Good Governance in Public-Private Partnerships

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Goal - Trying to attract finance into infrastructure/public services to better connect our region, improve the welfare of ordinary citizens and bring essential services closer to those in need

3. PPPs offer an important mechanism for meeting this challenge

4. However, they are complex and good governance is critical

5. Achieving success will require commitment to capacity-building of public administration and local private sectors

6. Kyrgyzstan might adopt UNECE’s capacity building approach as they embark on PPPs
• The term PPP is used with a wide variety of meanings, but for this purpose...

  – *Innovative long term contractual arrangements for developing infrastructure and providing public services by introducing private sector funds, expertise and motivation into areas that are considered the preserve of government*

• An old concept which has found a new life:

  – A long term contract between public and private partners to design, finance, construct, operate and maintain an asset
  
  – With payment over the life of the contract to the private partner made either by govt or by the *user* (tolls, fares, *etc.*)
  
  – With the asset reverting to public sector ownership at the end of the contract
What are PPPs contd?

• An alternative to traditional public sector procurement.

• In typical public sector procurement, the public entity sets out specifications, designs it and has to fund the asset;

• Operation and maintenance are entirely handled by the public authority

• By contrast in a PPP, public sector specifies the ‘outputs’ not ‘inputs’
What are PPPs? Contd..

• Up to the private sector to meet these long term output specifications.
• Company receives payment over the life of the Contract that repays the financing costs and gives a return to investors
• Service fees are subject to deductions for failure to meet output specifications
• Result is that significant risks relating to costs of design, cost of time overruns, market demand etc. are transferred to the private sector
WHY PPP?

- Access to capital
- Certainty of Outcome
- Off balance sheet borrowing
- Innovation
- Transfer of risk
# THE GROWTH OF PPPs IN EMERGING MARKETS

## 3 Distinct Evolutionary Phases

<table>
<thead>
<tr>
<th>Stage One</th>
<th>Stage Two</th>
<th>Stage Three</th>
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<tbody>
<tr>
<td>• Define policy framework</td>
<td>• Introduce legislative reform</td>
<td>• Fully defined, comprehensive “system”</td>
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<td>• Test legal viability</td>
<td>• Publish policy and practice guidelines</td>
<td>• Legal impediments removed</td>
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<td>• Identify project pipeline</td>
<td>• Establish dedicated PPP units</td>
<td>• PPP models refined and reproduced</td>
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<td>• Develop foundation concepts (PSCs etc)</td>
<td>• Refine PPP delivery models</td>
<td>• Sophisticated risk allocation</td>
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<td>• Apply lessons from earliest deals to other sectors</td>
<td>• Continue to foster marketplace</td>
<td>• Committed, long-term deal flow</td>
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<td>• Start to build marketplace</td>
<td>• Expand project pipeline</td>
<td>• Long-term political consensus</td>
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<td>• extend to new sectors</td>
<td>• Use of full-range of funding sources</td>
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<td>• Leverage new sources of funds</td>
<td>• Thriving infrastructure investment market involving pension funds and private-equity funds</td>
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<td>• Well-trained civil service applying lessons from PPP experience</td>
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PPP MARKET MATURITY CURVE

Stage One
- China
- India
- Slovakia
- Latvia
- Russia
- Kazakhstan

Stage Two
- Greece
- New Zealand
- Italy
- Portugal
- Netherlands

Stage Three
- UK
- Australia
- Ireland
- Spain
- France
- Canada
- US
- Japan
- Germany

Potential to Leapfrog
- Denmark
- Belgium
- Mexico
- Finland
- Brazil

Source: Deloitte
KEY CHALLENGE:
Improving governance and institutional certainty

TO AVOID:

• Protracted negotiations
• Lack of transparency in partner solution
• Conflict of interest
• Cancellation of projects
UNECE GUIDELINES ON PROMOTING GOOD GOVERNANCE IN PPPS

7 PRINCIPLES

② A coherent PPP policy
③ Strong enabling institutions
④ Legal framework “fewer, better, simpler”
⑤ Cooperative risk sharing and mutual support
⑥ Transparency in partner section
⑦ Putting people first
⑧ Achieving sustainable development
Misconceptions...

PPP pilots will start the process...

No!
You need a policy framework with direction, responsibilities and goals.

PRINCIPLE 1. POLICY
Principle 1. PPP Policy

- A PPP Policy is needed to fix a “roadmap”
- Strong social objectives, e.g. increasing accessibility for disadvantaged
- Core values and principles (fairness, continuation of services, improved quality)
- Consultation within Government
- Consult investor community
- Identify the right projects to get started
Misconceptions...

PPPs focus on ring fencing the project...

No!
You need to build the skills within the government and set up the right institutions.

PRINCIPLE 2. CAPACITY BUILDING
Principle 2. Capacity-Building

**INTERNALLY**
- Train personnel for the required skills for PPPs
- Establish PPP Unit
- Offer National PPP training programmes, guidelines

**EXTERNALLY**
- At same time use qualified consultants to help on projects
Misconceptions...

PPP... prescriptive rules and tight control...

No!
Overall framework should be simpler, fewer and better.

PRINCIPLE 3. LEGAL
Principle 3. Legal
‘Fewer, better and simpler’

• Fewer laws - removal of constraints
• Better laws - knowable, secure and predictable
• Simpler laws - bundling projects, ‘competitive dialogue’
Misconceptions...

PPPs provide assets to governments at no risk and no cost

No!
Governments must assume some risk and offer some subsidy.

PRINCIPLE 4. RISK SHARING
Principle 4. Risk

- Cooperative sharing and mutual support
- Risk sharing key to PPP success
- No science to allocating risks
- Yes to some government subsidy but with care
Misconceptions...

PPPs …no tender required...

No!
Competition allows for the best partner and the best project.

PRINCIPLE 5.
PROCUREMENT
Principle 5. Procurement

- Open and transparent
- Opportunities should be made public
- Non-discrimination
- Zero tolerance to corruption
- Choosing the right partners
Misconceptions...

Keep people out: they do not understand the technical matters...

No!
People have to be put first.

PRINCIPLE 6. PUTTING PEOPLE FIRST
Principe 6. Putting People First

• Define the public interest
• Consult with people
• Inform: disclose information in contracts
• Oversee by objective third party
• Involve independent auditors
Misconceptions...

...you have to choose between profit and social and environment development...

No!
Project can make profit and achieve social and environmental goals.

PRINCIPLE 7. ENVIRONMENT
Principle 7. Environment

- The ‘Green case’ works for PPPs
- Provide incentives to the private sector to adopt green criteria
- Avoid politically correct ‘add ons’ that mean nothing
CASE STUDIES

Demonstrate that projects which apply the Good Governance principles achieve success...

Canada: The Vancouver Landfill Project
France: The Centre Hospitalier Sud Francilien
Israel: The Cross-Israel Highway
Tajikistan: The Pamir Power Project
USA: The Chesapeake Forest Project
But things go wrong in PPPs

• **Canada Highway 407 – traffic risks too high so no willing bidders:**
  – Government built toll road for Cn$1.4 bill
  – waited 2 yrs until operational
  – sold for Cn$3.1 bill + cost of adding 45 km

• **UK Channel Tunnel Rail Link – too little risk allocated to private sector**
  – awarded to bidder seeking lowest subsidy
  – forecasts too optimistic & debt guaranteed
  – government had to provide more subsidy
Examples of what can go wrong

• **Argentina concessions** – tolls too high
  – no effective regulation of tolls
  – tolls rose rapidly causing public outcry
  – contracts were suspended, tolls lowered and reinstated with subsidy of $57 mill p.a.

• **Poland A2 Motorway** – toll for HVs too high
  – tolls for largest HVs 10 times that for cars
  – HVs diverted onto secondary roads
  – toll for HVs suspended
  – concessionaire due large compensation
Does it matter if PPPs go wrong?

- PPP contracts typically long term -- up to 35 yrs, sometimes 99 yrs
- Client (government) must live with mistakes for a VERY long time
- When there are problems, solutions usually complex and expensive
- Makes client (government) look ineffective and discourages serious bidders for future projects
- Most problems can usually be avoided
UNECE work in PPPs

• Guidebook on promoting good governance in PPPs
• Training Toolkit on “How to do PPPs”
• Team of Specialists on PPPs
• Cooperation with international partners (UNESCAP, EBRD, EU, World Bank)
UNECE WORK IN PPPs
main challenge

Huge interest in topic

• Lack of knowledge, skills and governance to do PPPs

• Establishing a PPP Centre on Capacity Building and Information Sharing

• Adopting a ‘Learning by Doing Approach’
IN CONCLUSION

• PPPs are an instrument that continue to be of great interest to governments...
• But they are not a quick fix and require good governance which takes time to build
• A commitment should be made to the training of the public administration if the full benefits are to be realized
THANK YOU FOR YOUR ATTENTION!

FOR MORE INFORMATION

Please visit: http://www.unece.org/ceci/ppp.html

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