



C. DESIGNING, IMPLEMENTING AND MONITORING PPD - ISSUES TO CONSIDER

The diagnostic mapping tool assesses the status and potential of public-private dialogue. Now it comes to designing and implementing dialogue, what issues should a task manager consider?

This section of the handbook is based around the Charter of Good Practice in using Public-Private Dialogue for Private Sector Development (see section A. 4. above)

C.1. MANDATE AND INSTITUTIONAL ALIGNMENT

The issue: Some PPDs have a formal mandate. This can mean anything from a mission statement drafted by participants to a presidential decree of establishment. Some even have a formal mandate with legal backing, making the consultation process mandatory. Other PPDs are effective without any form of formal or legal mandate.

Closely associated with the question of mandate is that of institutionalization. Some PPDs are formal institutions, other are informal initiatives. Some begin as informal initiatives and morph into formal institutions. All need to be aligned with existing institutions to avoid the risk of duplicating efforts.

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PRINCIPLE I: MANDATE AND INSTITUTIONAL ALIGNMENT

A statement of objective is helpful for clarity. A formal or legal mandate can be an important help in some political and economic contexts, but mandates are never sufficient to establish good PPD. Wherever hosted and whenever possible, PPD should be aligned with existing institutions to maximize the institutional potential and minimize friction.

- Dialogue depends on the capacity and mind-set of participants, and a legal mandate is not sufficient to create this.
- Nonetheless, a formal mandate is a signal that can establish credibility, make continuity more probable, and enable dialogue to be better integrated into an existing institutional framework.
- A mandate with legal backing is especially likely to be helpful in transition economies or countries with strongly bureaucratic traditions.
- However, energy should not be diverted into establishing a legal status at the expense of losing momentum on substantive reform efforts.
- Legal mandates that are too detailed carry the risk of restricting flexibility and restraining initiatives from adapting to changing circumstances.
- Existing institutions should be capitalized on as much as possible. Even when hosted outside existing institutional frameworks, PPD is more effective when aligning its structure with existing institutional priorities and lines of command.

C.1.A. MANDATE

C.1.A.1 Distinguish between legal mandates, formal mandates and mission statements

When considering what legal status a dialogue mechanism should have, distinguish between mission statements, formal mandates and legal mandates. Each has its own advantages and disadvantages, as the typology of a mandates table shows.

The different options in the table below are not mutually exclusive – a PPD can combine several mandate options at once.

Typology of options to consider for establishing mandate and building momentum

Options to consider	Description	Strengths	Weaknesses
Mission statement	Purely internally generated and implies no official relationship with government.	Quick and easy to set up. Gives a dialogue maximum flexibility and independence.	Need to be agile and inventive to get dialogue outputs onto the public sector agenda.
Formal mandate	Like a mission statement but with high-level political origin, e.g. a presidential decree, or a formal invitation from a prime minister.	Creates immediate credibility for dialogue. Easier to obtain than a full legal structure.	Reduces scope to be confrontational when necessary and no guarantee of voice being heard.
Legal or regulatory mandate	A law or regulation that stipulates how the outputs of dialogue are to feed into the policy process.	Gives the surest guarantee that dialogue will input into decision making.	Difficult to obtain and change. Risks of delay in start-up and inability to respond to changes. Guarantee of input into decision making does not necessarily guarantee that the input will be taken seriously.
Memorandum of understanding	Formal document setting out how a new dialogue initiative will work with existing institutions	Creates clarity about role, function and institutional alignment. Can be combined with other options.	Risks being overly restrictive of potential for organic growth and flexibility for roles to evolve.
Temporary initiative with time-bound objectives	Publicly-stated deadline to which stakeholders commit, such as “50 economic reforms in 150 days”	Can create a sense of urgency and momentum where none had existed. Can be combined with other options.	Needs careful planning as it risks credibility if a publicly-stated aim and deadline is adjusted or ignored.

See the annexes for the following examples of mandates:

- Formal mandate: a sample letter from a president (Annex C2)
- Legal mandate: Rules of Operation of the Government of the Republic of Serbia (Annex C3)
- MoU: Bosnia’s “Protocols for prosperity” (2004) (Annex C4)



C.1.A.2. Mandates can evolve as the status of a dialogue can change over time

There is no reason why dialogue cannot become more firmly legally grounded as it evolves and establishes itself. Dialogue can start with an informal mission statement and later consider seeking a formal or legal mandate at a future date if it seems helpful.

C.1.A.3. Instead of using a mandate to create momentum, consider a time-bound initiative with an artificial deadline

One reason for wanting a formal or legal mandate is to establish initial momentum and credibility for dialogue. If this is an issue, consider that the imposition of an artificial deadline through setting time-bound objectives can help to do the same thing.

For example, in Mexico's social pacts of the 1980s, talks were held on Friday nights and participants were forbidden to leave the building until an agreement had been reached – which usually happened on Saturday mornings.

In a less extreme example, a high-profile public commitment to passing “50 economic reforms in 150 days” enabled the Bulldozer Initiative in Bosnia to create a sense of urgency and momentum from the outset.

C.1.A.4. Legal requirements for public consultation may already be stipulated by law

Often countries include, either in their administrative procedure law or in the government functioning law, a requirement for public consultation. These legal requirements are often ignored by regulators but are nonetheless a good starting point of a PPD initiative.

In Serbia, for example, the Rules of Operation of the Government of the Republic of Serbia adopted in 2004 include the following text in its article 1:

“In the procedure of preparation of a law which significantly changes the legal regime in a certain area or which regulates issues which are of particular interest for the public, the proposer has to previously perform public discussion, and he can perform it in other cases when they consider that this is necessary.

The program of public discussion and term in which the public discussion is being performed is determined by the competent Board of the Government at the proposal of the proposer.

“If the proposer does not perform the public discussion in accordance with the program which has been determined by the competent board, or does not propose to the competent board the performance of the public discussion although he had to, the competent board shall, while considering the draft law, oblige the proposer to perform an additional public discussion, i.e. it shall determine itself the obligation of performance of the public discussion, the bodies which shall perform the public discussion and the term in which it has to be performed.»

Such a legal text can serve as a platform to organize in a more systematic manner exchanges between the public and the private sector.

C.1.A.5. Correlation between mandate and effectiveness is not guaranteed

Denmark, unlike Serbia, has no requirements in its administrative procedure law that regulators ought to consult with stakeholders while preparing new regulations. But almost all regulations in Denmark nevertheless go through a thorough consultation phase, as regulators know that failing to consult adequately is likely to create problems later.

C.1.A.6. Don't be dogmatic about legal mandates - formal and informal structures can work indistinguishably well

“Slovakia has a law on tripartism... whereas tripartism in the Czech Republic is based on an agreement concluded between the government and the social partners. This does not prevent the tripartite arrangements in these two countries from being virtually identical and social dialogue there has been operating relatively well for some time.”

– *Social Dialogue in European Union Candidate Countries*, European Trade Union Confederation, September 2001

C.1.A.7. Mission statements can help clarify thinking about what PPD is trying to achieve

Mission statements serve to clarify the mission of the PPD. Having all members agree on what the goals are is already a success. Below are three examples of mission statements. Some are succinct, and some are more elaborate; the length does not matter much, although the more concise the mission statement, the easier it will be for stakeholders to agree on it, remember it, and abide by it.

From the Bosnia Bulldozer Initiative, Phase I

The Bulldozer Initiative is a mechanism to bulldoze away the roadblocks to a good business climate. It has two goals:

- 1 - Improve business climate by enacting much needed reforms.
- 2 - Organize the business community into an active lobby for reform.

From the Vietnam Business Forum

“The objectives of the Vietnam Business Forum are as follows:

1. Represent the views of the private sector in Vietnam, using the broadest possible participation of the private sector on a volunteer basis.
2. Help the Vietnamese government develop its private sector.
3. Engage in a regular, constructive dialogue with the Vietnamese government in order to make constructive contributions to policies & regulations that underpin the economic development of the country.
4. Work on issues of detail through sector-specific, sub-groups.
5. Identify areas of difficulty for the private sector, particularly in the implementation of laws and regulations, where donor support and funding may provide or help provide a solution.

See http://www.vietnambusinessforum.org/about_charter.asp for the rest of the Vietnam Business Forum's charter.

From Nigeria's Better Business Initiative

The Better Business Initiative has a twofold objective:

Objective 1: Practice Independent Policy Analysis and Advocacy

To help key stakeholders in government and the private sector develop policy choices on key issues affecting growth and diversification of the non-oil economy, for consideration by the incoming government. To this end, the Groups will:

- identify key constraints significantly affecting growth and competitiveness of the private sector;
- highlight policy priorities and strategic choices confronting decision makers;
- through further inquiry and deliberation, recommend creative solutions and policy instruments, to achieve desired outcomes;
- inform public discussion of priorities, desired outcomes, strategic choices, and alternative solutions;
- jointly explore overlapping issues and possible responses to them; and
- disseminate findings and recommendations to key audiences.

Objective 2: Strengthen Nigerian Change Agents

Beyond these short-term aims lies the lengthier task of restructuring the Nigerian economy, one that will extend beyond the four-year span of the incoming government. Sustaining this effort will require informed support as well as monitoring by strategically positioned and credible stakeholders from within the country. Consequently the second principal aim of the Better Business Initiative is to foster the mobilization of autonomous, local constituencies for change. Success in this regard will be manifested by the progressive institutionalization of informed policy dialogue, and greater recourse to evidence-based decision making within the public sector.

**C.1.A.8. Workshops can be helpful in identifying the best way forward**

Some dialogue processes have been initiated through enterprise-level surveys and focus groups, which serve as the basis for a workshop with relevant stakeholders discussing how PPD can be initiated and sustained, and which issues they should prioritize.

This approach is especially useful when there are existing institutions – that is, functioning dialogue mechanisms or private sector representative associations – that are non-existent or weak. The results of field research conducted during the PPD mapping exercise can be used for this purpose.

C.1.B. INSTITUTIONAL ALIGNMENT

C.1.B.1. Seek a Memorandum of Understanding with existing institutions

By definition, the need for new dialogue mechanisms arises when existing institutions are not proving sufficient to do the job. But existing institutions may nonetheless have the capacity to make or break a new dialogue mechanism depending on how effectively they are brought on board.

Seek clarity with existing institutions about how a new dialogue mechanism can leverage their roles and create new opportunities for them. A Memorandum of Understanding between a new dialogue mechanism and existing relevant institutions can be helpful in achieving that.

An existing institution may be able to house the secretariat of a new dialogue mechanism. For example, the Tanzanian Investors Round Table has its secretariat run by the Tanzania National Business Council.

New dialogue mechanisms can reinvigorate business membership organizations and Chambers of Commerce – but only if handled diplomatically. When these organizations are not aligned from the start with the new dialogue mechanism, they can perceive it as a threat.

Consider the potential to set a limited time span on a new dialogue mechanism, with the explicit aim of breathing new life into existing institutions and building their capacity to carry on the work – this needs careful thought and planning.

C.1.B.2. The location of the dialogue is important for institutional alignment

PPD needs a host that is effectively linked to existing institutions and yet is not perceived as instinctively favoring the interests of any particular participant in dialogue. This can be in an existing organization, agency or government department, so long as it is perceived as being able to take a wider view.

A number of existing institutions can potentially make good hosts for dialogues – while setting up a new and independent entity is also an option. The table lists some strengths and weaknesses of possible dialogue hosts.

Possible host	Strengths	Weaknesses
President's / Prime Minister's Office	Top-level political backing and a remit that stretches across different government departments and agencies.	Risk of creating "turf war" antagonism with other government agencies. Risk of political over-reliance on the individual figure of the president or prime minister of the day. Risks being seen by private sector as a government mouthpiece rather than a genuinely neutral space for dialogue.
Ministry of Finance or Trade	Likely to offer the most direct access to relevant decision-makers.	Risks narrowness of view on activities that impinge on other departments or agencies. Risks being seen by private sector as a government mouthpiece rather than a genuinely neutral space for dialogue.
Investment promotion agency or similar agency	Offers possibility of secretariat being hosted in an agency which already has a track record of promoting business climate improvements.	IPAs have often weak authority/mandate to carry through on reform recommendations. Vulnerable to weaknesses in agency such as ineffectiveness, narrowness of remit or negative perceptions on the part of some important stakeholders.
Chamber of Commerce or other Business Membership Organization	Can ensure that a wide range of member businesses are aware of and have easy access to the secretariat, and build the capacity of the Chamber or BMO in other respects.	If there are several Chamber/BMOs, to locate the secretariat in one risks alienating the other. Risk of being seen by government as more of a private sector mouthpiece than neutral space for dialogue.
International organization	Likely to have surest access to international best practice, trained personnel and funding. Can be perceived as a neutral, honest broker.	Risk of fostering dependence on external donors rather than local ownership of the dialogue process. Can be unhelpful for public image when donors and viewed negatively.
New and independent institution	Best chance of being perceived by all stakeholders as a disinterested, neutral facilitator.	Need to start from scratch with no existing institutional strengths to take advantage of. A new institutions has to be attached somewhere eventually, so one cannot completely avoid the issues mentioned in the other options.

The most important criteria of an organization in which a secretariat is located are that it should be effective, able to build capacity and reach a wide range of businesses, acceptable to a range of stakeholders, and it should not duplicate existing institutions.

Presidential Investors' Advisory Councils in Ghana, Senegal, Tanzania, Mali, and Uganda.

Presidential Investors' Advisory Councils, a form of private-public dialogue, were launched at the request of the Presidents in Ghana, Tanzania, and Senegal in 2002 and extended to Mali and Uganda in 2004. They are supported by the World Bank and the IMF and coordinated by the World Bank's Africa Private Sector Development unit in Washington, D.C.

The main purpose behind the establishment of the councils was to enable presidents and governments to dialogue with experienced business leaders to identify obstacles to investment, generate recommendations for concrete action, and reinforce and accelerate ongoing policy reforms to improve the overall investment climate.

Backed at the highest political level, these councils have had a positive impact on private sector development. But their nature as small, top-level bodies has implied a limited private sector representation, which raised questions in term of legitimacy vis-à-vis local SME entrepreneurs. Overall, through the effort of a number of working groups coordinated by a secretariat, the main purpose of the Councils is being met. The World Bank's impact assessment study, conducted in 2005, concluded that governments and the private sector recognize the councils as the most effective, credible and high profile public-private dialogue mechanism in these five countries. They reflect a public-private dialogue engagement and shared ownership at the highest level, and have filled a vacuum in providing political leaders with private-sector development policy experience and advice. Examples of successes include:

- ☑ Council efforts helped reduce the customs clearing average in Ghana from 1-2 weeks down to 3-5 days.
- ☑ The council in Tanzania succeeded in getting legislation enacted to improve land and labor markets and ease the process of establishing a new business.
- ☑ By one estimate, 70% of the laws passed by the Parliament in Senegal in the last two years, including an anti-corruption law, were driven by the efforts of Senegal's advisory council.
- ☑ Councils in Mali and Uganda, while established only late in 2004, have begun to prioritize reforms and established working groups to support them.

However, progress on more complex strategic priorities, such as identifying and promoting sources of growth, has been relatively uncertain. Where attempted, such work has been constrained by limitations in technical knowledge, data and funding of the Councils. Also, while interested by the dialogue with the private sector, government advisors expressed frustration over what they felt were poor investment responses, which illustrates that difference in expectations, if not dealt with effectively by coordinating secretariats, may lead to an eventual loss in dynamism of such initiative.

Another issue with the Councils is their closeness to the President's office, which is both an advantage and a source of potential slow down of the initiatives. The World Bank's impact assessment study concludes that Council secretariats should be anchored in an effective synergistic body that has clout, including close access to the president and credibility with key government ministries, and is respected by the private sector. The investment promotion agencies (IPAs) that host the council secretariats in Senegal and Uganda seem to be the good models to follow as they provide private sector access and confidence, while knowing how to get things done in government (although in many countries, the IPAs have often weak authority and mandate to carry through on reform recommendations). Anchoring the secretariat in a ministry or in the president's office risks the council being perceived as too close to government and too easily diverted by inevitable political considerations.

Adapted from "Presidential Investors' Advisory Councils in Africa: Impact Assessment Study", Washington: World Bank AFTPS, May, 2005

C.2. STRUCTURE AND PARTICIPATION

The issue: Structure and participation present difficult balancing acts. Too much formality in the structure can be stifling, while too little formality risks drift. Too many or varied participants can make dialogue practically unmanageable, while narrowing the range of participants increases the risk of capture and lack of balance.

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PRINCIPLE II: STRUCTURE AND PARTICIPATION

PPD's structure should be manageable while flexible; enable participation to be both balanced and effective; and reflect the local private sector context.

- Appropriate structures can be formal, informal, or a mixture. Their design needs to take into account existing processes and institutions.
- Participation of relevant representative stakeholders should be agreed on in a transparent manner and be balanced and practicable, so as to best serve the objectives of the dialogue.
- Dialogue structures can be set up to carry out specific participatory processes in a series of working groups, for example to contribute to the elaboration of reform strategies for specific sectors, issue, or regional areas.
- An organizational design operated under the umbrella of a secretariat is often useful to help ensure a coherent approach to public-private dialogue, including the shaping of an overarching policy framework.