



Council of the  
European Union

Brussels, 8 May 2015  
(OR. en)

8613/15

TRANS 157

**NOTE**

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From: General Secretariat of the Council  
To: Delegations

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Subject: Recommendations and Executive Summary of the Christophersen –  
Bodewig – Secchi report

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In view of the Intermodal Questions and Networks Working Party meeting on 13 May 2015,  
delegations will find hereafter the document mentioned above.

**I. Action Plan for the development of project financing:  
12 recommendations**

1. **Member States'** administrations should have access to dedicated technical assistance, in particular through the European Investment Advisory Hub, to support their activities for **the development of a project pipeline**. This dedicated technical assistance should also include support for PPP schemes
2. **Project Promoters** should include, in the project preparation process, due consideration to the **projects' life-cycle** from the conception, including the issues and costs related to their maintenance.
3. **Member States and project promoters** should work and receive support for **improving the quality of projects** in order to build a strong pipeline of mature project, and make them attractive to investors. Attention should be given to contracting and risk-sharing between public and private partners.

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4. **Member States** should streamline and **simplify procurement procedures** in order to accelerate the implementation of projects. Specific issues related to the procurement of cross-border projects should be addressed by the European Commission.
5. **Member States** should streamline and thus **simplify their permitting procedures** in order to facilitate and accelerate the implementation of projects, notably for cross-border projects in cooperation with the European Commission.
6. **The European Commission** should ensure that **state-aid rules are conducive to the use of EU financial instruments** and for national support to infrastructure of European added value providing certainty to project promoters and investors as regards the compliance of the projects with the rules.

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7. The **European Commission** should propose a framework to find additional resources for projects of EU added value through the facilitation of **earmarking of revenues and cross-financing** solutions.
8. The **European Commission** should propose a framework to find additional resources for projects of EU added value through **monetization of external costs and benefits, and the user-pay principle**.

The **European Commission and the EIB** should facilitate the **blending and pooling of financial products** from the Connecting Europe Facility (CEF), the ESIF and EFSI funds, financial instruments.

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9. The **European Commission** should ensure that possible **unintended impacts of the Regulations on financial markets** such as Solvency 2 and Basel III on infrastructure financing **are mitigated**.
10. The **European Commission** should propose a clear and **incentivising statistical treatment of PPPs** to acknowledge their growth contribution and provide certainty to project promoters and investors.
11. The **European Commission and the EIB** should ensure in a joint effort a **wide consultation with interested parties, Member States and the Parliament** on the financing of transport infrastructure, the exchange of best practices, promotion of financial instruments or dedicated financial schemes.

## II. Executive summary

### *Assistance for project pipeline, identification and financial structuring*

1. **Member States'** administrations should have access to dedicated technical assistance, in particular through the European Investment Advisory Hub which is an integral part of the European Fund for Strategic Investment (Juncker Plan), to support their activities for the development of a strong **pipeline of mature projects**, encouraging investors to engage in transport infrastructure, and to help with the identification of projects that could use project finance and provide advice when necessary for the adaptation of the procedures and legal framework. This dedicated technical assistance should also include support in better understanding PPP schemes and in mastering risk sharing techniques.
2. **Project Promoters** should include, in the project preparation process, due consideration to the **projects' life-cycle** from the conception, including the issues and costs related to their maintenance.
3. **Member States and project promoters** should work and receive support for improving the **quality of projects** in order to facilitate their development and make them attractive to investors. As part of projects' quality, attention should be given to contractual arrangement and appropriate risk-sharing between public and private partners when appropriate.

Dedicated technical assistance should be made available to project promoters, and stakeholders in project preparation, dealing with environmental aspects, as well as, when appropriate, is structuring and procure projects as Public-Private Partnership (PPP) and Project Finance, setting a Special Purpose Vehicle. The European Investment Advisory Hub should focus on these activities. More generally, the knowledge of local, regional and central administrations of the existing legal framework for project preparation, including for procurement and state-aid, should be improved through dedicated and regular training programmes.

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### *Procurement, permitting and state aid consistency*

4. **Member States** should streamline, adapt and thus simplify their **procurement procedures** in order to accelerate the implementation of projects and facilitate the use of alternative financing models, in line with EU legislation. Specific issues related to the procurement of cross-border projects should be addressed by the **European Commission** (e.g. the elaboration of procurement guidelines at EU level for cross-border projects).
  - a. It is worth exploring systematically the use of PPPs and concessions to manage projects' life-cycle with a substantial risk transfer; best practices sharing and capacity building have to be pursued, setting dedicated structures to provide standardised methodologies for risk mitigations and transfer (contracting), competitive dialogue with tenderers, gate-keeping, and advice.
  - b. On cross-border projects, a single legal framework has to be favoured to the coexistence of multiple national systems. Notwithstanding the step forward of the current EU rules (23-25/2014), self-executing guidelines to be applied “off-the-shelves” could significantly reduce uncertainties and squeeze their time-to-market. A simplifying feature could be the use of a single language in tender and contracting documents (with the agreement of the parties involved and independent from the choice of the project's legal seat). Besides, the possibility to publish a tender either at the project's legal seat or at the place where the activities occur should be given to cross-border projects.
5. **Member States** should streamline and adapt their **permitting procedures** in order to facilitate and accelerate the implementation of projects, in line with EU legislation. The specific issues related to the permitting procedures for cross-border projects should be addressed by the **European Commission**. A unified, comprehensive procedure for environmental appraisal and permitting would prove useful, for instance by:
  - a. Setting-up a single contact point (“one-stop-shop”) for applying for a project, notably important for cross-border projects, streamlining the different national / regional rules based on the EU requirements.
  - b. Unifying the different procedures (Environmental Impact Assessment, Natura 2000 Directives, Water Framework Directive) under a comprehensive Environmental Impact Study, gathering all the national/local authorities together in a single forum coherently and timely.
  - c. Anticipating relevant studies at an early stage, so as and to avoid impacting in the procurement / financial structuring phase, thus curbing risks and public liabilities.
  - d. Restrict conditions leading projects to a standstill in case of appeal, and foresee their time-effective and efficient treatment ; plan swift procedures to surrogate a non-compliant contractor in case of irregularities or difficulties.

6. The **European Commission** should ensure that **state-aid rules** will be conducive for the use of EU financial instruments and for national support to infrastructure of European added value. Certainty should be given as early as possible to project promoters and investors as regards the compliance of the projects with the rules. Notably:
- a. A "single window, fast-track clearance procedure" for notification of grants and other national support schemes linked to the implementation of the European Fund for Strategic Investments (EFSI) and Connecting Europe Facility (CEF) financial instruments; this would lead to an ex-ante clearance concerning State aids compliance, thus avoiding any legal risk.
  - b. The EU managed financial instruments, such as the CEF Debt Instrument, and the EFSI guarantee, should be considered fully consistent with State aid rules since they are offered with a transparent and open procedures by the EIB to all market players and market failure has been substantiated by ex-ante assessments.

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## *Funding and financing*

7. The **European Commission** should propose a framework to **find additional resources** for projects of EU added value in a comprehensive and multimodal setting, for instance through the facilitation of earmarking of revenues and cross-financing solutions.
  - a. "Polluter-pays" and "user-pays" principles should be more widely applied to reduce the burden borne by tax-payers for the construction and maintenance of infrastructure, as a way of eliminating distortion induced by asymmetric and inefficient taxations across transport modes, to promote more energy-efficient structures with external benefits
  - b. For very large infrastructures with long implementation time and low direct financial return it is worth exploring the possibility of establishing an 'infrastructure fund-like' mechanism for their development and exploitation.

8. The **European Commission** should propose a framework to find additional resources for projects of EU added value through a better calculation of external costs to apply the user-pay principle and the monetization of external benefits induced by the development of infrastructure.

Tools such as Eurovignette or the Emission Trading Scheme (under a potential widened scope) could be implemented in such a way to make funding available for projects/modes generating positive externalities.

9. The **European Commission** should facilitate the **blending and pooling** of financial products from the CEF or the EFSI with grants from the CEF or the European Structural and Investment Funds. The Commission and the **EIB** should also ensure **complementarity** between the financial instruments of the CEF and the EFSI.

**Financial instruments suited to the needs of infrastructure sectors**, size of projects or geographical markets, or other relevant features are tailored to market needs, the assessment of specific market barriers would therefore facilitate their take-up. Accordingly, consideration should be given developing, when appropriate, a **wider sectoral approach** for the use of financial instruments or schemes to target a large number of stakeholders at once..

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## *Financial regulation and budgetary accounting of PPP.*

### *Stakeholders' involvement and communication*

10. The **European Commission** should ensure that possible unintended impacts of the **Regulations on financial markets** such as Solvency 2 and Basel III on infrastructure long term financing are mitigated. Notably, the
- a. The creation of an asset class category for EU supported infrastructure projects: the category would cover key EU projects (CEF-related) for which economic viability is proven.
  - b. Subsequently, a revision in financial prudential regulations of the risk weight provisions for project finance ought to be considered, at least for these EU-backed, lower risk assets.
11. The **European Commission** should propose a **clear and incentivising statistical treatment of PPPs** to acknowledge their growth contribution and provide certainty to project promoters and investors as early as possible when preparing the projects, in particular as regards the inclusion of the incurred debt under the Stability and Growth Pact. Considering the pivotal role of public guarantees to enhance leverage the following elements need to be explored:
- a. Off-balance sheet treatment of EU guarantees, including from EIB / other financial facilities.
  - b. Define ex-ante schemes of contracts involving national guarantees (including from national development banks) that can be kept off-balance-sheet.
  - c. Conditions for limiting the inclusion in the national debt/deficit of the sole cost of the guarantee.
12. The **European Commission** and the **EIB** should ensure in a joint effort a **wide consultation** with all interested parties (project promoters, national promotion banks, commercial banks, institutional investors) on the financing of transport infrastructure, in particular for the exchange of best practices, promotion of financial instruments or dedicated financial schemes, and provide regular information to the Member States and to the European Parliament.
- This calls for a structured cooperation and consultation between the EU actors (notably Commission services and EIB services), with early screening of the potential projects and an open dialogue with project promoters.