



Standing Committee for Economic
and Commercial Cooperation of the
Organization of Islamic Cooperation (COMCEC)

COMCEC Coordination Office

Bridging the gaps

Implementation challenges for transport
PPPs in OIC member states



Written by

The
Economist

Intelligence
Unit



Preface

This document constitutes a study on the implementation of Public-Private Partnership (PPP) projects in the transport sector in member states within the Organization of Islamic Cooperation (OIC). The report was compiled by the Economist Intelligence Unit and commissioned by the Standing Committee for Economic and Commercial Cooperation of the Organisation of Islamic Cooperation (COMCEC) Coordination Office, which works to enhance trade and economic cooperation among the Member States. The views and opinions expressed in this publication are those of the Economist Intelligence Unit and do not necessarily reflect the official position of COMCEC Coordination Office. The Economist Intelligence Unit's editorial team designed the study and conducted the research. Research was based on existing, publicly available information and data sources, as well as government websites and the Economist Intelligence Unit's own Infrascopes studies. Interviews were conducted with international PPP experts, country specialists, and relevant government officials in the fall of 2012. Vanesa Sanchez was the primary project manager, and Vanessa Foo acted as the supporting manager. Filip Drapak, Patricio Mansilla, Peter Snelson, Nigel Gibson and Cesar Queiroz comprised the expert research team.

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1. A framework for Public-Private Partnerships

This section presents a conceptual framework for Public-Private Partnerships (PPPs). It is based on a review of the literature and experiences of international institutions and best practice.

The conceptual framework involves the following:

- (i) Definitions
- (ii) Types
- (iii) Costs and benefits
- (iv) Requirements for the successful implementation of PPPs
- (v) Transport-sector implementation areas
- (vi) Conclusion

1.1. Introduction

PPPs are increasingly important in the improvement of infrastructure and public services in both developed and emerging economies. PPPs are often introduced as an alternative way to procure significant public-interest projects, as an option among a range of several available for infrastructure procurement.¹ Compared with best practice in standard public procurement, best practice in PPP procurement remains unexplored by many Organisation of Islamic Cooperation (OIC) member countries. This section outlines key definitions, concepts and trends in transport PPPs to serve as a starting point for best practice in the sector.

1.2. Definitions

Although PPPs offer a way to deliver a service or form of infrastructure, the term carries no single definition. It covers a large number of PPP types used by institutions and governments. In a joint project with other international financial institutions and the Public Private Infrastructure Advisory Facility (PPIAF) in 2012, the World Bank (WB) attempted to provide an internationally recognised reference guide for PPPs in a publication called the Public-Private Partnership Reference Guide. This guide defines PPPs as **“long-term contracts between a private party and a government agency, for providing a public asset or service, in which the private party bears significant risk and management responsibility”**.²

The National Council for Public-Private Partnerships, a US body that is one of the oldest such PPP associations worldwide, defines a PPP as **“a contractual agreement between a public agency (federal, state or local) and a private-sector entity. Through this agreement, the skills and assets of each sector (public and private) are shared in delivering a service or facility for the use of the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service and/or facility”**.³

¹ Hon. C Campbell, MP, Chair of the Committee, Parliament of Victoria.

² The World Bank. 2012. “Public-Private Partnerships, Version 1.0, Reference Guide.” Washington, D.C., USA. P. 11.

³ The National Council for Public-Private Partnerships. 2000. “How PPPs Work.”



What are generally recognised as the key features of a PPP? The first is that it has to be a project for which a solution is requested by a public-sector entity and is delivered by a private-sector entity. The solution is typically procured publicly, with the risks and benefits of such a solution shared between the public and private entities. The solution may take the form of an institution, which then becomes an institutional PPP; more often, however, it takes the form of a contract. As the latter is more typical, this section focuses on contractual PPPs.

PPP agreements define the responsibilities of both the public and private parties involved in the contract; they also define the allocation of risk and the benefits accruing to each party. When taking a contractual form, using PPPs as a solution to deliver infrastructure is also unique in that the length of the contract becomes a key, defining feature. PPP contracts for infrastructure are usually long-term, and must match the lifecycle of the assets in question (and take into consideration other factors, such as the depreciation or maturation of any debt incurred in delivering the PPP).

PPP types can be defined according to the way the private partner in the contract recovers its investment. This approach leads to two main types of PPP:

(a) User-pay PPP type

In a user-pay PPP, the private party recovers its initial investment and on-going costs by charging a fee to the users of the infrastructure or infrastructure services in question. The typical PPP structure applied to this project type is a concession, in which the private party obtains the right to build and deliver a certain infrastructure and to charge for the use of the infrastructure (or to obtain benefits related to it). In practice, it is difficult to find the right fee level for a particular piece of infrastructure. The main challenge in these types of projects is estimating demand for the infrastructure as realistically as possible, as well as proper risk allocation.

(b) Public-entity-pay PPP type

Under a public-entity-pay PPP, the private party recovers its investment and costs from the public entity that has entered into a contract for the delivery of the PPP. The private party is therefore paid from a public budget and is typically engaged on a public-procurement basis. Often, a PPP of this type uses a structure called Design, Build, Finance and Operate (DBFO). Under such a structure, the private party is responsible for designing and building a defined asset, using its own private financing. It then operates the infrastructure until the project is transferred back into public hands. The public sector then makes a payment to the private party (called an availability payment) to enable the private party to recover its costs. Public-entity-pay PPPs can also be **“output-based payments for services delivered to users—for example, a ‘shadow-toll’ road that is free for users, but for which the government pays a fee per driver”**.⁴

Of course, both types of payments may be combined in certain projects. Some use public financing for investment, rather than private money, or may secure backing from a development bank. Some projects, while charging users, may also take advantage of donations, public-sector guarantees or public assets in one form or another to make user payments for the service more affordable.

⁴ The World Bank. 2012. “Public-Private Partnerships, Version 1.0, Reference Guide.” Washington, D.C., USA. P. 38.



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National and local legislation are important factors in determining the nature (both type and structure) of a PPP. This dictates how a PPP is contracted by the public authority in question and therefore will often determine the type of PPP available in a specific market for such procurement. Relevant legislation also determines how such procurement is to be conducted to satisfy key principles in terms of its transparency, competition and non-discrimination. Legislation may also impose some publicly desirable conditions on the procurement in order to ensure that specific objectives are met in terms of fiscal stability, value for money and so on. In principle, a PPP is typically procured using advanced practices and procedures based on a desirable level of output for the project, so as to allow an optimal (most cost-effective) solution for the private sector. These are **“approaches to service contracting ... generally known or referred to as performance-based or output-based procurement”**.⁵

Most legislation governing procurement distinguishes between PPP projects using the user-pay principle (based on specific concessions and other types of legislation), and PPP projects paid for by a public entity, where a form of public procurement applies. The latter does not necessarily enable output-based procurement to be conducted efficiently. This has proved not only a challenge, but also an obstacle to the delivery of this type of PPP in many countries. It therefore leads to the need for specific provisions for procurement of certain types of PPP. An example of this is the so-called competitive dialogue, which was introduced by the EU as **“a new procedure for awarding public contracts...”**⁶ **It is used as a “procedure by public authorities wishing to award ‘particularly complex’ contracts. It is explicitly (though not exclusively) linked with the implementation of Public-Private Partnerships”**.⁷

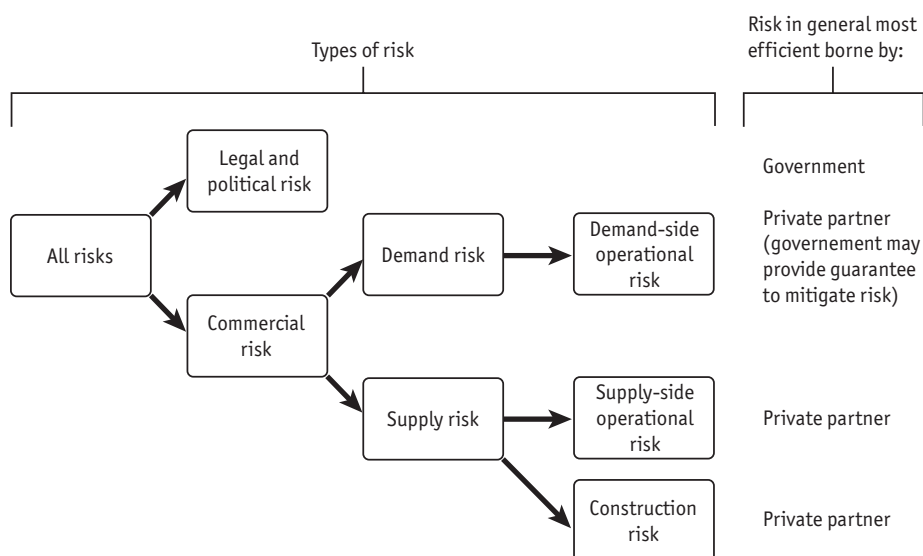
PPP contracts are also often distinguished by the amount of risk allocated to the private party. This differs from pure public-procurement projects, in which a public entity would simply build an asset on the basis of detailed specifications, without considering risk in the same manner. Risk, for the purpose of our discussion, is defined as the **“chance of an event occurring, which would cause actual project circumstances to differ from those assumed when forecasting project benefits and costs”**.⁸

⁵ Patricia I. Baquero. “Performance-Based Procurement: The Key to Effective Basic Services Provision in Developing Countries.” In Thai, K.V., et al. “Challenges in Public Procurement: An International Perspective.” PrAcademics Press Boca Raton. P. 366.

⁶ Michael Burnett. 2009. “Using Competitive Dialogue in EU Public Procurement—Early Trends and Future Developments.” In Eispascope No. 2009/2. P. 17.

⁷ Ibid.

⁸ Chris Furnell. 2000. As cited in Partnerships Victoria. 2005. “Risk-allocation and Contractual Issues – Part One.” Partnerships Victoria. P.3.



Source: OECD. 2008. “Public-Private Partnerships: In Pursuit of Risk Sharing and Value for Money.” OECD Publishing. <http://dx.doi.org/10.1787/9789264046733-en>



Public authorities supervising PPPs usually provide the public entities in charge of a project with regulations or manuals that facilitate the process of allocating and optimising risk in the project contract. The public entity then has an understanding of how to manage the overall contractual risk and is able to report on the evolution of this risk for regulatory purposes.⁹ Examples of good practice may be found in the manuals produced by Partnerships Victoria¹⁰, India¹¹ or on the websites of the European Investment Bank (EIB)¹² and World Bank¹³, among others.

The allocation of risk also determines how a PPP appears (or not) on public-sector and public-entity budgets and balance sheets. Eurostat, for example, distinguishes between risks that are undertaken by a private entity for a public entity and whether these risks are counted on or off the public balance sheet. Eurostat also defines demand risk or availability risk in combination with construction risk. As the issues surrounding the treatment of balance sheets have become increasingly complex, the European PPP Expertise Centre has published guidance in the form of a manual entitled “Risk distribution and balance sheet treatment”. This provides clarity and a checklist for entities in the public sector, so that risk may be allocated correctly. On this point, the manual states: **“What is observed in partnerships between government and its counterparts is a sharing of risks. Analysis of risks borne by the contractual parties is the core element as regards statistical classification of the assets involved in the contract, to ensure that the impact on the government deficit of this type of partnership is correctly accounted for.”**¹⁴

Understanding and categorising PPPs is often done on the basis of the multitude of characteristics mentioned above. Some useful categorisations are reviewed here:

Delmon¹⁵ classifies options for PPPs according to five factors:

- (a) Business construction—is this a new or existing asset?
- (b) Obligations of the private party—construction or refurbishment?
- (c) Private funding—is the funding private?
- (d) Service delivery—is the service delivered to users or one counterpart?
- (e) Source of revenue—do users pay or does the public entity pay?

All of these questions are key to selecting the best PPP type, structure and risk profile for a particular infrastructure asset or service.

UNECE¹⁶ categorises PPPs by the degree of private-sector risk they contain. It explains how PPPs differ from privatisation and management contracts and also describes user-fee and availability-based PPPs. The WB’s explanatory notes on key topics on regulation within the water sector describe common contract types for managing existing assets, as well as other topics, such as concessions, leases or affermage, and management contracts¹⁷

The WBI Reference Guide¹⁸ provides a good overview of PPPs and their categorisation by type of contract, as illustrated below:

- Design-Build-Finance-Operate (**DBFO**), or its equivalent, Design-Construct-Manage-Finance (DCMF)
- Design-Build-Operate (**DBO**)
- Operations & Maintenance (**O&M**)

⁹ OECD. 2008. “Public-Private Partnerships: In Pursuit of Risk Sharing and Value for Money.”

¹⁰ Partnerships Victoria. 2005 “Risk-allocation and Contractual Issues – Part One.” Partnerships Victoria.

¹¹ The “India PPP Toolkit” is available at: <http://toolkit.pppinindia.com/>

¹² <http://www.eib.org/epec/g2g/i-project-identification/12/122/index.htm>

¹³ The World Bank, available at: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXT-TRANSPORT/EXTROADSHIGHWAYS/0,,contentMDK:22759355~menuPK:2644060~pagePK:64020865~piPK:51164185~theSitePK:338661,00.html>

¹⁴ EPEC, EIB. 2001. “Risk Distribution and Balance Sheet Treatment – Practical Guide.” P. 17.

¹⁵ Jeffrey Delmon. 2010. “Understanding Options for Public-Private Partnerships in Infrastructure.” Policy Research Working Paper 5173. The World Bank.

¹⁶ UNECE, 2008. “Guidebook on Promoting Good Governance in Public-Private-Partnerships.” New York and Geneva. Available at: <http://www.unece.org/fileadmin/DAM/ceci/publications/ppp.pdf>

¹⁷ The World Bank. 2012. “Public-Private Partnerships, Version 1.0, Reference Guide.” Washington, D.C., USA. Available at: <http://www.ppiaf.org/sites/ppiaf.org/files/publication/Public-Private-Partnerships-Reference-Guide.pdf>

¹⁸ Ibid.



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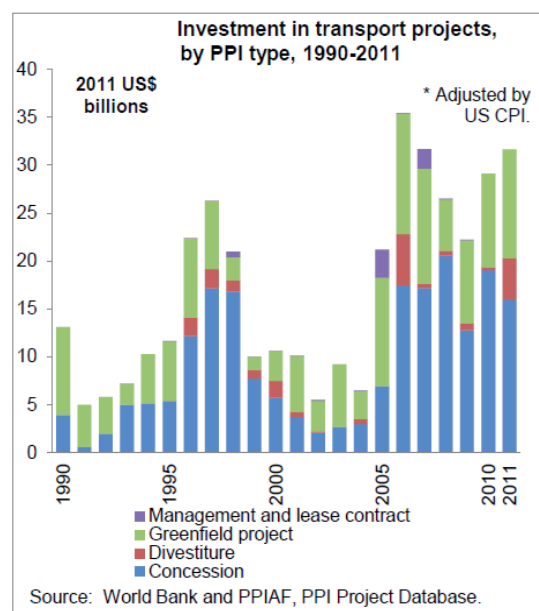
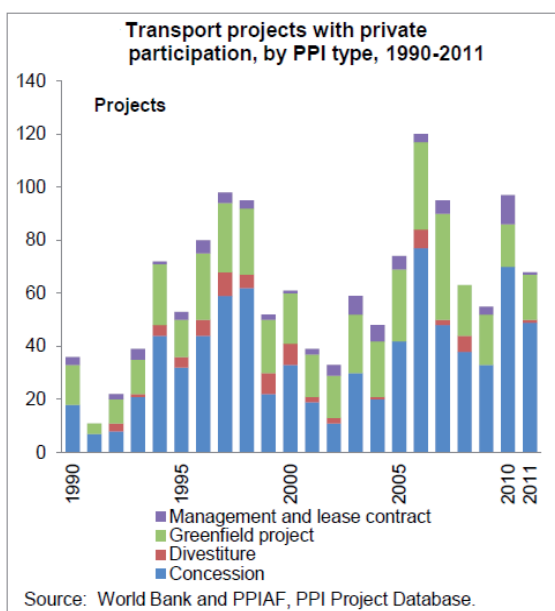
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In DBFO and DBO contracts, public entities transfer risks related to design, construction and operation to the private party. The logic behind these contracts is to capitalise on the benefits provided by private designers, private constructors and other types of private operators who, in return, must maintain the asset. This structure is useful when a public entity wants to take advantage of the availability of payments over the lifecycle of the project, or to maintain ownership of the asset. This is typically the case for transport projects in countries where private parties are unable by law to own transport infrastructure. O&M, in contrast, is a specific category under which the private entity contributes no asset and the public entity takes advantage of a long-term contract for the operation and maintenance of infrastructure to be provided by a private partner. O&M is not always considered a PPP and is not included in the analysis for later sections of this report. Classifying O&M contracts as PPPs depends largely on whether long-term risks are shifted to the private party as part of the project structuring.

Other common types of PPP include:

- Build-Operate-Transfer (BOT)
- Build-Own-Operate-Transfer (BOOT)
- Build-Transfer-Operate (BTO)

BOT, BOOT and BTO describe more than the function of the private party involved. They place ownership of the asset in private hands for the period of the contract, requiring that careful attention be paid to when and how the asset is returned to public ownership. Furthermore, these projects can vary in financing methods: **“Under some definitions, BOT or BTO may not include private finance, whereas BOOT always includes private finance.”**¹⁹



Source: The World Bank and PPIAF. 2012. “Private investment in transport increases in 2011, focusing on the road and rail sectors.” PPI data update note 75.

¹⁹ Ibid.



Concession is perhaps the oldest form of PPP. In a concession, the private party obtains the right to build a piece of infrastructure or deliver a service and exploit the benefits of this work. As the benefits usually take the form of a user charge or a fee, the concession is the most typical form of the user-pay PPP. Furthermore, in many countries the law concerning concessions has become a vehicle to procure other types of PPP, even those that remain owned by the public sector. One reason for this is that the need for specific procedures or requirements, which is typical of PPPs, is difficult to impose under pre-existing public-procurement legislation. In some countries, depending on the viability of the concession, the private party may pay a fee to the government or receive a subsidy. In such cases, the risk is partly underwritten by the government, which can make it easier for the private party to arrange finance for the project.

Lease (affermage) contracts are sometimes listed as PPPs, but frequently are not. The main point of this structure is to determine how the risks are shared and if the private party takes on any risks that would otherwise be held by the public entity. Under leases, the investment in infrastructure is carried out by the public entity (even if the private party takes on the construction and financing of the asset). The transaction may also relate to publicly owned assets that will remain in public hands and will only be leased for the duration of the contract, to be operated by the private party. Other types of lease sometimes referred to as PPPs, including franchises, management contracts, outsourcing contracts, and pure-maintenance contracts, are not, for the purposes of this publication, considered PPPs.

According to a report by the WB and PPIAF, “By contract type, concessions [in 2011] were predominant both in terms of number of projects and investment levels. They accounted for 49 projects (72% of all new projects) and US\$15.9 billion (50% of all investment). They were followed by greenfield BOTs (25%), management contracts and divestitures (1.5% each). Although they accounted for only a quarter of the projects closed in 2011, greenfield projects involved the second-largest amount of investment (US\$11.6 billion).”²⁰ Concessions are also a popular contract type among OIC countries.

1.3. Costs and benefits

Understanding the costs and benefits of PPPs is an important part of getting to grips with how they work. The areas to be considered are as follows:

- The overall financial impact—Is the PPP delivering value?
- Fiscal implications—Does the PPP deliver a viable fiscal solution? What are the risks associated with it?
- Risk allocation—Are the risks correctly allocated? Have the key risks been transferred to a private party, or the party best placed to manage them?
- Management issues—Are private managers doing a better job than public managers could have been expected to?

Before agreeing to a PPP, public entities need to understand whether or not it will be beneficial to have such a structure. Projects procured as PPPs have a different set of complexities, risks and financial effects on a public entity and its budget than does a public project. The public entity must be convinced that there are real benefits stemming from a PPP that are not achievable otherwise; and, this being the case, it

²⁰ The World Bank and PPIAF. 2012. “Private investment in transport increases in 2011, focusing on the road and rail sectors.” PPI data update note 75.



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must weigh up the extent of those benefits during the lifecycle of a project. Some of these considerations can be measured and used to judge the validity of a PPP, using the evaluation tools listed below:

a) **Value for money (VfM)** compares the PPP project to other options for procuring the same service. It attempts to provide a judgment as to whether the PPP provides positive value in comparison with other options, particularly public investment. VfM is important in that it helps a public entity to understand how transferring some of the risks to the private sector may be valued. Yet, at the same time, such analyses may only provide a rough view, or virtual reality, and are therefore inconclusive. The UK Treasury defines **“VfM as the optimum combination of whole-of-life costs and quality (or fitness for purpose) of the good or service to meet the user’s requirement. VfM is not the choice of goods and services based on the lowest-cost bid”**.²¹

b) **The public-sector comparator (PSC)** evaluation is another important tool in determining the benefits of a PPP. It is defined by the Treasury Guidance²² of Western Australia as “an assessment of whether a PPP offers value for money, and is an essential part of a PPP procurement process. This entails comparing the proposed PPP with the cost of the public sector undertaking the project on a like-for-like basis, the public sector comparator (PSC). The PSC is an estimate of the net present cost to government if it was to deliver the project under a more traditional procurement method, for example design and construct. The PSC contains forecast lifetime cash flows for a government-delivered reference project based on the infrastructure and service specifications provided to bidders, i.e. on a like-for-like basis to the PPP. The PSC incorporates allowances for project risks, for example construction-price cost increases.” PSC is therefore a tool for comparison and is also important when considering the VfM of a PPP.

A project may have important negatives that outweigh its benefits. These include, in particular, a more complex approach to procurement; a significantly higher cost of finance, particularly if project finance is used (project-finance costing is based on project risk, which is always by definition higher than country risk²³; a loss of control on the part of the government over aspects of the delivery of a public service; and, perhaps most significantly, a reduction in flexibility during the period of the PPP project. This is why the negatives as well as the positives need to be considered by the public entity in question before embarking on the procurement of a PPP project.

1.4. Requirements for the successful implementation of a PPP

The likelihood of successfully implementing a PPP is also an important consideration. It only makes sense for a public entity to engage in a PPP if the project stands a good chance of being successfully delivered as planned. It can be useful first to create the right conditions in the domestic market to increase the probability of a PPP being delivered successfully or at least of understanding what, if any, bottlenecks are likely to impede the delivery of a project. Hardcastle²⁴ provides a detailed analysis of this thought process in a research paper called Critical Success Factors for PPP/PFI Projects in the UK’s Construction Industry. The factors are grouped into five categories, as follows:

- (a) Effective procurement
- (b) Project implementability

²¹ UK Treasury. 2006. “Value for Money Assessment Guide.” P. 7.

²² Government of Western Australia. Department of Treasury. 2011. “Public Sector Comparator Policy.” P.2.

²³ Except when refinancing existing real-toll projects or projects using out-of-country guarantees.

²⁴ Hardcastle, C., Edwards, P.J., Akintote, A., and Li, B. 2005. “Critical Success Factors for PPP Projects in the UK Construction Industry: A Factor Analysis Approach.”



- (c) Government guarantee
- (d) Favourable economic conditions
- (e) Available financial market

While these groups cover quite a wide range of considerations, the effective procurement consideration and consideration of whether or not a project can be implemented stand out as the first and most important conditions to be met. However, it is important to remember that PPPs are partnerships, so both public and private parties in any project must consider what constitutes a success for their end, and key conditions should be split by stakeholder type:

- **Public-sector side:**

- (a) Public support for a private solution (for example, political buy-in)
- (b) Public capacity to evaluate, manage and govern the project
- (c) Existence of enabling legislation and regulations
- (d) Real and tangible benefits from a PPP for the public
- (e) Evidence of transparent, competitive and non-discriminatory procurement

- **Private-sector side:**

- (f) Proof that the private sector has an efficient solution
- (g) Availability of private-sector providers in the market (operators, sponsors, financiers, constructors, etc)
- (h) Real potential for delivering profits from a project
- (i) Trust in the public sector and its ability to act as a counterpart on such transactions

1.5. Implementation in the transport sector

The transport sector is the biggest sector in terms of value for PPPs and the variety of areas in which PPPs have been successfully implemented. Boeuf concluded that “The vast majority of PPP lending in EU countries is concentrated in the transport sector (86%).”²⁵ There are several reasons for the success of PPPs in this sector, including the following:

- **History:** Transport has a long history of using PPP structures, particularly concessions on roads or bridges that have been in place for a long time. “The beginnings of partnerships between private and public sectors can be traced as far back as the Roman Empire two thousand years ago in Europe. A network of postal stations was developed to accompany the vast expansion of the highway system under the Roman legions...”²⁶ Concessions were explored in the 18th and 19th centuries in a number of countries in order to develop roads and railways, which, as a result, contributed in no small measure to the subsequent growth of Europe’s economies.

- **High construction costs:** Transport infrastructure is one of the largest areas of expenditure in any public budget; at the same time, the risks related to such construction are often poorly managed by

²⁵ Patrick Boeuf. “Public-Private Partnerships for Transport Infrastructure Projects.” Transport Infrastructure Development for a Wider Europe Seminar, Paris. November 2003. P. 3.

²⁶ PPIAF. 2009. “Toolkit for Public-Private Partnerships in Roads and Highways.” P. 34.



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public agencies and therefore PPPs can provide significant improvements. Substantial costs often need to be recovered over a long period of time, so public entities may be encouraged to use PPPs for fiscal reasons.

- **Implementing a user fee:** In transport projects, it is often easy to charge for the use of the infrastructure and therefore a private-sector solution may cover its costs from users, rather than from the public purse, while charging only those who benefit directly from the infrastructure.

PPPs in transport react to financial markets and to the investment climate in general. In 2007, Estache commented, “PPP efforts in transport, in particular in developing countries, are shifting from new projects to the privatisation, rehabilitation and expansion of existing facilities. The established track records of many facilities lower perceived risks and also the associated revenue stream from the outset to cover capacity additions have become key elements in transport PPPs. Efforts to bundle transport projects into PPP ‘packages’ for both revenue diversification, and to obtain cash flows from a portfolio to fund specific investments within the package of facilities, have also increased over time as obvious ways of minimizing or spreading the risks”²⁷. Since the global financial crisis in 2008, the trend has been towards slicing larger projects into smaller pieces, which can be financed more easily and with less risk.

The areas in which PPPs have been implemented in transport are as follows:

- **Roads:** “During the 16th and 17th centuries, European sovereigns, particularly in France, began much more expansive public-works concession programs in canal construction, road paving, waste collection, public lighting, mail distribution and public transportation.”²⁸ Toll roads were introduced in the UK and have since been explored by a large number of countries. The most recent trend may be identified as a large number of PPPs of different types being used for road construction. The DBFO in particular is a new concept, most recently replacing the old concessions with publicly procured works. Highways and motorways are the most usual type of infrastructure project to be considered for a PPP. However, in countries where responsibility for local roads lies with local government, even smaller roads are now considered for forms of PPP.

- **Air transport:** “Air transport infrastructure comprises airports, air-traffic control centres, and the organizations involved in coordinating their provision and use. Airport operators allocate space and resources between airlines, their handling agents, and commercial concessionaires ... According to the World Bank’s Private Participation in Infrastructure Projects (PPI) database, by 2008 there were 132 instances of significant PSP across low and middle-income countries. These projects have attracted more than US\$32.8 billion from the private sector. During 2005–06 alone, 18 low and middle-income countries signed airport contracts.”²⁹

- **Sea and river ports:** For ports, the usual form of PPP used is a concession. “In concession agreements, governments are still widely involved in port management, mainly through public-landlord port authorities. At the same time, the role of private enterprise in the sector will continue to grow. Service and tool ports will gradually disappear and be transformed into landlord ports; in some cases, fully privatized ports will emerge. For landlord ports, public bodies will retain the ultimate ownership of assets (especially land), but will transfer a major part of the financial and operational risks to the private sector.”³⁰

²⁷ Antonio Estache, Ellis Juan and Lourdes Trujillo. 2007. “Public Private Partnerships in Transport.” Policy Research Working Paper 4436. The World Bank. P. 23.

²⁸ PPIAF. 2009. “Toolkit for Public-Private Partnerships in Roads and Highways.” P. 34.

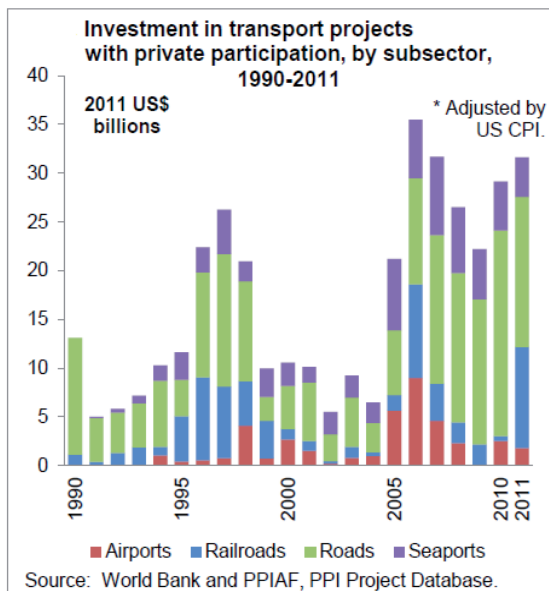
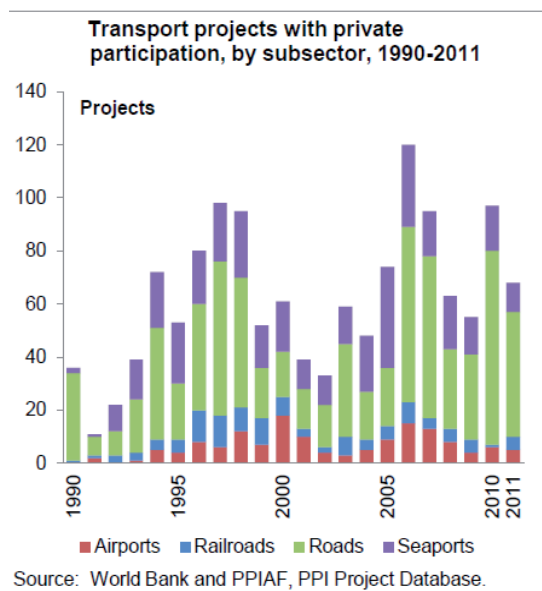
²⁹ The World Bank and PPIAF. 2010. “Investment in Air Transport Infrastructure: Guidance for developing private participation.” P. 5.

³⁰ The World Bank and PPIAF. 2007. “Port Reform Toolkit: Effective Support for Policymakers and Practitioners.”



- **Railways:** The development of railways was fuelled by the use of concessions during the second half of the 19th century. The recent trend is to return to the rationale of private management and ownership in the rail sector. “The private sector has much to offer railway-reform efforts—capital is more abundant in the private sector and investors recognize that railways can offer opportunities for good returns. Private enterprises are driven by commercially oriented managers focusing on factors that affect profit and loss—marketing, customer service, and controlling costs. These factors are not typically the focus of state managers.”³¹
- **Public transport, including buses, metro, light rail and trams:** This area of PPPs within transport has grown rapidly as states consider light rail, according to Mandri-Perrott: “Around the world, interest is growing in the use of light-rail metro transit (LRMT) schemes to solve increasing urban-transport problems. As the number of LRMT projects increases and a track record for these projects begins to grow, a similar growth has occurred in the use of Public-Private Partnerships.”³² Nor is rail the only area for such PPPs: recently, there has been increasing demand for those focusing on bus services. Such options and those for private participation are described in the PPAIF toolkit.³³
- **Freight Transport:** PPPs in this area include³⁴ the physical infrastructure; the vehicles; the personnel employed (drivers, crew, etc); the procedures, rules and regulations affecting the industry; and the organisations and institutions involved in freight transport. Indeed, logistical hubs have proved a popular source of PPPs.

According to the WB PPIAF database³⁵ the transport sector is growing in terms of the number of deals and volume of committed investments. Investment in the transport sector remains quite strong, despite the economic downturn since the 2008 economic crisis.



Source: The World Bank and PPIAF. 2012. “Private investment in transport increases in 2011, focusing on the road and rail sectors.” PPI data update note 75.

³¹ The World Bank and PIAFF. 2012. “Railway Reform: Toolkit for Improving Rail Sector Performance.”

³² The World Bank and PPIAF. 2010. “Private Sector Participation in Light Rail/Light Metro Transit Initiatives.” P. 9.

³³ The World Bank and PPIAF. 2007. “Toolkit on Market-Based Approaches in Private Sector Provision of Bus Services”

³⁴ The World Bank and DFID. 2011. “Freight Transport for Development: A Policy Toolkit.”

³⁵ The World Bank and PPIAF. 2012. “Private investment in transport increases in 2011, focusing on the road and rail sectors.” PPI data update note 75.



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This also reflects the fact that many projects have been carried out in the road subsector, whereas, for OIC countries, the most common project form is in the sea-port subsector.

1.6. Summary

In principle, PPPs should apply as much to developing economies as they do to developed ones. However, the conditions have to be right; a country must be ready to take on PPPs, and the private sector, including financiers, must be prepared too. Also, different costs and benefits may apply to developing economies. The margin between public and private financing might be too high and the private sector may not be efficient enough for such schemes to work. Creating the conditions to make PPPs efficient as providers in the public sector is met with difficulties in developed and developing countries alike. Ensuring transparent procurement can be problematic. Farquharson commented on the market for emerging economies as follows: “Data from the World Bank and the Public-Private Infrastructure Advisory Facility (PPIAF) private participation in infrastructure (PPI) project database indicate that private-sector investment in infrastructure in developing economies grew steadily over the past decade. By 2007, the levels had finally surpassed the peak levels seen in 1997, the end of the previous growth spurt. However, the history of international credit flows shows that, when international markets are down, emerging markets with less-developed domestic sources of long-term credit can suffer disproportionately as international lenders retreat back to their own domestic markets, while those with stronger domestic markets may be less affected.”³⁶

It can therefore be assumed that PPPs will be used more as developing countries boost their capacity and readiness in terms of the public and private sectors. PPPs will become more efficient and less costly tools with which to procure infrastructure for public transport and other such services. OIC countries need to look towards developing their own capabilities in order to meet the challenge of delivering infrastructure to support the growth in their transport systems in an innovative and sustainable way.

³⁶ The World Bank and PPIAF. 2011. “How to Engage with the Private Sector in Public-Private Partnerships in Emerging Markets.” P. 1.



2. Global trends in transport PPPs

PPPs in transport take many forms; given that the most dominant and also numerous of these forms are in the road sector, this chapter will focus predominantly on trends within roads. They serve as an important indicator for the sector as a whole.

During the past 15 years, most developed countries have undertaken PPPs in the transport sector and most have also succeeded in developing a pipeline of such projects. The UK was most active in the PPP sector during the first half of the last decade, this period accounting for most UK projects by both value and number. The UK has focused on delivering efficiency in transport projects and the model predominantly used is that of DBFO. In this, the contractor undertakes both the construction and availability risk. The DBFO concept has also been tested and applied in many other EU member countries. One of the milestones came in 1993, when a successful concession was awarded for the Vasco da Gama bridge in Portugal, based on real tolls for the existing bridge and shadow tolls for the newly built one. The Vasco da Gama project also successfully blended EU funds with private funding and thereby opened up a new structure in the project-financing field within the EU. The Vasco da Gama bridge project was followed by an impressive pipeline of PPP-procured roads in Portugal, using real tolls at the beginning, then moving in the first half of the last decade to shadow tolls. It is important to note that, when the fiscal risk from the shadow toll became a burden for the country, Portugal had to move back to a real toll. Italy also used the concept of mixing shadow tolls with the real tolls for road concessions and has delivered an impressive pipeline since 1997.

Hungary became the first country from the former socialist nations in Eastern Europe to embrace PPPs, granting the concession for the M1/M15 highway on the basis of a real toll; however, a few years later, the country had to nationalise the project because of a shortfall in traffic (which led to the concession going bankrupt). Poland and the Czech Republic followed the example of Hungary and, while Poland managed to build the A2 in 2000 as a concession, the Czech Republic had to cancel its project for the D47, which was to be built on the basis of DBFO, because it was sourced from a sole provider and presented questionable value for money. Norway, Denmark, France, Austria, Greece and Spain have also used real tolls as the basis for road-transport concessions.

Spain has developed a procurement mechanism that allows the country to procure concessions quickly (within one year), as opposed to those conducted in the UK, where DBFO concessions typically take over three years. The main difference in these countries' procurement methods relates to how and when risks are allocated. While Spain provides a full assessment of risks prior to procurement, in the UK, typically, the risk matrix is a subject of the procurement and is evaluated as part of the criteria used to award a concession, arguably making PPPs more efficient (if the risk is valued correctly). However, the UK approach does have drawbacks, as it is lengthy and expensive to procure in this way for the public sector, as well as for the companies bidding for the project.

The development of transport PPPs in the EU demonstrates the trends that might apply to the rest of the world, given that this is the most developed market for PPPs, although the specific circumstances



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of each region and the stage of development of each country have to be taken into account. For example, the EU's Public Procurement Directive could not be applied to PPP projects, as it was originally designed without PPPs in mind and forbade any dialogue with the private sector. It also placed too much importance on lowest-cost bids, and saw the merging of design, construction and maintenance in proposals as a negative quality. Later, more efficient tools had to be developed to facilitate procurement through PPPs; this was facilitated when the European Commission came up with the concept of competitive dialogue.

In North America, both Canada and the US have engaged in transport PPPs. While Canada has succeeded in completing a number of deals using DBFO and DBFM structures on rail projects such as the Vancouver International Airport rapid transit line, the US has had a mixed experience with PPPs. There have been failures, such as the Pocahontas Parkway in Virginia, where the public authority had to replace the operator when the original private partner was unable to service the debt. Concessions and design and build projects are predominantly used in the US, often blending public and private finance. Projects often raise funding from taxes related to fuel, tolls or property (such as levies on the increase in property values when public transport is introduced).

Latin America has moved from privatisation to PPPs as a way of capitalising on the benefit of private participation in infrastructure, and has focused on the use of concessions. Real tolls have been used for many projects, with innovations such as the use of Least Present Value of Revenues (LPVR), which enables concessions to be procured based on the rate of their return. This provides a flexible end to the concession, thereby significantly reducing the risks to the sponsor and the financing banks, since the concession lasts until the appropriate return is achieved.

In the developing countries of Africa and Asia, PPPs have been strongly advocated by development institutions; and transport projects have been developed as pilot projects largely using development finance, rather than being procured under market conditions. Concessions using real tariffs have been used with some success for ports and airports (if not for rail or roads).

Asia has some of the forerunners in terms of PPPs, such as Japan, but activities in the region are mostly concentrated in Australia and South Korea. Australia has copied and applied the UK model, while South Korea took a lead in introducing PPPs partly as a tool to fight the financial crises in Asia after 1997. It used real tolls, combined with shadow tolls and guarantee mechanisms, to support the bankability and financial security of projects.

During the second half of the last decade, India became a leader in Asia (and around the globe) in terms of project numbers and the size of its overall market. India has developed its BOT model and has launched a massive programme of road building using real tolls. It has done so partly by leveraging various sources of revenue for the private sector, while enhancing the value for money derived by the government and partly by combining plain models with mechanisms to enhance risk sharing while extending responsibilities. The result can be a win-win situation.³⁷

³⁷ PFI. 2012. "Emerging trends in road PPPs." Available at: <http://www.pfie.com/emerging-trends-in-road-ppps/21019269.article>



2.1. Trends in deal structuring and the financing of PPPs

In developing countries³⁸ during 2005–06, private participation in roads revived strongly. Investment commitments to projects with private participation amounted to US\$10 bn in 2006, just 20% below the peak, while the number of road projects was 60, around 1997 levels.³⁹ During this period, insurance and credit-enhancement products were developed to support the bankability of projects, together with help from development banks in the form of products such as insurance against political risk. It was believed that the bigger the project, the better it became. Bigger projects seemed more attractive to banks than small ones. However, following the global financial crisis in 2008, large projects were sliced into smaller pieces in order to make them easier to finance.

To finance PPP projects in developed countries before the financial crisis, long-term project finance was the usual solution. Ideally in such cases, debt maturity closely matched the terms of the project. At the time of the crisis, many governments introduced some kind of facility or guarantee to support PPPs. Since then, PPP projects have only had access to shorter-term financing, which has to be combined either with public-sector guarantees or funding from development banks. Credit enhancement and monolines disappeared for the most part, as their providers either went bankrupt during the crisis, or stopped offering such products, which were used mainly to lower the project risk for financiers. Lenders' appetites for PPPs and project finance in general has mostly dried up, because of changed perceptions of risks, the low availability of funds in general, and, in anticipation of Basel III, a reluctance to lend on the part of banks.

Banks no longer compete hard to finance PPPs; nowadays, risks have to be shared, so banks create clubs in which they take small tranches of debt, distributing risk. Banks at the same time expect public guarantees and demand strong rights to ensure that projects do not go bust. Sponsors, as well as lenders, focus on finding lower country and public-sector risks, looking more favourably at their domestic markets or well-developed markets than at developing, external ones. Equity margins (as well as lenders' margins) have widened more in developed economies, with the risks often not properly reflected in the margins on offer elsewhere. Equity sponsors and banks now set funding terms and, even if governments fail to recognise the fact, procurements often prove unsuccessful. Financing infrastructure deals through the capital markets is also difficult; bonds are often unavailable, as are monolines. What little financing is available uses products like mini-perms (short-term loans used to pay off financing on projects that produce an income).

India, as an active market, can demonstrate some interesting trends in the sector. These reflect, to a certain extent, the heavier involvement of state or state agencies in large infrastructure projects for transport, including those involving private participation or development finance. The same trend can be seen in the EU, where the EIB has broadened its role significantly following the onset of the 2008 global financial crisis. Elsewhere, we can see the emergence of national or regional development banks engaging in PPPs; for example, in Brazil (with Banco Nacional de Desenvolvimento Econômico e Social)

"A hard mini-perm is a project finance structure, where legal maturity is set typically around 7 years, forcing the borrower to refinance before maturity or face default. A soft mini-perm is a structure without this default risk, where the loan maturity remains long-term, but whereby increasing incentives are in place to encourage the borrower to refinance."

Source: Matheson. 2009. "Mini-Perms and PPPs - what do you need to know?" <http://www.lexology.com/library/detail.aspx?g=5b3514e5-f84a-4fdc-b4bc-ed9c344f6cb1>

³⁸ As defined by the World Bank database.

³⁹ Cesar Queiroz and Ada Karina Izaquirre. 2008. "Worldwide trends in private participation in roads." In "Gridlines". The World Bank and PPIAF.



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and in Russia (with Vnesheconombank). There are other elements of India's PPP activities that distinguish it from global trends, however. These trends may be summarised as follows:

- **A greater use of OMT contracts** (in which public assets are operated and maintained by private partners).
- **Performance-driven real-toll concessions** (where the public sector provides guarantees related to low levels of traffic and the private sector shares the revenue in areas where traffic is higher).
- **Concessions combined with annuities** (which combine concessions with a reduction of the risk in the form of an annual payment, compensating for the risk of lower traffic volumes).

The India example indicates that the future of PPPs depends in part on the public sector's ability to innovate and adjust the PPP model it uses to meet an appropriate allocation of risk, and to enable both risks and benefits to be shared in transactions. Such an approach reduces the risk to financiers significantly from the levels seen before the financial crisis, ultimately making it easier to attract them.

2.2. Trends in Islamic finance for PPPs

It is fitting perhaps that the first airport to be privatised in Saudi Arabia and the first to be financed entirely by sukuk, or bonds complying with *Sharia*, should be Medina, the gateway to Mecca. Embarking on a *hajj* is doubtless a big step for the many millions of Muslims who visit the holy site every year; it is an equally big step for the Saudi government to privatise the airport for 25 years as part of a concession to build, transfer and operate (BT0) it.

Indeed, the decision earlier this year to award the contract to a consortium made up of TAV Airports of Turkey, Saudi Oger and Al Rajhi Group, both of Saudi Arabia, breaks new ground in many ways. The deal is not only the first of its kind in the Middle East; it could open the door to many more. With Islamic finance growing in stature and the need for better forms of transport increasing, particularly in emerging economies, partnerships between the public and private sectors, or PPPs, could prove a way ahead.

The work at Medina involves building a new terminal, as well as renovating the existing runway and the airport's facilities, particularly on what is known as the *airside*⁴⁰. At a total cost of around US\$1.5bn, the money raised to do the work is to be split 80:20 between debt and equity. By 2015, at the end of the first phase, the airport should be able to handle 8m passengers a year, many of them pilgrims.

Also novel is the legal approach, which shifts the use of Islamic finance to pay for such projects to yet another level: it creates a contract based around the concession, rather than the physical assets themselves. This, in turn, enables investors to own the assets that are required to make the procurement work.

Although rare in the Middle East, such an approach has already gained ground in parts of Asia, particularly Malaysia. Partnerships in transport between the public and private sectors have become increasingly common there, particularly since new guidelines were adopted in 2004, making it easier to structure deals using Islamic finance.

⁴⁰ The airside part of an airport refers to the area where aircraft take off and land, especially where passengers arrive and depart.



It is true that Malaysia's codes governing Islamic finance differ from those used in other territories, notably in the Middle East. Yet there is still much that other countries can learn from the former's success in tapping money invested according to the principles of *Sharia*. One is the idea of *beneficial ownership*, which makes it easier and cheaper to structure deals to raise money for infrastructure; the other, where it matters, is to ensure that the proceeds from such deals are taxed at a lower rate than those employing conventional finance.

A problem with the first is that many Muslim countries do not recognise the concept of trust under common law. So, transferring the beneficial rights to an asset, such as a bond, without also shifting the ownership, can be difficult, if not impossible, within that jurisdiction. This restricts the choice of vehicles open to lawyers when drafting such agreements and usually means that, if they go ahead at all, it can take longer to complete agreements involving expensive pieces of infrastructure. This, in turn, can make Islamic bonds even costlier when compared with conventional finance.

Nevertheless, it is no coincidence that, since 2006, the proportion of Islamic bonds issued in Malaysia to pay for improvements to transport of all kinds—airports, ports and shipping, roads and rail—has risen from just over 30% of the total to around 50%. Nor is it a surprise, therefore, that the country is one of the best-connected in Asia.

Granted, only a proportion of the money raised in the form of *sukuk* for such projects is employed as part of a PPP. Yet, since the 1980s, successive governments in Kuala Lumpur have shown that they can tap the private sector for money to pay for improvements to the country's transport network.

Where governments and developers choose to raise Islamic finance as part of a scheme built around a PPP, they rely on four main forms of *sukuk* (which, in Arabic, is the plural of *sak*, a bond): *istisna'a*; *murabaha*; *ijara*; and *musharaka*. The first two are based on a sale and buy-back at a deferred date, with a mark-up. The latter two, by contrast, depend more on equity and follow the form of partnerships between the various parties involved.

Both approaches, depending on the regulatory regime, the project in hand and the parties involved, have their supporters. *Sukuk* based on a sale are often popular with the company sponsoring a project, because there is a fixed rate of return and a mechanism for deferred payment. This, in turn, may influence how tolls are collected on, for example, a highway. The structure may also depend on the lifecycle of the project and, therefore, on whether the financing spans months, years or, as happens more often nowadays, decades.

Money raised by way of partnerships is straightforward in that it is clear at the outset how much each party has invested and the respective role the party is to play. Any profits are distributed according to the participant's share in the enterprise. Any loss is born by the investors, unless it can be proved that there was negligence on the part of the operator.

Sukuk issued in the form of *ijarah*, or lease, in contrast, have the advantage of a pre-determined period for which the arrangement will run. This gives the leaseholder a legal right, or what is known as its *usufruct*, to derive profit from a property. This usually applies even before the project is completed, so holders of *sukuk* of this type are able to protect their income from the outset.



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There is little doubt that, as international banks retreat from what they regard as fringe markets, companies and other borrowers have been encouraged to raise money through the capital markets, particularly in the form of Islamic bonds. Indeed, the value of all *sukuk* issued within the six countries of the Gulf Co-operation Council (GCC)—Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates—has already reached a record this year.

As a result, the yields on many bonds have fallen as their prices have risen. What is more, around 40% of the money raised across the GCC by issuers of *sukuk* during the year to mid-July was destined for projects involving infrastructure of one sort or another. That is three times more than during 2011. Of the total, around 60% was for projects involving transport.

Why the surge in demand for *sukuk*? Mainly, it is because of high oil prices, which have made the region's capital markets more liquid, as well as a strong appetite for debt among local investors, and the accommodative monetary policies of central bankers in Europe and the US. Such demand can only encourage issuers to offer more bonds, as investors seek what they regard as the best returns on offer. Indeed, with yields at their present levels, the market for *sukuk* is as strong, if not stronger, than it has been since 2005.

So much so, in fact, that the value of Islamic bonds issued worldwide this year is likely to top US\$100bn for the first time. Since Asia (notably Malaysia) and the countries of the GCC together account for the bulk of all transactions involving Islamic finance, it is not hard to see where demand is strongest, nor where the pace of economic growth is among the most vibrant.

It is worth noting, too, that more and more issuers of Islamic bonds from the GCC look east to Malaysia as a market for their paper. Companies from the United Arab Emirates and Bahrain are among those to have tapped Asian investors in recent months by issuing bonds denominated in Malaysian ringgit. Why the attraction across borders? Partly, it is the better yields on offer in Asia that encourages buyers to come forward, and partly a desire among investors there to spread their risk.

Not only are the countries of the GCC net exporters of capital (despite their own need for new infrastructure), but the countries' combined trade with Asia now accounts for around 40% of the total, up from a quarter of that the total 30 years ago. Small wonder, therefore, that observers such as Standard & Poor's, a rating agency, reckon that the market for Islamic bonds could be at an inflection point.

What is beyond doubt is that the time is ripe for Muslim countries in need of new infrastructure to benefit from the demand for Islamic bonds. One such is Indonesia. The government in Jakarta reckons it needs to spend as much as US\$200bn on infrastructure during the four years to the end of 2014. Of this, the private sector is expected to provide 30-40%.

How much of the total is likely to be raised by way of *sukuk*? PLN, Indonesia's state-owned utility, in the past has issued Islamic bonds. Yet, unlike Malaysia, Indonesia's civil law does not recognise the concept of beneficiary ownership, so it is hard to issue anything other than *ijara* bonds based on leases. This complicates the issue of *sukuk*, as well as increasing the costs.



Observers believe that steps to encourage more corporate borrowers in Indonesia to issue *sukuk* would result in a more liquid market which, in turn, would act as an incentive for others to join in. Partnerships between the public and private sectors in building infrastructure, with all the advantages they bring, could follow quickly. Even so, issues of Islamic bonds usually take longer to structure than conventional ones and many investors still worry about the risks associated with *sukuk*. That is another reason why tax incentives can help to propel a market.

Also contributing to the appeal of *sukuk* issued to pay for infrastructure is their longer tenors. This year, for the first time, issuers in the GCC offered Islamic bonds for seven years, up from the usual five. Among them was Saudi Arabia's General Authority for Civil Aviation, which raised money to expand Jeddah airport. Although this has yet to involve a PPP, it does suggest that borrowers and investors alike now embrace the idea of bonds with longer tenors to pay for forms of infrastructure with a lengthy span.

In Asia, tenors on Islamic bonds have crept out to ten years or more, many of them to finance toll roads or power plants. Until now, most such bonds were issued for seven years. More borrowers in the Middle East have also opted to raise money in US dollars, particularly where some or all of their income is in dollars or where their country's currency is pegged to the dollar.

Indeed, Saudi Arabia is a case in point. Since, in 2006, the government passed a standalone law to regulate the issuing of Islamic bonds, the market for such financing has grown steadily, in the process helping to boost the economy.

It is tempting to hope that the decision to use *sukuk* to finance the new facilities at Medina airport and to employ a PPP may prove a turning point. The omens are good. Although not in transport, an issue of *sukuk* worth US\$1bn by SATORP, an oil refiner, is widely reckoned to have broken new ground in Saudi Arabia by raising Islamic finance for a *greenfield site*.

As a solution to the problem of poor transport, Islamic bonds pegged to PPPs would seem to have a lot going for them. The tenets of Islamic finance, after all, fit well with the demands placed on borrowers engaged in building infrastructure and with the interests of investors seeking an ethical return on their money. As well as satisfying the demands of *Sharia* that there should be no interest charged, or any element of gambling or uncertainty involved, all arrangements within Islamic finance must be based on valid contracts between an *offeror* and an *offeree*.

In addition, a contract must be permissible in Islam and, importantly, its object must be within its means to possess. The subject should be deliverable at the time the contract concludes. Any undertaking should also seek to provide utility and welfare to individuals and the community. What better way to do so than to build a transport network, particularly one involving partnerships between the public and private sectors?



3. Overview of transport PPPs in OIC member states: Implementation obstacles for countries without a PPP framework

In sections 3 and 4, this report discusses the challenges for implementing PPPs in OIC member states. Countries are classified and analysed using 4 different groupings according to their level of PPP development. The level of PPP development is based on whether or not a country has a specific legal framework in place for PPPs, and if a country has experience in transport PPPs.

This section (Section 3) analyses the challenges and opportunities for those countries without a PPP framework. Countries without a PPP framework and without project experience are called “Group 1 countries”, whereas countries that lack a framework but have implemented at least one transport PPP are called “Group 3 countries”. Group 1 and Group 3 countries are introduced and discussed together, as they share many common obstacles.

3.1. Introduction to Group 1

Group 1 countries can be found in Asia (Azerbaijan, Uzbekistan, Tajikistan, Turkmenistan, Brunei and Afghanistan), Africa (Gambia, Mauritania, Niger, Somalia, Guinea-Bissau and Chad) and the MENA region (Bahrain, Palestine, Iran, Libya and Oman). The countries in this group are quite diverse, as they span multiple regions and a wide range of geographical size. As a starting point to assess PPP potential, it is important to understand how these countries can be grouped according to their competitiveness, ease of doing business, and need for improved infrastructure.

Many countries in this group struggle to attain overall economic and country competitiveness. They are either in the bottom 95 of the World Economic Forum Global Competitiveness rankings, or are not included in the rankings at all owing to their inability to satisfy the basic criteria. This applies to the Central-Asian countries in Group 1, with the exception of Azerbaijan; it also applies to all countries in Sub-Saharan Africa; and to the countries in the MENA region, with the exception of Bahrain, Oman and Iran.

Although Brunei is the second-smallest country in Asia by population (approximately 400,000 in 2009, according to the UNDP), it is the most competitive Asian country in the OIC that belongs to Group 1, according to the 2012-2013 GCR (ranking 28th). Its low rate of inflation and government debt are the main reasons why has ranked first for the past two years in the macroeconomic-environment indicator. The other Asian and Central-Asian OIC countries in Group 1 have larger populations, but rank in the bottom 100 overall (or are not included) for global competitiveness.

Of the Central Asian countries in Group 1, Azerbaijan has the largest GDP at US\$58bn, followed by Uzbekistan at US\$45bn. Turkmenistan and Afghanistan are the next largest, at US\$21bn and US\$19bn, respectively, with Tajikistan being the smallest at US\$7bn.⁴¹ According to the Competitiveness and World

⁴¹ Economist Intelligence Unit Country Data. Figures for 2011. Accessed December 2012



Bank Doing Business rankings, the trends within Azerbaijan and Uzbekistan are positive; last year, they moved up to 16th and 9th positions, respectively. Yet, these countries still need to improve on transport metrics, such as the time needed and cost to export and import a container (which is currently around three times that of OECD countries), and trading across borders.

Sub-Saharan African countries have the lowest nominal and per-capita GDP. Some are still working to establish sufficient permanent democratic institutions to qualify them for inclusion in the report. Although in the bottom half of the rankings globally, Gambia has the best competitive position in the regional group. It ranks 98th in the Competitiveness report and 149th in Doing Business. In infrastructure and trade indicators, Gambia also has the best relative position. The rest of the countries in this group have a small GDP (no higher than US\$10bn, according to the report), and are difficult places in which to do business.

With around US\$382bn and US\$37bn of economic production per year, respectively, Iran's and Libya's economies are the largest among this group of countries. Iran's large population also provides it with an advantage for potential PPP projects. However, both countries struggle to attain sufficient levels of investment in infrastructure and to improve their respective business environments.

Bahrain and Oman stand out, as they rank in the top 40 worldwide for competitiveness, and are by far the wealthiest economies in the group. However, their small populations and geographic size mean they will also need to plan carefully and to consider the potential of PPPs in the transport sector.

3.2. Introduction to Group 3

Countries that lack a specific PPP framework, but have nevertheless conducted PPP transport projects, are classified as **Group 3 countries**. Interestingly, most of these countries share many competitiveness characteristics with Group 1 countries. Group 3 countries can be found in South America (Guyana and Suriname), Eurasia and Asia (Turkey and the Maldives), the MENA region (Saudi Arabia, Qatar, Algeria, Jordan, Lebanon, Syria, Yemen, UAE and Iraq) and Sub-Saharan Africa (Benin, Burkina Faso, Djibouti, Gabon, Guinea, Cameroon, Comoros, Mali, Mozambique, Senegal, Sudan, Togo and Uganda).

Several countries in Group 3 stand out for their business environment and economic competitiveness. Turkey has the largest economy within the group, with a GDP worth US\$778bn, which, according to the IMF, ranks it as the 17th largest in the world. The cost of importing and exporting a container is even cheaper than the average for OECD countries. Although the country's roads, railroad and ports require modernisation, Turkey's economic outlook is positive and the increasing demand for transport projects makes it an attractive country in which to invest. Qatar is the second-richest country in the world in terms of per-capita GDP, but it still requires efficiency improvements in trade infrastructure and administration. Unsurprisingly, Saudi Arabia also has a strong economy, ranking 6th worldwide, yet its infrastructure ranking is not on a par with the broader assessment, placing it 26th globally. Gabon, a sparsely populated oil-producing country, is the wealthiest of the Sub-Saharan African OIC countries in Group 3 in per-capita terms (US\$10,518 per annum).⁴²

⁴² IMF. 2011.



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According to the *Global Competitiveness Report 2012-13*, it also occupies the 9th global economic position (though its overall rank is much lower). Gabon also receives a favourable outlook owing to a positive annual rate of growth (5.7% in 2011 and an estimated annual rate of 3.9% for 2012-16),⁴³ a healthy national savings rate (40.5% of GDP) and a very low inflation rate (1.3%). Cameroon's macroeconomic environment also stands out, despite a relatively low overall competitiveness ranking, owing to a low level of government indebtedness (12.9% of GDP) and low inflation.

Many of the remaining countries in Group 3 have low GDP per capita and low overall competitiveness. Those in South America—Guyana and Suriname—are also the smallest countries in their region in

Group 3 Countries

Group	Country	Total Projects 1990-2011	Total Investment (\$m) 1990-2011
3	Turkey	16	5,614
3	Mozambique	7	776
3	Algeria	3	125
3	Djibouti	3	576
3	Gabon	3	228
3	Jordan	3	1,562
3	Saudi Arabia	3	not available
3	Senegal	3	453
3	United Arab Emirates	3	not available
3	Cameroon	2	121
3	Lebanon	1	150
3	Togo	2	572
3	Yemen	2	410
3	Benin	1	489
3	Burkina Faso	1	63
3	Comoros	1	0.5
3	Guinea	1	159
3	Guyana	1	not available
3	Iraq	1	500
3	Maldives	1	478
3	Mali	1	55
3	Qatar	1	not available
3	Sudan	1	30
3	Suriname	1	1
3	Syria	1	37
3	Uganda	1	404
TOTALS		64	12,804

Source: The World Bank and PPIAF database online, November 2012. Please note that PPIAF figures are not always consistent with national sources due to differences in time periods, data collection methodology and definitional criteria.

Figures for the UAE, Guyana, Suriname and Qatar are estimates

⁴³ Economist Intelligence Unit estimate.



population terms. Several of the MENA countries are also struggling with political conflict and instability, in addition to weak economic conditions and a poor business environment.

3.3. Common characteristics of countries in Groups 1 and 3

Countries with small populations, but moderate-to-high GDP per capita, strong economies and reasonable political stability, have a good outlook for PPP development. This includes South American countries, countries in the Gulf and selected Asian countries in Groups 1 and 3.

Most of the remaining countries in both groups struggle with high political risk, conflict risk, and/or economic competitiveness. Some of these countries have large populations and relatively high economic-production levels in terms of total GDP, factors that in principle make PPPs more feasible and therefore more attractive to investors. Nevertheless, owing to economic and political conditions, some of these countries will remain challenging places in which to implement PPPs in the near-to-medium term.

3.4. Group 1 outlook for transport PPPs

Some of the countries in Group 1 have infrastructure needs that are crucial to their economic development and would benefit from a PPP strategy. Others, although not financially constrained, would also benefit from efficiency gains brought about by this mechanism. This group of countries is hugely diverse, yet they share visible limitations in initiating PPPs. They lack a clear law for the establishment of PPP processes and institutions, and have no experience of implementing a concessions or availability-type of PPP project in the transport sector.

Political instability is an obstacle in many countries, as are corruption and legal uncertainties surrounding project processes, all deterrents of private investment. Observing the advantages of PPPs, some countries are nevertheless in the process of developing projects and legal frameworks. These issues are discussed in the sections below.

Countries that may be familiar with PPPs as an infrastructure-delivery model in non-transport sectors

Some of the countries in this group have experience of implementing PPPs, in management and lease projects or divestitures in sectors besides transport. Bahrain has experience in wastewater BOT⁴⁴ contracts with its Muharraq Sewage-Treatment Plant and Sewer-Conveyance System Project, which were awarded to a consortium headed by Samsung Engineering Bahrain. The Medical University of Bahrain was also developed by the Royal College of Surgeons in Ireland, with a US\$60mn BOO contract⁴⁵. As part of the Gulf Cooperation Council (GCC), Bahrain is included in the plan to connect the GCC countries through a railway system with investment of around US\$30bn and a regional network covering 1,940 km. In 2010 the Roads Planning and Design Directorate of the Ministry of Works launched a DBOM⁴⁶ for the Bahrain Intelligent Transportation System (ITS) to monitor and control traffic for 10 years. An institutional support structure was also put in place for ITS and the water projects.

⁴⁴ Build, Operate and Transfer. Concessionaire is responsible for financing, designing and constructing new airport facilities and rehabilitating existing ones and operating, maintaining and expanding these facilities in accordance with Minimum Technical Requirements during the contract period. Qatar Financial Centre Authority. 2012. "Public Private Partnerships: A vehicle of Excellence for the next wave of Infrastructure Development in the GCC."

⁴⁵ Meed Insight.

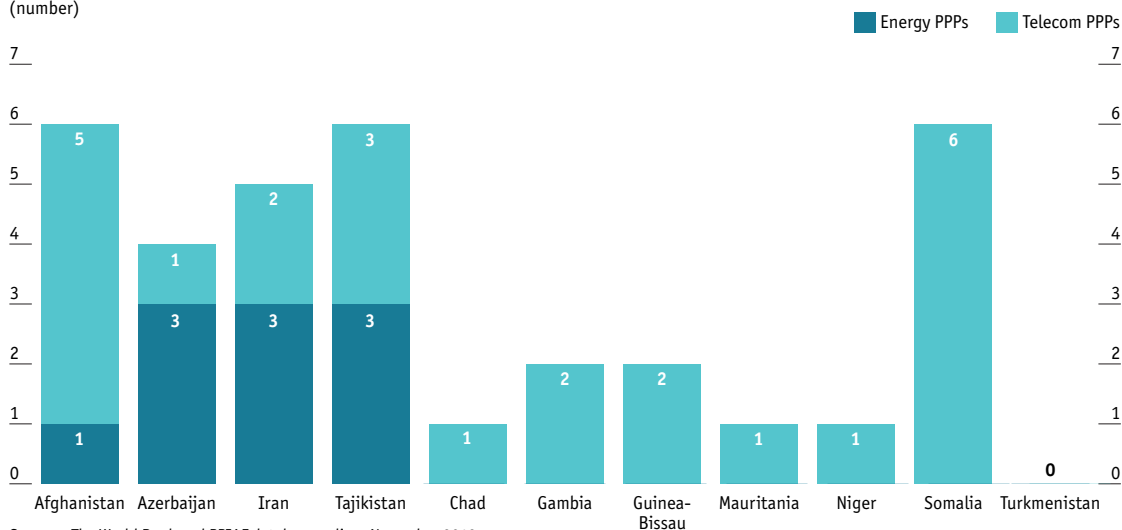
⁴⁶ Design, Build, Operate & Maintain.



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PPPs in sectors besides transport, 2001-11
(number)



These are just a few of the relevant examples of projects in other sectors directly applying PPP models as defined in this study. However, implementing a PPP model in the transport sector specifically requires that many legal, institutional, technical and economic requirements be met, which can be different and more challenging than other project forms or sectors.

Other countries have experience of transport projects which, while they are not by definition PPPs, nevertheless involve the private sector. Oman has implemented management contracts for the ports of Khalifa Bin Salman, Salalah and Sohar, and has an institutional framework to plan and oversee these projects. The first two are managed by APM Terminals and the latter by Port of Rotterdam.⁴⁷ The recent royal decree that created a Supreme Council for Planning and the National Centre for Statistics and Data provides a positive signal to the PPP market and bodes well for the future design of PPPs, as this institution will have financial and administrative autonomy. According to the World Bank (2011), Uzbekistan has awarded a contract to manage the water sector and has partially divested itself of the Uzbek Yolref Transrailway.

Countries will need to change the way they plan and deliver transport

Most countries in Group 1 will need to move away from a model where government budgets are the main source of funding for projects, towards a more strategic and analytical way of managing and planning transport infrastructure. An over-emphasis on public funding can be found in countries where oil money feeds public coffers, making the need for private funding and participation less pressing. It is also common in countries where transport sectors are considered to be of strategic importance to the government; for example, in some Central Asian countries, foreign ownership or control of airlines, railways, power generation, and other such sectors is prohibited. This emphasis on government-funded infrastructure often leads to an absence of long-term planning and a poor understanding of user affordability; governments struggle to approach transport planning in a strategic, analytical manner. Moreover, the

⁴⁷ Meed Insight.



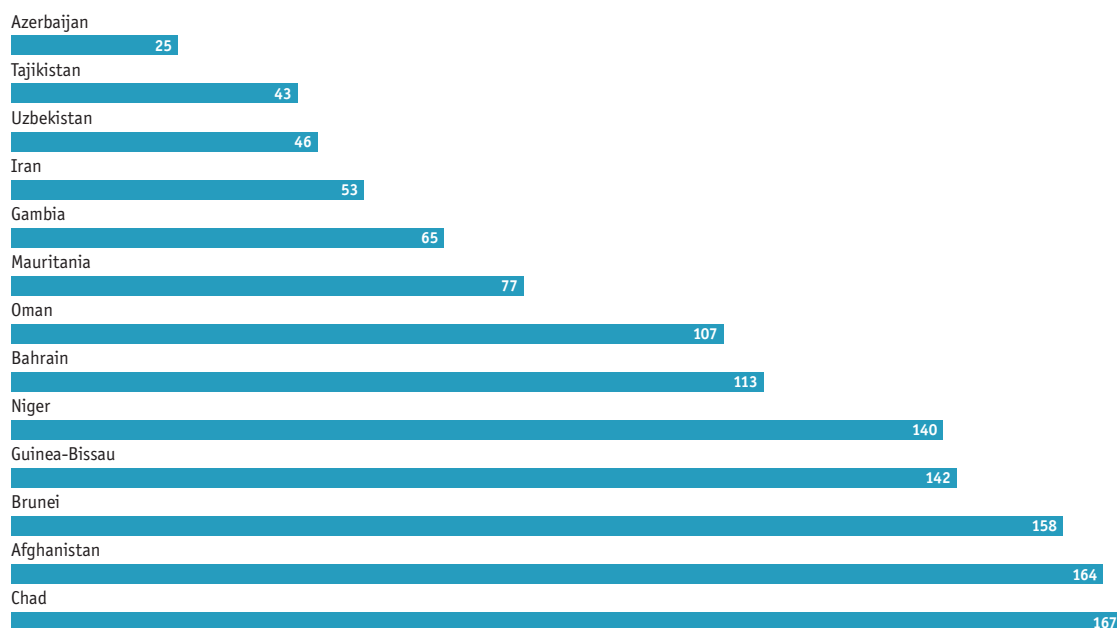
planning horizons required for PPP strategy need to exceed the typical five-year or 10-year plan, as do contracts. If concessions laws restrict the lengths of project terms (15–20 years in some countries), large projects that need more time to pay back the capital invested are far less feasible as a result.

Infrastructure pricing takes on a heightened importance in PPPs

Better administration and pricing of infrastructure is also required. This will be difficult for countries whose utilities and state-owned companies previously set tariffs according to regulations and political initiatives, rather than market-based principles. It will also be tricky in countries where public awareness of the need to pay for infrastructure is low, and where GDP per capita is low. Infrastructure pricing for sustainable PPPs will therefore require sophisticated and thoughtful strategies to ensure that the services are delivered at affordable tariffs with carefully targeted subsidies, and that innovative credit-enhancing mechanisms are used to enable private investors to recover costs. It is also important to involve society through public hearings, roundtables and presentations of the benefits and costs of the project in order to receive their opinions and include any changes that are necessary.

Although the project was ultimately discarded (partly as a result of affordability constraints), the trans-Gambian Corridor is a good example of a complex project in which capacity to formulate and co-ordinate a PPP project with multilateral institutions and with a neighbouring country—in this case, Senegal—was demonstrated. Under the original project design, each country retained full ownership of the infrastructure within its sovereign territory, while the Gambian authorities would manage the project. Gambia also held several consultative meetings to comply with the ECOWAS convention on the Interstate Road Transit of Goods (IRST) and had public consultations with stakeholders as a part of an impact-assessment exercise.

Group 1 countries ranked by ease of enforcing contracts by World Bank 'Doing Business' 2013 report .
(rank out of 185)



Source: The World Bank and IFC. 2013. "Doing Business Report"



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Showing commitment to contracts and competitiveness

Countries need to address broader issues of competitiveness when developing PPPs for the first time. Public-sector institutions handling projects need to show the private sector that they are committed to meeting their contractual obligations. Protection of property rights and management of public finances need to be sound. Unemployment needs to be kept under control, since high unemployment creates fiscal strains that limit the government's ability to improve its competitiveness and the private sector's ability to grow. Without employment, affordability for users will remain low, creating a vicious circle that makes PPP projects less feasible and so less profitable.

Some countries in Group 1 are moving towards a PPP framework

Passing laws that reform PPP planning processes and form a PPP Unit to oversee project design can help inexperienced countries to plan and implement projects. Some of the countries in Group 1 are moving towards such a framework. Since last year, the State Committee on Investments and Asset Management (SCI) of Tajikistan has been drafting a law on partnerships between private companies and the state. Guinea-Bissau's council of ministers enacted a PPP law in 2009 and the government is now preparing projects involving PPPs, as well as the possibility of a PPP Unit. Niger is also working to draft regulations for PPPs and a PPP unit. Although Iran does not have a specific law to implement PPPs, the country recently created regulations addressing the concept of BOT projects, which could open a new window for investment in the country. Regulatory reforms to increase procurement and institutional transparency, as well as co-ordination, would also help to boost interest.

Investment-grade countries have potential

Oman and Bahrain are investment-grade countries with a good investment climate. This means that one main challenge is to create an institutional and regulatory framework to implement PPPs. Their small population size also implies that projects in these countries will be relatively small. Moreover, both governments are used to projects where the government effectively guarantees demand. In the case of transport, the demand will not necessarily generate a steady income stream. As a result, these countries will need to learn to mitigate the demand risks and let financial institutions offer competitive financing rates, rather than guaranteeing demand in a direct or indirect way. Debt is likely to be raised by a syndicate of local and international banks in local currency and dollars in the form of conventional or Islamic funds. This implies that it may be necessary to insure against foreign-exchange risks carried by concessionaires at the outset. Once in place, however, PPPs will have a high probability of being successful.

Embracing market-based models

Some countries in this group are *young post-Soviet countries* with around 21 years of existence since they gained independence in 1991. These countries have several common characteristics: all of them are landlocked,⁴⁸ with high transport costs; they are still transitioning from planned economies to market-driven ones; there also remains in these countries a problematic preference to select projects based on their ability to generate employment, rather than their value for money, quality and efficiency gains. This approach keeps the political will for PPPs generally low.

⁴⁸ The UN term "Land-locked Developing Countries" describes countries with serious constraints on their overall socio-economic development, owing to lack of territorial access to the sea and therefore remoteness and isolation from world markets causing high transit and transportation costs.



Even once a PPP is put forward, several challenges related to governance will affect the application of PPP models in this region. For example, a minimum level of transparency and fair competition in the planning and bid-awards processes has yet to be achieved in many cases. Public institutions must also improve the quality of bureaucracy through better recruitment and incentives, in order to attract highly skilled personnel and to discourage corruption. Corporate governance for local companies managing PPPs will also be a challenge. Countries must face it by strengthening regulation and monitoring in order to motivate companies to adopt international standards.

Clear and transparent financial statements from state-owned companies in the run-up to privatisation and the formation of PPPs will be crucial to ensure an adequate level of identification and evaluation. Improving governance within the companies with vested interests in transport, as well as the Ministries of Transport overseeing the sector, will require investment and reform.

Failed states face unique challenges

Six of the countries in this group appear as either on *alert* or on *warning* in the *2012 Failed States Index*⁴⁹. The main problems highlighted by this Index area lack of government control over its territory; the non-provision of public services; widespread corruption and criminality; and the involuntary movement of populations and sharp economic decline. This group of countries face “traps”, detailed by Collier⁵⁰ as being landlocked with “bad” neighbours: suffering from, among other things, poor governance in a small country; conflict; and insufficient resources.

These groups of countries also have some of the worst infrastructure in the world, which is a major constraint on their economic growth, trade, investment and the alleviation of poverty. More investment in infrastructure is needed to support improved economic conditions, better living standards and the development of the private sector. This leads to a *chicken and egg problem*, where successful infrastructure investment is not possible without economic growth, yet economic growth is constrained by the lack of infrastructure.

Political instability in these countries also generates continuous changes in government personnel and ambiguity in public policy, increasing the risk that the more knowledgeable staff in private companies will inappropriately influence new, inexperienced authorities dealing with the projects. This situation engenders low levels of respect for contractual commitments or obligations made with the new officers’ predecessors, making it difficult to ensure consistent and fair project monitoring.

In the case that any of the countries in this group start a PPP programme, guarantees will be required to mitigate the high political risk and to facilitate the private sector’s participation. The main risks to cover are: discriminatory changes in the law; a failure to meet contractual payment obligations; obstructions to arbitration, expropriation and nationalisation; difficulties with foreign currency; and the non-payment of contract termination compensation or an arbitration award. So, guarantees can have an important role to play in facilitating investment in infrastructure for fragile economies.

Obtaining access to domestic financial markets or international capital markets for countries in this group will be crucial, because it will not only require sound technical, legal and financial project design, but also an efficient allocation of risks and, more importantly, effective mechanisms to mitigate risk,

⁴⁹ Prepared by a US think-tank, Fund for Peace.

⁵⁰ P. Collier. 2007. “The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It.” Oxford University Press. New York.



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which are not currently in place. It will also require the design of innovative mechanisms for credit enhancement and infrastructure finance. In this context, partial credit or risk guarantees that improve the creditworthiness of any long-term government support being provided (for example, payment obligations, minimum-revenue guarantees, subsidy payments and so on) are a key factor in successful PPP agreements. These credit enhancements would not only increase investor confidence and reduce the cost of debt and equity, but, in most cases, they would determine whether or not finance can be obtained for the project.

Results from the latest Debt Sustainability Analysis by the IMF indicate that this group of countries have high and moderate risk of debt distress, a factor supported by their preference for non-concessional loans. It means that countries in this group will have limited capacity to borrow additional funds for infrastructure.

Human-resource issues

Once a regulatory framework and PPP Unit is established, communication between public institutions is crucial for the PPP process. It facilitates the enforcement and monitoring of PPP contracts. However, for communication to occur, there must be an understanding of PPPs; and for an understanding to exist, human resources must be adequate. It is therefore essential to recall that the design of high-quality PPPs requires a multidisciplinary, professional staff with high skill levels.

Countries rebuilding their infrastructure during and after periods of conflict

Some of the countries in Group 1 are in the process of rebuilding critical infrastructure as a result of conflicts. High and extreme political risks weaken private-sector interest and increase project costs, because the private sector will charge higher risk premiums. It is therefore necessary to strengthen the prospects for success through improvements in economic governance, public financial management and socioeconomic recovery.

During project design, governments will need to assess the viability of PPP projects to ensure that they do not face legal barriers. Special attention should be paid to the status of land and property, given the needs of transport projects. Territorial disputes and complications over the ownership of land can also interfere with transport planning, if conflicts prevail.

Domestic companies in these countries rarely have the required experience and capacity to implement long-term PPP projects. At the same time, foreign companies are less likely to participate in projects, given the risks.

These countries also face a severe challenge from brain drain as a result of emigration during and after periods of conflict. The resulting loss of technical expertise and capable civil servants from the Ministries of Finance, tax administrations, central banks and budgetary departments means that post-conflict governments urgently need technical assistance with such basics as budget policies and programming, public-expenditure planning, and the institutional and technical aspects of public-expenditure management and control. Without these basic pillars of fiscal management in place, PPPs will face great a low likelihood of success.



Developing financial markets is good for the economy—it is also good for PPPs

The size and health of local financial markets are vital for the development of long-term, vibrant PPPs. High-volume PPP pipelines need easily available, local-currency, long-term finance. PPP financing is therefore easier when local-currency bond markets are developed and liquid. Thriving capital markets within a country, as well as a robust pool of institutional investors, are also key. Reaching closure in countries with developed financial markets therefore depends mainly on the quality of the design, as shown by the proper identification, mitigation and allocation of risk, as well as the selection of the correct PPP model, and its expected profitability.

For small and troubled economies, however, investment is likely to come from foreign sources. In the first instance, in order to attract PPP financing, countries must prove that their public finances, such as they are, are in good shape. If public finances are not investment-grade, PPPs will still be possible, but the volume of projects will be lower and progress more slowly; reaching financial closure will also be harder, while financing costs are likely to be higher. In order to execute PPPs in countries with underdeveloped financial markets, accessing multilateral funding and loans can become paramount. Multilaterals' willingness to do so is often tied to conditions regarding transparency, planning and processes, which can only be addressed by legal, regulatory and institutional reforms. Adhering to the basic principles of sound fiscal and financial management at both an economic and sectoral level can also help to attract international funders and donors.

3.5. Implications for Group 1

Countries that have no experience of implementing PPPs in transport have a unique opportunity to start projects with a clean slate. However, many countries in this group struggle with difficulties over competitiveness and stability, which can often interfere with PPPs, making them less attractive to the private sector and more expensive in the short and medium-term. For these countries, it is key to explore options to mitigate political and financial risk as a basic part of a project's design and to define and allocate risk properly. It is also important that these countries plan the acquisition of land carefully, so as to address such issues as the ownership of territory and the issue of control before a project starts. Technical assistance will be required, as the minimum human capital necessary for PPPs is likely to be lacking, while education around the long-term, economic nature of PPPs is required. Financing will need to be secured via international-financial institutions and organisations. However, countries should see PPPs as an opportunity not only to implement projects, but also to improve political and economic governance, as well as make reforms in financial management. The political will to create a good institutional and regulatory environment for PPPs in the short term, as well as good business practices in the long term, will be essential.

For those countries in Group 1 that have strong economies and are ready for PPPs, the challenge lies in creating the necessary institutional, legal and regulatory frameworks to develop not just one project, but several, in the form of a credible and sustainable pipeline. It is also equally important that these countries, where they have experience in sectors outside transport, seek to acquire technical knowledge specific to the sector, so that the pricing, planning, design and institutional oversight is appropriate.



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3.6. Group 3 outlook for transport PPPs

The countries in Group 3, as mentioned above, do not have a legal and regulatory or institutional framework in place for transport PPPs. Nevertheless, what sets them apart from the countries in Group 1 is that they have implemented at least one form of transport PPP in the past, and therefore have some project experience upon which to draw.

PPP legal frameworks boost investor confidence, ensure risk management and increase the chances that the PPP models and objects chosen are appropriate

An underdeveloped legal framework limits the types of project that may be undertaken, as well as the sectors in which they are executed. This ultimately means that fewer PPP projects are delivered; those which are do not always use the optimal PPP model. Countries in Group 3 have nevertheless been able to deliver PPP projects, mainly because they have adopted an ad hoc process that can be implemented under existing legal and institutional structures. This has also meant that by far the most common approach to PPPs has been the concession contract, as this is typically the easiest to execute without a clear legal framework in place. Another consequence is that ports and, to a lesser extent, airports, have been the most common objects for projects. Port and airport concessions are also more feasible because they can be implemented without any contractual commitments from the government. The private sector pays a concession fee to the government's contracting entity, giving a direct financial benefit to the public sector at the outset.

Other forms of PPP and objects that require commitments from the government are less common. One indication of this is the very small number of roads projects, as they would inevitably require some government support, given that it is unlikely that the revenue from a toll road would prove sufficient to service a PPP contract. There are exceptions to this generalisation, however, as governments can still choose to include payments to projects or government guarantees without a law in place. In Mozambique, for example, a road was developed with user payments that ultimately helped to reduce the project's financial risk and facilitated further private-sector investment in the country, which in turn raised traffic volumes. Another example is Turkey, which has had a highway BOT Law since 1988 and a general BOT Law since 1994 (Law No. 3996). Nevertheless, the country will need to build upon the existing legal framework (and has consequently prepared a draft PPP law) to enable the use of other models.

Within the broader category of concessions, a variety of models have also been used. In Benin, the IFC played a major part in the financial package of the private sector. In Djibouti and Cameroon, the government is part of a concession without any financial commitment. This form of contract—where the government is part of the concession—gives confidence to the private sector, as it aligns government with the aims of the concession and helps to safeguard the latter's future. In other countries, the government has also retained control over elements that directly impact the viability of a concession (such as *berthing costs*). This can have negative consequences for projects, however, because aspects of government control that affect the cost of implantation, operation or income of the concession, may deter the private sector from bidding for such contracts.



Even in countries where PPP legislation has begun to be developed, there can be significant issues. In Cameroon, for instance, the law sets out broad terms for the implementation of PPPs, with no detailed procedures on the approach to evaluating and awarding contracts. “Evaluation should be performed by a body whose organisation and functioning should be decreed by the president,”⁵¹ according to the appropriate law. This gives no structure to the contractual side of the PPP. Having a well defined PPP law is necessary to ensure that the procurement, contracting and monitoring process are also well defined and understood by all parties. When contracts are structured to fit within existing contractual legislation, they often leave key elements of the project ambiguous or completely undefined.

The risk in applying pre-existing procurement rules to PPP projects can be seen in attempts to implement railway concessions, which are more complex and difficult to design than other projects in transport. Several attempts to implement rail concessions failed after the contract was awarded, owing to the inexperience and lack of qualifications on the part of the private operators selected. This emphasises the need for transparent and well-structured PPP procurement procedures to ensure high-quality bidder proposals that show a clear understanding and experience of what is required in these very complex contracts.

In another example, projects are implemented using several pre-existing public-procurement laws, none of which is supported by specific regulation for these types of projects. Although these laws are otherwise sufficient for normal public procurement, they can allow for too much negotiation during the tender process for PPPs, reducing fair competition and the likelihood that international bidders will participate. Rules also need to be adjusted to address inefficiencies caused by frequent changes in bidding timelines and inadequate bid-award criteria (which sometimes heavily favour the lowest price offered and technical factors). According to the European Investment Bank (EIB),⁵² bidding processes for PPPs can also suffer from poor planning regulations, which do not ensure that robust feasibility studies are prepared and that projects allocate risk properly,⁵³ as well as contract-termination regulations insufficient to protect private-sector actors from undue expropriation and the early termination of projects.

None of the countries in Group 3 has a dedicated PPP Unit within, or attached to, the government. The main function of having a PPP Unit is that it ensures projects can be justified, both economically and socially, as a PPP. It also plays a key co-ordination role to increase quality and consistency in the procurement and monitoring process. Without institutional support and co-ordination for PPPs, disorganisation, heterogeneity and gaps in the way projects are designed, approved, awarded and managed are inevitable. These weaken the government’s ability to negotiate with the private sector, and reduce its credibility in the eyes of key stakeholders. A PPP Unit should also have the expertise to work with the private sector to ensure that both the private sector and the government understand the limitations and risks in each contract. This is, from the beginning, a critical element in the success of a PPP.

Poor planning procedures also incur additional costs for the public and private stakeholders involved. Fragmented planning structures and ill-defined procedures mean that PPP pipelines are not co-ordinated. As a result, it is unlikely that each project will receive the same checks and approvals from the relevant stakeholders. Nor will they receive the proper due diligence and auditing they need. Moreover, an unclear

⁵¹ Cameroon PPP legislation

⁵² EIB. 2011. “Study on PPP Legal & Financial Frameworks in the Mediterranean Partner Countries.” Volume 2: Country Analysis.

⁵³ However, unforeseeable events and financial risks come under the responsibility of the government.



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planning process allows individual ministries and other political actors to influence the selection of project objects and PPP delivery formats. Often, this means that decisions for PPPs will be based on a lack of public funding, rather than on a systematic evaluation of the possible delivery methods and a calculated selection of the PPP model best suited to a project.

A legal framework outlining the main responsibilities of the concessionaire and the public sector in project contracts can help. Guidelines for administrative procedures, the technical requirements, projects' financial schemes and risk-sharing methods are also necessary. Without solid regulation, requiring proper planning and approval criteria, feasibility studies will inevitably vary in content and quality. Estimates of the demand and cost required to ensure projects' viability, as well as project financing, may be inappropriate.

Finally, legal frameworks are also key to ensuring the proper allocation of risk and project accounting. Without rules in place, these will be flawed and introduce great financial risks into projects. For example, if contingent liabilities are not comprehensively covered in the multi-annual forecast of a country's fiscal budget, they will lack a realistic, clear understanding of the impact that PPPs can have on their budget. The same may occur if contingent liabilities are not classified properly in the first instance. Many countries in this group even lack the ability to allocate multi-annual funding for long-term contracts, which again limits the types of PPPs that can be applied, as well as the types of transport objects they can be applied to.

Ability to conduct PPPs despite the absence of a comprehensive framework: concessions often act as a necessary first step

The essence of a PPP is that the contract is a partnership where the risks are shared. In a number of the PPPs that have been implemented in OIC member states, there is no partnership in the contract, because all the risks are held by the private sector, using a concessions contract. The great advantage of a concession is that it can be implemented without the basic partnership or risk sharing. This means the government's financial burden is greatly reduced. In the majority of countries within the OIC, this is the only way they can embark on any form of PPP; for example, Syria, Yemen and Iraq all started with ports concessions.

Countries commonly have at least a basic form of concessions law and have made extensive use of it to implement projects. In Senegal, for example, the government has used a law that is focused on a construction, exploitation, transfer (CET) contract, the simplest form of concession. In Mozambique, a number of laws have been used that deal with the operation and management of concessions. Other countries have based their concessions on past experience, as in Uganda, which went through a vast programme of privatisation and divestiture in the mid-1990s and has established regulatory authorities in numerous sectors.

In some cases, projects have been feasible because private companies find it attractive to invest in these countries. The main factors drawing investors in are the solid demand for transport projects; an adequate investment climate; the government's and users' capacity to pay for projects; political credibility and stability; and the expectation that it gives the private sector a *foot in the door* to participate in growing industries (for example, the large populations of Saudi Arabia and Turkey and the



increased demand resulting from future global sports events in Qatar). Liquidity in the domestic financial system of some of these countries also helps. In the case of Lebanon, the country's active domestic private sector also greatly contributes to its longstanding ability to conduct PPPs, as local companies often express interest in infrastructure projects.

In some countries, agencies have also been set up at government level to develop major projects, even if they are not necessarily PPPs. For example, in Senegal the Investment Promotion and Major Projects Agency (APIX) is responsible for promoting all major projects, including PPPs. The most important thing about these organisations is that they have the gravitas and the resources to be able not only to advise, but also to be heard at the highest levels of government and within line ministries. In the last three years, Lebanon has created the Higher Council of Privatization (HCP) and the Council for Development and Reconstruction (CDR) to promote private participation in projects. The HCP initiates, implements and oversees privatisation procedures and processes for telecommunications, electricity, water, gas exploration and ports sectors, supporting the country's ability to promote and effectively implement PPPs.

Other countries have organically developed capabilities to deliver projects, which has also enabled progress despite the lack of an adequate legal framework. The Qatar Public Works Authority (Ashghal) is an institution that has the technical capacity to prepare large projects, such as the new Doha International Airport and the new Doha Port. For both projects, Ashghal set up dedicated steering committees; this same institution has experience of designing road shows to attract international contractors and prepare transparent bidding processes for the large projects, which could be applied to support future PPP projects. In Algeria, three main institutions participate in PPP projects: the Ministry of Finance, the Commission Nationale des Marchés (CNM, National Committee of Transactions) and the Caisse Nationale d'Équipement et de Développement (CNED, National Fund for Capital and Development). CNED enjoys a good reputation among the institutions involved in project finance, and is responsible for the evaluation, implementation, monitoring and co-ordination of finance for PPP projects.

How political instability and corruption, economic wealth and threats to line ministries can block the development of PPPs

In some cases, countries lack policies and regulations for PPPs because an abundance of public resources makes private-sector investment in infrastructure seem less necessary. They also assume that existing policies, regulations and mechanisms are sufficient to attract private investment in infrastructure. This indicates a lack of awareness regarding the advantages and challenges of using PPPs, as well as a lack of strategic thinking. These countries do not yet see the involvement of the private sector in infrastructure as a way to re-invigorate the sector, so that it is competitive and self-sustainable in the long run.

Some countries in this group have medium-to-high levels of political instability, which delays project planning and approvals, and deters the development of a deeper institutional understanding of the benefits and challenges of using PPPs for the development of infrastructure. Other countries have high regulatory risk, as they tend to reform economic sectors and laws, often leading to uncertainty regarding project processes, economic parameters and design.



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There are also more general reasons why PPPs are not favoured in many countries. To develop a professional approach to working with the private sector, governments require good governance and institutional reform, especially in line ministries. Many countries have tried to implement PPPs at the highest levels of government, but have failed owing to unfavourable attitudes towards PPPs within line ministries. It is never easy for a line ministry or, more importantly, a sector department, such as those responsible for the development of roads or rail, to accept the fact that a PPP will take away their responsibility for planning, delivery and financial control. More power for these activities is given to the private sector and to a central PPP Unit, influence which ministries do not like to relinquish. Additionally, implementing PPPs can be perceived as a threat by line ministries if they feel it will lead to decreased economic and human resources for their own operational budgets and pet projects. Furthermore, uncoordinated PPP processes make it less likely that ministries will be in favour of PPPs, as fragmented project plans lead to competition for financial resources and place pressure on overall public budgets and pit government departments in opposition. Countries must recognise that good governance is essential, at all levels and in all sectors, to create an environment conducive to business and economic growth, including the development of PPPs. Accordingly, in Benin, the government has focused on the need to improve the quality of governance as an operational pillar to guide public action. This is a positive step to improving political will for PPPs.

There can also be negative external influences on the development of PPPs. Where public administration and governance over the PPP design and award process is weak, the interests of domestic companies that have political influence can be a major obstacle: they will be reluctant for international (and expert) companies to take control of projects they have traditionally undertaken.

Institutional effectiveness: ensuring that ministries work together can mean the difference between success and failure

Without sufficient capacity and training, it is difficult for transport ministries to prepare and evaluate projects, or to find PPP specialists to lead and implement the bidding process. Moreover, if institutional capacity and training are weak, the Ministry of Finance will struggle to estimate the present value of the social net benefits of the project and to match these with the subsidies required for the PPP project. The level of salaries in the public sector of some countries in this group is also a challenge, because they are below international standards and below the salaries of executives in the private sector.

To make PPPs work, it is important to improve co-ordination among public institutions. Increased co-ordination is necessary to support Ministries of Transport and Finance in their respective roles. For example, disjointedness in project co-ordination can sometimes create a de facto bypass of the Ministry of Finance during project planning, making it difficult for the ministry to allocate the financial resources necessary for projects. Another challenge will be keeping all stakeholders fully informed from the beginning of the project, as this aligns interests across the relevant public agencies and increases understanding of the differences between a PPP and conventional procurement processes.

One way of increasing co-ordination is by developing new institutions (whether a PPP Unit or other) to deal with this unique form of project delivery. In Uganda, for example, the government requested support



to prepare a policy and a plan to establish a Multi-Sector Transport Regulatory Agency (MTRA) covering rail, waterways, road transport and the proposed petroleum pipeline. The aim was to regulate increased private-sector participation in these areas. However, as with many such studies and initiatives, this has not gone forward. Under a single public window model, a PPP Unit has control over legal documents and PPP procedures, generating cost savings and efficiencies. This makes it easier to standardise the documents to hire consultants and to procure feasibility studies. For example, many PPP negotiations in rich Gulf and Eurasian countries have focused on cash flow as a main point of discussion between the private and public sectors. This pitfall is attributed to the lack of a well-established, rigorous PPP process, where the public agency in charge of a project must justify the design of every PPP project to the Ministry of Finance. This forces both the contracting institution and the Ministry of Finance to be jointly responsible for the financial resources and design of the project. Furthermore, countries need a clear, annual prioritised list of projects for PPP that can be announced by a central authority every year. The list of projects is otherwise fragmented and PPP projects compete for fiscal resources and are less likely to reach financial closure.

Another institutional constraint is the weak quality of more traditional financial planning. According to the World Bank, effective systems of public financial management (PFM) help to maximise the efficient use of resources, foster transparency and accountability in government finances and build long-term economic success. Not all countries have a PFM system in place. It is crucial for a country starting with a PPP programme to include projects in a solid PFM system to ensure they will keep adequate control over the financial resources involved in the programme.

Finally, it may seem a basic requirement that a contract will run for more than one budgetary term, but, in reality, the ability of a government to commit to multi-annual funding is often a significant problem with PPP contracts, as laws and regulations restrict this. This only really applies when the PPP is delivered with a government-funding commitment, such as a revenue guarantee or where it may require a contractual agreement that the government will provide funding to a PPP for the lifecycle of the contract. This can be addressed in part by adjusting legal and regulatory frameworks.

Planning PPPs properly: the success of a project often depends on a good feasibility study, as well as sound public environmental communications plans at the outset and a high quality of bidding regulations

Preparing robust feasibility studies is one of the most important parts of the PPP implementation process. These studies support the Ministry of Transport's project planning and selection process, ultimately enabling the ministry to play its role as a service provider for citizens and to get an optimum deal from the private sector. It also avoids the creation of *white elephant projects*, where the social costs exceed the social benefits of the project (normally because the project is too ambitious). They do this by defining the economic advantages of a project; one of the main economic elements is the calculation of a Public Sector Comparator (PSC). This looks at the whole lifecycle cost of the project as a traditional contract and as a PPP. This will show the net present value of both, not only showing the best option, but also demonstrating how viable the project is as a PPP.



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Feasibility studies also include assessments of affordability, which can be a main cause of project failure in the short and medium term. An example of this can be seen in an airport BOT parking-lot project where affordability of parking and willingness to pay were not included in the planning process. This led to high pricing, low usage of the parking lot, and, ultimately, renegotiation, financial difficulties and the departure of the concessionaire. According to Hassan,⁵⁴ the main challenges to implementing PPPs in some countries include a culture of subsidies that the government gives regularly to public utilities, keeping prices and tariffs artificially low. Political sensitivity to price increases makes it difficult to engender a culture where user-paid infrastructure can survive, for example, with toll roads.

Feasibility studies should be extensive. They need to include robust engineering, environmental, citizen-participation and demand studies, as well as financial, shadow-rating and risk-sharing evaluations. They must be an integral part of the planning process to prevent problems later on in the project-implementation process. For example, Saudi Arabia has to date effectively and competitively implemented PPP projects with high demand and steady cash flows. However, planning and tender processes are under review after the Landbridge rail project over-estimated demand and the ability of users to pay, given the high cost of investment. This ultimately resulted in the cancellation of the bid (a result not uncommon in cases like this). Similarly, Yemen is currently undergoing negotiations to terminate a contract with a concessionaire for the Port of Aden, largely because demand was over-estimated.⁵⁵ The contract established that investments would be triggered once the demand reached 900,000 containers per year; however, demand was much lower last year and the committed investments have not yet been implemented as a result. A PPP law in such cases should include regulation for feasibility studies that differentiate between the technical and the economic proposals to avoid these pitfalls. The economic proposal should always include the price, tariff or charge to users, the present value of the total subsidy requested from the government, the fee offered by the bidder to the government, the concession period and additional information related to the economic component of the concession. For the technical proposal, criteria such as a company's technical qualifications, the total investment required and environmental standards should be obligatory.

Feasibility studies can be poor, not only owing to a lack of technical capacity and regulatory requirements; they can also sub-standard owing to common delays to official deadlines for bidding, as significant changes to deadlines render feasibility studies obsolete. The uncertainty caused by such changes can also discourage companies from participating in a tender.

Transport projects may require the expropriation of land and, as a result, the relocation of communities. It is therefore important to ensure that the necessary land acquisition and movement of people be agreed before a project goes to tender. Best practice recommends the use of public hearings for every PPP project. The purpose of these hearings is to disseminate the potential environmental impacts of the works and the corresponding measures that will be taken to mitigate the impact on the communities living in the area. In Senegal, for example, around 45,000 people were affected by the construction of the PPP section of the Dakar–Diamniadio toll motorway. However, this was, by all accounts, handled very well; and not only did the government put all the necessary procedures in place to accommodate the people effected before the contract was signed, but the toll motorway company provided facilities during the construction phase.

⁵⁴ Falah Hassan. 2010. "PPP in Highway projects in Iraq: Principles, Problems and Recommendations." PPT.

⁵⁵ <http://www.portstrategy.com>



Port projects within these countries have the most direct impact on the natural environment. Indeed, research has shown that environmental-impact assessments have normally been undertaken and have been acted upon by the concessionaire. Yet, such studies are not important solely to reduce environmental and community risks; they help to reduce the likelihood that the construction and operational stages of transport projects will experience excessive renegotiation and cost overruns as a result of unexpected factors.

Inadequate bidding regulations are a common reason for the downfall of PPP projects. This legislation often lies outside a PPP law or a concession law, and there are simple ways in which these regulations (or a lack thereof) can destroy a PPP. One is having a *price-only* bidder-evaluation procedure, which can lead to *low-balling*, where concessionaires propose unrealistically cheap bids (or high proposed transfer payments to the government). They do this either because they have not properly evaluated the project or because they know they can renegotiate the contract terms once the bid has been awarded.

Another pitfall is that a price-only bidder-evaluation procedure does not allow the bidder to be selected at least partly on the basis of their qualifications and relevant experience. This is a critical part of the process, as a contractor who has never been involved in a PPP does not necessarily know how to do the job. In contrast, some bidding mechanisms allow excessive subjectivity in the selection process, for example by placing excessive weight on technical evaluations, rather than economic evaluations, or by keeping transparency low. It is therefore important to allow the use of qualitative criteria while at the same time maximising the use of transparency mechanisms, such as the virtual data room⁵⁶ and facilitate bidders and citizens' access to information on PPP projects.

For countries with Anglo-Saxon legal systems, a particular interaction between bidders and public-tender institutions can also be applied, where negotiation is permitted during bidding. However, the communications take place only between the government and those firms whose technical proposals have already been assessed as satisfactory. Discussions (and ultimately the bid award) therefore focus on the economic proposals so as to safeguard transparency and fair competition. (This is prohibited in regions such as Latin America, which have inherited Napoleonic legal traditions. These countries allow negotiations with bidders only before the bid begins and prohibit communication during the selection process). In these systems, adjusting procurement processes to allow contract negotiation with the preferred bidder(s) can contribute to better contract design by enabling discussions that can be an essential part of the contract development. This process must be implemented with a view to maintaining fairness and transparency, however. When regulated and structured properly, an adequate, objective and competitive bidding process can reduce project costs and increase quality, while at the same time allowing innovation.

Within traditional contracts, it is normal and acceptable to specify all the technical details of a project. With a PPP, however, this is not desirable. It is essential to allow the private sector to innovate, not only technically, but also managerially, to bring the required efficiency to the project. Understanding when and how this innovation can occur, however, requires flexibility and also an understanding on the part of public-sector contracting bodies and planning institutions.

The selection of the PPP model used is also quite important. For instance, some countries have chosen to implement transport PPPs through joint ventures and management contracts. The main reason is

⁵⁶ A virtual data room is a web portal where the public institution places all archives and studies related to the project, so that participating bidders can obtain information that will help them prepare their bid proposals.



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that governments want to keep control over public companies in the port sector, and can more easily overcome challenges created by their poor sovereign-risk ratings. However, joint ventures can create conflict, because constant negotiation is typical, and this model gives veto (or weighted voting) rights to the private partner. In its partner role, the public sector often involves several public agencies in project negotiations, making it difficult to reach effective, rapid agreements. Joint ventures do not force the public sector to perform its regulator role and therefore countries used to selecting this model also face a gap in the appropriate cost-benefit analysis, PSC and financial analysis.

The fact that many of the countries in Group 3 started with port-sector projects also reflects the fact that governments struggle to develop more complicated projects. These countries will require strong support from advisers who can help public officials to understand the main differences between public procurement and the bidding process for a PPP project, and to create internal capacity to structure successful PPPs.

Transparent and competitive PPP processes, as well as well-thought-out PPP pipelines, attract and retain necessary private-sector interest

Before a PPP can be put in place, it is essential to have private-sector interest. This can be the most difficult thing to achieve, for many reasons. One of the most difficult problems to overcome in some of the countries in this group, unsurprisingly, is the unstable political situation. This challenge is especially pronounced for war-torn countries in the group and those that have recently been classified as a war zone. As PPPs involve long-term contracts over decades, the ability to foresee a stable future is key to eliciting private interest. Another factor deterring private stakeholders is instability of government structures and institutions following periods of unrest or conflict. PPPs require an estimate of the potential demand for a service over a long period of time; so, if the project suffers from, for example, a terrorist attack, the government will need to compensate the operator for the damage, rebuild the infrastructure and make up for the loss in demand. The government's willingness and ability to do so is therefore key to attracting investors to high-risk markets.

However, there are other, far more common, reasons for being unable to attract the private sector. To participate actively and show interest in PPP projects, private-sector investors and operators need to have confidence and trust in the PPP system. The lack of a clear regulatory and institutional framework undermines this confidence, even in otherwise investment-grade countries, because moral hazards and asymmetric information are embedded in the procurement system. Having a system that awards a contract without competition can discourage others from putting that country onto their investment map. Countries may also explicitly prefer local providers over international ones, another discouraging factor. For example, several countries in this group require local shareholders to have at least a 51% stake in a bidding company. Unfair competition means that projects are far less likely to offer good value for money and will be awarded to organisations that cannot do the best job. On the 2011 Transparency International Corruption Perceptions ranking, the majority of countries in Group 3 received a score less than 5 on a scale of 0-10.⁵⁷

Low transparency and poor communication can also drive away private investors and operators. When the information obtained for a project by the public sector differs significantly from the information



available to the concessionaire, conflicts can result. Clear regulation is necessary to solve the disagreements that can arise; however, when this is not possible, efficient and effective mechanisms for dispute resolution are key to maintaining private-sector interest and resolving these conflicts. Such dispute-resolution mechanisms need to have agility, clarity and efficiency to reduce the opportunity cost of the project and to mitigate the losses caused by higher expenses and/or lower revenue from the project. They need to be expedient, cheap and technical—qualities that are often difficult to achieve.

Finally, a track record of projects and an interesting, coherent pipeline is essential to attracting the private sector. That is why it is important to ensure that the first PPP projects are procured in an open and transparent way and, more importantly, that the contracts are negotiated sensibly. Having a future pipeline of PPP projects also gives the private sector, and especially the international market, some confidence that the country is serious about the development and future of PPPs. After decades of underinvestment, Iraq has a pipeline of infrastructure projects worth US\$35bn (US\$10bn of which is for transport infrastructure). This is important, given that it is normal for any international company to go through many stages before being allowed to operate in a country. Without a defined pipeline, many companies will not make the effort to commit to a country as they may be unwilling to incur the costs of registering in a country just for one project.

At the same time, countries must also be careful not to be overly ambitious in developing pipelines. This is a common pitfall in infrastructure planning when governments want to show fast, noticeable development in their country. The unrealistic size of mega projects often leads to the creation of white elephants, which are unnecessary projects whose resulting infrastructure is seldom used. Countries need to balance ambition with realism and thorough economic studies when planning works in order to entice the private sector.

The importance of allocating risk and the dangers of excessive optimism

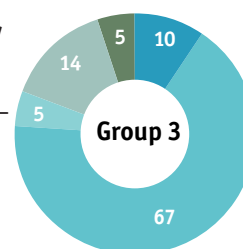
Governments can provide loan guarantees, subsidies, tax credits and tax exemptions to help finance and design PPP projects. Of these, projects that involve subsidies are common and require the evaluation and approval of the Ministry of Finance. However, as referred to in the previous section, appropriate attention and approval does not always take place, because of the lack of protocols, guidelines or processes established by law. These interventions have a direct impact on budgetary and fiscal risks for the government and increase the government's exposure to PPP performance. Not having organisations with enough power to provide inputs and due diligence within line ministries and, most importantly, within the Ministry of Finance, can lead to significant fiscal and budgetary risks where the government commits resources too hastily to projects.

Another danger often overlooked is the financial soundness of private-sector operators and investors. It is not uncommon for governments to ignore this and focus only on how much money they will get out of the contract. If a concession is awarded without correct due diligence on private-sector providers, as has been seen in many cases worldwide, together with over-optimistic revenue forecasts, the result can

Corruption perceptions: Group 3 countries
(% of countries receiving score)

Score: (1=worst 10=best)

0-1 1-2 2-3 3-4 4-5 5-6 6-7



Source: Transparency International. 2011. "Corruption Perception Index 2011." Scores are on a scale of 0 to 10, where 0 is perception of extensive corruption.

⁵⁷ Transparency International. 2011. "Corruption Perception Index." Scores are given in a scale of 0 to 10, where 0 is perception of extensive corruption. Results available at: <http://cpi.transparency.org/cpi2011/results/>



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be bankruptcy for the concession. One of the primary reasons for over-optimistic forecasting is a desire to satisfy the *best-price-wins* approach often employed in awarding such contracts.

Risk allocation is a key area for improvement, even for more advanced countries like Qatar and Turkey. For example, when a government offers a minimum-revenue guarantee without a revenue-sharing mechanism, the risk is unbalanced in favour of the private sector. The reverse is true if the government does not include a minimum-revenue guarantee and the demand risk is fully allocated to the concessionaire.

PPP contracts also normally allow the possibility of using future project revenue as collateral. However, in some cases governments seek to control the value of the revenue that will come from the project. The result can be costly, causing either renegotiation and a subsequently lower quality of services or, at the most extreme, a need for the government to regain responsibility for delivering the infrastructure. This ultimately results in significantly increased financial risks. For instance, if airport-user charges are set by the government, any concession will be limited to the revenue dictated by these charges, over which the concessionaire has no control. Combined with a situation where the government may try to share revenue without guarantees or guarantees without revenue sharing, the likelihood of renegotiations, failures, negative impacts on public budgets and reductions in project standards is high.

If governments do enter into contracts where they take any form of financial risk, including concessions, or even a defined contribution, then this needs to be managed. There are many examples worldwide of countries not managing this correctly and finding that they cannot afford their financial commitment to a PPP programme, with the result that it leads to a complete collapse of the PPP system. This can occur when Ministries of Finance do not systematically register the liabilities generated by PPP contracts. Moreover, simply recording liabilities is not enough; statistics for liabilities must distinguish between categories of projects and the type of liability, such as *certain* or *contingent*.

Finally, long-term financing and access to capital markets is a critical constraint to the development of PPPs. Therefore, PPP contracts should include mechanisms to leverage the financial resources available and ensure well structured and creditworthy projects.

Financing PPPs: striking the right balance between local and international finance for projects with long lifecycles

Once countries have attracted the private sector to take part in bidding processes and have been successful in signing contracts, as with any PPP project, the next big issue is to secure and design financing.

Many countries have been able to find a way to finance contracted PPP projects in the first instance. International financial institutions, and the IFC in particular, have been involved in many of the projects conducted worldwide to help facilitate financial closure. In other cases, countries are investment-grade, with budget surpluses and solid finances, making project funding easy to secure. This said, the global financial crisis of 2008 has changed the way financing institutions, especially the lending banks, look at PPP projects; and it is well known that finance has become a difficult issue, with banks not wanting to commit for large elements of either debt or equity and also demanding higher returns with shorter tenors.



Project financiers are most concerned with controlling the cost of financing projects. For example, Qatar's construction sector is expecting to have shortages in raw materials between 2013 and 2020, a period in which infrastructure for the football World Cup will be under construction. This can lead to a rise in the prices of cement, steel and aluminium. The government apparently has a plan to mitigate the impact of this. This situation needs to be addressed in the PPP contracts in order to recognise that some projects can have cost overruns and delays given the expected shortage of inputs.

It is also important for governments to plan their commitments to PPP projects based on future budget expectations. In Saudi Arabia, the availability of public finance depends on oil production and the final price of oil; for this reason, the Ministry of Finance makes conservative projections on spending and is looking for alternatives models, such as project finance, to complement the budget. Last year, because of higher-than-expected oil prices, Saudi Arabia achieved a surplus of US\$28.9bn. Medina Airport will contribute US\$7bn in revenue to the public sector during the period of the PPP, owing to revenue from the concession. Saudi Bank, National Commercial Bank and Arab National Bank have recently helped to raise US\$1.2bn in the form of bonds, complying with *sharia law*, for the airport PPP. According to the IFKC (2012) Saudi Arabia's Islamic assets are valued at US\$94bn, representing 8.2% of the worldwide market for such funds.

For some of the countries, financial closure and project finance are often a lower priority than good governance and planning processes. As part of this, the participation of sovereign wealth funds in PPP projects will need to be carefully considered. The risk that the use of sovereign wealth funds could blur the government's role as a regulator by also involving the government in financing should not be taken lightly.

One important source of project finance is the domestic market for long-term bonds denominated in local currencies. A requirement for this is a liberalised market for pensions, because their managers need to be able to buy and sell fixed-income securities. The proper design of PPPs can facilitate the creation of new financial instruments and make it easier to offer infrastructure bonds over longer terms. In Turkey, for example, project finance comes mainly from international institutions. Although the country's domestic bond market is liquid, tenure periods are generally too short for such projects. Turkey introduced private pension funds in 2003 to provide long-term resources in the capital markets. However, at the last count, such assets represented only a small proportion of GDP. Banks have around 35% of their assets⁵⁸ invested in government securities, with the result that they are highly exposed to Turkish sovereign risks.

A country's creditworthiness is an important element in attracting adequate and affordable project finance. A well-planned PPP programme, together with improvements in the political and economic climate for investment, can help countries with weak credit ratings to create viable domestic conditions for project finance. Meeting obligations and strengthening fiscal policies to reduce debt levels directly affect the cost and availability of finance for large transport projects. Some countries even establish specific funds to reduce the sensitivity of PPP projects to economic and fiscal shocks. Investors may need assurance that their rights will be protected and that projects will be guaranteed. Indeed, the EIB noted that what are known as *step-in rights* and other such rights over assets are not included in some countries'

⁵⁸ IMF. 2012. "Enhancing Financial Sector Surveillance in Low-Income Countries (LICS)." Case Studies, April.



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financial frameworks. Adding such protection could increase investor confidence and interest in PPP projects. The absence of a government guarantee for a project can be another deal-breaker. Algeria's current legislation does not allow the government to guarantee loans taken by concessionaires; however, it can guarantee loans for public companies. The draft PPP law in Turkey includes the possibility that the Ministry of Finance can provide guarantees to the concessionaire; but they cannot exceed 50% of the estimated demand.

Proper risk allocation dovetails with project financing in countries where political, regulatory and economic risk is high. Many countries in this group suffer from project disruptions because of internal or international conflicts; and governments need to allocate their budgets appropriately with guarantees and risk sharing for investors to provide finance in risky markets.

Some countries in this group suffer from the fact that their financial markets are under-developed. They can only finance projects via international sources. They may even resort to phasing the construction to reduce the financing pressures at any given point. Exchange-rate risk can also introduce unforeseen costs and thereby cause investors to hesitate over projects. This is because revenue collected by concessionaires in local currency must match the debt contracted for the project in international currencies. This is less of an issue if the country's currency is pegged to the US dollar (as is the case in certain Middle Eastern countries) or if the financing is all sourced locally. For example, countries like Chile and Kazakhstan⁵⁹ have well-developed systems for pension funds, where institutional investors can provide long-term funding for PPPs by matching the financing to the same currency as revenue collected in the project.

Creating lasting project success: why it is vital to regulate and monitor a project throughout its lifecycle

An aspect of PPPs that is often neglected, or even forgotten, is that their length makes them very different from a traditional contract. With a PPP contract of any form, especially those often preferred by these countries, a concession is normally for the design, construction, financing and whole lifecycle operation of the assets involved. This means a contract will last for 25 years or even, in some cases, over 50 years.

For the government to ensure that the conditions of the contract are upheld by the private sector, it is essential that an institutional structure is in place to monitor the contract throughout its term. Structures to resolve disputes must be in place to resolve effectively, fairly, quickly and cheaply the issues that inevitably arise over the course of such a long period of time. This requires a defined set of programmes and procedures to be put in place that will be managed and monitored for a much longer period than that with which most countries in this group are familiar.

Throughout this period concerned, the representatives of the government must have a full knowledge of the contract and what the private sector should deliver; and this knowledge must be retained in the systems employed. Without systematic monitoring by a designated institution, the potential for the project to fail owing to non-conformity can be significant, and the failure to monitor the quality of the infrastructure provided can result in a need to renegotiate the contract.

⁵⁹ Chemonics International and United States Agency for International Development (USAID). 2008. "Kazakhstan: PPP Opportunities in a Young Country .



Investors also need certainty that tariffs will remain viable, as these form the underpinnings of project revenue and therefore the project's sustainability. This can be achieved through the establishment of an independent regulator and careful contract design, as can be found with electricity and telecommunications in many of these countries, but which is often absent in transport.

3.7. Implications for Group 3

A common danger for these countries is that they initiate a PPP programme without enough co-ordination and capacity. Currently, none of these countries has sufficient internal capacity or defined processes to implement PPPs. Given these weaknesses, the result can be poor project evaluations, meaning that projects will suffer from low internal rates of return and low net present value. This means that the money invested in PPPs could have significant opportunity cost, because projects that should not be implemented as PPPs are undertaken, and those which would be more viable using PPP models are rejected.

Financial and feasibility analysis is a challenge for PPP projects in every country. At the very least, the analysis should include such indicators as debt-service coverage; net present value; internal rate of return; payback period; and return on equity, ratio and sensitivity analysis. Sensitivity analysis normally includes reduced traffic growth, the ability to overcome economic recession and delays in project construction and operation.

Competition is perhaps the underlying principle in PPP procurements and an important challenge for all countries. It is the only way to ensure success and the best results from any PPP transaction. PPP alone does not always guarantee lower prices or better service; competition does. Furthermore, competition helps bring about efficiency, reduces price distortions, promotes greater accountability and transparency in business decisions, and leads to better corporate governance. PPP is still a relatively new process, and it is strongly opposed by some who do not trust the private sector to act in the public interest when placed in situations that are frequently monopolistic in nature. Competitive tendering and the efficient management of the tendering process are essential to ensure the highest quality of service is provided at the lowest possible price. To foster transparency and generate the lowest-cost service to end users and the government, all interventions need to be designed to encourage vigorous competition among the operators, developers and investors, both domestic and international.

This said, countries are effectively at different stages of development of their PPP market and therefore face different challenges to move ahead. Some need to create an adequate legal and institutional framework for PPPs, while improving the design of projects and reforming the tendering and bidding process so that they are clearer and more transparent.

Countries that have used joint ventures in the past could benefit if they were to transform the role of the public sector from a joint-venture partner to that of a regulator or supervisor. In addition to learning to play a more regulatory, supervisory role, other countries will also need to overcome an underdeveloped financial market and find ways to design wider varieties of transport projects.



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Countries like Guyana and Suriname will face difficulties designing large-scale projects, given their small populations. Nor do they have sufficient public funds to introduce subsidies in several transport projects at the same time, as do investment-grade countries. As a result, these countries will need to carefully prioritise any projects demanding financial support from the government.

Many Sub-Saharan African countries in this group face problems of poverty, food security and health. Increasing investment in infrastructure will face impediments, such as a lack of trained workers, low public-sector salaries, extensive government bureaucracy, underdeveloped financial systems, and poor mechanisms to enforce legal and regulatory frameworks. These countries will have a high dependence on donors for funding, capacity and implementation of projects.



4. Overview of transport PPPs in OIC member states: Implementation obstacles for countries with a PPP framework

In the sections below, this report discusses the challenges for implementing PPPs in OIC member states with a PPP framework. All countries in Group 2 and 4 discussed in the sections below are deemed to have a PPP framework in place. Those countries without transport PPP experience are called “Group 2 countries”, whereas countries that have implemented at least one transport PPP are called “Group 4 countries”. Group 2 and Group 4 countries are introduced and discussed together, as they are considered to be further along in terms of PPP market maturity and share many common challenges in implementing PPPs.

4.1. Introduction to Groups 2 and 4

Countries in Groups 2 and 4 have built upon existing legislation to enhance their ability to implement the various forms of PPP, as well as provide institutional co-ordination and promotional support to PPP projects. Countries in Group 2 have yet to implement projects, whereas those in Group 4 already have at least one project under their belt. At present, there are only three countries in Group 2: Bangladesh, Kuwait and the Kyrgyz Republic. While the countries in both groups have, to differing levels, implemented a framework for the development of PPPs in transport, there remain many barriers to full implementation. In some cases, frameworks have remained static over time, failing to evolve as PPP models and best practice develop. From the research, the most common problems are much the same as those experienced in some of the countries in Groups 1 and 3.

Politically, some of the countries in Groups 2 and 4 have been through unstable times. Even with good frameworks, without a stable political system and the will to develop PPPs, little can happen. Many of the countries are ruled by coalitions constructed from different sectors of society, which can be as much in conflict as in co-operation when in government. This is often made far more difficult by the common lack of a national policymaking system that would drive the development of PPP in spite of political instability. Some of the countries in this group have recently suffered civil conflicts, which have required already initiated PPP projects to be put on hold.

Institutionally, there are still issues with the lack of expertise in the PPP units that have been set up (especially where there are two-tier, national and regional, government structures). It is good to have PPP knowledge at the national-government level to develop the PPP, but, when the delivery is the regional level, the knowledge is not there to take projects forward.

Another issue directly linked to both political and institutional instability is corruption. There are a number of countries in this research where corruption presents a significant block to the introduction and successful implementation of PPPs. This is partly because the introduction of PPPs threatens the traditional way of procuring projects. It is also because political favours may result in a bidder-selection process that is not based on merit.



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PPPs also have an important social aspect, as they significantly change how public services are delivered. In some countries, public utilities remain difficult to sell off, because of a murky regulatory environment. These enterprises tend to be inefficient and overstaffed, and the risk of labour problems could arise where downsizing would be appropriate. This issue is prevalent in the rail sector as well. Many of the countries researched have, or have had in the past, highly overstaffed organisations, which are the result of a system comprising the almost entirely manual delivery of services such as maintenance, but which has over time become a modern mechanised systems that requires significantly fewer staff. This in itself causes a political issue, as there are few politicians who would want to be responsible for signing off on a PPP contract that puts many thousands of people out of work. Countries that have a framework as well as project experience are classified as Group-4 countries. These countries are Albania, Egypt, Indonesia, Côte d'Ivoire, Kazakhstan, Malaysia, Morocco, Nigeria, Pakistan, Sierra Leone and Tunisia.

Spotlight on Group 4

Group 4 countries have implemented some of the reforms necessary to address the political, legal, institutional and social aspects of PPPs. Most importantly, they have PPP-specific legislation and specialised institutional structures.

In Albania, for instance, the PPP law contains provisions ensuring a fair and transparent selection process (with a pre-selection of bidders; a procedure for requesting proposals with a distinction drawn between technical and financial proposals; the possibility of two-stage procedures; the publication of concession awards; limited exceptions to concession awards without competitive procedures; the existence of review procedures; parameters for the negotiation process, and so on). This means that the provisions regulating the project agreement give clear guidance on the main issues to be covered, yet remain sufficiently flexible to allow the parties to freely negotiate terms.

Morocco, despite the absence of a specific PPP government policy, is developing PPPs in many different fields and is adopting institutional changes while trying to draw lessons from international and past experience. The enactment of a specific PPP law would further contribute to the development of PPPs in the country. Indeed, as in other countries, it is important to realise that PPPs involve more than just a different form of contract. However, even in this group, there are countries where the systems and framework are in place, but there remains a lack of capacity in the public sector, which is broadly unfamiliar with the PPP mechanism. Poor co-ordination persists between central and local levels of government; overlapping regulations and the implementation of conflicting laws are holding back project improvements.

It is clear that some of the common obstacles faced in the implementation of PPPs in the transport sector present a problem even in the countries that have experience of PPP projects. These countries require incremental improvements in the same areas as do countries without a framework, but with some experience. These areas include well-defined legislation, transparent and well-structured procurement procedures, a willingness at all levels of government (in particular those that will be most directly affected by the introduction of PPPs), and an enhanced understanding that not all PPP structures generate funds for the public sector and, therefore, there must be a willingness to share financial risk. Also necessary is an understanding that PPPs work best if, in certain cases, the private partner is allowed



Group 4 Countries

Country	Total Projects	Total Investment (\$m)
	1990-2011	1990-2011
Malaysia	45	16,422
Indonesia	29	3,669
Nigeria	26	3,359
Egypt	9	2,315
Pakistan	9	2,555
Ivory Coast	4	382
Kazakhstan	2	262
Morocco	2	400
Albania	1	308
Sierra Leone	1	130
Tunisia	1	840
Totals	204	45,110

Source: The World Bank and PPIAF database online, November 2012. Please note that PPIAF figures are not always consistent with national sources due to differences in time periods, data collection methodology and definitional criteria.

freedom to manage and innovate in order to bring the financial and operational efficiencies that are the basic drivers of implementing PPPs.

4.2. Groups 2 and 4 outlook for transport PPPs

For PPP projects to thrive, a comprehensive, best-practice legal framework is required

Although the countries in Group 4 have a minimal level of legal and institutional framework for PPPs, in some cases PPP procurement by central-government departments is still not addressed in the country's legal framework. The regulation and procurement of projects besides concessions, therefore lack a clear legal basis. Furthermore, there is no clear foundation for the procurement of broader PPP categories, such as those involving payments from the contracting authority to the project company (as opposed to user fees). While it may still be feasible to develop these categories of PPP using existing legislation, by enacting a PPP-specific law, the governments could more clearly expand the type of PPP models it implements, group all PPPs under one unique *umbrella* framework and strengthen the legal basis for procurement (whether at a local, regional or national level). This would also reassure investors of the legal basis for their projects.

There are a number of countries that, despite having legislation in place, have some major elements missing or poorly defined. For instance, a country's concession law can provide for PPPs by defining them as the transfer of state-owned facilities for temporary ownership, with the aim of improving the efficiency of exploitation, as well as rights to construct new facilities with finance provided by the private partner, or on condition of co-financing by the concession grantor (the public partner). However, if concession facilities are not allowed to be pledged as security, and availability payments should not be made by the concession grantor to the concessionaire, significant obstacles remain. Even in cases when the law



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does envisage government surety and guarantees to the concessionaire, if concessionaires cannot place infrastructure bonds on local stock exchanges, private-sector interest in the project and the ability to implement will be limited.

There are also countries that have taken good advice and looked at international best practice when developing their legislation. Their laws may be praised as “best in the region” or “following best international practice”. Many lessons can be learnt from these countries, as they show different elements of best practice in their laws. For example, even after adopting a law that enables and guides concessions, and defines the modalities, criteria and procedures for granting concessions, independent regulatory bodies in the transport sector may not be established. Such bodies are a key part of ensuring the success of a project over the long-term.

In Pakistan, a Public-Private Partnership Law has been enacted, based on an inter-country comparison, which incorporates international best practice and is consistent with the other components of the country’s enabling PPP framework. Apart from specifying the various sectors and PPP modalities covered, the law outlines the institutional arrangements for PPPs; specifies the government agencies acting as the public-sector partners; assigns the responsibility for PPP-project identification and preparation; stipulates the rules, procedure and responsibility for the selection of the private-sector partners; lists the main terms and conditions of PPP agreements; outlines the types of government support; and defines the cost-recovery and risk-sharing principles. This type of law is required for PPPs, but is rarely developed to this extent. Having a good, specific, yet wide-ranging law such as this gives confidence to the private sector when looking at where to make PPP investments.

In Bangladesh, the guidelines for the Policy and Strategy for Public-Private Partnerships are also quite well defined, encompassing definitions of the applicability of PPPs; the sectoral coverage; the eligibility of private-sector partners; forms of participation of the government with a clear definition of the institutional framework; and the approval procedure. Providing a clear definition of the institutional framework within the law is one that is missed by many countries. For the private sector to be drawn to PPPs, it must know how its participation will be managed and what the structure of the partnership arrangement will be.

In the Kyrgyz Republic, a new law on PPPs was adopted by the country’s parliament on 12th January, 2012 that aims to overcome the shortcomings of the previous law. This new law establishes clear requirements and oversight mechanisms at all stages of a project, but leaves vague the identity of the “authorised state body for affairs of public-private partnership that is being created” by the government and of the “state body for managing risks”, together with central or local government bodies, which will oversee the sphere. However, the law does require that risk be allocated between the public and private parties, as well as indicating compensation for possible changes in the contract, which must be specified in the agreement. This is an issue that is often missed in the development of PPP legislation. Risk sharing is a contractual necessity and it must be stated in law that this is the case.

PPP units should be staffed with adequate skills and tasked with appropriate goals to launch and maintain successful projects

In a large number of the countries in this group, the structure of PPP units and how they relate to both the Ministry of Transport and the Ministry of Finance are quite similar. The majority of countries have



established, or are in the process of establishing, central PPP units and a large number of these are within the Ministry of Finance. However, when it comes to the Ministry of Transport, or any line ministry wanting to implement PPP projects, the number of countries with PPP units and expertise at this level is limited. One issue with a PPP unit being established in the Ministry of Finance is that it is often the case that this is resourced only by financial planners and the other technical and social requirements of PPP are forgotten. However, while this is not an ideal situation, if the central PPP unit has the right level of expertise and the resources available, there is no reason why it cannot take a major role in all PPPs and at the same time assist the line ministries in developing their own expertise.

The structure and responsibilities of these PPP units do, however, vary, in some cases quite significantly. To have a well organised, reliable and professional central PPP unit requires a team of experts in all aspects of project development, evaluation and operation. This includes legal, financial, technical and institutional experts. These should be guided by national policy and a single goal for the development of PPPs.

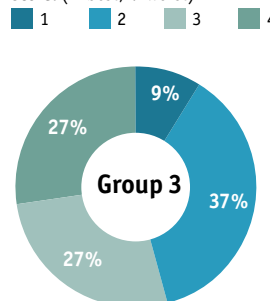
It is clear that some of the countries will struggle to reach a best-practice structure, because it is not only a question of having expert resources inside the PPP unit, but also a matter of how projects are managed and developed. For instance, in some countries the institutional framework for the development of PPPs involves many different entities, such as a PPP advisory council, various cabinets and committees, a PPP office, a line ministry or implementing agency, a finance division, and a planning commission. All of these have a role in the decision-making process for PPPs. This can work well, but only as long as there are not too many conflicting opinions. However, Kazakhstan has created a publicly owned joint-stock company called the Kazakhstani Centre of Public-Private Partnership. The sole shareholder is the Government of the Republic of Kazakhstan, represented by the Ministry of Economic Development and Trade. This organisation reports to the Commission for Concessions on Facilities Listed as National Property, which is chaired by the prime minister. The good thing about this type of structure, with the PPP unit, as a joint-stock company, being outside direct government authority, is that it can, if allowed, play the role of an independent government counsellor and adviser.

Such a role also has different levels of involvement and responsibility. Obviously, the least involvement a PPP unit could have is to serve purely as an identifier for projects that fit into the national programme for economic growth, passing recommendations on to the relevant line ministries. However, a PPP unit should provide a significant level of advice, resources and expertise to all parties, including the private sector.

There are countries, such as Egypt, where the role of the PPP unit has grown over time. Here, the Central PPP Unit was established in 2006 in the Ministry of Finance to drive the development of policy and legislative framework. Its role is to appraise and deliver PPP projects in co-ordination with line ministries and the public sector, to oversee the necessary capacity building of public-sector personnel, and to communicate the government's PPP vision and message to the private sector and broader community. The

Skilled labour risk score: Group 4
(%)

Score: (1=best, 4=worst)



Source: EIU, Fall 2012, Risk Briefing.



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Central PPP Unit was later reorganised to increase its oversight and quality-assurance role, and is now responsible for the provision of a secure legal framework to encourage private investment in Egypt's pipeline of PPP projects.

In Malaysia, the central PPP unit, as the core agency, has been given a wide-ranging remit to co-ordinate privatisation and the PPP projects that have made an impact on the country's economy. Among the functions of the unit are encouraging economic growth through increased investment and fostering greater co-operation between the public and private sectors; planning, implementing and evaluating privatisation and PPP programmes; ensuring value for money through cost-effective initiatives and optimum risk distribution; and optimising the country's resources and expertise in the public and private sectors. This is a far wider remit than that of the majority of the central PPP units in the countries researched and shows a high level of understanding of what PPP projects are for: that is, not simply bringing in private finance to build infrastructure, but also to contribute to the growth of the economy.

However, there are still a number of countries in this group where PPP units are in the process of being established, and these countries lack minimum experience and resources for managing PPPs. The role and functions of new units need to be clearly set out from the start, and consultative resources should be engaged to help fill minimum capacity and expertise gaps.

Setting out a long-term plan enables PPPs to demonstrate their strengths

The common pitfalls during the planning process for PPPs are insufficient project preparation; inadequate legislation, particularly in procurement; a lack of understanding of the differences between PPP contracts and traditional contracts; and not allowing the innovative approaches needed within PPPs to ensure success.

The PPP planning process should start with a transport policy or plan that sets out the long-term aims of the government for the sector. In Indonesia, the government has a strategy on infrastructure development in its Five-year National Development Plan (2010-14). This builds on a number of pillars: 1) to increase the infrastructure level; 2) to enhance PPPs (shifting the government's role to one of *facilitator* or *enabler* and focusing on *service sustainability*); and 3) to support improvements in competitiveness. The specific policy on PPPs aims at streamlining the process, implementing existing projects listed in the PPP book, strengthening PPP institutions and providing proper preparation to reduce the cost of transactions. However, plans such as this are lacking in many countries worldwide.

Having defined an overall plan for transport projects, it is important to undertake an evaluation of those projects to ensure they are suitable to take forward as PPPs. In Pakistan, for instance, under the 2010 PPP Policy, projects are selected from the relevant line ministry's programme of projects to establish whether they have the potential for development as a PPP. In selecting these projects, the procuring agency is required to conduct an options analysis to determine the best solution for providing services and building infrastructure. This is followed by the preparation of a pre-feasibility study, then technical, legal, environmental and financial due diligence. The transaction adviser is required to conduct in-depth due diligence, along with extensive consultation with stakeholders, and the government is to assess whether the proposed project meets its criteria for risk, viability, bankability, affordability and value for



money. However, as in all such cases, the process may be limited by the ability of the relevant agencies to select, plan and procure projects with private investment.

Once a project has been chosen to be procured as a PPP, be it through a structured evaluation process or not, the steps required to take it forward to procurement start with the need, as with any major project, to conduct an evaluation of its feasibility. In Egypt, a feasibility study must be carried out for each project by a special committee set up for this purpose. Once this assessment is completed, the PPP central unit reviews the findings of this committee. The procuring authority may, with the permission of the PPP central unit, then elect to tender the project. In Bangladesh, the overall strategy for PPPs includes, with the institution of the PPP Technical Assistance Fund, steps to provide early-stage financing for consultants to assess the feasibility and negotiate contracts. This is also a recognition of a discussion that has taken place for many years worldwide: the need to employ expert consultants to assess the feasibility of PPPs.

The use of a well-defined procurement process is then the major undertaking without which all the work done beforehand can easily be wasted. Over time, there have been a number of bidding processes developed for PPPs, the most recent being *competitive dialogue*. This has been adopted in Egypt and is defined there as a two-phase process, the first phase being a non-binding bid that includes the broad terms of the bidder's technical and economic offer, followed by a competitive dialogue with the qualified investors. In the second phase, final bids are submitted, upon which the final evaluation is based. Also important is the fact that the process is defined as a *two-envelope procedure*, taking both the technical offer and the economic offer into account. What is also critical in PPP projects is that there is a process of negotiation, with a successful bidder. In such cases, negotiations may take place with respect to certain technical and financial aspects of the bid. However, as would be expected in this process, these negotiations must carefully steer clear of discussing non-negotiable contractual terms or any terms that are not subject to reservations raised by the bidder in its offer. Negotiations must be carried out in a way that protects fairness and transparency, rather than favouring certain bidders over others.

A structured approach to the planning and procurement process is not in place in all countries. In Kazakhstan, although there are regulations that establish planning frameworks and appoint public bodies responsible for each stage of the planning process, evaluations and decisions regarding the creation and planning of PPP projects would benefit from being more systematic. In recent years, there has been discussion around the development of a blueprint for PPPs for 2009-14, 2010-20 and a programme for 2010-14, but these plans have not yet been executed.

During the planning process, the main public-relations problems are caused by low affordability (if local populations refuse to pay tariffs for infrastructure), or by conflicts with private-land owners regarding necessary land purchases for projects. Although private owners are normally obliged to abide by the expropriation procedure required to build a piece of infrastructure, they can stall the process, make projects more expensive, and reduce the credibility of PPPs in the public eye. Port projects within the countries in this group have what is probably the most direct impact on the natural environment and research has shown that assessments of the environmental impact have normally been undertaken and acted upon by the concessionaire.



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Transparency helps keep the private sector interested

As stated in the review of countries in Group 3, above, before any PPP can be put in place, it is essential to generate private-sector interest. This can be difficult to achieve, for many reasons. One of the most difficult problems to overcome in some of the countries in this group is the unstable political situation. There have been many cases worldwide where the letting of a PPP has been moving forward with companies submitting their bids, which are expensive to prepare, only to find that, because of a political whim, the whole process has been abandoned and they receive no compensation. In some countries in south-east Europe, this has happened three or four times with the same PPP project. Each time the project is re-tendered, the number of bidders gets smaller as they become increasingly unwilling to take the risk. This is also apparent in countries where political actors and systems are more concerned with maintaining a particular political party or group in power than with other project-related considerations. Private investors looking to participate in PPPs are often scared off by such instability and institutional uncertainty.

Experience shows that a lack of transparency in the bidding process will likely lead to a wasted bidding procedure. This is particularly true where the outcome of an otherwise transparent bidding process changes course at the last minute, or where insufficient notice is given before tenders close. More than one country in this group suffer from this problem. Even when regulations are in place to require bid award by open tender, cancellations can occur after the contract has been awarded using the prescribed process; or, in other cases, to get around the requirement of a fair tender process, the advertisement of the bid can be done discreetly, so that only those companies who are connected to the procuring authority know that the bid is taking place. Not just the letter of the law, but also its intent, must be fully applied to ensure transparency and fairness in project bids.

There are also many legislative obstacles that deter international interest in many countries. In some countries, for example, international tenders are generally invited only when domestic goods and services are not available. In most procurements, foreign companies must take on a local partner for their bids to be considered. This immediately gives rise to doubts for private investors about how much business they can achieve in the country.

Countries must always ask themselves: Is a PPP truly affordable?

Not having fiscal and budgetary checks in place within the line ministries, and, most importantly, within the Ministry of Finance, can lead to significant fiscal and budgetary risks. The countries in this group have structured the planning process in varied ways, so that, in some cases, the Ministry of Finance has full involvement and, in others, budgetary and fiscal checks are almost completely devolved to local and regional governments (with little involvement on the part of the Ministry of Finance). The Ministry of Finance should, moreover, be consulted and involved after the initial approval to tender a project has been granted, to ensure that contract design and oversight are adequate and that public balance sheets continue to reflect the project's realities and implications.

One of the key drivers of fiscal and budgetary risk when dealing with PPPs, in particular those that require some form of financial support from government, is affordability. Many countries throughout



the world have suffered from not having a full appreciation of the necessary financial commitment to supporting PPP projects and have overcommitted their transport budget just to fund PPPs. Or, they have been caught out by the financial crisis and have had to change how the PPPs are funded, from government support to exclusively user contributions. This, in itself, then causes major problems for the users and inevitably provides insufficient income for the project. The project consequently turns into a large risk or burden on public balance sheets.

There is another issue that is often overlooked: the involvement of multilateral or bilateral lenders in making loans to the state. While these loans are obviously granted on favourable terms and over long tenors, they do place a financial burden on these countries. This is particularly true of countries with high inflation, poor economic growth and weak fiscal positions. Taken together, and when not managed tightly, these competitiveness drawbacks can reduce the country's ability to develop a reliable and mature PPP market.

Not only does the lack of involvement of the Ministry of Finance, or any national line ministry, have an influence on the management of fiscal and budgetary risk, it also affects the devolution of responsibilities to local and regional governments. Such gaps in governance and oversight can lead to PPPs being let by local and regional governments without full disclosure to the central government, thereby risking an over-commitment of local and regional budgetary resources that will inevitably reflect on the national fiscal position. However, it is important for many countries to develop PPPs at local and sub-national levels. This is true of light rail networks, as well as roads. There are many countries that have only developed PPPs via devolution because it is easier and more viable to conduct a local PPP than a national one. The downside of this is that local authorities often lack sufficient human resources, financial capacity and authority to facilitate and implement more complex PPPs. Furthermore, local authorities often cannot give financial guarantees, which can be a major obstacle to the development of such projects.

Countries must fully understand the types of risk PPPs represent to both public and private sectors if risk is to be properly allocated

The allocation of risk between public and private partners is one of the basic foundations for PPP projects. The level of risk that is either passed to the private sector or shared will define both the form of the PPP and its chances of success.

One of the most important things about the transfer of risk from the public to the private sector is that private contractors are willing to take some of the project risks, provided that the nature of the risks relates to their expertise, so that they will be able to assess the consequences. The expected remuneration is proportionate to the level of risk they will bear. Unacceptable risk will result in higher costs. Asking the private sector to bear risks that could best be handled by the public sector will usually result in either a withdrawal of the private partners, who refuse to take the risk, or premature termination by the contractor, with the possibility of the company going bankrupt. With transport PPPs, there have been a number of basic premises accepted worldwide, around which the allocation of risk has been formulated. The private-sector partner bears the construction risk, and also bears at least one of either availability or demand risk.



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Among the countries in this group, a varied level of understanding of how to allocate risk can be seen, from basic to sophisticated. In Malaysia, for example, the system shows a mature approach to the allocation of risk; the government utilises a concession model for highways and bridges, which is normally structured as a build, operate, finance and maintain (BOFM) contract, and the revenue stream comes through user charges (or tolls). However, it has been recognised here that there are differences in commercial and economic environments where these highways are located and, therefore, the allocation of risk varies according to the project. Some projects are given financial support, such as government-guaranteed loans, interest subsidies on commercial loans or government soft loans. There are also projects where demand risk is shared between the government and the private company. However, there are also projects where these finance and demand risks are entirely borne by the concession company.

There are a number of countries that have policies on risk allocation that are not as specific, but show at least an understanding of the need to share the risks. In other countries, the allocation of project risks, which includes completion, operation and performance, market, financial, environmental and land-acquisition risk, is not practical. For example, it is well recognised that the risk of land acquisition must be borne by the public sector, because it is a risk that no private company can control. Improper allocation of this risk to the private sector can lead to contract cancellation, or the inability to attract sufficient interest, before the project starts. At the same time, non-project-related risks, such as political, contract or regulatory, macroeconomic-volatility and legal risks, should again be allocated to the government, or shared between the two parties to a reasonable extent.

While PPP regulations in these countries often specify that concession agreements should provide for the remuneration of the concessionaire, laws in some countries do not specifically refer to the possibility of providing a subsidy or other economic support to a project. This puts all the emphasis on the tariffs or fees to provide sufficient revenue to support all the financial requirements of the PPP, which is a huge financial risk in any such contract.

One financial risk that can never be specified in any legislation or contract is born of the level of inherent corruption that exists within public bodies. While the PPP law may require the allocation of risk between public and private parties, sometimes it does not specify guidelines for that allocation, which is left as a subject of negotiation between private and public partners. So, while contracts with foreign partners may be observed, there may be cases of foreign companies needing to pay economic compensation to public officials as bribes or to local communities for social reasons. Although, in many cases, the culture of corruption is being reformed, it will take time for such changes to take root. As a result, risk allocation is a key area of weakness for future PPPs in some countries, should they be implemented in future.

It is clear that, while there is an understanding of the need for the sharing of risk in a PPP project, the extent to which this need is addressed can be quite different between the countries in this group. Experience from around the world where PPP projects either have been or are now being implemented shows that this is not unusual. However, it is vital for all countries embarking on PPPs as a way to deliver public services to look at those countries where PPPs have been successful and recognise the need for well defined and equitable risk allocation to ensure the success of a project.



Long-term contracts are unlikely to be respected in full without adequate institutional and regulatory frameworks for project monitoring

Just as with the countries in Group 3, it is essential that an institutional structure is put in place to monitor the PPP contract throughout its 10, 20 or 30-year term, to ensure that the conditions of the contract are upheld by the private sector. Often, even countries with robust PPP frameworks, such as those in Group 4, lack the necessary set of defined programmes and procedures to monitor long-term contracts.

Throughout the project period, representatives of government must have full knowledge of the contract terms and what the private sector has promised to deliver. Without this awareness, the chances that the private sector will violate a provision in the contract at some point are high; such violations can later result in a need to renegotiate the project or, in the worst-case scenario, in cancellation.

Countries also suffer from constant changes in institutional design, which introduce uncertainty into the structure and role of the relevant state agencies when planning a project. As a result of frequent institutional change and consequent uncertainty, governments and line ministries simply lack the capacity to run PPP projects. In other cases, officials lack relevant experience from prior projects because the projects that are let as PPPs have previously been provided by the public sector. In some cases, countries lacking experience and capacity seek to fill this gap by relying heavily on donors to guide and support PPP planning. This can create a problem of over-dependence, where gaps are left behind once donors have left the initial project stages. There are no mechanisms to ensure transparency and fairness after a project award, and, therefore, failures later on in the lifecycle of the project are still likely.

4.3. Implications for Groups 2 and 4

Looking firstly at the development of PPP units and how they relate to both Ministries of Transport and Ministries of Finance, the majority of countries have established, or are in the process of establishing, central PPP units. A large number of these are within the Ministry of Finance. However, when it comes to the Ministry of Transport, or any line ministry wanting to implement PPP projects, the number of countries with PPP units and expertise at this level is limited. While this is not an ideal situation, if the central PPP unit encompasses the skills required in all aspects of project development, from evaluation and operation to legal, financial, technical and institutional, such a unit is likely to accomplish its goals. What is required is external institutional advice from a recognised international organisation such as UNECE, which promotes and assists institutional reform to help ensure the development of good institutional conditions for PPPs.

Having well defined and understandable legislation is critical and, while some countries have such laws in place, they require further improvement to ensure the long-term success of these projects. It is essential to have a defined PPP law, which has been developed by experienced legal advisers and has been recognised by an international financial institution as a workable piece of legislation. Many countries have made positive progress towards creating a structured procurement process to ensure the fairness,



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transparency and competitiveness of project bids and awards. However, there are also countries that, owing to high levels of corruption and vested interests, are still not following this route.

One of the key fiscal and budgetary risks when dealing with PPPs, in particular those that require some form of government support, is *affordability*. It is the involvement of the Ministries of Finance from the outset of PPP projects that should reduce the potential need for a subsidy. However, as has been seen across the world, many countries have been caught out by the financial crisis and have had to change the types of PPP applied and how they are structured. Governments must recognise that any PPP that involves financial contributions from the government is a long-term commitment and must be evaluated with great care; but even those implemented as user-pay types must have robust models supporting their expected profitability. Central governments' awareness of fiscal commitments and exposure to local and regional PPP projects also needs to be improved.

The ultimate aim is to ensure that a planning process is in place to look at the overall national need for transport and then define what projects could best be implemented as PPPs. The idea that a powerful politician can independently decide the need for a transport facility may work in a world of public delivery but, with a PPP, unless the project is financeable, it will never work. Therefore, a rigorous evaluation process is essential to success.

Without the private sector, there can be no PPPs. It is therefore essential to overcome political obstacles to ensure that the private sector becomes, and stays, interested in such projects. The unstable political and regulatory situation in some of the countries will take many years to overcome. Having all the processes and procedures in place will help to give the private sector some confidence that, in spite of political uncertainty, the institutional structure underneath can be as constant as possible.

Finally, there is the issue of risks and who will take them. Ensuring that the legislation and contracts specify the broad range of risks that must be included and then properly applies this to individual projects based on their condition is the way ahead. No PPP can work without a clear and equitable allocation of risk between the public and private sectors.



5. Improving PPP implementation

The main objective of this section is to review options for improving the likelihood of successfully implementing PPP projects in the transport sector in OIC member states. Recommendations are made for increasing the efficiency of the institutional and legal framework, private-sector participation, financing, and PPP-project development. The estimated required time and cost for the recommendations is provided, as well as the expected results. This section also discusses opportunities for technical co-operation among the member states.

Several options are available for strengthening the capacity of OIC countries successfully to implement PPP projects in the transport sector. These include: institutional support; legislative and regulatory reform; the use of international financial institutions and other international support; private-sector development; public-awareness campaigning to promote the understanding of PPPs; several financial instruments that may be used to support PPPs; capacity building through different forms of training; and technical assistance and co-operation.

5.1. Institutional support and institution building

It is advisable that each member state reviews the institutions that are in place and the ones that are required for a successful PPP programme. A study conducted by the European Parliament⁶⁰ has concluded that, in general terms, the availability of private capital for infrastructure tends to grow, driven by the need from predominantly institutional investors for more investment opportunities, preferably low-risk and long-term ones, to match the future financial obligations of an ageing population. The key issue, according to the report, is the lack of well-prepared projects with a bankable risk profile.

PPP Unit

PPPs often entail complicated contracts that differ significantly from project to project (for example, significantly different contracts are required for a road project and for a seaport project) and from place to place. To address this problem, countries, states, and provinces around the world have created specialised institutional entities—called PPP units—to fulfil different functions, such as quality control, policy formulation and providing technical advice.⁶¹ A PPP unit is a dedicated entity tasked with implementing, facilitating or advising on PPPs.⁶² A well-staffed and centrally positioned unit, or PPP Unit, with a mandate to prepare and implement a priority list of PPP projects, is considered to be more effective and efficient than sector authorities with generally less experienced staff, since it will enable an element of standardisation in the project approach.⁶³ While institutional support to line ministries is also desirable, it appears to make sense to give priority in the short term, in case of budgetary constraints, to establishing or enhancing a central PPP Unit. Once the central PPP Unit has been strengthened and acquired the requisite level of expertise and resources, the unit should take a major role in all PPPs and at the same time assist the line ministries (for example, the Ministry of Transport) to develop or enhance their own expertise.

⁶⁰ European Parliament. 2007. “New Financial Instruments for European Transport Infrastructure and Services.” Directorate General Internal Policies of the Union. Report prepared by ECORYS Nederland BV.

⁶¹ Robert Puentes. 2012. “Strengthen Federalism: Establish a National PPP Unit to Support Bottom-Up Infrastructure Investment.” Brookings Institution. Washington, D.C., USA.

⁶² World Bank Institute and PPIAF. 2012. “Public-Private Partnerships Reference Guide”. P. 87.

⁶³ Ibid. P. 64.



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Key success factors for PPPs include political commitment, clear policy, an enabling legal framework and a competent administration, as well as the availability of public and private capital. While these factors may appear not to be fully met, establishing a PPP Unit in a core ministry (for example, the Ministry of Finance), as well as a PPP dedicated team (that is, a sectoral PPP Unit) in an implementing ministry (for example, the Ministry of Transport), is expected to help create an environment conducive to a solid PPP programme.

TOR for a PPP Unit

A PPP Unit must acquire different skills—financial, legal and contract-management-related—which may be hard to come by in the traditional public sector. There may also be a need to introduce new processes for screening and approving PPP contracts.⁶⁴

It is likely that OIC member states wishing to establish or enhance their PPP Unit will benefit from specialist advice. The following are key tasks suggested for inclusion in the TOR⁶⁵ when selecting an adviser to facilitate the successful establishment (or enhancement) of a PPP Unit within a core ministry:

- (a) Prepare any primary and secondary legislation, or legislative amendments, necessary for the establishment of the PPP Unit and the implementation of the other aspects of PPP policy
- (b) Design the operating model of the PPP Unit—its organisation and management structure, staffing requirements, skill requirements, job descriptions, training requirements, key processes, information requirements, and systems requirements
- (c) Advise the key ministry (e.g. the Ministry of Finance) on the most efficient relationship between the PPP Unit and the PPP agencies at line ministries and local authorities
- (d) Prepare the documents necessary to guide the implementation of the PPP Unit, including draft procedures and operating manuals
- (e) Develop an indicative budget for the PPP Unit, and recommendations on how this budget is to be funded
- (f) Develop pro forma initial standard PPP bidding documents
- (g) Assist the ministry in the recruitment of staff for the PPP Unit
- (h) Provide initial training sessions, in respect of the above-noted tasks, for the staff of the PPP Unit, once they have been recruited
- (i) Support the PPP Unit in hosting an awareness seminar for government stakeholders, in which the PPP Unit is introduced to the relevant line ministries, local authorities and other concerned agencies of the country
- (j) Support the PPP Unit in hosting a seminar for the public to increase awareness of the benefits of PPP initiatives
- (k) Support the PPP Unit in the identification of pilot PPP projects, in close collaboration with the relevant line ministry (e.g., the Ministry of Transport).

⁶⁴ The World Bank and IFC. 2006. “Public-Private Partnership Units: Are they needed and what should they do?.” IFC Online Discussions. Available at: <http://www.worldbank.org/public-private-partnership/>

⁶⁵ Sample TOR are available, for example, at the PPP in Infrastructure Resource Center online, available at: <http://ppp.worldbank.org/public-private-partnership/>



The pilot projects, particularly for countries with a limited PPP pipeline and experience, should be comparatively modest in size and scope, and should be selected on the basis of the ease and speed of completion and operation.

5.2. Legislative and regulatory reform

Concession and PPP legislation set the framework for overcoming public-budget limitations for infrastructure building by making use of private-sector resources, including financing and know-how.⁶⁶

As discussed in section one, from a legal and procurement perspective, there are two broad types of PPP: (i) the user-pay type of PPP; and (ii) the public-entity-pay type of PPP. In the former, the concessionaire is responsible for designing, building, financing, maintaining and operating⁶⁷ a facility (commonly referred to as DBFMO); in the latter, the concessionaire is responsible for designing, building, financing and maintaining (DBFM) the infrastructure asset. In a DBFMO PPP, the demand and performance risks are transferred to the private sector, whereas, in a DBFM, the performance risk, but not the demand risk, is transferred to the private sector. A broad PPP legal framework should allow for both types of PPP. Even some of the countries in Group 4 that have a good framework for PPPs would need to review their legislation to make it more broader, as the current laws do not always specifically refer to the possibility of financial support to the private partner, such as a fee based on the performance of the facility. In other words, under current systems, all the revenue to a PPP concessionaire would have to come from users' tariffs or fees, which is a substantial financial risk in some contracts.

PPPs tend to be more successful where there is an investor-friendly, transparent and predictable legal environment.⁶⁸ Specialised assistance may be required in some OIC member states to develop or enhance legal rules and to establish legal institutions.

A study by the European Bank for Reconstruction and Development (EBRD) illustrates that several countries, where concession legislation has low-to-medium compliance with international standards, have limited or no successful PPP programmes.⁶⁹ In addition to an enabling legislation for public authorities to enter into PPPs, it may also be necessary to ensure that investors can take security over project revenue. An appropriate legal framework may reduce the need for public-sector guarantees, thereby facilitating the transfer of risks to the private sector, which is a key feature of PPPs.

Legislative framework

As described in detail in the Toolkit for *PPP in Roads and Highways*,⁷⁰ a legislative framework includes two different types of laws: (i) the laws that make PPP possible, also called the enabling law or framework, such as a concession law or PPP law; and (ii) the laws that may have an impact on a PPP project, which are numerous, because PPPs are large and complex multi-faceted projects. While the Toolkit was developed specifically for the road sector, most of its components, mutatis mutandis, also apply to other infrastructure sectors.

The enabling law could either be general or sector-specific, including concession and PPP laws, and sector-specific laws. Examples of laws that typically would have a substantial impact on a PPP project in infrastructure include:

⁶⁶ European Bank for Reconstruction and Development. 2012. "Concession/ PPP Laws Assessment 2011." Final Report.

⁶⁷ "Operate", in this case, means that the private entity (concessionaire) charges the user a fee for the use of the asset (for example, toll roads).
⁶⁸ EBRD. 2010. "Legal Transition Programme: Legal Reform Projects, 1996 to April 2010." London. UK.

⁶⁹ Ibid.

⁷⁰ The World Bank and PPIAF. 2009. "Toolkit for PPP in Roads and Highways."



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- public procurement
- foreign investment laws
- property laws
- dispute resolution
- company laws
- security and insolvency laws
- tax laws
- accounting standards
- labour laws
- intellectual/industrial-property laws
- environmental laws
- competition laws
- tort laws

PPP-enabling laws

According to a study commissioned by the European Parliament, a good PPP law can serve as an important communication and a marketing tool for investors.⁷¹ It should delegate most details to sub-rules and regulations. In case of conflict with existing laws, such laws should be updated or repealed accordingly.

An appropriate concession law is an important factor to help establish an enabling environment for PPPs. It should apply to the construction, expansion, rehabilitation and maintenance of assets providing a public service, aiming at improving the efficiency and modernisation of public services.

A concession law can be kept relatively simple and general, while specific regulation (for example, the way in which the procurement process will be conducted, award criteria and select committees) should be documented in operational guidelines (or decrees). A separation between law and regulation provides more flexibility for amendments during the implementation of a PPP programme.

Nevertheless, a PPP framework law (or enabling law) is not essential for a successful PPP programme. For example, the UK, which is the European country with the most developed PPP market, does not have a specific PPP law (which may be related to the UK's system of jurisprudence and tradition of common law).⁷² The UK relies on its commercial laws to implement PPP projects. However, in several OIC member states, the existing laws may need to be modified to allow for successful infrastructure PPP projects, such as enabling the granting of step-in rights to lenders and requiring open and fair procurement processes. These modifications may be embodied in sector-specific law or, in the case of procurement, a procurement or competition law. Alternatively, they could be included in a general concession or PPP law. Guidance on drafting PPP and concession laws, including sample ones enacted, is provided by the World Bank.⁷³

⁷¹ European Parliament. 2007. "New Financial Instruments for European Transport Infrastructure and Services." Directorate General Internal Policies of the Union. Report prepared by ECORYS Nederland BV, June.

⁷² C. Queiroz and A. Lopez-Martinez. 2013 (Upcoming). "Legal Frameworks for Successful Public Private Partnerships." In "The Routledge Companion to Public-Private Partnership." Edited by Piet de Vries, Etienne B. Yehoue. Routledge Companions in Business, Management and Accounting.



It is recommended that OIC member states consider disclosing concession agreements. This has several benefits:⁷⁴ (a) it provides a further check on corruption, which in addition to its direct benefits can enhance the legitimacy of the private sector's involvement in often sensitive sectors; and (b) when the concession agreement relates to the provision of services to the public, it provides consumers with a clearer sense of their rights and obligations, and can facilitate public monitoring of concessionaires' performances.

Concession laws should establish clear mechanisms for renegotiation and amendments of contracts post-award (as a way to minimise contract distress and cancellation). While not all renegotiation is undesirable, opportunistic renegotiation should be discouraged in both existing and future PPP projects. Governments need to uphold the contractual obligations resulting from a competitive-bidding process, and not concede to opportunistic requests to renegotiate. However, governments also need to take care not to initiate an overly inflexible post-award implementation process, so that unforeseen problems that arise during the construction and operation phases can be resolved efficiently. Improving the design of concessions and establishing credible regulations can lower the incidence of renegotiations.⁷⁵

5.3. IFIs and international support

Several international financial institutions and other international or bilateral organisations can support the preparation and implementation of PPP programmes in transport and other sectors in OIC member states, including, for example, the World Bank, the Islamic Development Bank (IDB), African Development Bank, EBRD, Asian Development Bank and the Inter-American Development Bank (IDB).

Such organisations can provide resources in several areas, including for capacity building and technical assistance, transaction support, investment funding and financing products for public and private infrastructure (for example, viability gap funds, financial intermediary loans, equity, ease financing⁷⁶ and partial risk guarantees⁷⁷).

Some of the institutions can also finance special-purpose vehicles (SPVs) on a risk-sharing basis. In the particular case of the World Bank, this can be done through its International Finance Corporation (IFC).⁷⁸ Another World Bank affiliate, the Multilateral Investment Guarantee Agency (MIGA),⁷⁹ has adapted its traditional business tools to meet the unique and complex needs of Islamic finance. An example was the Doraleh container terminal in Djibouti, for which MIGA provided a modified-guarantee contract, with a seal of approval from the sharia supervisory board of Dubai Islamic Bank.⁸⁰

Several types of financial support are discussed in more detail in section 5.6.

5.4. Private-sector development (training, PPP associations, awareness building)

PPPs involve two agents (public entities and private actors) whose objectives are different, who are in possession of different levels of information (*informational structure*), and who are rational economic

⁷³ World Bank PIRCC PPP Laws / Concession Laws, PPP in Infrastructure Resource Center for Contracts, Laws and Regulation are available at: <http://ppp.worldbank.org/public-private-partnership/legislation-regulation/laws/ppp-and-concession-laws>

⁷⁴ Cesar Queiroz and Henry Kerali. 2010. "A Review of Institutional Arrangements for Road-Asset Management: Lessons for the Developing World." World Bank Transport Paper No. TP-32. Washington, D.C., USA.

⁷⁵ J. Luis Guasch. 2004. "Granting and Renegotiating Infrastructure Concessions—Doing It Right." World Bank Institute Development Studies. The World Bank. Washington, D.C., USA.

⁷⁶ Provided, for example, by IDB, as reported in The World Bank. 2008. "Risk Analysis for Islamic Banks."

⁷⁷ See, for example, "World Bank Group Guarantee Products" at: http://treasury.worldbank.org/bdm/pdf/Brochures/WBG_Guarantees_Matrix.pdf
⁷⁸ IFC home page: <http://www1.ifc.org/>

⁷⁹ MIGA offers political-risk-insurance (PRI) coverage to foreign direct investors for any combination of the following political risks: transfer restriction, expropriation, war and civil disturbance and breach of contract.

⁸⁰ MIGA. 2008. "MIGA Annual Report 2008: Operational Overview." Available at: http://www.miga.org/documents/08ar_Operational_Overview.pdf



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agents, each trying to maximise their objectives with minimum effort.⁸¹ Such complexities pose some constraints to private-sector involvement in infrastructure projects.

When a government is considering whether to launch a PPP project, several constraints regarding the private partner should be considered. These constraints can be summarised as follows:

- (a) The private sector will do what it is paid to do and no more than that—therefore incentives and performance requirements should be included in the contract.⁸² (b) There is a cost attached to debt—while the private sector can make it easier to get finance, finance will only be available where the operating cash flows of the concessionaire are expected to provide an acceptable return on investment
- (c) Bidding and ongoing costs in PPP projects are likely to be greater than for traditional government procurement processes
- (d) There is no unlimited risk bearing—private firms will be cautious about accepting major risks beyond their control, such as exchange-rate risks, the risk of existing assets, and some demand risks.

Regarding (d) above, the placing of a risk (for example, design, construction, performance, demand, operation and force-majeure risks) on a concessionaire within the terms of a concession agreement does not release the state and its agencies from the impact of events. In most jurisdictions, the state has public-service obligations to the inhabitants of the state and in most jurisdictions this includes, to as high a level as reasonably practicable, the safe and secure use of roads or other transport infrastructure and may as a consequence result in an adverse economic effect, where important transport links cease to be available or are constrained.⁸³ The concessionaire will take into account, when making its proposal, the cost associated with the risks it is expected to bear.

Local private firms that are potential bidders for PPP projects in the transport sector can be strengthened through several approaches, such as:

- (a) Direct advisory services and training, including bid preparation and technical solutions to specific projects. Depending on the nature of the PPP project, specialised training may be required; for example, for a roads PPP project, training on HDM-4⁸⁴ (Highway Development and Management Model) would seem appropriate, so as to allow the private company to estimate capital investments and long-term maintenance costs throughout the life of the concession, which is essential when preparing a proper bid. Alternatively, the prospective bidder may want to associate with a consulting firm that complements the required skills.
- (b) Support through financial instruments, such as loans and partial risk guarantees (discussed under 5.6 below)
- (c) Association with more experienced outside bidders, for example forming a joint-venture, or, initially, as a sub-contractor

Even relatively experienced local contractors may require some help (such as that described above) to bid satisfactorily, win and implement a PPP project in a OIC member state as a concession, as opposed to

⁸¹ Rosário Macário. 2010. "Critical issues in the design of contractual relations for transport infrastructure development." Research in Transportation Economics, Elsevier, Amsterdam. The Netherlands.

⁸² Roads and other transport-infrastructure PPP/concession contracts typically include required standards for construction, operation, maintenance and toll collection. For monitoring the quality of the road during the lifecycle of the concession, several indicators of condition are usual, such as roughness, skid resistance, luminescence of pavement markings, and the presence and condition of signs, lighting and other safety features. Performance on these indicators that falls outside the boundaries of acceptability may lead to penalties for the concessionaire. Enforcing such standards helps the government and the users to reap the maximum benefits of transport PPPs.

⁸³ PPP in Infrastructure Resource Center. 2011. "Risk Distribution Methodology."

⁸⁴ Highway Development and Management Model (HDM-4): <http://hdmglobal.com/>



a traditional construction or maintenance contract. This is because it involves longer-term planning and future-project cost estimates that local contractors may not be used to. The specific support most likely to yield the highest benefits to local contractors will vary according to the country and the proposed PPP project they intend to bid for. More targeted support should be defined through a survey and interviews with the local contractors and government officials (for example, the PPP Unit) responsible for launching the project (or pipeline of projects).

5.5. Public-awareness campaigning to promote understanding of PPPs, and political leadership

Public-awareness campaigns and political leadership are usually required to *sell* the PPP project (or pipeline of PPP projects) to the public in general and to end-users in particular. The latter becomes critical when the PPP project (or projects) being implemented depends on user charges as its source of revenue, such as a toll-road PPP. Nevertheless, consultations are recommended for other types of transport PPP projects as well. For example, the Brazilian government, prior to introducing private participation in the airport sector, in 2008 launched a *broad-consultation process*.⁸⁵

Public support is a requirement for the success of any PPP project, and a clear means of communication is therefore essential. Different groups of stakeholders may have very different views on PPPs, and different priorities and expectations.⁸⁶ It is essential that the entities implementing a PPP project establish a clear communication strategy, with special attention to politically sensitive areas. This should allow the public fully to understand what the project means and its expected benefits.

The public and private partners should co-operate on a common communications effort, so as to ensure a consistent message, and reduce potential confusion. Fairness and confidentiality (where justified) should be ensured throughout the process.

Stakeholder management

Stakeholders are the individuals or groups who have a particular interest in the PPP project (or projects), including internal stakeholders (for example, employees and government officials) and external stakeholders (such as users and public-interest groups).

Consultations bring PPP stakeholders together for an exchange of ideas and opinions, which have several benefits, including:⁸⁷

- (a) Information is shared instead of being kept secret, and this makes it easier to make well informed decisions about the benefit to both the PPP project and the community. Stakeholders should be involved as early as possible
- (b) Reduce the risk of adverse publicity, because problems, real or perceived, can be identified and addressed at an early stage.

Stakeholder consultations, such as public hearings, can be time-consuming, but the potential benefits of reaching a mutual understanding and obtaining business-critical information far outweighs

⁸⁵ Tomás Serebrisky. 2012. "Airport Economics in Latin America and the Caribbean." Directions in Development - Infrastructure, The World Bank.

⁸⁶ ECE. October 2005. "Governance in Public Private Partnerships for Infrastructure Development".

⁸⁷ Ibid.



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the drawbacks. There have been many examples worldwide of the public protesting against fees (for examples, tolls) and in some cases this has caused financial difficulties to concessionaires, and even bankruptcies. A good understanding of the PPP project by stakeholders in general and end users in particular, will help to prevent such difficulties during the implementation of a project.

5.6. Financial instruments, risk sharing or de-risking instruments and guarantees, project-risk management

Risks associated with PPP programmes should be adequately managed. The main risks in PPP projects, in addition to changes in design during construction, which can lead to significant cost increases, are those that affect gross revenue. Revenue-related risks usually reflect uncertainty in both the predictability of future demand (for example, in traffic volumes⁸⁸) and the willingness of users to pay tariffs. In the particular case of roads, one study⁸⁹ suggests that forecasts of toll-road traffic are characterised by large errors and a considerable bias towards optimism. As a result, financial engineers need to ensure that transaction structuring remains flexible and retains liquidity, such that material departures from traffic expectations can be accommodated. Risks should be identified for each stage of a project, and responsibility should be allocated for the identified risks.

As PPPs are legally long-term contractual agreements, responsibilities should be clearly defined, as they will determine the costs that the public and private partners will ultimately pay. For example, construction risk is usually transferred to the private sector, which means that the private entity will be responsible (and unable to claim additional compensation) for delays and cost-overruns in completing the works. The best approach is not to try to transfer all risks to the private sector, as this would result in less interest (or no interest—that is, no bidders) by the private sector or a much higher cost to the public sector. As a result, the allocation of risk is an important component in the assessment of any PPP project.⁹⁰

There are differences between the public and private sectors regarding the types of influence and information that they have. Both sectors can control risks in different ways and each is better at controlling some risks and not as good at controlling others. For example, the public sector has certain powers and advantages in the process of land acquisition, which means it is usually better suited to this task and taking the associated risks. However, the private sector is exposed to competitive pressures that force it to establish improved management practices and technology. This means it may be better suited to managing the design and construction risks.⁹¹

Risk matrix

Good practice in preparing risk matrices is to adopt the following structure for each stage of the project:

- Description of the risk
- Proposed allocation of the risk (usually two columns: *grantor and concessionaire*, one of which gets checked for a particular risk)
- Comments

⁸⁸ For example, number of vehicles per day for a road; number of containers serviced per year for a sea-port container terminal; number of operations per day for an airport; number of passengers per day on a metro line; number of ton-km per year for a cargo railway.

⁸⁹ Robert Bain. 2009. "Error and Optimism Bias in Toll Road Traffic Forecasts." In "Transportation". Volume 36, Number 5, September. Springer, The Netherlands.

⁹⁰ Cesar Queiroz and Henry Kerali. 2010. "Road Asset Management."

⁹¹ Indian Ministry of Finance. "Risk—a critical focus of PPP design." In "Toolkit for Improving PPP Decision-Making Processes", Ministry of Finance. India. Available at: <http://toolkit.pppinindia.com/index.php>



The general rule is that risks need to be allocated to the party that is best capable of managing them. This means that the government would need to take some of the risks because it can better manage them or because the costs of the private sector assuming such risks would be too high. The private sector will price the risk of the project based on how individual risks are allocated, the likelihood that they will occur and their impact. If a risk is transferred to the private sector that it cannot control (for example, inflation being higher than forecast), the private sector will either take a very conservative scenario (such as assuming a very high inflation rate) or simply not accept the risk (and therefore will not make any proposal, reducing competition). The risk-allocation exercise requires a good understanding of the market and the principles of project finance in order to allocate the risk in a way that balances the public and private-sector concerns and interests.⁹²

The preparation of a risk matrix would help the government to decide which risk should be allocated to which party. The risk matrix should be prepared with a legal perspective in mind, because it should provide the basis for drafting the PPP legal agreement or concession agreement.

The risk-allocation matrix should be updated and refined as project preparation evolves. It is usually prepared with the support of transaction experts and in consultation with potential bidders. Ultimately, how risk is allocated will determine if a PPP project is financeable (that is, lenders will not finance it if they believe the risk allocation is not appropriate), so the public sector should remain flexible when designing such a matrix.⁹³

A typical risk matrix for a transport PPP project (for example, a toll road, seaport, airport or railway) includes the following types of risks:

- (a) Design risks (for example, changes in design and construction standards during the construction period)
- (b) Site risks (for example, land acquisition within right-of-way, cultural/archaeological/ heritage)
- (c) Construction risks (for example, defective materials, achieving construction standards and specifications, cost overruns, delays and disputes)
- (d) *Force-majeure risks* (for example, weather, natural disaster, terrorism, war),
- (e) Revenue risks (for example, traffic volumes, availability of the infrastructure)
- (f) Operation and maintenance (O&M) risks (for example, increased maintenance owing to higher traffic volume, cost escalation)
- (g) Performance risks (for example, equipment used becomes prematurely obsolete, change in scope of service specifications by public sector, third-party claims, accidents)
- (h) Other market risks (for example, variation in interest spread prior to a project's financial close, currency fluctuations, inflation)
- (i) Political risks (for example, public-sector budgeting cycles, changes in law, constraints on foreign investors after investment)
- (j) Default risks (for example, termination)

⁹² C. Queiroz and A. Lopez-Martinez. 2013 (Upcoming). "Legal Frameworks for Successful Public Private Partnerships." In "The Routledge Companion to Public-Private Partnership." Edited by Piet de Vries, Etienne B. Yehoue. Routledge Companions in Business, Management and Accounting.

⁹³ Ibid.



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- (k) Strategic risks (for example, change in ownership of concessionaire, conflict of interest among shareholders of concessionaire)

An example of a risk matrix for a roads PPP project, which includes types of risk, risk description, cost driver, risk allocation and treatment, is offered by the World Bank.⁹⁴ Examples of risk matrices for toll or annuity roads, seaports and metro are given in the *PPP Toolkit*.⁹⁵

Table 1, below, provides an example of a risk matrix for a performance-based contract (PBC, a type of PPP⁹⁶) for rehabilitation and maintenance of an urban road network.⁹⁷

Countries with limited or no PPP experience, in particular, may be seen as risky for private investment, and the use of risk-mitigation instruments can help to reduce the perception of risk and facilitate private-sector investment.

Risk mitigation

Several instruments can be used to facilitate the mobilisation of private capital to finance PPP projects in OIC member states, particularly in those sectors in which financing requirements substantially exceed budgetary or internal resources. Risk-mitigation instruments are financial instruments that transfer certain defined risks from project financiers (lenders and equity investors) to creditworthy third parties (guarantors and insurers) who have a better capacity to accept such risks. These instruments are especially useful when the public partner is not sufficiently creditworthy or does not have a proven track record in the eyes of private financiers and therefore cannot attract private investments without support. The advantages of such instruments are multifaceted:⁹⁸

- (a) The public sector is able to mobilise domestic and international private capital to build infrastructure, supplementing limited public resources.
- (b) Private-sector lenders and investors will finance commercially viable projects when risk-mitigation instruments cover those risks that they perceive as excessive or beyond their control.
- (c) Governments can share the risk of developing infrastructure by using their limited fiscal resources more efficiently and by attracting private investors, rather than having to finance the projects themselves, assuming the entire development, construction, and operating risk.

Instruments commonly used to mitigate risk include guarantees and insurance products. Guarantees typically refer to financial guarantees of debt that cover the timely payment of debt service. Procedures to call on these guarantees in the event of a debt-service default are usually relatively straightforward. In contrast, insurance typically requires a specified period during which claims filed by the insured are to be evaluated before payment is made by the insurer. Examples of risk-mitigation instruments available include:⁹⁹

- (a) Credit guarantees, which cover losses in the event of a debt-service default, regardless of the cause of default (that is, both political and commercial risks are covered, with no differentiation of the source of risks that caused the default).

⁹⁴ World Bank. 2011. "Road Concession Matrix of Risks Distribution."

⁹⁵ Ministry of Finance, Government of India. 2010. "Tools and Resources."

⁹⁶ See, for example, the World Bank Toolkit for PPP in Roads and Highways.

⁹⁷ Irina Chepilevskaya, Carlos Espindola, and Cesar Queiroz. 2012. "A Review of Rehabilitation and Maintenance Performance-Based Contracting in Urban Areas." 5th International Società Italiana Infrastrutture Viarie (SIIV) Congress, Rome, Italy, 29th-31st October 2012.

⁹⁸ Tomoko Matsukawa and Odo Habeck. 2007. "Review of Risk-Mitigation Instruments for Infrastructure Financing and Recent Trends and Developments." Trends and Policy Options, No. 4. Public-Private Infrastructure Advisory Facility (PPIAF) and the World Bank. Washington D.C., USA.

⁹⁹ Ibid. PP. 1-3.



Table 1: Sample risks, cost drivers, allocation, and treatment for a PBC concession in urban area

Type of Risk	Risk	Cost driver	Allocation			Treatment
			City	Contractor	Shared	
Design Risk	Delay in final approval of detailed design.	Construction Cost		•		Could result in increased cost of design or delay to the project. Overall design will be agreed prior to financial close. The design submitted as part of the proposal process ought to be sufficiently advanced. Compensation if unreasonable delay in the City's approval of detailed design.
Design Risk	Changes in design and construction standards during the construction period.	Construction cost	•	•	•	This depends upon the reason for the change. If the original design was deficient, then Contractor's risk. If required by the City where no fault by Contractor then difficult for Contractor to assume the risk.
Works and Services Risk	Quality assurance and quality control.	Construction Cost		•		Responsibility of the Concessionaire.
	Achieving construction standards and specifications.	Construction Cost		•		Note: * Standards: requirements by regulatory authorities. * Specifications: requirements for the project.
Force-Majeure Risk	Intensive or extended event leading to termination.	Construction Cost			•	Again turns on extent of insurance. Payment by Grantor would be offset by amount of insurance received.
	Uninsurable risks (throughout the concession).	O&M Cost and possibly performance payment/toll.			•	International guidance is that the public sector retains risk that insurance is not available at commercial rates or that certain risks become uninsurable. In practice, owing to difficulties in the insurance market post-11th September 2001, the international market is adopting a risk-sharing mechanism for increases in insurance costs above 50% and/or uninsurable risks.
Revenue Risk	Availability of road.	Performance Payment/Toll	?	•		Unless non-availability is owing to act of City or a risk for which Grantor has responsibility, then at risk of Contractor, but may be insured risk.
	Volume risk.	Performance Payment/Toll	?	?	?	Confirm applicability of tolls versus performance payment. Where traffic forecasts weak, City may assume some risk; for example, if tolled through minimum-volume guarantee.
O&M Risk	Increased maintenance owing to traffic volume.	Lifecycle Cost	?		?	Risk being shared in the event that there will be some element of performance payment that provides a partial hedge. Banks would conduct their own due diligence and usually use sensitivity analysis and Monte Carlo simulation to price this risk.
Performance Risk	Equipment used becomes prematurely obsolete.	Lifecycle Cost	?	•		If changes are required to make systems compatible with other systems of City then City's risk; otherwise, Concessionaire's risk.
	Change in scope of service specifications by public sector.	Lifecycle Cost and/or performance payment/toll	•			Losses in income or increased expenditure should be borne by City.
External Risk	Changes in standards,	Lifecycle Cost	•			May be treated as change in law.
Other Market Risk	Base interest rates to financial close.	Lifecycle Cost	•			If there is a period between commercial close (that is, when project agreements are signed) and financial close (that is, when financing documents are signed and conditions precedent to draw down are met), then risk of interest changes is usually borne by public sector insofar as payment will be based on interest rates at financial close.

Source: Chepilevskaya, Espíndola, and Queiroz. "A Review of Rehabilitation and Maintenance Performance-Based Contracting in Urban Areas". 2012. PP. 7-8.

"?" indicates a risk that is determined on a project by project basis and is likely to be shared by the private and public sector



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- (b) Political-risk guarantees or insurance, which cover losses caused by specified political-risk events. They are typically termed partial-risk guarantees (PRGs), political-risk guarantees (PRGs), or political-risk insurance (PRI), depending on the provider.

Partial-risk guarantees cover commercial lenders in PPP infrastructure projects. They typically cover the full amount of debt. Payment is made only if the debt default is caused by risks specified under the guarantee. Such risks are political in nature and are defined on a case-by-case basis. PRGs are offered by multilateral-development banks¹⁰⁰ and some bilateral agencies. Figure 1 provides an illustration of how such a guarantee can apply to a highway concession contract. *Mutatis mutandis*, such illustration also applies to other transport infrastructure.

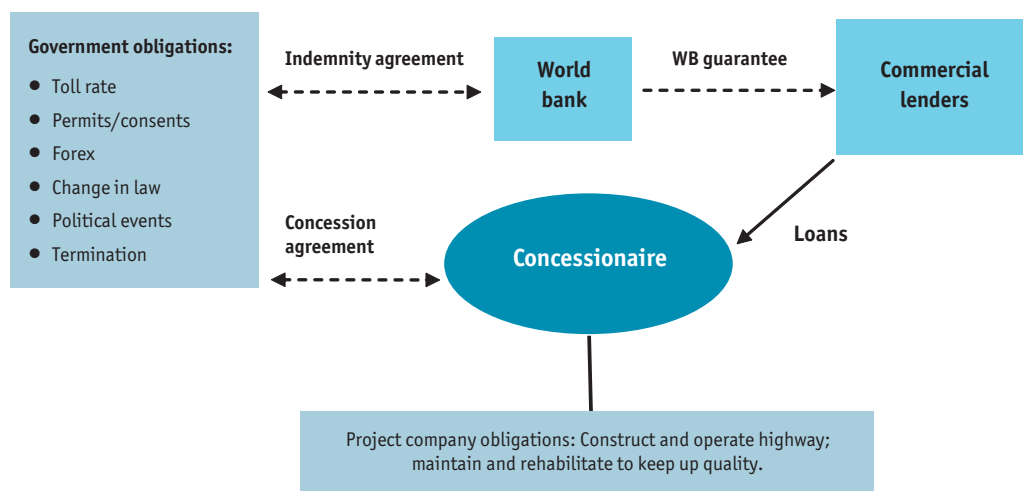
Public-sector financial support

Governments should seek to minimise the need for public-sector financial support for infrastructure projects in order to maximise the benefits of a concession relative to its costs. However, public-sector financial support may be appropriate if it helps to ensure the mobilisation of required amounts of private capital. Overall, the type and level of government financial contribution to a PPP project should be limited to what is required to attract private financing and to promote a successful project.

Following the recent global financial crisis, which raised the cost and reduced the availability of debt because of an aversion to risk, governments have in several cases had to resort to giving increased support to PPPs to enable them to go forward. This has taken the form of subsidies (or grants to the concessionaire), as well as governments bearing more risk.

A PPP subsidy is a direct government contribution or grant to pay for a portion of costs that is not repaid by the concessionaire. Governments can provide subsidies by making up-front cash contributions

Figure 1: Structure of a highway concession contract and World Bank partial-risk guarantee.



¹⁰⁰ World Bank. "PPP Laws/ Concession Laws." Washington, D.C., USA.

Source: Cesar Queiroz. "The Potential of Private Financing to Enhance Road Infrastructure in the Baltic States." 26th International Baltic Road Conference, Kuressaare (Saaremaa), Estonia, (28-30 August 2006). <http://www.bjrbe.vgtu.lt/news/news002.php>



to pay for capital costs (that is, construction subsidies). Alternatively, once a project has been built, governments can make regular payments to the private company based on the availability and quality of the service it is contracted to provide. A third option is for governments to pay a fee per user, such as the number of vehicles using a toll road.¹⁰¹

In theory, subsidies to PPPs serve a single purpose: to make sure projects that will produce a net economic or social gain can be commercially financed. There are two broad reasons why an economically justified project may not be financially viable. Firstly, infrastructure projects can create public benefits that are not reflected in the price that consumers are willing to pay for the service, such as a toll road that creates third-party benefits by increasing mobility and lowering vehicle emissions. Secondly, user fees can be deliberately set at a low level to keep them socially acceptable.¹⁰²

When estimating the minimum required levels of subsidies that will make a PPP project attractive to private investors, government officials need a relatively simple and user-friendly tool that allows the results to be obtained quickly, so several options can be tested in a short period at low cost. The financial models included in the *Toolkit for PPP in Roads and Highways* are excellent tools for such purposes, with a relatively small amount of training required.¹⁰³

Guarantees to PPP projects

A commitment by the government to repay the project's debt, under certain circumstances, is called a government guarantee.¹⁰⁴ Guarantees have been granted to PPP projects in both developing and developed countries, for a variety of projects. If public-sector financial support is appropriate, several mechanisms can be used to support private financing:¹⁰⁵

- (a) Equity guarantees, under which the concessionaire is granted an option to be bought out by the government with a guaranteed minimum return on equity. Although equity guarantees entail no public cost, as long as the project generates the minimum return on equity, the government essentially assumes all of the project risks, and the private sector's performance incentives are severely reduced.
- (b) Debt guarantees, under which the government provides a full guarantee or a cash-flow deficiency guarantee to repay loans. As in the above case, there is no public cost under this arrangement, as long as sufficient cash flow is generated to service the debt. The private sector's performance incentives are also reduced.
- (c) Shadow toll, which is paid to the concessionaire by the government, not charged to motorists, on the basis of volume and composition of traffic. The concept was created for Design, Build, Finance and Operate (DBFO)¹⁰⁶ roads in the UK, and is also used in other countries (for example, Finland and Portugal¹⁰⁷).
- (d) Availability fee or annuity, which is paid to the concessionaire by the government based on the availability of required capacity (number of lanes), irrespective of the traffic volumes.
- (e) Minimum traffic or revenue guarantees, in which the government compensates the concessionaire in cash if traffic or revenue falls below a specified minimum level (for example, 90% of the expected traffic volume¹⁰⁸).

¹⁰¹ International Bank for Reconstruction and Development. 2012. "Best Practices in Public-Private Partnerships Financing in Latin America: the role of subsidy mechanisms." Washington, D.C., USA.

¹⁰² IBRD. "Best Practices." Related reports are available on the Global PPP Network website.

¹⁰³ The "Toolkit for PPP in Roads and Highways" is available, free of charge, at: <http://go.worldbank.org/P2XMGNYLDO>

¹⁰⁴ Timothy Irwin. 2005. "Government Guarantees for Private Infrastructure." Presented at the Workshop on Public-Private Partnerships in Highways: Institutional, Legal, Financial and Technical Aspects, 6th October. The World Bank. Washington, D.C., USA.

¹⁰⁵ G. Fishbein and S. Babbar. 1996. "Private Financing of Toll Roads." World Bank. Washington, D.C., USA.

¹⁰⁶ Robert Bain and Michael Wilkins. 2003. "The Evolution of DBFO Payment Mechanisms: One More for the Road?." Standard & Poor's. London.

¹⁰⁷ Most of the roads in Portugal originally operated as shadow toll concessions and have been converted into actual toll concessions, as a means to reduce the burden on the country's public budget.



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A variation on (e) above has been adopted in Spain, where the public authority fixes an upper and lower band for the accumulated present value of the revenue to the concessionaire. These bands represent the border beyond which some financial conditions of the contract fixed in the bidding (and contract) documents (for example, concession life, tariff) may be changed in order to rebalance the financial terms of the concession.¹⁰⁹

Risk sharing and forms of PPPs

In the case of the road sector, different forms of concession contracts, such as availability fee, shadow tolls, build-operate-transfer (BOT), and build-own-operate (BOO), provide increased transfers of risk to the private sector. Under shadow tolls, BOT and BOO, the demand risks are borne by the private partner, but under shadow tolls the concessionaire does not assume the risks associated with toll collection. A similar sharing of risks occurs in modes of transport other than roads, *mutatis mutandis*.

The cost to the public sector of bearing risk is an important element in evaluating PPP proposals. One of the key premises that should be considered using PPPs is the optimum allocation of project risks to the partner that is best able to manage them cost-effectively. Consequently, to assess the impact of private-sector involvement, governments need to adopt an approach to quantify the short-term impacts of the project on the public budget and the long-term potential cost of the risks that the government chooses to retain.¹¹⁰

Greenfield PPP projects include investment in new construction by the concessionaire, while in maintenance, rehabilitation, operation (MRO), or *brownfield* concessions, the concessionaire assumes responsibility for an existing facility (for example, a road or part of a road network). Several concession options are available and each country should select the most appropriate for its specific needs. Several concession options are available and each country should select the most appropriate for its specific needs. Through the most common forms of concession (i.e., BOT and MRO), a country can transfer to the private sector the responsibility to: (i) build, operate and transfer back to the public sector (at the end of the concession period) a facility (for example, a motorway, bridge, tunnel), or (ii) maintain, rehabilitate, operate an existing facility.

Applicability of financial instruments to OIC member states

The financial instruments discussed in this section are likely to apply to OIC member states, depending on financial assessments on a project-by-project basis. While countries in Groups 1 and 2 may require a higher degree of support to implement a successful PPP project, there may be projects in other countries (Groups 3 and 4) that would not be financially feasible without some form of support.

Even countries more advanced in the implementation of PPP projects have resorted to financial instruments to attract private investors. This is the case, for example, in France and Spain, which jointly launched the Perpignan-Figueras Rail Concession, which provides a link between French and Spanish rail systems, reducing travel times and transport bottlenecks.¹¹¹ The project, which combines high-speed trains (travelling at up to 350 km/h) as well as freight convoys (moving at 120 km/h), received a state subsidy covering 57% of the construction cost, as well as bank guarantees.¹¹²

¹⁰⁸ Traffic volume is a measure of demand, expressed, for example, as number of vehicles per day for a road; number of containers serviced per year for a container terminal; daily number of operations at an airport; number of passengers per day on a metro system; ton-km per year for a cargo railway. The revenue to the concessionaire is the product of demand (for example, number of ton-km per year) and tariff (for example, number of US\$/ton-km).

¹⁰⁹ José M. Vassallo and Juan Gallego. 2005. "Risk Sharing in the New Public Works Concession Law in Spain." *Transportation Research Record: Journal of the Transportation Research Board*, No. 1932. Transportation Research Board of the National Academies. Washington, D.C., USA. PP 1–8.

¹¹⁰ R. Aldrete, A. Bujanda, and G.A. Valdez-Ceniceros. 2010. "Valuing Public Sector Risk Exposure in Transportation Public-Private Partnerships." University Transportation Center for Mobility. Texas Transportation Institute. Texas, USA.



5.7. Capacity building

As a general trend, countries with a sufficient number of staff skilled in PPPs at core ministries (for example, Ministries of Finance and Ministries of Planning) and line ministries (for example, the Ministry of Transport) have been more capable of implementing successful PPP projects. Specific training sessions, conducted with a high degree of interaction between instructors and participants, can be used to build or enhance local capacity. Such sessions can be delivered in-house or outside the target ministry, using, for example, retreats in the host country or other venues, including local and international training centres. Short courses can be aimed at technical staff or an executive audience. These programmes, when involving several regional participating countries, allow the countries to learn not only from each other, but also from experiences outside the region.

In-house training

A main advantage of in-house training is that, at a relatively low cost, several staff members of a key government agency (e.g., the Ministry of Finance or Ministry of Transport) can be trained at the same time, with the flexibility of integrating the training with their daily work. This option was successfully adopted, for example, by the Ministry of Finance in Mozambique, where a five-day intensive-training workshop on the financial assessment of PPP projects was delivered to ten ministry staff in June 2012. The training was conducted daily in-house from 8:30am to 1:30pm, and the participating staff did some of their most urgent regular work afterwards. As the venue and logistics for in-house training are usually provided by the host agency at minimal cost, the resources required for such training depend on the cost of securing an adequate trainer (or trainers). Assuming typical trainer/consultant fees, travel and subsistence costs, the total cost of a one-week in-house training course would be about US\$15,000; and for a two-week training session, around US\$22,000.

Priority areas for training

Discussions with government staff in countries such as Benin, Mozambique, Saudi Arabia, Kazakhstan, and Tunisia.¹¹³ have shown that local capacity in general is limited in areas such as the financial and economic assessment of PPP projects, as well as the competitive selection of concessionaires. Training on such areas can be facilitated by resources such as the *World Bank Toolkit for PPP in Roads and Highways*¹¹⁴ and *Procurement & PPP Transactions Guidance for MDB Public Sector Engagements*.¹¹⁵ More details on such training are given below. Other priorities may be identified through follow-up surveys and workshops held with member states of the OIC.

Using training centres and other venues

The use of training centres or other venues away from the host agency has the advantage of providing an ambience conducive to training, denying the participants access to their offices and other forms of distraction close to their workplace. More expensive training abroad has the advantage of exposing the participants to different or improved work environments, as well as of linking the training with technical visits to PPP projects, showing examples of under-preparation or under-operation, which can prove instructive for projects proposed for implementation in the participant's country. The cost of one-

¹¹¹ The Perpignan-Figueras high-speed rail link was opened to traffic in February 2009. The concessionaire is TP Ferro, a joint venture owned by Eiffage and ACS Dragados.

¹¹² Europa.eu. 2004.

"European Commission Resource Book on PPP Case Studies: Perpignan-Figueras Rail Concession, France & Spain."

¹¹³ In-country personal discussions held 2009-12.

¹¹⁴ The "Toolkit for PPP in Roads and Highways" is available at: <http://go.worldbank.org/P2XM-GNYLDO>

¹¹⁵ "Procurement & PPP Transactions Guidance for MDB Public Sector Engagements" is available at <http://siteresources.worldbank.org/INTPROCUREMENT/Resources/Procurementguidelines.pdf> and "Procurement Harmonization" is available at: <http://go.worldbank.org/VK6K769J30>



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week's training abroad can typically be around US\$8,000 per staff member. Such costs can, however, be reduced by holding training events (for example, courses or workshops) on a regional basis. An example is provided by Benin and Tanzania, which hosted training participants from other French (Benin) and English- (Tanzania) speaking countries in Africa for a training workshop on Road Network Evaluation Tools (RONET¹¹⁶) in June 2012. Such forms of regional training (within a region or sub-region) can be very cost effective and contribute to South-South co-operation.

Twinning arrangements

Twinning arrangements between Ministries of Transport, PPP regulatory bodies, or other agency agencies in more developed countries, between OIC countries or elsewhere (such as in Europe or North America) is a relatively cost-effective option by which to increase local capacity in delivering PPP projects in transportation and other sectors.

A twinning arrangement is an agreement between two agencies (or institutions, such as the Ministry of Transport or a PPP unit) with similar objectives, but different levels of development, where the more-developed agency agrees to support the less-developed agency in areas of specific comparative advantage. There have been examples of very successful twinning arrangements, such as between the Serbia Roads Department and Swedish National Road Administration,¹¹⁷ and between the Russia Federal Highway Department and US Federal Highway Administration.¹¹⁸

Twinning relationships between local and foreign counterparts may become a long-term means of exchanging information and specific knowledge that can strengthen the local agency. Activities under such twinning arrangements would typically focus on (i) organisational support, (ii) observational study tours, (iii) human-resource development, (iv) the organisation of seminars in either country, and (v) the dissemination of technical and relevant literature. Due consideration of factors such as language and social and economic development may facilitate the selection of counterpart agencies for a successful twinning arrangement. For example, a PPP-implementing agency in Mozambique may find a good counterpart in Portugal; an agency in Benin could look for a counterpart in France; an agency in Mauritania may find a good twinning arrangement with Morocco; and an agency in Azerbaijan could pair up with a related agency in Turkey.

While on-the-job training is more often provided through technical assistance, it may also be accomplished through twinning arrangements, whereby the more-developed counterpart agency assigns (or seconds) staff with specific skills to work with the local agency for a certain period (usually not more than a year). Training on the job may be particularly relevant during critical phases of implementing a PPP project. For example, an experienced member of staff from a more advanced PPP-implementing agency could be assigned to work together with a local implementing agency during the process of competitively selecting a concessionaire. The more-developed agency usually keeps on its payroll the staff seconded to the recipient agency, so the cost to the latter is mostly limited to the expenses of hosting the visiting expert.

¹¹⁶ Road Network Evaluation Tools (RONET). 2012. Training for Francophone and Anglophone African countries: Cotonou, Benin, and Arusha, Tanzania.

¹¹⁷ Under the framework of the World Bank-financed Serbia Transport Rehabilitation Project.

¹¹⁸ Under the framework of the World Bank-financed Russian Federation Highway Rehabilitation & Maintenance



Certification

Some training institutions, for example in Europe and North America, have provided relatively formal training in PPP, leading to the certification of the participants. As such training usually requires passing a test or examination or preparing a written report, they may provide more assurance that the participant has absorbed the knowledge than would less formal training. It may be advisable that local PPP-implementing agencies send one or two of their staff to such certified training; those participants may in turn help to train other local staff upon returning to their home country.

Training in the financial assessment of PPP projects

While recognising that the detailed and final financial and economic modelling and assessment of PPP projects may require experienced analysts, the *Toolkit for PPP in Roads and Highways* includes financial models that can be used to carry out preliminary assessments of PPP projects (for example, for screening potential PPP projects and identifying those most able to attract private investors). The financial models in the toolkit are also particularly helpful for training non-financial experts in carrying out the financial assessment of potential PPP projects.¹¹⁹ Decision makers and staff of core and line ministries are not expected to become financial experts; however, it is important that they understand the impact that parameters such as interest rates, taxes, demand, and construction, maintenance and operational costs have on the feasibility of a proposed PPP project. This understanding will allow public officials to have an informed dialogue with consultants and advisers, leading to higher-quality service provision. A one-week training programme that can fulfil this need may use the financial models in the *Toolkit* and include topics such as:¹²⁰

- (a) Objectives of financial assessments of PPP projects
- (b) The *Toolkit's* graphical and numerical models
- (c) Estimating minimum toll rates (or minimum tariffs) required for the project to attract private investors
- (d) Estimating the amount of public support (if required) to make the PPP project financially viable or more cost-effective
- (e) An interactive numerical exercise to assess the financial viability of a hypothetical PPP project, such as the description, the composition of working teams, and the provision of project data to the teams
- (f) Teams carry out the financial exercise with the support of the instructor
- (g) A presentation of the results by each working team
- (h) Discussions of the interactive exercise, including the impact of demand (for example, traffic volume) on the financial feasibility of a PPP project
- (i) Final discussions and conclusions

Training on competitive selection of the private partner

A transparent, competitive selection of the private partner (also referred to as project sponsor,

¹¹⁹ The “Toolkit” financial models are available at: http://www.ppiaf.org/sites/ppiaf.org/files/documents/toolkits/highway-stoolkit/6/financial_models/index.html

¹²⁰ For a detailed outline please see Cesar Queiroz. 2012. “Proposal for a Workshop on the Toolkit for Public Private Partnership in Roads and Highways and Financial Assessment of PPP Projects.”



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concessionaire, operator or promoter¹²¹) is usually considered essential for implementing the PPP projects that are the most economically advantageous to society. It is through such competitive selection of the concessionaire that the most appropriate payment can be defined, in areas including:

- (a) The charge to the end users (for example, tariff for railway, metro, airport, or seaport; toll rates for highways)
- (b) The payment (that is, concession fee or canon) from the concessionaire to the public implementing agency
- (c) The payments to be made from the public agency (for example, the Ministry of Transport) to the concessionaire, such as capital grants or annuities (also called availability fee or availability payment)

To this end, the adoption of internationally competitive bidding (ICB) is often recommended, so as to provide all eligible prospective bidders with timely and adequate notification of the requirements and an equal opportunity to bid for the project.¹²²

A one-week training programme in the competitive selection of concessionaires should cover all stages involved in the process (including public advertising, the invitation to bid, bid evaluation and the award of the concession contract). A brief outline of such training might be as follows:

- (a) The objectives of transparent, competitive selection of concessionaires
- (b) Advertising of PPP projects
- (c) Single-stage bidding and the multiple-stage process, including *competitive dialogue*¹²³
- (d) Pre-qualification of potential bidders
- (e) Preparation of bidding documents and the request for proposals
- (f) Providing clarifications and dealing with bidder complaints
- (g) Bid-evaluation procedure
- (h) Contract negotiations and award
- (i) Mechanisms for effective treatment of complaints and appeals
- (j) Provisions regarding unsolicited proposals
- (k) Provisions related to fraud and corruption

The impact of training

Training providers, country sponsors and other stakeholders are interested to make sure that the training provided has an impact on institutional performance, which in turn translates into improved outcomes and, more specifically, a successful PPP programme in transport. While this does not happen automatically, a study published by the Sub-Saharan Africa Transport Policy Program (SSATP)¹²⁴ has highlighted some of the measures that can be taken to accomplish this:¹²⁵

¹²¹ "Procurement & PPP Transactions Guidance for MDB Public Sector Engagements" is available at <http://siteresources.worldbank.org/INTPROCUREMENT/Resources/Procurementguidelines.pdf>

¹²² The World Bank. 2011. "Guidelines: Procurement of Goods, Works, and Non-Consulting Services under IBRD Loans and IDA Credits & Grants, January 2011" Washington, D.C., USA. Available at: <http://go.worldbank.org/1KKD1KNT40>

¹²³ See, for example, Freshfields Bruckhaus Deringer. 2004. "The new public procurement regime."



- (a) Participants should be selected primarily on the basis of who has the most to contribute to the institutional goals (for example, those candidates who have a sound background and good potential for advancing their career)
- (b) Each participant needs to have specific and agreed objectives for the training. After the training, the results need to be captured through a monitored implementation plan
- (c) The timing of training should to the greatest extent possible be tied to specific decision points, or harmonised with planning and strategic cycles within the institutions to enhance the results
- (d) Participation in the training to be undertaken by a team (for example from the Ministry of Transport or a state-owned company managing the project or sector), rather than by individuals

The latter point can be illustrated by the success of an intensive training course in PPP financial assessments delivered to a team of around ten staff members in the Mozambique Ministry of Finance in June 2012.

5.8. Technical assistance

Even countries with well-developed and staffed government agencies may require outside experts and advisers to carry out specific tasks for the successful implementation of PPP projects in the transport sector. This study has grouped the member states of OIC into four categories. While countries in all categories are expected to benefit from training and technical assistance, it is likely that those countries in Groups 1 and 2 will require more intensive assistance to develop and implement a successful PPP programme in the transport sector, as they have no project experience to draw upon. Countries in Group 3, and, to a lesser extent, Group 4, would also benefit from this.

Areas where outside expertise and advice may be required to complement in-house skills and staff may include *feasibility studies*, *procurement* (for example, the preparation of bidding documents), *financial modelling*, legal and technical advice and transaction advice. Outside expertise may also be required to carry out public-awareness campaigning to promote an understanding of PPPs. While such campaigns are more common for toll-road PPPs¹²⁶ and metro/urban transport systems, they may also be helpful for PPPs in other modes, such as airports and seaports, in terms of helping avoid public opposition to such projects.

Resident advisers or short-term experts?

Technical assistance can be delivered through resident advisers and/or short visits (for example, of two to three weeks) by outside advisers to the agency responsible for implementing the PPP project (such as the Ministry of Transport or Roads Department). Often, a combination of both has been applied. For tasks requiring a longer effort and repeated interaction with the implementing agency, such as the preparation of bidding documents, a resident expert (or team) would be advisable.

When technical assistance is provided by a firm (instead of an individual consultant), the team in the field should benefit from the backstopping of all experts based in the firm's headquarters, who can

¹²⁴ SSATP home site: www.ssatp.org

¹²⁵ Stephen Brushett, Les Sampson, and Solomon Waithaka. 2004. "Building Capacity in Management and Financing in the Road Sector: Meeting the Challenge." Sub-Saharan Africa Transport Policy, Program Note 37, August.

¹²⁶ For example, in the Washington D.C. area in the US, 495 Express Lanes team members attended community fairs, festivals and other events throughout the region to educate travelers about how the Express Lanes would work, prior to their opening in November 2012.



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review and complement the advice being provided by the experts in the field. The backstopping should also help in responding to immediate problems, which were not anticipated in the original scope of works, that may occur during the preparation or implementation of projects. Such support is likely to be more critical in higher risk countries and for more complex projects.

While costs depend on factors such as the host country and the type of expertise required, typically a resident adviser would cost around US\$240,000 per person-year.

Local counterparts

Technical assistance, to be more effective and to maximise the benefits to the agency, requires the appointment of local staff to serve as counterparts to the outside experts. These counterparts are essential to internalise the key lessons of outside experience. In the case of the local agency or government unit being understaffed, a possible solution would be to hire new staff to serve as local trainees. As they absorb expertise and show good working skills, they may be considered to join the agency on a longer-term basis.

Terms of reference and other resources

A key step for an agency to acquire technical assistance and to reap the benefits of international best practice is carrying out a proper selection process to find appropriate consultants, using well prepared terms of reference (TOR). Examples of good TOR can be obtained from similar tasks that have been successfully conducted by other agencies in the country or abroad, or are available through bilateral and international institutions. Sample TOR are available, for example, at the World Bank PPP in Infrastructure Resource Centre for Contracts, Laws and Regulation (PPPIRC).¹²⁷

In addition to sample TOR, PPPIRC also contains sample PPP agreements or concession contracts, checklists and sample clauses, *risk matrices*, standard bidding documents developed by government agencies, as well as sample legislation and regulation for PPPs and the sector. Below are presented examples of key tasks to be included in specific TORs.

TOR for a PPP feasibility study

Typical tasks to be carried out in a feasibility study for a PPP in roads may include:¹²⁸

- (a) Reviewing existing information and stakeholder involvement (for example, past studies, major characteristics and constraints, areas of influence of the project, available traffic data, interviews with road users and prospective beneficiaries, and identifying ongoing projects)
- (b) Carrying out a classified traffic-volume count
- (c) Surveying Origin and Destination (O-D)
- (d) Surveying axle load
- (e) Surveying pedestrian/animal cross-traffic
- (f) Surveying toll rate and willingness to pay

¹²⁷ World Bank PPP Resource Centre: <http://ppp.worldbank.org/public-private-partnership/>

¹²⁸ Cesar Queiroz. 2012. "Project Pipeline Screening and Initial Feasibility Assessment of Potential Road Infrastructure PPPs in Lao PDR." Report No. ACS878, World Bank East Asia and Pacific Region, June. PP. 22, 89.



- (g) Traffic volume forecast
- (h) Toll strategy and traffic diversion, including appropriate toll-plaza locations
- (i) Road and bridge inventory
- (j) Pavement and material investigations and tests
- (k) Topographic survey
- (l) Hydraulic and hydrological studies
- (m) Geotechnical investigations
- (n) Geometric and structural designs
- (o) Designs for ancillary road works and service roads
- (p) Rest areas, wayside facilities, weighing stations and toll plazas
- (q) Road furniture, appurtenances and landscaping
- (r) Traffic control and other facilities
- (s) Environmental and social assessments
- (t) Preparation of bill of quantities (BOQ) and cost estimates
- (u) Economic-performance indicators and sensitivity analysis
- (v) Financial assessment, including affordability analysis

TOR for a transaction adviser

Typical tasks to be carried out by a transaction adviser for a PPP project may include:¹²⁹

- (a) Reviewing the bidding process
- (b) Developing a procurement plan
- (c) Developing all relevant documentation for the prequalification process
- (d) Assisting the implementing agency to manage the prequalification process, including the evaluation phase
- (e) Reviewing and finalising the bidding documents
- (f) Assisting the implementing agency in managing the bidding procedure
- (g) Assisting the implementing agency in evaluating the bids
- (h) Assisting the implementing agency in negotiating with the preferred bidder for the project
- (i) Assisting the implementing agency in selecting the winning bidder for the PPP project

¹²⁹ Ibid.



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5.9. Summary

Section 5 presents several options for the member states of OIC to consider when preparing and implementing PPP projects in the transport sector, which are likely to lead to a more successful provision of infrastructure. Options discussed include institutional support and institution building, legislative and regulatory reform, international support (for example, by international financial institutions), training the private sector, public-awareness campaigning to promote an understanding of PPPs, financial instruments that can help to make a project attractive to the private sector, capacity building or enhancing, and technical assistance.

Options for legal reforms were reviewed, with a view to strengthening the types and structures that can be applied for projects. This is key to ensuring that projects are delivered using the optimal method. The importance of public consultation and government-awareness raising was also discussed, to highlight the importance of removing political bottlenecks to successful project implementation.

Transport projects in OIC member states that are economically and socially justified, but which are unable, per se, to attract private investors, may become feasible PPP projects if appropriate support is given, particularly through financial instruments such as guarantees and subsidies. It is expected that all member states can take advantage of one or more of the financial instruments discussed in the section. Even more advanced economies, such as France and Spain, have granted subsidies to projects, turning them into successful PPP projects, such as the Perpignan-Figueras Rail Concession.

Finally, several training options were discussed to strengthen the capacity of agencies in member states. Training sessions, such as regional and sub-regional workshops, can benefit several countries at the same time. For training that is more agency-focused, workshops held in-house are recommended, where a relatively large number of local staff can develop or enhance their capacity to manage or implement successful PPP projects.



Appendix 1: Country groupings

For the purposes of this study, countries are grouped according to four classifications. The criteria and list of classifications are outlined in the table below.

Group 1	Group 2	Group 3	Group 4
Countries without a PPP framework and no transport PPP experience	Countries with a PPP framework and no transport PPP experience	Countries without a PPP framework that have implemented at least one transport PPP	Countries with a PPP framework that have implemented at least one transport PPP
Afghanistan	Bangladesh	Algeria	Albania
Azerbaijan	Kuwait	Benin	Egypt
Bahrain	Kyrgyz Republic	Burkina Faso	Côte d'Ivoire
Brunei		Cameroon	Indonesia
Chad		Comoros	Kazakhstan
Gambia		Djibouti	Malaysia
Guinea-Bissau		Gabon	Morocco
Iran		Guinea	Nigeria
Libya		Guyana	Pakistan
Mauritania		Iraq	Sierra Leone
Niger		Jordan	Tunisia
Oman		Lebanon	
Palestine		Maldives	
Somalia		Mali	
Tajikistan		Mozambique	
Turkmenistan		Qatar	
Uzbekistan		Saudi Arabia	
		Senegal	
		Sudan	
		Suriname	
		Syria	
		Togo	
		Turkey	
		Uganda	
		United Arab Emirates	
		Yemen	

A note of the definition of PPP: For the purposes of this study, PPP analysis focuses on public services or goods being delivered by the private sector on a contractual basis, as concessions (user pay model), as an availability contract (public sector pay model), or a mixture of both. This excludes management and lease contracts as well as full divestiture. It also focuses on transport projects directly linked to commerce, i.e. airports, railways, roads, bridges and seaports.

A note on the criteria for a PPP framework: Qualitative, analytical criteria was used to determine whether countries have a PPP framework in place. For the purposes of this study, the existence of a concessions law is not a sufficient condition to constitute a PPP framework. Countries must have laws and regulations in place to define the forms of PPP allowed, as well as the procurement and institutional structures and processes governing projects.

Appendix 1



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Appendix 2

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Enhancing economic and commercial cooperation among the OIC member states is the main objective of the COMCEC. In the area of transport, which is one of its priority sectors, COMCEC aims at “improving the functioning, effectiveness and sustainability of transport in the Member States”. Like many developing countries, most of the member states do not have a well functioning transport system as well as necessary financial mechanisms to improve their transport infrastructure. Public-Private Partnerships (PPP), as an important financial model for transport projects, provides a sound option for the member states to finance their infrastructure projects in the domain of transport.

This study outlines key implementation obstacles for public-private partnerships in transport sector for OIC member states. It identifies obstacles according to countries’ experience with transport PPP projects, as well as the level of development of their legal, regulatory and institutional frameworks. PPP legal frameworks boost investor confidence, facilitate good risk management and project oversight, and increase the chances that the PPP models and objects chosen are appropriate. Traditional planning and procurement methods do not suffice, and in most of the OIC member states specific PPP frameworks are not in place. Concessions often act as a first step for OIC countries to gain experience before a full framework is in place, yet concessions represent only one of several forms of PPP. Work needs to be done to broaden the type of projects possible to ensure the best possible infrastructure delivery. The concession projects implemented across countries also need more institutional and regulatory support to ensure optimal outcomes.

Creating an environment of transparency, competitive project bids, and respect for contracts increases both project quality and private sector interest. Improving fiscal management dovetails with good risk allocation, and working towards achieving investment grade and deeper financial markets will boost countries’ ability to finance PPPs effectively. Countries with unstable institutional, regulatory, and political environments must find ways to mitigate these risks to attract the private sector and secure long-term project success.