UNICE

Union of Industrial and Employers' Confederations of Europe
Union des Confédérations de l'Industrie et des Employeurs d'Europe

25 June 1998

UNICE POSITION ON EUROPEAN FUNDING FOR PUBLIC-PRIVATE PARTNERSHIPS (PPPS)

UNICE welcomes the current emphasis of the European Commission and some Member States on Public-Private Partnerships (PPPs). This paper addresses the issue of using European funding for PPP projects.

Defining a PPP

A PPP is a partnership between public sector organisations on the one hand and private sector investors and businesses on the other, for the purpose of designing, planning, financing, constructing and/or operating an infrastructure project or a service decided by public authorities.

The key feature for a successful PPP is the allocation of project risks between the public and private sectors according to each party's ability to manage and bear these risks. The sensible distribution of risk can help broker deals faster and instil confidence between the contracting parties.

A PPP is not just about the private sector financing capital projects in return for an income stream. The technique makes use of private sector skills as well as quality design and management expertise to deliver public services more efficiently. Essentially, this involves providing input at the design state; delivering the best construction price or the most competitive cost base; arranging the necessary financing; and providing high quality project management.

A Proven Track-Record

PPPs are becoming commonplace across the EU and are regarded as an essential feature in the financing of infrastructure. In Europe, France has developed the concept to the greatest extent, with the "shared risk concession" between public and private partners the most frequently used method of project financing. This mechanism is designed to yield an adequate rate of return for both parties. French local authorities have considerable experience of PPPs. The UK's Private Finance Initiative is also well developed. With EU funding, PPPs are in progress in Portugal (Tagus Bridge) and Greece (Spata airport). New Member States too are beginning to implement the PPP formula. Finland used a Design, Build, Finance and Operate contract to up-grade a 70km stretch of primary road network. The rail link between Stockholm airport and the city's central railway is another example of a PPP.

A European dimension

A high-level group on Public-Private Partnership Financing for Trans-European Transport Networks (TENs) projects, set up in September 1996 by the European Transport Commissioner, has reported its findings on legal, regulatory and administrative problems. The recommendations of the group have been endorsed by the Commission. The Commission proposed that financing instruments, such as structurally subordinated loans and early operational stage loans, be established and also suggested that these instruments may be obtained from Community resources, where appropriate.

In the Commission's July 1997 policy document, AGENDA 2000, for the future development of the EU, there is a reference to the need to develop public-private financing. The Commission believes that additional funding must be identified beyond present appropriations as current levels of financing will not be sufficient to cover the identified needs of TENs projects. The Commission is therefore supportive of the idea of public-private financing initiatives.

The European Investment Bank (EIB) is the largest infrastructure financing institution in Europe. The EIB views PPPs as a way to harness the efficiencies of both the public and private sectors to achieve a better result than would have been achieved separately. The Bank believes that the private sector has an increasingly significant role to play in the ownership and operation of the transport, energy and telecommunications sectors in particular.

In relation to "projects of common interest", EU aid is available under the TENs budget line to finance 50% of the costs of feasibility studies and 10% of projects. The projects in question do not necessarily have to have a trans-border dimension. In addition, loan guarantees, interest rate subsidies (two percentage points on average over five years) and direct grants are also available from the EIB and the European Investment Fund. The European Regional Development Fund (ERDF), the Cohesion Fund and the EEA Mechanism can all co-finance infrastructural projects.

UNICE notes with considerable interest what the Commission said recently in its Communications on PPPs (September 1997) and public procurement (March 1998). However, until the relevant Directives are amended, legal uncertainties about the application of EC public procurement legislation, particularly the Public Works and Utilities Directives, will continue. UNICE will address in a separate submission the necessary improvements to the EC public procurement framework. Similarly, despite DG IV guidelines published in March 1998, there is on-going confusion and some uncertainty among prospective PPP partners about the application of EC competition legislation and State aid rules.

The Commission is clearly in favour of the concept of PPPs. However, its interest is primarily focused on TENs which, although important, account for a small fraction of potential public infrastructure investment. Therefore, the EU's vision of PPPs is currently defined in too narrow a sense.

While AGENDA 2000 identifies the need to develop public-private financing, no concrete proposals are in the pipeline.

A more-developed PPP will require changes in the EC's rules on the use of the Cohesion Fund and the European Regional Development Fund. This is because these co-financing instruments are not geared for project financing which involves a long period of time. Instead these Funds provide cash grants on a once-off basis. Thus these funding instruments should be used, inter alia, to provide revolving credits and quasi-equity along the lines of the early operational stage loans and subordinated loans. In addition, the ERDF should be allowed to co-finance part of the expenses associated with PPP projects up to the construction/operation stage.

UNICE believes that the Cohesion Fund and the ERDF could be used, if appropriate proposals on PPPs were forthcoming from the Commission, to leverage up investment to a much higher scale than is currently envisaged by public policy-makers.

Finally, as Member States will have to comply with the disciplines of national Stability and Growth Pacts, a PPP approach offers the possibility of bolstering public capital programmes and improve the quality and efficiency, in macroeconomic terms, of public expenditure. The advent of the single currency should, over time, result in a reduction in long-term interest rates. This should boost the construction sector.

Basic Principles

If PPPs are to succeed, UNICE believes that:

- Private funding should allow the realisation of projects which require resources beyond the financing capacity of the public sector. PPPs, along with EU co-financing, should be used to accelerate projects.

- Private sector expertise should be deployed at the earliest possible stage. To this end a European legal framework may be necessary.

- Governments should consider the efficiency gains if PPP project financing was preferred over traditional public funding support.

As the Commission is supportive of private investment being used in capital projects co-financed by the EC's Structural Instruments, consideration should be given to more measures being extended to the private sector. Post-1999, private co-financing should assume a higher portion of the expenditure covered by the CSFs and SPDs. This would demonstrate, in a very practical way, a true commitment to partnership.

Next Steps

UNICE believes that the PPP concept merits further consideration at EU level. To this end, the following proposals are put forward :

1. The Commission should set up a small Task Force, building on the work of the TENs high-level group, to report (within 6 months) on the legal, regulatory and financial issues that would arise if PPPs were to be used to leverage EU co-financing via the TENs budget, the Cohesion Fund and the ERDF.

2. The Commission should, in parallel, confirm its demand that those Member States that see value in the PPP quantify the level of potential productive public investment which could be co-financed by EU funds using PPP techniques.

3. Responsibility for driving this initiative should be vested in DG XVI (Regional Policy).

4. The EIB should be asked to bring forward precise proposals on suitable financing techniques, such as structurally subordinated and early operations loans, that could be used where EU co-financing is made available to public infrastructure projects.

5. Member States should, where appropriate, be asked to submit designated projects for EU co-financing using PPPs in their National Development Plans (2000-2006).

Political Commitment

PPPs will not be used systematically at national level to leverage EU funds unless there is a firm political commitment on the part of Member States. Therefore, at the earliest possible stage after the completion of the work of the proposed Task Force, the Commission should seek the endorsement of the European Council on the use of this innovative form of finance. It is recognised that not all Member States will be interested in this project financing technique.

Assuming this political support is forthcoming, the Commission should set up, by Commission decision, an Advisory Committee on PPPs comprising senior Member State representatives and qualified nominees from the private sector.

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