



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.09.1997

COM(97) 453 final

COMMUNICATION FROM THE COMMISSION

TO THE COUNCIL, THE EUROPEAN PARLIAMENT,
THE ECONOMIC AND SOCIAL COMMITTEE
AND THE COMMITTEE OF THE REGIONS

ON

**PUBLIC-PRIVATE PARTNERSHIPS IN TRANS-EUROPEAN TRANSPORT
NETWORK PROJECTS**

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1. Introduction

1. The High-Level Group on Public-Private Partnership Financing of Trans-European Transport Network Projects was set up at Commissioner Kinnock's initiative, and with the agreement of the Transport Council, in September 1996. The Group comprised individuals representing all parts of the private sector having an interest in the provision of transport infrastructure, as well as representatives of the public sector nominated by their Ministers of Transport, and the EIB and EIF. The Group reported in May, and Commissioner Kinnock presented the report¹ to the June Transport Council.
2. The purpose of the High-Level Group was to look at how Public-Private Partnerships (PPPs) can help accelerate the implementation of the Trans-European Transport Network. The Group concluded that PPPs do have a crucial role to play in this respect.
3. The Commission fully endorses the recommendations of the Group. Given the constraints on public finance, there is an urgent need to develop real partnerships between the public and private sectors to accelerate implementation of the TEN, by making complementary finance available and improving cost-effectiveness, so developing projects which are closer to financial viability. This will mean that smaller public subsidies will be needed.
4. This Communication sets out how the Commission will follow up those recommendations in which it is directly involved. It sets out a number of projects which the Commission has initially identified on which a PPP approach, on the lines set out by the High-Level Group, would be appropriate to accelerate progress.
5. Trans-European Networks are an essential component, alongside the Single Market for assuring the long-term competitiveness and growth of the EU, and thus long-term employment. That is why the proposals in this Communication will be important in the development of a European employment strategy, identified as an urgent priority for the Union.

¹ Final Report of the High-Level Group on Public-Private Partnership Financing of Trans-European Network Transport Projects (VII/321/97)

2. Recommendations for Action by the Community Institutions

In this section, the Commission gives its response to the recommendations made by the High-Level Group for action by the Commission. The recommendations themselves are given in bold italics.

2.1 Public Procurement

The application of EC public procurement legislation, particularly the Public Works and Utilities Directives, needs to be clarified. The Commission should elaborate specific guidelines which would provide greater clarity with regards to public procurement procedures to be followed for the award of transport infrastructure contracts.

In line with EU public procurement legislation tendering procedures may be necessary in each phase of project development depending on the public authorities' approach towards involving the private sector. They can relate to small service contracts for carrying out technical feasibility studies or preparing traffic forecasts, as well as to much more costly concession contracts for building, financing and/or operating an infrastructure project.

Private-sector concerns and specific points in EU procurement rules have been examined in order to favour a regulatory framework where flexibility, publicity, negotiation and call for tender would be key issues. The High-Level Group conclusions are being integrated in the consultation process on the Green Paper on Public Procurement as a major contribution.

The Commission intends to present soon a Communication on Public Procurement, forming the framework for guidelines on the application of the public procurement legislation to infrastructure projects, covering the following issues:

*** Relationship between Public Works (93/37/EEC) and Utilities (93/38/EEC) Directives**

There are two Directives potentially relevant for larger transport infrastructure projects - those on Public Sector Works and on Utilities, which have different provisions in respect of tendering procedures. The guidelines will clarify which of these Directives applies. In most cases, due to the nature of the awarding authority (public authority not exercising one of the relevant activities under Art. 2 (2) of 93/38/EEC Directive), the Public Sector Works Directive will be the applicable regime. Thus, the concessionaire would be allowed freely to award its public works contracts to undertakings which have formed the consortium that bid for the concession contract, or undertakings affiliated to them, under Article 3 (4) of this Directive. In addition, if Directive 93/37 is applicable to the works, the provision of the supplies connected to the execution of the original works project will also be covered by this exception, since such supplies may be considered as subsumed within the totality of the works (see by analogy Art. 6(5) Directive 93/37).

In the Utilities sector, to which directive 93/38/EEC is applicable, there exists considerable flexibility for the contracting entity in the choice of the tender procedure to be adopted. Thus, for instance, it is open to the contracting entity in all cases to select a negotiated tender procedure, after a call for competition, which will permit it to negotiate with the potential contractors during the award of contracts (see Article 20 (1) Directive 93/38/EEC). Moreover, the possibility exists to conclude what are referred to as “framework agreements”, in order to create a long term relationship between a contracting entity and its partners (see Article 1 (5) Directive 93/38/EEC).

*** Other contractual aspects of PPPs**

It should be remembered that the current EC procurement regime only covers the stages leading up to the award of a contract. Thus, some of the most important aspects of the life of a PPP contract, as described by the private-sector participants, still depend on rules which are not harmonised at European level, even in the field of public procurement (compensation for all bidders, payments and financial equilibrium, specifications, etc). They are, therefore, only governed by the relevant national legislation and EC competition rules.

*** Technical dialogue and conception phase of a PPP**

The other main issue of concern for the private sector was the proper organisation of the preliminary phases of conception and planning, in order to reconcile technical dialogue with the protection of intellectual property of the bidders.

The Commission considers that technical dialogue is possible as long as it does not prohibit competition between potential contractors (see Article 4 (2) Directive 93/38/EEC “*Contracting entities shall ensure that there is no discrimination between different suppliers, contractors or service providers*” and Article VI (4) of the Agreement on Government Procurement²). Should the technical dialogue with a potential contractor lead to the absence of call for tender or the use of discriminatory specifications, the Commission would consider this as a prima facie infringement. In other cases, an examination of the particular facts would need to be carried out.

Innovative technical solutions from the private-sector for the development of the project and fairness of the conception phase can be protected by current European law on patents and design combined with the use of adequate clauses in tender documents, but cannot be assured in a technical dialogue relationship, which is by nature informal.

In order to improve the procurement process by reflecting private-sector concerns in the tender documents, the Group recommended the use of the “design contest” formula providing direct payments for design ideas from the private sector at an early stage of the global PPP project (see Article 13 of Directive 92/50/EEC and Article 23

² “Entities shall not seek or accept, in a manner which would have the effect of precluding competition, advice which may be used in the preparation of specification for a specific procurement from a firm that may have a commercial interest in the procurement”

of Directive 93/38/EEC). Such an approach would stimulate the participation of potential bidders, because of the possibility for them to recover at least part of their costs in preparing the conception of the project and allow the selection of the best ideas on an equal footing.

From the "design contest", the project authority would decide on the broad shape of the project. It could then prepare the concession award phase on the basis of a realistic but challenging project and give bidding documents to interested concessionaires in a second phase based on construction-operation proposals.

2.2 Competition Policy

The application of the EC competition legislation has caused some confusion and uncertainty amongst prospective PPP partners. The Group recommended that the existing guidelines on the application of the legislation, which were included in the Commission's report to the European Council in Madrid (COM(95)571, December 1995, Annex II), should be developed to clarify their application further.

* Access rights and capacity reservation

A separate Communication³ on clarification of the existing guidelines to new infrastructure rail projects is to be presented in parallel with the Communication at hand.

This Communication on competition aspects seeks to clarify, in particular, the conditions in which competition rules may be applicable with regards to capacity reservation. It tries to reconcile the difficulty of maximising the financial viability of rail projects whilst at the same time ensuring non-discriminatory freedom of access to infrastructure.

Though the guidelines clarify application of the competition rules, each case has to be considered on its own merits, due to their complex and often very individual nature. Early discussion and consultation with the relevant services of the Commission, especially with regards to competition rules, is therefore advisable.

In order to promote a broader discussion, and to obtain more information and advice on the various issues involved, those interested (both public and private actors) are actively encouraged to contact the relevant services of the Commission as early as possible in project development.

³ Clarification of the Commission Recommendations on the Application of the Competition Rules to New Infrastructure Projects COM(97)....

*** State aids**

The building of transport infrastructure financed by the public sector is a general measure of economic policy and thus does not normally come within the State aid rules provided the infrastructure is open to potential competitors in accordance with Community legislation⁴. Where the State finances infrastructure in partnership with the private sector, the project may entail consideration under the State aid rules. However, in such cases, the public support can frequently be arranged so that it is compatible with the State aid rules. One of the best ways to ensure this compatibility is to hold a non-discriminatory, competitive tender open to all actual and potential competitors, thereby providing a guarantee that the public support corresponds to the minimum needed to accomplish the project. Once again early discussion with the relevant services of the Commission is desirable to ensure that a project, given its particular characteristics, is compatible with Community law.

2.3 Development of Financing Instruments

The TEN High-Level Group recommended structurally subordinated loans and early operational stage loans as means to cope with risks caused by uncertainties in early operational stage cash-flow generation. The High-Level Group also recommended that steps be taken to enhance the availability of equity and, in particular, of quasi-equity for infrastructure projects in Europe.

*** Structurally subordinated loans and early operational stage loans**

The Group observed that many large transport infrastructure projects are profitable in the long term, but suffer from low cash-revenue during the period immediately after completion, making it difficult to put together appropriate financing packages for projects intended to be implemented with limited public sector financial backing. During the early operational stage of a project, when its debt burden and debt service obligations are at their highest, the revenue generated by the project is at its lowest, and the promoter exposed to a great deal of uncertainty. Structurally subordinated loans and early operational stage loans were identified as the instruments best suited to overcome these difficulties. The Commission notes that, in addition to possible development of such instruments in the private sector, the development of these instruments would be possible within the framework of the Community financial institutions with support from Community resources, if necessary and appropriate.

Structurally subordinated loans are loans of equal priority to usual bank debt, but with extended maturities (20-30 years) and grace periods which allow amortisation to be deferred until after commercial bank debt has been substantially repaid. This complementary loan instrument would alleviate the burden of debt amortisation by spreading it over a longer period of time.

⁴ In some cases, there can be issues concerning intermodal competition. The Commission considers these are best dealt with through a Community framework for infrastructure charging on which it intends to produce a White Paper next year.

Early operational stage loans are non-amortising loans or revolving credits covering the early operational period of a project. These early operational stage loans would convert into term loans for sale to commercial banks in the secondary loan market as soon as the project has achieved financial stability. Thus loan instruments of this type would have the additional advantage of allowing the rapid recycling of public resources. Moreover, the later sale of these loans would help create a secondary market in transport TENs loans helping to attract new commercial bank lenders to transport projects.

The Commission notes that structurally subordinated loans have already been offered by the EIB, in co-operation with the EIF, on a limited scale. The Commission invites the EIB and EIF, in direct co-operation with commercial bank debt providers, to increase the volume of such operations and to develop early operational stage loans.

The EIB has been urged by the Amsterdam European Council to step up its very long-term lending in the area of large infrastructure networks, and primarily for the Essen priority projects. The Commission welcomes the recommendations of the High-Level Group, and suggests that further consideration should be given to a move away from requiring full guarantees to cover this TENs lending in selected cases. The TEN-T budget, where necessary and appropriate, can play a supporting role in this respect, through the provision of interest rate subsidies and contributions towards fees for loan guarantees.

*** Subordinated debt and equity**

The Group noted that in Europe the market for the provision of subordinated debt or mezzanine finance for infrastructure investment is limited and infrastructure projects are prevented from taking advantage of funding capacity which institutional investors e.g. insurance companies could provide. The Commission acknowledges that a balanced financial structure with robust layers of equity and subordinated debt is essential for large infrastructure projects, in order to raise bank debt. Within the Community the availability of such funding is so far very limited. This seems to constitute a significant market failure for infrastructure finance.

Mezzanine finance i.e. subordinated debt or quasi-equity in a project is the risk-absorber senior to equity, but subordinated to bank debt; it complements equity and fills the gap between equity and bank debt. It adds a risk cushion to equity which helps the raising of bank debt for projects. In a considerable number of infrastructure projects subordinated debt could be the catalyst needed to get the project's financing on its way.

Equity represents the funds that the shareholders are willing to risk in a project. It is the first building block of a financing package and allows the raising of bank debt since it ranks behind all debt financing. The provision of equity is therefore essential for the success of a public-private partnership.

It could be argued that, over time, such financing instruments will develop, as the number of projects to be financed grows. But in practice, the absence of such finance

is inhibiting the timely development of TENs projects. Thus the Commission sees a case for taking action to stimulate the availability of such financial instruments. The Commission, in consultation with the EIB and the EIF, intends to examine the setting up of a mezzanine fund focused on TENs. The fund should play a catalytic role and encourage institutional investors' participation in the financing of TENs, as the market becomes convinced of the viability of the projects. It would be a limited life public-private partnership, with institutional investors contributing the majority of the capital. Any involvement of the Community would respect existing Financial Perspective ceilings. The Commission has already commenced an exploratory dialogue with the financial markets on a PPP mezzanine fund.

2.4 Proactive ways of providing support at EU Level.

Innovative ways of providing public support for TEN PPP projects should be examined [...]. Initiatives [...] should be undertaken by the Commission, with the technical support of the EIB and EIF, in order to ensure the optimal and co-ordinated use of the public resources provided by the TENs budget and the financial institutions of the Community. Such initiatives would clearly need to be supported by Member States.

The Commission supports this recommendation, but would underline that a more proactive role for the Commission, in co-operation with the EIB and the EIF, will need to fully respect the fact that primary responsibility for infrastructure development lies with the Member States. Any action in this area can therefore only be contemplated with the full support of the Member States concerned. The Commission sees two ways in which a more pro-active role could be useful:

- (1) to catalyse the early involvement of the private sector in project design, so helping, particularly in cross-border projects, to bring together the key participants and keep up the momentum of development;
- (2) to ensure that support from the range of Community-level financial instruments is provided in a co-ordinated way most suited to the individual project. This would allow the impact of Community financial instruments to be maximised. The available range of instruments could best be combined, for example, with a greater use of some forms of Community support, such as the financing of the premia on EIF guarantees.

Such an approach can only be applied to concrete cases. This would require the identification of specific projects by each Member State together with the Commission. Firm commitment would have to be received from the relevant Member State(s) involved in the examination of a project through a PPP perspective. The projects can be at any stage of development, with private-sector involvement already demonstrated or foreseen.

One of the problems identified in the development of the TENs is the relatively slow progress of several of the projects adopted in Essen. These 14 projects were included

as a list of "specific projects" in an Annex to the TEN Guidelines adopted by the European Parliament and the Council on 23 July 1996⁵. They were the subject of attention at the Cannes European Council in June 1995 and more recently at the Amsterdam European Council which requested the EIB to increase its long-term loan commitment to infrastructure networks and, in particular, to the "priority projects adopted at Essen". These projects do therefore seem a natural starting point for the identification of suitable projects, especially those which are at a stage where private-sector intervention is feasible, though not yet necessarily involved. However the PPP approach is also appropriate for a very wide range of TEN infrastructure projects, some of a relatively modest nature, which could help to liberate public-sector resources for use on those projects most in need.

Exactly what form the Commission involvement should take will depend on the individual cases. One option might be, for projects at a very early stage, to hold, in conjunction with Member States, project design competitions for the private sector. Another option would be to fulfil the role of bringing together the key participants to facilitate decision-making. It would also provide a means of making full use of Community financial instruments in the design of the financial package. In this context the association of the EIB and the EIF in the discussions should also prove very useful.

All questions and obstacles could then be addressed on a real, concrete basis, with the need for any specific action from the Community being identified and examined in each case.

As far as the TEN-T budget line is concerned Regulation 2236/95⁶ states at Article 6 (Project selection criteria), §3 second indent that the decision to grant Community assistance should also take into account "...the stimulative effect of Community intervention on public and private finance". The association of private capital with a project as one of the elements to be considered with regards to financial support is therefore already made.

The Commission intends to make use of the full potential of this provision and is ready to take the necessary steps to ensure that those projects for which a PPP is either being explored or developed, receive the appropriate financial support through the TEN-T budget line, and from other sources where appropriate. This will require compliance with existing procedures, including submission of the draft financial support measures to the TEN Financial Assistance Committee. As stated in the Treaty on European Union, Article 129d §2 "...projects of common interest which relate to the territory of a Member State shall require the approval of the Member State".

Participation of a sufficient number of bona-fide bidders in the tendering phases (including possible "project concept tenders") is essential to get good value for money. However, the substantial costs inherent in the preparation of bids for large

⁵ Decision n° 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network.

⁶ Council Regulation (EC) n° 2236/95 of 18 September 1995 laying down general rules for the granting of Community financial aid in the field of trans-European networks

infrastructure projects constitute an important obstacle to wider participation. The Commission intends to examine whether it would be possible to grant financial support to the short-listed bidders in these specific cases through the TEN-T budget line. Such support would, clearly, need to be subject to strict quality criteria.

The Commission will consider whether any future proposal to amend Regulation 2236/95, in accordance with its Article 19, should include ways of extending possible support to PPP projects through the TEN-T budget line.

2.5 Network and Trans-European Benefits and a PPP Database

The Group recommended that trans-European and network benefits should be taken into account when assessing the projects. The Commission, together with Member States, should ensure that adequate data and appropriate methodologies are available as soon as possible. A European-wide database of PPP projects could be a useful aid to all parties involved in infrastructure development, enabling public- and private-sector actors to benefit from past experiences of PPP schemes, to improve future project designs and reduce costs. The Commission should explore the possibilities for and seek to actively support the establishment of such a database.

Trans-European and network benefits, as well as corresponding impacts on the environment and safety, are often significant for the assessment of the socio-economic case for projects and might influence decisions on whether they should go ahead and on sources of finance. (In the assessment of TEN projects, financial and socio-economic network benefits have of course to be weighed against the trans-European network effects on environment and safety.)

Assessing the network effects associated to TEN projects would facilitate the implementation of projects through a balanced distribution of costs, benefits and risks among public and private partners of trans-European networks.

The assessment of both financial and socio-economic returns and environmental effects relies to a large extent on the availability of reliable traffic statistics. Detailed and reliable traffic data should be made available by public authorities to all interested parties. The Community should analyse the feasibility of an harmonisation of methodologies of data collection and treatment. The Commission thus intends to step up its research into common methodologies, in co-operation with Member States. As appropriate, this will be integrated into the framework of the Community statistical programme, 1998-2002.

By providing a breakdown and analysis of PPP experiences to-date, a PPP database would allow all parties involved in transport infrastructure development to gain access to the methodologies and financial, administrative and legal structures employed in other PPP infrastructure projects. The Commission will explore possibilities for the establishment of a European-wide PPP database.

3. Other Recommendations of the High-Level Group

The Group made a number of other recommendations for action by Member States and/or the private sector. These recommendations stemmed from the Group's broad conclusion that PPP methods harness the entrepreneurial and managerial skills, as well as finance, of the private sector, and so provide best value for money in developing TEN infrastructure. The Commission offers the following comments on these other recommendations:

3.1 Public/private collaboration should start as early as possible in the life cycle of each particular project.

Detailed discussion in the HLG sub-groups showed that the greatest benefits to a project as a whole were gained where the private sector had contributed to the design and other development of a project, before the construction and major financing stages were reached. But for many current projects, private sector involvement had only been considered when the construction stage had been reached, so removing the flexibility of design adjustments to fit financing constraints.

3.2 The public sector must, at an early stage, clearly define the aims of a project.

It is essential, when seeking private sector commitment to a project, that the public sector commits itself equally to the objectives that are to be met in the project's development. Otherwise, the full cost-benefits of the PPP may not be realised, and the project's financial viability may be jeopardised.

3.3 The creation of ad-hoc companies is often the best approach...Member States should remove any remaining barriers to the creation of such vehicles.

As the report notes, project vehicles provide a stable framework within which the various partners can establish a confident working relationship. In particular, cross-border projects, which have two or more national governments supporting them, benefit from the establishment of a single vehicle having technical, economic and commercial responsibility for the project as a whole. The Commission recommends the formation of an EEIG (European Economic Interest Group), which must involve the private sector, as such a vehicle in the early phases of a project's development. The Commission hopes to see the rapid adoption of the European Company Statute (ECS) given the new possibilities opened up by the Davignon working group and the accelerated procedure foreseen in the Action Plan on the Internal Market endorsed by the European Council in Amsterdam. In cross-border projects, there will be a need for a specific Inter-Governmental Commission. The identification of a single point of contact between the project promoters and the public authorities will also streamline the project's development.

3.4 Public policy risks should be borne by the public sector and there is a case for developing common approaches to their definition and mitigation...[the private and public sectors] should each in principle bear the risks it is best able to control, and has the most interest in controlling.

Large infrastructure projects such as the bulk of TENs schemes require significant public sector commitment particularly in their early development stages. Lack of such commitment will at the very least significantly increase the project's costs. It is understandable that each sector should wish the other to bear as much of the risks as possible, because risks represent costs. But a PPP is a partnership, where both sides have an interest in minimising risks. The sector best able to minimise the risks, is the one which is best able to control them. Thus, risk of public policy change is for the public sector to bear; whereas traffic risk would normally fall on the private sector. Improved risk allocation will give better value for money and more efficient project management, as well as bearing on the amount of support projects will require from the TEN-T budget line.

3.5 Environmental protection considerations should be addressed strategically... at the earliest possible stage in the project planning process.

The Commission would urge Member States to implement the relevant EC legislation. If projects now being considered are not assessed in accordance with this legislation, they are likely to face delays and uncertainty at a later, more critical stage. The Commission is also already undertaking the necessary work to develop appropriate methods for the strategic environmental assessment of the whole transport TEN and for the environmental assessment of its corridors, as required by the Community Guidelines for the transport TEN. This will allow the better integration of environmental considerations at the early planning stages of the network development.

3.6 PPPs should be envisaged for a number of priority [and other] projects...to liberate public sector resources for use on [other TENs] projects.

Clearly, where the private sector is contributing skills and resources that would otherwise have been taken from the public sector, those public sector resources can be committed elsewhere. This in turn will allow more projects to be developed with the necessary public sector support.

4. Application of PPP Approach: Possible Projects

Having considered the recommendations directly addressed to it, the Commission has made an initial attempt at identifying some known TENs projects that are suitable for the PPP approach. This is in response to the report's recommendation on follow-up action. The aim is expressly not to draw up a new list of priority projects; rather, it is to identify potential PPPs from within the existing priorities.

The projects set out in the Annex attached have been identified on the basis of information already offered by Member States, or discussions in which the Commission has already participated. Specifically, the following criteria have been, and would be applied to select schemes:

- (a) they are economically-viable TEN projects, or part of projects, on part of the recognised TEN;
- (b) there is a firm and explicit commitment from the Member State concerned to use the PPP approach;
- (c) a possible revenue stream identifiable from the outset; and
- (d) the scheme forms a critical stage/part of an ongoing project, or is situated on a cross-border axis.

It must be emphasised that this is very much a preliminary attempt at project identification. Subject to Member States' approval, these and other possible projects will be discussed and agreed in continuous discussion with the Commission. The projects identified fall into two groups: those at a very early stage of development, and those more advanced. They are as set out in Annex 1. For these projects, it is intended that the Commission, with the EIB and the EIF, will make special efforts to support Member States on reaching early agreement on PPP structures and financing.

5. CONCLUSIONS

The High-Level Group agreed that public-private partnerships represent an essential means of developing the transport Trans-European networks which the Maastricht Treaty envisages. The Commission has previously reported to the Council on the progress that has so far been made, which has been slower than expected, even with those projects which have been identified as priorities for development. The Commission is therefore following up, as a matter of urgency, the actions recommended by the High-Level Group for the Commission itself to take, in order to facilitate the creation of more PPPs in TENs projects.

The Commission invites the other institutions to endorse the conclusions of the High-Level Group, and to support the development of PPPs to accelerate implementation of transport TEN projects. In particular, the Commission invites the Member States to urgently identify specific projects where a PPP approach would be suitable.

While fully respecting the existing priorities set out in the Guidelines for the development of the transport TEN, the Commission has identified, on the basis of Member States' views, a number of projects or part-projects where a PPP approach would seem appropriate. These projects, and others that may be subsequently identified, would be the subject of a special effort by the Commission and the other institutions to facilitate early agreement on a PPP structure, with a leading role played by the private sector in developing this structure. The specific approach will depend on the circumstances of each individual case.

The Commission also invites the other Community institutions to note that it

- (1) proposes to issue revised guidelines on the application of EC public procurement legislation to transport infrastructure concessions;
- (2) has reviewed the existing guidelines on the application of EC competition legislation, with a view to clarifying them further - a separate Communication has been addressed to this Council on the subject.
- (3) it has begun discussions with the EIB and the EIF on the possible development of structurally subordinated and early operational loans;
- (4) it is consulting potential private sector investors, in consultation with the EIB and the EIF, on setting up a mezzanine fund focused on TENs;
- (5) it will examine, together with the EIB and EIF, possible innovative and proactive ways of providing support for TENs projects;
- (6) it will consider possible methodologies for assessing project benefits at a European level (including from a strategic environmental perspective), with a view to their use in assessing the level of TENs funding, and will explore possibilities for the establishment of a European database on PPPs in transport infrastructure projects.

Member States are also urged to make strong efforts to implement those recommendations requiring action on their part. The Commission hopes that they will therefore:

- (1) seek to involve the private sector at the earliest possible stage of infrastructure project development;**
- (2) work to remove any remaining barriers to the creation of ad-hoc project vehicle companies, particularly in the railway sector;**
- (3) press ahead with the reform of their railway industries, along the lines set out in the Commission's White Paper;**
- (4) co-operate as fully as possible with the private sector in developing new, as well as existing suitable financial instruments to finance infrastructure projects;**
- (5) integrate environmental considerations at the earliest possible stage into their planning processes.**

Possible projects so far identified for the application of a PPP approach:

The HST south: the Madrid -Barcelona section was proposed by sub-group II as a possible PPP, associating the private sector with the superstructure investment and operation phases; and the Figueras-Perpignan section, where there is a formal agreement between the Spanish and French governments to develop the section as a concession;

The PBKAL, Dutch section, where an initial examination is being undertaken by the relevant authorities in order to establish the possibility of a PPP scheme during its operational phase.

the Brenner tunnel project, where the setting up of a public-private partnership for the base tunnel section is aimed at (a concession for construction and operation), and where an EEIG will be created in the short term, to be responsible for both the technical project planning and legal and financial analysis in preparation for the PPP.

The new Berlin airport, where possibilities for the establishment of an ad-hoc legal and financial package are being explored.

The Semmering tunnel project (part of the Pontebbona axis linking Austria with Italy), where the tendering procedure for a BOOT concession is currently under way.

The Piraeus-Athens rail connection.

Member States are invited to put forward additional projects which are appropriate for a PPP approach, and the Commission is also considering, with the EIB, what other projects may be suitable.

ISSN 0254-1475

COM(97) 453 final

DOCUMENTS

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07 08 06

Catalogue number : CB-CO-97-470-EN-C

ISBN 92-78-24632-8

Office for Official Publications of the European Communities

L-2985 Luxembourg