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Public-private partnerships (PPPs): Proposed updates to the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects – Comments by the Government of Algeria

Note by the Secretariat

In preparation for the fifty-second session of the Commission, the Government of Algeria has submitted to the Secretariat comments regarding the Commission's work on updates to the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects. The comments were submitted to the Secretariat on 2 July 2019. The text received by the Secretariat is reproduced in an annex to this note in the form in which it was received.



Annex

[Original: Arabic]

Comments by the Ministry of Justice of Algeria
on the proposed updates to the UNCITRAL Legislative Guide
on Privately Financed Infrastructure Projects

1. As the update to the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects has not yet been completed, the observations that can be made are provisional in that they may be addressed by portions of the text that have not yet been posted on the UNCITRAL website.
2. The proposed update to the Legislative Guide would consolidate the model legislative provisions and the legislative recommendations contained in the Legislative Guide into a single text. In our view, that would necessitate changing the title of the Guide to “UNCITRAL Legislative Guide on Public-Private Partnerships in Infrastructure Projects” rather than using the term “privately financed infrastructure projects”, as proposed in section (b) of the proposed updates to the Guide. Keeping the title of the Guide as it currently stands might require excluding a number of legislative provisions and recommendations currently in use, such as “non-concession partnerships”, and not reflecting some of the underlying principles of the United Nations Convention against Corruption, which it had been agreed would be included in the new text.
3. The proposed Legislative Guide is assumed to be directed at legislators and aims to assist them in developing appropriate provisions to regulate certain aspects of partnerships inasmuch as such provisions are not sufficiently available in many national legal systems. It also aims to encourage them to maintain the necessary flexibility that contracting parties need. It should therefore take the form of a comprehensive legislative text that is readily usable and can benefit developing countries in particular.

We therefore recommend that more time and discussion be allowed for this undertaking so that it may be not just a review of the various legal issues but rather culminate in a coherent and applicable legal text that States can incorporate into their domestic law and that encompasses all types of contracts in the area of partnerships.
