefit from the active involvement of all stakeholders; whereas no one benefits when projects are unfettered by public opinion. Making projects accountable is critical not least because access to many public services is a basic human right.*

***Commitments by governments to providing essential service to all its citizens are at the heart of delivering people first PPP...***

Governments must deliver public services keeping true to the social contract they have been provided, which is to deliver well planned, well executed projects and services for the people.

***...but the challenge is that at various levels the ‘people’ are not sufficiently involved and lack information***

- At the project level in the design, selection and operation of the project
- At the interface where the contribution, design and planning of PPP and its impact sustainable development are formulated
- At the macroeconomic level where fiscal policy is important to the sustainability of projects

***... And efforts need to be made at each of these all levels to increase the engagement of stakeholders***

Regular information should be provided to all stakeholders, especially the socially and economically disadvantaged, on the impact of projects, including for example providing details on the environmental impact and the amount of CO2 that a project will emit. Public and private partners can use the comments of civil society to make their projects more effective. Cooperation of this kind needs to be encouraged and governments should consider establishing requirements for the dissemination of information to the people as a legal right.

***Stakeholder engagement at the project planning design level...***

An opportunity for citizens to be a given a ‘voice’ in the project(s) needs to be made. Influence and input such as contributing to the prioritisation of infrastructure projects that ensure a balance between social and economic infrastructure; or focusing on projects that take into account the needs of women in

the use and location of for example transport systems and have these systems cater for their needs.<sup>31</sup>

***... and in the elaboration of accounting rules to improve the PPP impacts on macro-economic stabilisation and fiscal policy....***

If the financing of the projects involves a subsidy from the state, the size of the subsidy should be known to the citizen (financing of PPPs is a complicated exercise and creates political and regulatory risks for all the parties involved). PPP transactions create obligations of payment and contingent liabilities by a public sector body over the 20-30 or more years of their life, which exceeds considerably the duration of any political cycle. It involves the distribution and transfer, and pledging of support, of public funds to the private sector within an initiative and can have significant impact on the future financial obligations of the taxpayers.

PPPs must thus not be the cause of excessive guarantees, subsidies and other contingent liabilities, or of payments to the private operator which eat up to much of the ministerial or national budget<sup>32</sup> which could lead to overburdening the people with burdensome repayments over the life of the project(s).<sup>33</sup>

***....along with the elaboration of a new ‘Social contract ‘between the Governments and its citizens created to support PPPs for the SDGs...***

Such a contract might contain *inter alia* the following commitments to:

- a) Engage with all relevant stakeholders in projects
- b) Promote local job creation amongst the project impacts
- c) Protect the interests of communities affected
- d) Minimize negative social and environmental impacts of projects
- e) Act with integrity and in an open and transparent manner
- f) Use legitimate dispute resolution mechanisms that provide redress

***A right of redress is critical in ‘People first’ PPPs ...***

Where the project causes harm to citizens and communities, the importance of adequate redress is acknowledged by the United Nations who’s Guiding Principles on Business and Human rights are based on the following three pillars:

- The state duty to protect
- The corporate responsibility to protect rights
- Access to remedy

The right of redress is also built into the UNECE Aarhus convention<sup>34</sup>

***.... And systems in place if a government project fails to deliver...***

People should have the right to hold their government to account, using local redress mechanisms, including traditional structures, the courts and their vote. It is important for ‘people-first’ PPPs that in each PPP there are effective mechanisms that give redress to individual citizens. All improprieties caused by the project including abuse, misconduct, force etc. on individual and communities should be held to account.

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<sup>31</sup> Women prefer bus links where there are more stops as they are often multi tasked and need more regular stops built into the system while the men which gets priority are served by systems which takes them directly to their palace of work without regular stops.

<sup>32</sup> Where for example one project is involved and which fails to cover a sufficient large per cent age of the population with the services.

<sup>33</sup> User pay financing approaches as opposed to the taxpayer are best in order to avoid such eventualities.

<sup>34</sup> (Need cite)

... *with commitments to avoid abuses taking place in the first place*

Comprehensive social and environmental impact assessments, and contractual obligations to protect the same, should be done to address the prospective damage that infrastructure projects might cause.

*With empowerment of women as a priority ...*

All the arguments that make the case for greater involvement of women in People first PPP are convincing. Women can be involved in shaping PPPs as customers, as employees and in increasing positions within operations and senior management of infrastructure companies and through their role in women led companies that supply services to these companies.

... *including programmes supported by the private sector to support the enhanced role of women inside the PPP project and in the local economy.*

Governments can do much to improve access to education to girls and women that will improve their capability and skills to become decision takers both within PPPs and in the economy more generally. But the private sector 's support as well is critical and in the large scale infrastructure projects in transport, construction, energy firms operating in such sectors can do much by *inter alia*:

- Giving opportunities to women led companies as their suppliers
- Creating joint ventures with women led companies
- Providing opportunities to women within their companies
- Offering training to women to become suppliers and supporting the development of local women entrepreneurs
- Promoting IT solutions – e.g. crowd sourcing and financing – and using mobiles where women have wide access to engage with women and bring them into the market place

Benchmarks of support:

Number of women led companies as supplying firms

Percentage share of women in senior positions within local businesses operations

Number of women as a percentage of the local work force.

## **Principle Number 5: Risk-Sharing and De-Risking**

*PPPs allow risk which is most able to be managed by the private sector, to be transferred to them. However, in the spirit of mutual support governments also need to accept their share and help to mitigate those allocated to the private sector, and vice versa.*

*The transfer of substantial risk in a project is one of the key advantages of a PPP...*

PPPs offer opportunities for the public sector to shift certain project risks to the private sector, both in terms of managing the risk and who will ultimately bear that risk. Some risks of course need to be shared by the public sector or mitigated for the private sector, and the parties need to mutually support one another.

... *and overall a commitment from both public and private sectors to share risks is needed ...*

Governments continue to desire either unrealistic risk transfer to the private sector or suffer from an un-level playing field and assume excessive risk share. Too much

risk transfer by the government to the private sector increases costs for the project as the private sector charges the government for taking on these extra risks. .

***... and these sensible approaches to risk can benefit now from more sophisticated tools for risk identification ...***

Risk identification and allocation has become more sophisticated, in that some risks are readily transferred and at low cost, others need careful allocation and management, and yet others are best managed by dividing, sharing, or even dispersing the risk amongst various parties in a project, and in varying degrees.

PPPs continue to operate by the same risk sharing premises but more is known about sector specific, project, and contractual risk tolerances, in particular what risk elements are critical to mitigate for both public and private parties to ensure project success and viability, what risks make or break a project's bankability, and what risks must simply be borne by the public sector

***But doing PPP in low income and in developing countries requires addressing the subject of risk and requires a more scaled up response....***

The type of risks that are being referred to here concern political risk and country risk. It is still a formidable challenge for the private sector, for example, to invest in many countries where there are high political and environmental risks and in jurisdictions that are prone to conflict.

***.... and the private sector is looking to the government to demonstrate a sincere high level commitment to PPP***

This commitment goes deeper to risks being fairly allocated between the government and the sponsor. What the private sector is looking for are commitments to reform, establishing sound institutions, the rule of law etc. and in effect the de-risking of the country and its PPP programme.

***... and in addressing risk a key place is required for promoting resilience.***

Resilience, in the broadest context, is a foundational issue that must be addressed. Natural disasters are increasingly more common and more intense, reaching places once thought to be immune to them. Man-made disasters such as oil spills and industrial accidents threaten lives and livelihoods, and acts of malicious invasion and terror continue to rise. Ingraining resilience, both of hard infrastructure and operations/programs, into all public private partnerships should be a base requirement

***De – risking goes beyond the project itself and concerns a commitment by the Government to creating a more entrepreneurial economy...***

This includes *inter alia* straightforward registration of new businesses, and for foreign investors, ease of capital repatriation, and managing currency fluctuations so that currency risk is minimized. The country's credit worthiness is also a fundamental requirement in encouraging project finance including attracting offshore financing interests. Availability and development of local financing markets eases the structuring of deals and often times lowers attendant financing costs. Frameworks for aligned, predictable, and smoother systems aids PPP infrastructure implementation, such as clear right of way laws, sectoral regulations and tariff schemes, and fair, neutral arbitration processes, are all a must

***... and de-risking makes projects more bankable...***

Any major changes in government policies on the source of potential funding for infrastructure projects impact private sector confidence and commitment, which could take years to redevelop.

***Most of all there is a need to avoid change in the terms and conditions of the agreement simply due to a change of government ...***

Change of government when it finishes its term in office can be very disruptive of projects like PPP which can last up to thirty years. Governments must de-risk their projects and programme from this political reality to ensure long term viability and consistency in public service provision.

***...that adversely affects the interests of the investor...***

Such a change make the private sector highly risk averse and very reluctant to commit to low income and developing countries where there is a risk of such an eventuality is usually far greater.

**Accordingly it is important that governments shows their commitment to PPP over the long term and adopt PPP programmatic approach...**

Two critical building blocks to demonstrate a programmatic approach to PPP are:

- A legal basis for the program (e.g. in a form of a law and/or policy guidelines);
- A central PPP unit that will be the prime advocate for the program by enhancing policy and regulatory frameworks for PPP, improving processes, developing deeper appreciation and capacity of government for undertaking PPPs, and to develop a real pipeline of projects thru proper project preparation aided by reputable experts.

**....and strengthened risk mitigation instruments offered by the multilateral development banks and the regulators will be needed.**

The multilateral development banks and the sectoral regulators have each risk mitigating instruments but often the private sector has difficulty accessing these for a variety of reasons or they simply have not scaled up to achieve the transformative change that is called for in the UN SDGs.

## **Principle Number 6: Procurement: Value for People, Planet and Prosperity**

Procurement in infrastructure projects is one of the most important phases, as it is where the definition and implementation strategies of a project are defined. In addition, it is in the procurement phase where negotiations and innovation of business models between public and private partners are designed. People First-PPPs in this regard require a very comprehensive design, in a way that national and subnational objectives and strategies are addressed, having an optimum impact on People, Planet and Prosperity.

***An open competitive tender is a basic requirement for people first PPPs...***

The best ways of designing suitable procurement regimes is to ensure that the process attracts bids from the most capable companies and ensures that the possibility of winning is open to all, i.e., there is true competition.

***.. that is trust and foremost transparent:***

Many PPP projects are advertised to give maximum opportunity to those wishing to make a bid. Best practice support from UN and multilateral banks is very important to help implement efficient and effective procurement strategies, in particular among countries with lack of experience.

*...well designed...*

Project design stage: Accountability starts when People First PPPs are planned designed. Sectorial, national and local regulations should be aligned, so that fiscal and contractual issues are addressed, while PPPs also reflect sustainable national strategies and policies.

*...well documented...*

The tender process should be well documented and evaluated. Furthermore by evaluating the best partner, an equal weighting and balance on social, economic and environmental benefits should be promoted, while integrating as well UNECE criteria for quality of investments as part of the selection criteria. Thus, People-first PPPs can be achieved and more tangible outcomes on the UNSDGs from country and local perspectives can be obtained.

*... and open for review by citizens...*

When the contract is awarded to a particular project partner, a governance and quality review system should be established and adhered to, in order to ensure that the contract performance is managed effectively and meeting with the pre-determined investment criteria. Transparency of the contractual information should be prioritized, in order to combat corrupt practices and that benefits are more visible to countries that aim to follow similar approaches.

*...and anything less is not admissible.*

People cannot be blamed for thinking that that there has been a cover up or some other deceitful action in procurement unless the governments can show emphatically and clearly, that there are tender procedures for projects that are won on clear, fair criteria and in an open way.

*But creating procedures for procedures sake is not enough....*

The achievement of these goals should not be at the expense of creating over complicated procedures or accruing excessively high bidding costs to bidders. Procurement must be efficient yet designed to create sufficient competition in light of the need for the government to award a contract and move forward with projects and plans. The contractual model and stakeholders for procurement should be carefully revised, as governments can face additional risks and budget constraints in the process. Good governance and transparent pre-qualification, bid negotiation and partner selection processes should be also implemented, in order to mitigate transaction costs

*The ways in which competitive tenders are organised need to integrate the people first principles....*

Tenders should be organised so that the 'winners' are those that demonstrate their ability to successfully meet procurement evaluation specifications like:

- Improving access to services
- Overcoming social inequalities
- Economically transformational
- Facility resilient against climate change threats
- Cutting CO2 emissions
- Introducing efficiency and reducing costs
- Increasing the quality of service
- Advancing the position of women as entrepreneurs in society and in the workforce
- Providing training to local workforces for the transfer of skills
- Supporting local decent and sustainable employment

***...and fight corrupt practices that undermine the intent and purpose of a robust procurement process...***

One of the main causes of corruption in PPPs is the lack of a tendering process or conducting a procurement that is designed to be fair and competitive, but is not. There needs to be at a minimum a competitive tender process, but governments must also look across the spectrum of project initiation, tender, to contract award and operations and put in place a number of procedures that can address the risk of corruption. These include requirements for preparing accurate feasibility studies, open procedures and known criteria for the award of contracts, independent evaluations and probity systems, and mechanisms which deter and punish offenders

***... adequate due diligence and prequalification of prospective private partners is carried out...***

A robust vetting of bidders is needed where governments evaluate and qualify potential partners for the opportunity. This should include such due diligence as identifying operational modes and the partnering aspects of a bidding consortia and, for example, shedding light on those whose offices are registered in a tax haven.

***... and once the projects has begun suitable monitoring and supervision...***

Public accountability requires (i) institutions to oversee the process of PPP design and implementation; (ii) performance reviews; (iii) and a free flow of information to the public especially on financing issues.

***... and consultation with citizens...***

In Switzerland, referenda are used to consult citizens on large scale infrastructure projects like sports stadia or transport projects. There are many other methods, which can be used to achieve such desirable outcomes. Legislation where such consultation does not take place is needed to make sure that the public authorities listen to the citizens who will be affected.

***There must also be a zero tolerance approach to corruption...***

For PPP Procurement to have far reaching benefits the public entities involved must take a zero tolerance approach to corruption and build systems and a culture of integrity to support their PPP initiatives

***... and strict controls...***

Decentralized, unclear, or lacklustre procurement controls have a tendency to increase levels of corruption especially at grassroots levels. For example, in some countries the police have to be engaged in disbursement and oversight of funds.

***Centralized PPP Procurement structure too has its problems on corruption...***

Yet an overly centralized system encourages abuse of authority as decision making and ultimate 'control' of the process is lodged with very few individuals and affords few checks and balances. For example, funds procured for projects not fully reaching the level where the projects are located and or to those performing the actual contractual services.

***... although 'User Pay' PPP scheme tends to mitigate corruption risks to an extent.***

***But SDG 16 is clear and its observation on justice for all is unambiguous...***

SDG 16 precedes SDG 17 - where PPP is mentioned - for a purpose. PPP has to be built on integrity and solid transparent foundations.

***... and at the same time there is a need to recognise that SDGs are universal and challenge all governments to improve transparency ...***

In developed countries there are factors that undermine transparency not through the non-holding of competitive tenders but in more subtle ways: The way elections

are held in public office allows contributions for campaigns from private entities with an interest in the outcome can put pressure on decision takers responsible for awarding contracts. Robust procurement processes that all but ensure a competitive tender push corrupt practices to the formative stages of a project (project identification and origination) and/or to the post award stages (long term operation and maintenance).

*... so the role of consultants who are responsible for designing the tender documents needs to be scrutinised, as do the contract managers who oversee long term contract performance.*

This work of consultants may in fact lead to outcomes benefiting precisely these very same consultants, and contract monitors can quickly divert funds or collude with private sector operators to inflate billings, remove contractual requirements, or manipulate the contract to personal gain

### **What are the solutions?**

Prevention is better than cure. An oversight committee involving independent private sectors and accounting bodies can help to ensure adherence to proper tender procedures, contract requirements, and fund disbursements.

**...with civil society organisations *having also a seat at the table...***

Civil society organisations themselves are playing an increasing role in procurement and the affects have been positive. These trends should be reinforced. Such roles also include monitoring the performance of the PPP after closure and once operational.

**... and ensuring payment only after due diligence has been done satisfactorily**

Utilizing of bank escrow accounts to effect payments after third party assessment and approval is another practical solution. Third party independent assessor can be audit firms or committee consisting of public and private members. An independent audit office is useful and can work to ensure that the public receive “value for money “ , ‘value for the environment’, and ‘value for the people ‘ from the PPP project.

**Digitalization and electronic payment systems *aids substantially to reduce corruption***

All files should be available as public records on the Internet. Furthermore, digitalization does not only support governance, but also, monitoring impact of projects.

## **Principle Number 7: The Environment**

Promotion of the environment through PPPs is now a broader concept than using green building materials or renewable energy to power a PPP facility. Environmental initiatives now involve a holistic view of PPP projects and a true cradle to grave ‘sustainable’ perspective and effort. This will require both short and long term considerations on the impact of PPPs on the public, the government implementing the project, the users of the PPP facility, the community in which it is located, and traditional notions of the natural environment.

***The concept of an environmentally sensitive PPP...***

The concept of an environmentally sensitive PPP that achieve the SDGs will therefore promote clean water and sanitation (or reduce its impact thereon), use clean energy that is also affordable and economically efficient, provide solutions to public entities while representing the best value for money and allocation of public resources, foster sustainable communities and urban and rural environments

including reductions in inequalities in communities, markets, and sectors, demonstrate responsible consumption and production of public resources and services, account for a project's impact on climate change and reduce any negative impact, and respect water and land resources, if not contributing to them, by using what is needed, returning what it can, and taking no more.

*...includes the full life cycle impact...*

Environmentally sensitive PPPs must therefore consider the full lifecycle impact of PPP, from project inception to completion and disposal, and take into account the full costs of goods, services, and impacts involved in the creation and operation of PPP and tailor their needs and structure with these lifecycle impacts in mind. This means that sustainable value chain processes and activities within the project PPP cycle should be fostered.

*PPP's must invest in resilience...*

Governments are challenged to provide public services that are not at the expense of future generations and the natural environment. Despite the importance of this principle, many governments still prioritize short term needs and "development at all costs" over systems that serve their long term needs and are socially and environmentally sustainability. Future governments and citizens should not be burdened with the projects of today, nor have to deal with the environmental degradation that was imposed by these projects.

*...sustainability...*

From deforestation to the destructive extraction of resources, and from the creation of unsustainable urban and rural environments to public infrastructure that will not last, governments are challenged to make sustainability and long term stewardship one of the key public services in which they provide.

*and adapt to climate challenges as well...*

A further critical challenge is climate change and the need to promote investments in resilience and the enhanced risks to everyone and especially the poor. These include inter alia, both specific vulnerabilities such flood controls, levees ..... And general infrastructure, such as buildings roads cities housing building etc.... these are necessary not optional as they contribute to long term sustainability and ensuring current development gains are safeguarded for future generations.

Governments must look ahead and implement public services and infrastructure that will serve their current needs but also be able to keep up with the rapid pace of climate change. That means systems that are durable, high quality, and most of all resilient and able to withstand the challenges that Mother Nature may impose. They must also be flexible so that they may adapt to not only changing environmental conditions but also the changing needs of government.

## **Principle Number 8 – Innovative Financing – ‘Doing well by doing good’**

*New financing approaches are needed...*

People first PPP will need to rely on new sources of funding if they are to be mainstreamed. These types of projects combine *'commercial success with social progress*. Many poor regions have little heat and power, homes suffer from blackouts, and public services can literally be kilometres away. How can investment be made or tailored for these communities that are most in need.

*... as finding the right funding is a challenges...*

In the case of PPPs a revenue stream is needed and people will have to pay for services. The company cannot (nor can a government!) provide a service free of charge. So

innovative, blended, financing techniques need to be implemented to make unviable projects viable, and unattractive investments, attractive. In Tajikistan, one of the poorest countries in UNECE, a PPP power project has given heat to homes in a poor region for people who cannot afford the heating themselves. It has done so through service subsidy from a grant from an aid agency, the Swiss aid agency SECO. This allowed the project to be viable and ultimately have such a strong and beneficial impact. Aid agencies can do more of this kind of work, but on top other sources of funding are needed and more innovative approaches must be developed.

*...and impact investing has the potential...*

And given its goal to achieve an economic return **and** to deliver social and environmental benefits, 'impact investing' is a form of financing that has the potential to be a significant contribution to the financing of 'people first' PPPs.

*...and the service is growing...*

The watch words are therefore 'doing well for doing well' which is to support projects with both a positive social or environmental impact that also achieve compelling Financial returns.

*... tapping into a source of capital which is growing ...*

In the next 20 years 460 billionaires will hand down US dollar 2.1 trillion to their heirs - the size of India's GDP

*... where a refreshing new mentality is emerging....*

There is an emerging view that not just governments and philanthropic organizations should contribute to solving to global challenges but also the private sector and private individuals have a role to play.

*... and a mechanism to channel funding into projects that support the SDGs*

The task is to mobilize the funds from private investors and others and channel this capital into sustainable development actions and projects

*To date specific sectors are benefiting ....*

This means a number of projects such as affordable housing access to financial services and sustainable energy

*...but more has to be done to make this potential a reality*

Impact investing as a source of funding for projects is contributed at a rate of only 0.2 per cent of global wealth, thus it is far from reaching its full potential. There still lacks capital markets products and services as well as the measurement tools for projects with sustainable development at its core. However if this share rises to simply 2 per cent, it could mean over USD 2 trillion invested in impact driven assets.

*Accordingly, Governments ...*

Governments must support and give incentives to the new suppliers of this type of impact investing. For example, they can upgrade their ecosystems to better support impact investment and to raise awareness through education with representatives of the financial services industry and remove legal and other political and regulatory barriers to impact investing

*..the financial services industry...*

The financial services industry working to integrate environmental social governance into the corporate strategies is increasingly being found

*..the academic community ...*

Research and development is needed to measure the impact of sustainable development.

*..can work together to bring forward this new source of funding that can be developed in some traditional financial hubs*

Geneva for example bringing together its unique combination of a world-leading financial sector with a global centre for international development, is emerging as a global leader in sustainable development finance. Nevertheless, in recognising this centre of gravity now forming, there is the potential for far greater impact through further cooperation between Geneva's 32 international development headquarters, 400+ NGOs, 800+ financial service businesses and 120+ banks.<sup>35</sup>

### **Millenials - Changing demographic trends**

The rising influence of the millennial generation – those born between the early 1980s and early 2000s – and their sustainability and impact motivated beliefs are helping drive a shift in societal expectations, and in the way capital is directed.

Having grown up in a digital age with a constant flow of easily accessible information and increased transparency, millennials expectations of public and private organizations are higher than previous generations'.

Younger wealth holders are more socially and environmentally conscious, and expect others to act accordingly.

A 2014 Deloitte Millennial survey reports that nearly 30% of millennials believe the number one priority of business should be to improve society. They believe business can do more to address society's challenges of resource scarcity (56%), climate change (55%) and income inequality (49%).

A recent headline-grabbing example of this shifting mindset is Facebook founder Mark Zuckerberg's 2015 announcement to distribute the majority of his fortune, currently around USD 45 billion, to have a positive impact on the world. Unlike Zuckerberg, most millennials do not yet control a large share of investable assets, but they are forecast to inherit USD 30 trillion over the next several decades from parents and grandparents in North America alone, and believe in their potential to transform the world (Accenture 2012).

This is confirmed by Deloitte's data that shows nearly 40% of GenX/Y millionaires give more than USD 30,000 annually to charity, versus 6% of their predecessors, the baby boomers. Impact investing is expected to be but one manifestation of millennials' endeavour to leverage their wealth in new and innovative ways"\*

Extract from the UBS Report " Doing Well by Doing Good "

## **Part III. Next Steps**

Moving to a new 'fit for purpose' model for the UNSDGs will be a challenging and complex exercise. A transition process will be needed. The aim of such a transition is not to discard the model but rather to build from it (what has worked and not worked) and then to operationalise it effectively onto a higher level.

### **A. *Aligning with the new model***

#### ***Measurement***

One of the challenges will be to differentiate the new from the traditional and go beyond some qualitative indicators and identify some measurable ones which can clearly demonstrate how people first PPP can generate real developmental impact. To date, projects are being evaluated according to their relations with the SDGs. This is treated as a type of 'score card'. If projects are applicable to, say, four of

\*[http://www.sustainablefinance.ch/upload/cms/user/20160614\\_Proposals\\_for\\_a\\_Roadmap\\_FOEN.pdf](http://www.sustainablefinance.ch/upload/cms/user/20160614_Proposals_for_a_Roadmap_FOEN.pdf)

five of the SDGs, this is seen as fine even sufficient. But how much does this tell us about such projects 'developmental impact'?

In order to move from the traditional PPP to a model which has more developmental impact and a social and sustainable development focus, it is necessary to use a score card that takes the above mentioned five criteria and breaks them down into something more concrete and measurable. Such a quantitative approach in evaluating the results/success of project against these criteria can put into numbers the degree to which projects meet the SDGs.

### ***Definition***

A task force might be set up to define more clearly the people first PPP concept and explore wider definitions that could incorporate Partnerships coming from local communities ('bottom up') and even new terminology 'Partnerships for People'.

### ***B. Mobilization/ New Communication Strategy***

There is a need for inter alia the following:

- To use UN platforms and others to promote the people first concept
- To develop new programmes, e.g. promoting 500 people first PPP by the end of 2017 (the number of PPP cases is to date 70)
- Interact with the UN initiative to create links with Geneva as an international hub for impact investing (La Genève Internationale)
- Liaise with Global Compact on new initiatives and pilot projects

### ***C. Implementation and Transformation programmes***

UNECE centres of excellence (See Annex I) will help to implement the standards through a comprehensive programme of training of government officials, private sector and representatives of civil society. Cooperation with China on its B&R Initiative will focus on developing people first public-private partnerships.

A task force will be set up to identify a plan for implementation of the Guiding Principles especially low income/developing countries

**Annex 1. International PPP Centres of Excellence**

