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Addressing Legal Constraints

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Following a review of issues in the legal environment of the host country that may have an impact on the scope of the proposed PPP program or project, the government needs to determine whether it is appropriate or possible to amend the law to remove key obstacles to the program or project and/or to accommodate the constraints presented by the law in the design of the program or project.

Removal/ Amendment of Legal Constraints

The government may consider that there is some scope for removing or amending some of the limitations identified in the law to allow the proposed PPP arrangements. In such case, consideration will need to be given as to:

- whether such amendments are possible or practical (if the legal constraint is enshrined in the constitution of the country then it may be very difficult or impossible to amend); and
- how to implement such amendments, should this be:
    - through statute or secondary legislation;
    - a general PPP/ Concession law (for more, click on PPP Laws/ Concession Laws) or through sector specific legislation (for more, click on Legislation); and
    - at federal, state or municipal level.

Accommodation of Legal Constraints into scope of the project

Even where a Government chooses to make some amendments to the law, some of the constraints identified will need to be incorporated into the design / implementation of the PPP project. For more on choosing the PPP arrangement to fit the Enabling Environment, go to Government Objectives).

Introduction of Legislation to assist PPP projects

Even where the proposed infrastructure project is consistent with the law, further legislation may be appropriate to ensure that private sector involvement is successful and sustainable, through the implementation of a Concession Law, for example. The United Nations recognized this specifically in preparing its UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects. Click on Public-Private Partnerships/ Concession Laws for more on this.

Related Content

- **Laws and Regulations**

- **PPP Legal Foundations - Further Reading**

- **Legislation and Laws - General and Sector Specific**

- **Regulatory Systems and Sector Overview**

- **Country Profiles**

Additional Resources

- UNCITRAL Legislative Guide on Public-Private Partnerships
- Selected World Bank Tools
- Innovative Revenues for Infrastructure (IRI)

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