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**ECONOMIC COMMISSION FOR EUROPE**

**COMMITTEE FOR TRADE, INDUSTRY AND  
ENTERPRISE DEVELOPMENT**

Working Party on International Legal  
and Commercial Practice (WP.5)

Fifty-First Session  
17-19 November 2003

**PROVISIONAL AGENDA FOR THE FIFTY-FIRST SESSION**

**GOOD GOVERNANCE IN PUBLIC PRIVATE PARTNERSHIPS**

To be held at the Palais des Nations, Room, on Monday, 17 November 2003  
At 10 a.m.

**ACCESS** – Security measures at the Palais des Nations have been significantly increased and official badges are needed to have access. The procedure for this is accelerated if the Industrial Restructuring, Energy and Enterprise Development Division receive the names of delegates in advance. For further details, see annex 1.

**Participants are encouraged to register online at <http://www.unece.org/ie/wp5>**

1.	Adoption of the Agenda	TRADE/WP.5/2003/1
2.	Election of Officers	
3.	Forum on Good Governance in Public-Private Partnerships for Infrastructure Development.	TRADE/WP.5/2003/2 TRADE/WP.5/2003/7
4.	Second Session of the UNECE PPP Alliance	TRADE/WP.5/2003/2 TRADE/WP.5/2003/7
5.	Work of the Sub-Groups of the Working Party:	
	(a) PPP Alliance Programme	TRADE/WP.5/2003/3
	(b) Real Estate Advisory Group (REAG)	TRADE/WP.5/2003/4
	(c) Advisory Group on the Protection and Implementation of Intellectual Property Rights for Promoting Investment (IPR)	TRADE/WP.5/2003/5
	(d) Expert Advisory Group on Arbitration	TRADE/WP.5/2003/6
6.	Programme of Work	TRADE/WP.5/2003/9
7.	Cooperation with other UNECE bodies and international organisations	
8.	Other business	
9.	Adoption of the Report	

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## ANNOTATIONS

### Introduction

1. The provisional agenda for the fifty-first session of the Working Party on International Legal and Commercial Practice has been drawn up by the Secretariat in consultation with the Bureau of the Working Party on the basis of the decisions and programme of work adopted by the Working Party at its fiftieth session held in March 2002.
2. At the 6<sup>th</sup> session of the Committee on Trade, Industry and Enterprise Development (CTIED) held in 2002, it was proposed to hold the next session of the Working Party at the same time as a seminar on the Economic and Environmental Dimension to Security that would be organised by the OSCE in Vienna. Following consultations with the OSCE, it was decided to hold this event at a later date. Thus, the Bureau of the Working Party decided to hold its next session in Geneva on the topic of “good governance and public private partnerships” in light of its expertise – as demonstrated by the work of the UNECE PPP Alliance -, in this area and the importance of transparency, accountability, social equity and other good governance aspects to the successful development of PPPs.
3. It was further agreed that a Forum be held on this subject to hear country experience and all relevant information, including from various ‘stakeholders’, on this subject. The second session of the PPP Alliance will be held after the Forum and will take the form of a joint meeting with WP 5. At the closure of this joint meeting, WP5 will deliberate the final document of the session, including the proposed guidelines on PPPs and good governance, as well as the reports of the WP 5’s sub-groups and its proposed new programme of work. This proposed schedule for the WP 5 session is set out in the table below.

Monday	17 November	Opening of WP 5 session and the Forum on Good Governance in Public-Private Partnerships
Tuesday	18 November	Joint Session of the WP 5 and the UNECE Public Private Partnership Alliance
Wednesday	19 November	Approval of the Final Document, reports of the WP 5’s subgroups, and new programme of work

4. The fifty-first session of WP. 5 will therefore formally begin at 10:00 a.m. on Monday, 17 November 2003.
5. It should be recalled that to enter the Palais des Nations delegates must obtain security badges at the Villa Les Feuillantines, which is located near the Palais gate at the Place des Nations (see annex 1). By registering in advance, delegates will find their badges

already prepared for them at the Villa. The registration form can be found in annex 1.

### **Item 1 - Adoption of the agenda**

6. In accordance with the Rules of Procedures of the Economic Commission for Europe, the first item on the provisional agenda is the adoption of the agenda (TRADE/WP.5/2003/1).

### **Item 2 - Election of officers**

7. Following the meeting of the Bureau of the CTIED on 31 October 2002, Mr. David Winter (UK) tendered his resignation as the Chairman of the Working Party. Mr. Dorel Colodeiciuc (Romania) continued in his capacity of Vice-chairman. Mr. Robert Hall was elected Chairman of the Bureau of the Working Party, at a WP 5 Bureau meeting held on 19 December 2002. It is expected that a new chairman of Working Party 5 will be elected at this session.

### **Item 3 – Forum on Good Governance in Public-Private Partnerships (PPPs)**

8. Governments and the private sector are increasingly active in PPPs in Europe. Supporting this activity has been the preparation of various guides on the technical and legislative procedures required for successful PPP projects (notably by UNCITRAL, UNIDO, World Bank, the European Union, UNECE and NGOs including the EIC and others). Recent events, post-Enron have thrown into sharp relief the need for governments to give emphasis to the good governance aspects of PPPs as well; that is, the transparency in procedures, consultation with stakeholders, accountability of projects and their impact on the environment and society.
9. The purpose of the Forum is to identify good governance principles in PPPs by examining the experiences, good and bad, of PPPs to date. The Forum will be open to representatives of Governments, business, international organizations and NGOs. The secretariat will prepare a background paper on “ Good governance in Public Private Partnerships “as a basis for deliberation on the important issues. (TRADE/WP.5/2003/7) and will present details on the modalities of the Forum, in Information Notice (TRADE/WP.5/2003/2).
11. Government representatives are invited to forward information on the Forum to interested representatives of the private sector in their countries. Governments are also invited to submit written presentations to the Secretariat for distribution at the Forum. The Forum will also be an opportunity for public and private bodies to meet with one another and to exchange information and materials on projects.

### **Item 4 – Second Session of the UNECE PPP Alliance**

12. It will be recalled that at the last session of the Working Party (March 2002) the UNECE Public Private Partnership Alliance was established in order to assist member

States in the implementation of PPP projects.

13. The UNECE PPP Alliance held its inaugural meeting on 12 March 2002 with representatives of Governments, the EBRD and EIB, EU and the OECD, the private sector and the regional development banks. It was agreed that the purpose of the PPP Alliance is: (a) to accelerate the number of operational PPP projects in the region; and (b) to build the capacity and skills within Governments to initiate, manage and finance PPPs.
14. The secretariat informs the Working Party that thirty governments have to date agreed to join the PPP alliance. It is expected under this agenda item that the PPP Alliance will discuss its future programme of work. In addition, the Alliance will discuss how representatives from the private sector can contribute to the work of the PPP Alliance. More information on the PPP Alliance, including the agenda for the Second Session is set out in Information Notice (TRADE/WP.5/2003/2).

#### **Item 5 – Work of the sub-groups**

(a) UNECE PPP Alliance Programme

15. The Chairpersons of the Alliance Ms. Corinne Namblard-Bouverot and Mr. Eamonn Kearns will report on the activities and future work programme. The report will take account of the decisions taken by the Alliance at the meeting of the Forum. (TRADE/WP.5/2003/3)

(b) Real Estate Advisory Group (REAG)

16. The Chairman of the Group Mr. Robert Hall will report on the Group's activities and future work programme. It will include also a report on the UNECE Land for Development programme. (TRADE/WP.5/2003/4)

(c) Advisory Group on the Protection and Implementation of Intellectual Property Rights for Promoting Investment (IPR)

17. The co- Chairmen of the Group will report on its activities and future work programme. (TRADE/WP.5/2003/5)

(d) Expert Advisory Group on Arbitration

18. The Chairman of the Group, Mr. William Pissoort will report on its activities and future work programme. (TRADE/WP.5/2003/6)

**Item 6 – Programme of work**

19. The Working Party has requested the Secretariat to prepare a programme of work for WP 5. This programme should reflect the legal and commercial challenges facing both the EU accession countries and the countries with association agreements and the need to promote 'convergence' in commercial and legal practices within a wider Europe context. The programme should also take account of UN Mandates and commitments to the alleviation of poverty and to sustainable development. The proposed programme of work is found in document (TRADE/WP.5/2003/9).

**Item 7 - Cooperation with other UNECE bodies and international organisations**

17. In view of the synergies between WP. 5 and other subsidiary bodies of ECE, the Working Party may wish to consider strengthening cooperation with such activities, based on its own expertise and comparative advantage in commercial and legal practices.
18. At the OSCE Ministerial Conference in Porto, in December 2002, the UNECE was asked to assist the OSCE in the preparation of its New Strategy Document. In the light of the important cooperation with this organisation, the Working Party may wish to consider how to implement a closer collaboration with this organisation.

**Item 8 – Other business**

**Item 9 – Adoption of the report**

19. In accordance with established practice, the Working Party will adopt its report on the basis of a draft prepared by the secretariat.

Documents will be posted on the following web site: <a href="http://www.unece.org/ie/wp5">http://www.unece.org/ie/wp5</a>
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**PROVISIONAL PROGRAMME**  
**UNECE Forum on Good Governance in Public Private Partnerships for Infrastructure**  
**Development**  
**Monday, 17 November 2003**  
**Palais des Nations, Geneva**

**Monday, 17 November 2003**

**Programme Structure**

**Opening session: Stocktaking of the Recent Experience with Implementing Public-Private Partnership Projects in Europe.**

- After several years of development of PPPs, and in the light of recent events, which have raised concerns about good governance, it is more and more necessary to consider whether PPP projects reflect good governance practice. What more can be done to improve good governance in PPPs?

**Session I: Challenge of Good Governance**

Based on the evidence of concrete case studies of PPPs, is there a need for the elaboration of common good governance principles? What is the threat from 'conflict of interest', weak tendering, etc.?

- In this session speakers from national governments will present their own country's perceptions of good governance in PPPs.
- In addition, speakers will be invited to present recent experience of good and bad governance in PPP projects, examining the qualitative criteria by which projects can be both evaluated and selected.
- Consideration may also be given to the risk that implementing good governance procedures could add unnecessary regulation to PPPs

**Session II: Looking at Guidelines of other institutions**

In this session the guidelines on PPPs of other organisations are reviewed. The process of preparing guidelines on PPPs began with reports by technical advisors and experts, (UNCITRAL, EU, WORLD BANK, UNECE) which gave governments and private sector practical recommendations on best practises.

- Given the fact that there is more PPP activity and with a greater impact on the society as a whole as well as local and municipal authorities, the intention of this session is to

discuss whether the time is right for governments to agree on common guidelines on good governance in PPPs which can facilitate the process

### **Session III: View of the ‘stakeholders’**

The purpose of this session is to give an opportunity to stakeholders to identify the issues, i.e. the ‘qualitative criteria’, for inclusion in proposed guidelines on good governance? The following are the important stakeholders:

- Private sector
- Financial institutions
- Trade unions
- NGOs
- Community groups
- Local authorities and municipalities

### **Session IV: Presentation of a set of guidelines**

The UNECE secretariat has prepared some materials on good governance and PPPs, which will be discussed in order to achieve a consensus on the scope, nature and content of the Guidelines.

### **Final session: next steps and taking the process forward.**

How should the guidelines be best implemented? Some key questions to be examined and discussed:

- How can good governance principles be implemented in a contract and concretised in terms of incentives, penalty clauses, and other mechanisms to ensure that obligations and responsibilities for good governance are respected?
- How can these guidelines be promoted through the UNECE PPP Alliance network? For example, how can the PPP Units make use of the proposed guidelines?
- Can the guidelines be used for technical assistance e.g. as a training programme for ‘stakeholders’ in PPPs?

### **OTHER DETAILS**

#### **Networking**

The Forum will provide an excellent networking opportunity. In addition, if delegates from Governments are interested in informally presenting project proposals to participants in the Forum and an translator is required, please inform the Secretariat and efforts will be made to provide adequate accommodation for these discussions.



## **Documentation and Recommendations of the Forum**

Written submissions by speakers and delegates to the Forum are welcome. The Working Party will review these submissions with a view to their eventual publication by the United Nations.

## **Accommodation**

Information on accommodation can be obtained from:

Geneva Tourist Office

Tel: (+41 22) 909 70 00

Fax: (+41 22) 909 70 75

E-Mail: [info@geneve-tourisme.ch](mailto:info@geneve-tourisme.ch)

Web page for Hotels in Geneva: <http://www.geneve-tourisme.ch/eng/index99.html>

## **Registration**

Participants are encouraged to register online at <http://www.unece.org/ie/wp5> or to fill out the attached Registration Form (see Annex 1) and return it to the following address:

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## **For Further Information on this Forum**

For questions regarding the Forum, please contact either of the following persons:

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