



Working group « Concessions and
PPPs » (Institut Français des Experts
Juridiques Internationaux)



Working group « Concessions and PPPs »
(Confederation of International Contractors'
Association)

CONDITIONS FOR DEVELOPMENT OF INTERNATIONAL CONCESSIONS AND OTHER PPPs

Why so many failures?

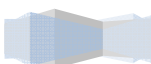
*How to remedy with better appraisal of lessons learned and an innovative
institutional and contractual framework of conditions for success?*

PRIORITIES:

- 1. A Vademecum summarizing in plain language main economic, institutional and legal principles and concepts and their practical use.**
- 2. An evaluation Index immediately applicable in practice on a country or project basis.**
- 3. A new generation of model legal provisions and legislative guide**
- 4. Template contracts and implementing regulations easy to acclimate and to use in the field.**

CONCEPT NOTE

**Prepared for French Business Association (MEDEF)
And World Bank group meeting
March 2013**

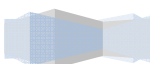


1. HISTORY: PPPs has always been a key driver of economic development.

- (a)** The long history of PPPs over the world for essential infrastructures, their development and their relative decline. There are many lessons to learn.
- (b)** Without the XIX century's major public service concessions (railways, power, water, ports, canals, etc.) none of the western countries could have reached the growth rate which has been the basis of their development and current power.
- (c)** The rediscovery of PPP throughout the world: The channel tunnel, the privatization wave of the 90s (disengagement of the state, budgetary constraints), then a relative decline since 1997.
- (d)** The exception of France as well as other countries or regions of traditional civil/administrative law where concession PPPs have always been popular.
- (e)** The third generation of PPPs have aggressively been promoted at the the turn of the millennium: contrasting results and less successful projects than expected.

2. CURRENT STATUS: PPP, an economic and legal tool essential to the realization of public service's infrastructure and for boosting economic development and governance

- (a)** The needs and impacts of public service infrastructures on the economic development.
 - (i) The « Sustainable Infrastructure Action Plan » (SIAP) of the Word Bank
 - (ii) The synthesis of the most recent surveys: without a new wave of concessions and other PPPs based on legitimate interest of private and public sectors in the long term and structured in a balanced manner, the objectives of the Millennium goals have no chance to be realized. Example: Africa, the needs to invest in public service infrastructure are increasing each year and the gap in private sector investment is evaluated at US\$ 35 billion per year.
- (b)** It becomes imperative to much better appraise and disseminate the conditions of success of the various type of PPP.
 - (i) PPPs are at the crossroads of legislation, innovative and well balanced contracts, economy and politics.
 - (ii) Long-term contractual relationships between the private and the public sector are often difficult to achieve because of the different legal cultures and applicable laws.
 - (iii) Very few professional or organizations have a sufficient practice in a representative numbers of reference projects.
 - (iv) Training of PPPs professionals able to play a useful role in developing countries institutions or projects is in infancy; most of the useful programs remain to be designed.

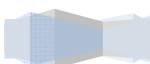


**3. EVALUATION of the PPP institutional legal and contractual framework in the world:
"A patchwork of uneven quality not addressing sufficiently the range issues expected by
the private sector"**

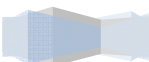
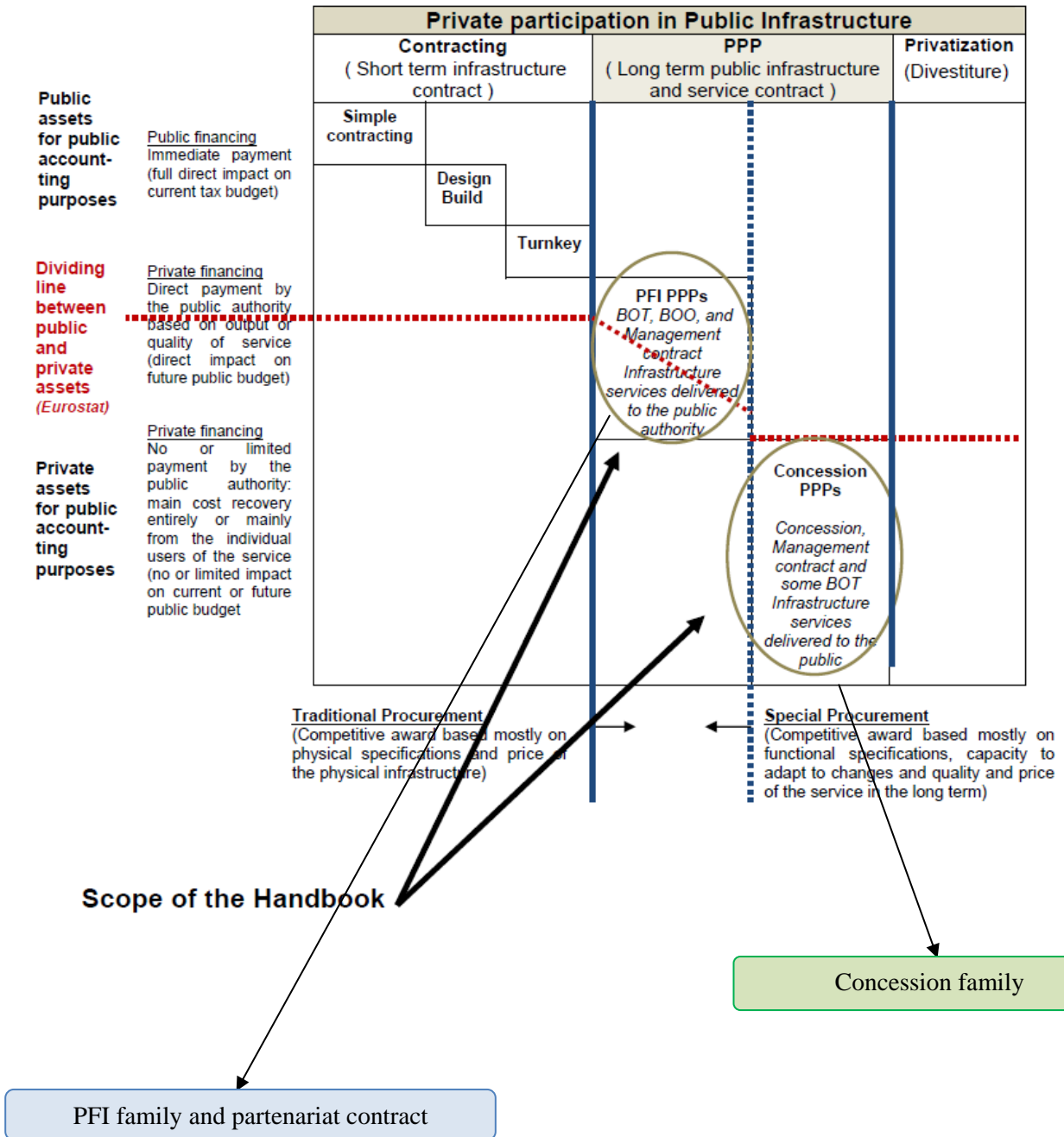
- (a) Special regulations limited to some types of PPPs have multiplied over the last decade in developed and developing countries.
- (b) Core PPP concepts and legal principles which are used every day with success in some countries are unknown in other parts of the world (example: not codified and equitable public contract law used in France South Europe, Latin America and francophone Africa).
- (c) Template clauses or standard contracts with proven track record in some countries are also virtually unknown (Examples: France for public service concession in various sectors or UK for other types of PFI PPP).
- (d) Some countries and various institutions (European Union, World Bank / PPIAF, UNIDO, UNECE, UNCITRAL, EBRD, EIB, OECD etc...) have established research programs and sometimes developed useful documents and "toolkits".
- (e) The international legal community is also active (Project Finance Association UK; PPP taskforce IBA Working Group IFEJI / Paris Bar, etc...).
- (f) The contractors associations are equally involved (working groups of the Confederation of International Contractors' Associations – CICA or EIC).

In a nutshell, given the proliferation of texts and sources cited above, which cover the totality of the PPPs field in an imperfectly and divergent manner, the need of a coherent synthesis is the priority of the day.

Without a new synthesis of lessons learned which must be properly disseminated, the development aid, which could leverage many public service projects financed by the private sector with no or very limited contingent liability on public budgets, is likely to be wasted.



4. PPI AND PPP CHART



5. TWO MAIN SITUATIONS WHICH SHOULD NOT QUALIFY AS PPP

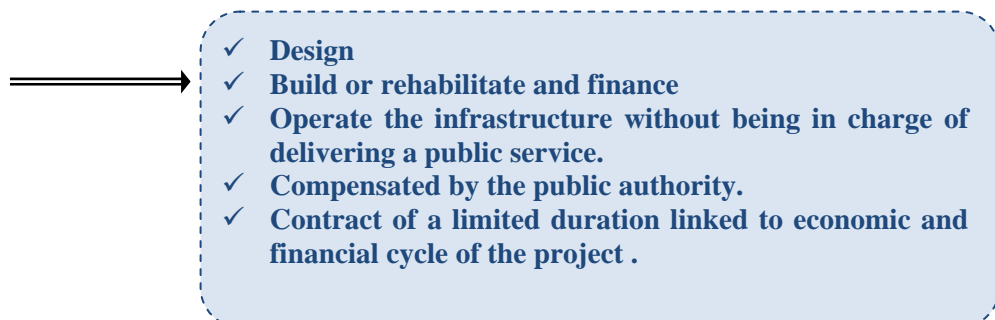
- (a) Privatization of public infrastructure where the public authority has very limited power to interfere (in terms of change in scope of service, price, structure...)
- (b) Traditional public –private procurement where the public authority pays the private company entirely upon delivery of the infrastructure or, if paid upon delivery of a service rendered by the infrastructure, where the main costs and risks of the project are limited in practice (through various legal and financial techniques) to the satisfactory completion of the infrastructure and where limited operational risks are transferred on the private company.
- (c) Concessions and other contractual forms which do not involve the participation of the private sector to the delivery of essential or public service to the citizens.

6. TWO MAIN FAMILIES REPRESENT THE CORE OF THE PPP WORLD

- (a) **PFI FAMILY AND PARTENARIAT CONTRACT (CP): a young and dynamic family from UK origin (more or less 15% of the world investments in PPP);**

(In the UK the role of this family is currently under review and its future uncertain).

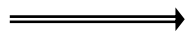
- The private party role :



- ✓ Principles and legal tools are often modern and efficient mostly for construction on time and budget of a complex public infrastructure in a competitive manner.
- ✓ Limited by public budgetary constraints (contingent liability often for decades)
- ✓ Difficult to adapt to changes in public services.
- Partenariat or PFI contracts: France and several other countries promulgated in recent years regulations securing the legal framework for the development of this family.

(b) **CONCESSION FAMILIES AND OTHER FORMS OF PPPs:** an old family previously popular around the globe and currently developed in France, southern Europe and developing countries of civil law tradition (more or less 85% of the world investments in PPP)

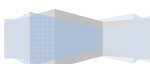
- The private party role



- ✓ **Design**
- ✓ **Build or rehabilitate and finance**
- ✓ **Operate the infrastructure and in charge of delivering a full public service directly to the users.**
- ✓ **Compensated totally or mostly by the users.**
- ✓ **Contract of limited duration linked to the economic cycle (essentially amortization of the assets)**

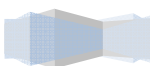
- ✓ A very common delivery method for public services in France and in countries of a civil/administrative tradition.
- ✓ In these countries PPPs have developed without detailed regulations due essentially to the key role of a Super regulator being at the same time a court ruling in equity issuing very authoritative precedents of simple and wide application, (thus ensuring the investors with both legal certainty and flexibility all along the contract duration).
- ✓ However, over the last twenty years various regulations have been passed to secure the investors mostly in innovative procurement (the most famous in France: “la Loi Sapin” 1993).

(c) **The convergence in the need and content of an institutional and legal framework covering the two PPPs families (particularly for project preparation and procurement and institutional set up offering sufficient guarantees to the investors) should permit to disseminate core principles of universal value which will become part of secure set of regulations attractive to the private sector.**



7. THE DILEMMA OF PPPs

- (a) In order to achieve a legal and institutional framework adoptable to a state, a region or a project, it is essential to understand the dilemma of PPPs.
- (b) This dilemma is well illustrated by the prima facie conflicting issue underlying Concessions and other PPPs :
 - (i) What are the needs and expectations of users of a public service? How to deliver service on the long-term which always adapts to new technologies and to the changes in needs and affordability and as such well accepted by all stakeholders and recognized as competitive? Examples: railway, port, electricity, water / sanitation, urban services, etc.
 - (ii) Under what conditions can a private company accept to invest over a long period of time and take the risk of not being paid by the end users or having to make new and unanticipated investments?



8. THE INSTITUTIONAL AND LEGAL FRAMEWORK ADDRESSING THE DILEMMA.

(a) A core of pragmatic solutions emerged over time. They are implemented easily on a day to day basis on many Concession PPP projects (thousands of projects): **the famous "Gold Standards"** referred to by the High Level Panel commissioned by the World Bank for the G20 in Cannes in 2012. The High Level Panel advocated to synthesize and to release those “Gold Standards” as soon as possible around the world since the private sector will not “invest in the dark”.

(b) **Focus on some core principles for complex PPPs (e.g. Family Concessions and PPP leading to a complete operation of a public service by the private partner):**

(i) Definition of a consensus on public service and its main characteristics: a definition which reflects the reasonable expectations of the users. Example: non-discrimination, continuity of performance, adaptability of the service.

(ii) Sets of contractual clauses which ensure a balance between public and private interests: a realistic allocation of risks and opportunities. Agreement on an economic and financial scenario upon contract signature updated on a regular basis during operation. A permanent reference to this scenario, which is based on the most solid foundations of contract law around the world providing an appropriate balance between the two principles: *pacta sunt servanda / rebus sic stantibus*

(iii) A public contract law different from common law applicable to private transactions in the interest of a resilient partnership – some legal principles are in favor of the public authority which has a duty to satisfy the public; some are in favor of the private party which is entitled to an appropriate form of compensation when unforeseen events of various nature take place and, *inter alia*, when directed to adapt the service by the public partner.

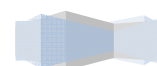
(iv) Regulations or clauses providing for frequent and structured exchanges between the partners and based on real transparency of the accounts and key information.

(v) A fully independent and highly regarded regulator

_The French and administrative law countries experience:

- ✓ Decisions issued by a supreme court: « *Conseil d’Etat* ».
- ✓ A court empowered to judge in equity for public private contracts.
- ✓ A highly conceptual case law often amounting legal principles.

– An Anglo-Saxon tradition solution, where an independent regulator can substantially modify the contract.



9. THE PREPARATION OF A PROJECT OF A PPP CONTRACT AND THE SELECTION PROCESS.

(a) PFI FAMILY and PARTENARIAT CONTRACT

(i) Basic principle: Competitive bidding and equal treatment of candidates.

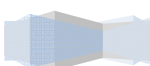
(ii) Procurement:

Obligation to demonstrate the advantage of PPPs over traditional forms of procurement.

Examples:

- Immediate and future financial advantages,
- Advantage in the adequacy of the infrastructure for the future service compared to other global contracts such as “Design and Build “, turnkey or products in hand.
- Advantage in investment and private management of the infrastructure in comparison to traditional public management.
- Advantage for the service adaptation to technical changes, needs, and affordability,

- The prerequisites:
 - ✓ Sufficiently and accurately define the needs, capabilities, goals, and establish criteria for comparison and selection.
 - ✓ Organize requests for proposals and a stage selection process
 - ✓ Establish, if necessary a competitive dialogue: Ref; the competitive dialogue charter developed under the aegis of the French Institute of Delegated Management (IGD).
 - ✓ Justify the choice of the winner on the basis of pre-established criteria well known to the competitors.
 - ✓ Existence of quick and effective remedies in case of non-compliance and protests

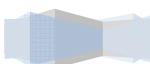


(b) CONCESSIONS AND RELATED FAMILY

- (i) **Basic principle: Competitive bidding and equal treatment of candidates.**
- (ii) **Procurement adapted to the particular of this venture where the public budgets are not at risk for compensating the private party which in turns must provide guarantees to deliver and adapt the public service over a long period of time.**

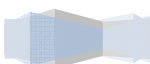
The public authority should mainly focus on the capacity of the candidate to deliver regularly a public service which answers its current and future expectations and the ones of the users

- Preparation, definitions of the needs based on functional specifications: scope, quality, adaptation of the service to the contributive capacity of the users. Justification of the advantage of using PPP (some similar tools are used for PFI projects and in addition other tools including social and financial aspects must be used)
- Design of economic and financial scenarios for the duration of the venture. The need to be realistic in relation to the private sector constraints in terms of financing, investment risks, internal rate of return under the particular risk profile etc... in order to attract high quality partners in the long term.
- Preparation of an integrated document summarizing the main objectives to reach including performance criteria and a set of template clauses well adapted to the reality which will be the basis for the choice of the private partner and the final negotiation.
- Well structured requests for expression of interest leading to a few prequalified or preselected bidders.
- Organize a final stage of "competitive negotiation" with one or more candidates: "tunnel" negotiation strictly regulates and protects the creativity expected from the private partner (Example of "Sapin" Law in France)
- Existence of quick and effective remedies in case of non compliance and protest.



10. MONITORING AND CONTROL OF CONCESSIONS AND OTHER PPPs: A MAJOR CHALLENGE

- (a) Important Note: unlike most public contracts, the success of a PPP project cannot be judged upon delivery of the public infrastructure.
- (b) The success of a PPP may only be judged after a long period of time that often exceeds 10 years. During this time, the service delivered to a public authority or to the public must comply with the many requirements often unknown upon contract signature (this is particularly important for the family of Concessions- PPP).
- (c) Monitoring and control of PPP require appropriate procedures and human resources in sufficient quantity and quality from each partner.
- (d) Lessons learnt from experience :
 - (i) The legal- economic reality: a contractual form sometimes closer to company law than contract law. Each partner must contribute to the success of the common objectives and implement with flexibility core principles to preserve win-win partnership and contract equilibrium.
 - (ii) The common objective: (mostly for PPP concession families). Both partners have a fiduciary duty towards the public end users who pay for the service (satisfaction of thousands or tens of thousands of users over the long term)



11. SOME CORE CONTRACTUAL PRINCIPLES FOR CONCESSION PPP CONTRACT

(a) **Example of special rights of the public authority :**

Notwithstanding any agreement to the contrary, the public authority generally enjoys “exorbitant” rights.

Examples:

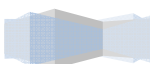
- (i) Right to terminate the contract, not only for failure to perform public service, but also for convenience; almost any time with prior notice if such termination is justified by general interest.
- (ii) Right to modify the contract to adapt the service in the best interest of the public.
- (iii) Right to impose other enforcement methods in case of a breach of fundamental obligations by the private party (for example: right to automatic use of assets and human resources of the private party in case substantial default in the performance of the public service).

(b) **Example of special rights for the Concessionaire :**

Notwithstanding any agreement to the contrary, the Concessionaire generally enjoys “exorbitant” rights.

Examples:

- (i) Right to fair compensation: when the public authority exercises sovereign rights for general interest purpose the private party has right to compensation. The compensation should be based on the principle of full compensation, including not only costs but also induced loss of profits (“*damnum emergens*” et “*lucrum cessans*”).
- (ii) Right for an adequate compensation: In case of an unforeseen event (“*sujétions imprévues*”), for example: in case of an unforeseeable technical event occurring during the construction phase or in the rehabilitation and maintenance the infrastructure.
- (iii) Right to restore the contract equilibrium in case of an unexpected event (“hardship”): for example, when the economic circumstances change substantially after contract signature above a certain threshold of impact on economic and financial equilibrium of the venture.
- (iv) Right to indemnity: when a sovereign act increases the concessionaire's obligations above a certain threshold and that such action is not reasonably foreseeable (if the private party is not in default).



12. PROPOSED TOOL FOR THE EVALUATION OF CONDITIONS OF SUCCESS OF PPPs: A COMPOSITE AND UNIVERSAL OPERATIONAL INDEX USEFUL AT ANY STAGE OF A PROJECT.

(a) Why creating a PPP index?

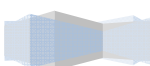
- (i) The failure rate of PPP is too important.
- (ii) Experience shows that in many situations those failures could have been avoided if « good methodology » was used for the preparation of the project and if the institutional and legal framework was adapted to the challenges.

(b) Which methodology to be used for creating an appropriate index?

- (i) Privilege the lesson learnt from :
 - Projects having at least a decade of lifetime.
 - Projects which are representative of their sector, region, legal culture, etc...
 - Issues which are substantially the same for most projects having the same socio-economic characteristics around the world. The famous core principles or “Gold Standards”.
- (ii) A scientific analytic methodology based on scientific selection and use of data.

(c) An INDEX for whom?

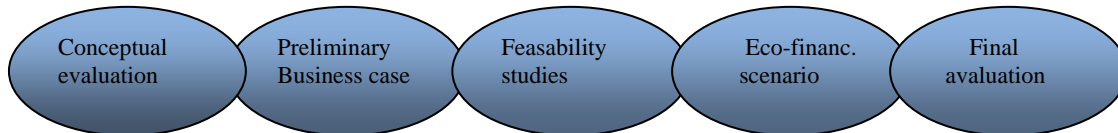
- For every public or private body who prepares, negotiates or implements a project and who needs simple references to evaluate the future of the project in its particular context.
- For governments intending to develop pipelines of projects in order to have a better view of the key elements which, in an integrated manner are the ones that the private sector evaluates before considering to bid for a project.



13. THE CHAIN OF THE CONDITIONS OF SUCCESS OF CONCESSIONS AND OTHERS PPPs

Complete chain for Concessions PPP (not all relevant for PFI or CPPPP)

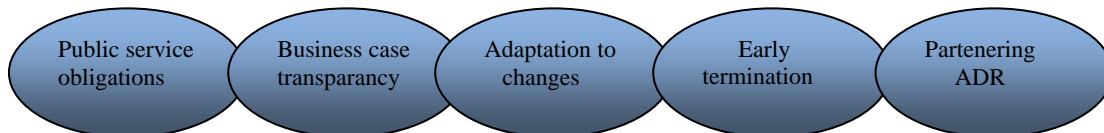
1. PPP preparation



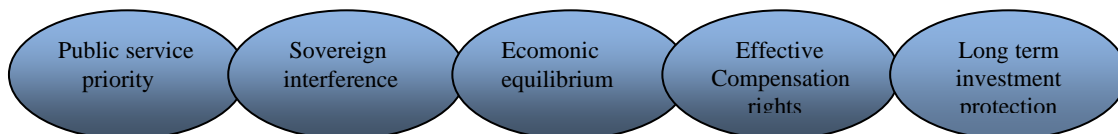
2. PPP procurement



3. PPP contract conditions



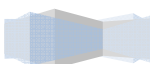
1. PPP underlying principles



2. Central level institutions

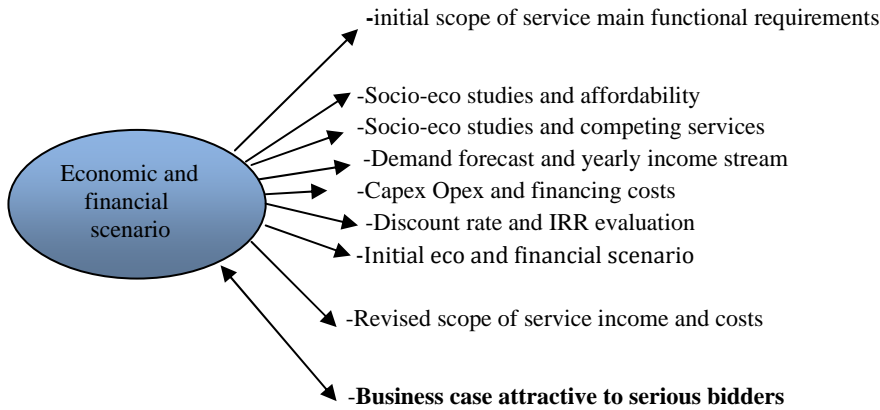


3. Project level institutions

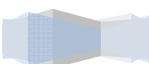
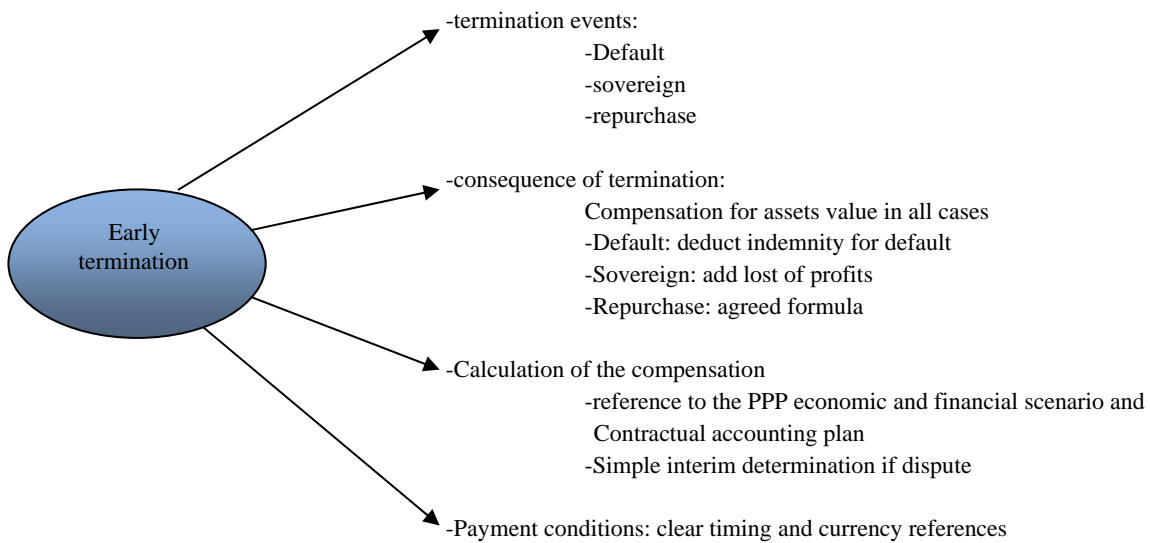


14. EXAMPLE FOR TWO ESSENTIAL LINKS FOR CONCESSION PPP AND SIMILAR CONTRACTS.

1.4



3.4



15. CONCLUSION

(a) After an initial review made by two groups of experienced PPP practitioners, from the industry and from the legal profession having joined their forces to identify the accumulated world of experiences on the conditions for the success of concession and other PPPs in developing countries and other countries over the last thirty years (which is the necessary period time for an appropriate evaluation), it appears that :

- (i) The renewal of PPP during the past twenty years in developing countries has mainly focused on the financing by the private sector of public infrastructure for the public sector not having the capacity to finance at the outset followed by a payment from public budget upon service delivery sometimes for decades (PFI or CP family).

This new form of PPP, which has various advantages compared to traditional public procurement, remains limited by the constraints of public budget equilibrium on the long term. The UK has seriously put the brakes on PFI contracts.

- (ii) Those constraints do not exist or are much more limited in a traditional Concession PPP family, including “*Affermage*” and similar contracts, where the private investor that financed the infrastructure by way of a global contract, is compensated directly (completely or partially) by the users.

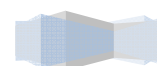
(b) How to promote better the development of resilient concessions and other PPPs in developing countries?

- (i) First step: make a better use of international best practices adapted to local challenges as they are identified and promoted by various institutions and currently refined, synthesized and developed in the Vademecum. The evaluation index that we propose is useful since it provides an integrated view facilitating the evaluation of the chances of success of projects directly in the field.
- (ii) Second step (which should be developed in parallel, failing which, it is not realistic to expect that that pipelines of concessions and other PPPs can take place in developing countries). This step amounts to organize an efficient process for preparation and implementation of framework laws on concessions and other PPPs regulating the range of possible PPP in the area of public services’ infrastructure.

This framework should also announce a set of implementing regulations, some general, others sector specific, while setting the core principles for their contents.

This institutional, legislative and regulatory effort must include adequate review of the overall investment climate, in order to ensure that other laws and regulations will not adversely affect the implementation and operation of the construction of the infrastructure or delivery of the service (land, investment, taxation, etc.).

It is important to remind that the experience of recent PPP laws, that have been enacted over the past 15 years in Francophone Africa, does not really give sufficient answers to the



institutional, regulatory and contractual challengers permitting experienced contractors and operators in public service PPP to have “enough appetite”.

(c) How to organize the process of drafting a framework law? What methodology? What content?

- (i) The sum of the experiences collected by the team involved in the Vademecum project combined with a good knowledge of the science of drafting legislation easy to implement in practice in developing countries pave the way towards an innovative methodological approach based on an emerging science : the “Legistic”.
- (ii) Attached, as a matter of example, a digest of the lessons learnt on the methodological approach for the design of a framework law on concessions and PPPs and implementing legislation, concluding a week seminar with senior PPP officials from 12 francophone countries (Abidjan, October 2012)

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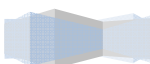
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APPENDIX A:

Condition of design and enactment of efficient and user friendly framework law on concessions and other PPPs and its implementing regulations.

(Proposal based on synthesis of lessons learnt from reference cases and country's legal framework)

Set the main objectives

- A legal framework that defines the common principles for the range of possible concession and PPPs for public infrastructure services.
- A legal framework acceptable by the government, the administration officials and the implementing agencies.
- A framework law written in a plain and clear language facilitating the planning and development of the projects and their successful implementation in full transparency.
- A framework law limited to 50 up to 100 articles announcing the implementing regulation and outlining the key principles that they will contain.
- A framework law based on the methodical approach developed by the legislative drafting science ("*légistique*") that the international community is currently considering (Ref. The World Bank program "Law, Justice and Development").

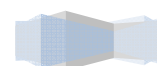
Establish an appropriate methodology

➤ First step:

- **Evaluation of the existing legislative and regulatory framework and practice**
 - ✓ General framework of public and private investments and infrastructures: analysis of the regulation, of their implementation, procedures including studies in different sectors (e.g. custom, taxation, exchange controls, land, environment, contracts, dispute resolutions, monopolies, competition law and regulation in different sectors).
 - ✓ Analysis of the practical implementation: analysis of the experience of the most significant projects, the methods of operation and procedures used by the State, the Ministries and the Public Authorities, the conditions of issuing permits and licenses, etc.
 - ✓ Review of legislative and regulation development during the last 15 years and the trends for the future mainly in relation to protection and guarantee of the investments on the long term
 - ✓ Analysis of international rules and best practices to be complied with for long term investment projects in the public infrastructure and mining sector.

➤ Second step

- **Identifying key issues, exchanges and roadmap.**
 - ✓ Identification of existing gaps in investment protection, procedures and generally accepted principles on concessions and PPPs around the world and in countries of similar legal tradition.
 - ✓ Review of the general requirements of private sector investors.
 - ✓ Drafting "concept notes" on each relevant issue (e.g. taxation, public service definition, economic and financial equilibrium, and adaptation) based on an initial exchange with stakeholders in the country or region.



➤ **Third step**

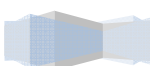
- **Establish a process of structured exchanges with experts from key ministries**
 - ✓ Identification of the different levels of experts in the various sectors impacted by the future law, assessment of the current involvement and knowledge of the experts.
 - ✓ Organization of an ad hoc drafting committee which needs strong political and inter-ministerial support.
 - ✓ Organization of a first committee meeting addressing its status, including bylaws, and effective operating conditions including confidentiality, participation obligation and responsiveness.

➤ **Forth step**

- **Initial findings of the drafting committee, roadmap and proceedings**
 - ✓ Development of the roadmap: synthesis between the "concept notes", the deliberations and the orientations of the committee, taking into account additional questions and recommendations, a detailed plan of a framework law and guidelines for its drafting.
 - ✓ Additional research to be developed by specialized experts to the extent necessary in order to inform the committee and facilitate the drafting process.
 - ✓ Organization of exchanges between the drafting committee and the reference PPP expertise and practice (private and public) in the region and selected countries.

➤ **Fifth step**

- **Drafting of a complete framework law based on the roadmap**
 - ✓ Analysis and evaluation of the draft by the committee.
 - ✓ Amendment of the draft based on the comments and directions of the committee.
 - ✓ Review of the draft by a high level panel of national and international practitioners for concession and PPPs: (legal practitioners, economists, financial and environmental experts).
 - ✓ Final draft in consensus with the committee.



Summary plan of a framework law (checklist)

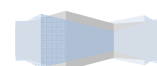
- **Scope et definitions**
 - ✓ Possible definitions examples: complex projects, public contract law, public interest public service)
 - ✓ Object
 - ✓ Perimeter
 - ✓ Sectors
 - ✓ Public order provisions
 - ✓ Relation with the public procurement law
 - ✓ Definition of the two families : concession and other PPPs

- **Institutional framework**
 - ✓ Governance, ethics
 - ✓ PPP unites, central and sector specifics (status, power, obligations, etc.)
 - ✓ PPP project committee (status, powers, obligations, etc.)
 - ✓ Local evaluation committee
 - ✓ Regulatory authority
 - Organization
 - Judicial review

- **Project preparation**
 - ✓ A central PPP unit (statutes, powers, obligations, decisions, etc.)
 - ✓ Preparation procedure conceptual framework, prefeasibility, economic et financial scenario
 - ✓ Choice of the contractual form
 - ✓ Final decision and listing of the project
 - ✓ Conditions of utilization of experts and consultants

- **Procurement**
 - ✓ Conditions of organization of the prequalification or the pre-selection
 - ✓ Conditions of preparation and content of the consultation documents
 - ✓ Selection procedures
 - Two step consultation
 - Competitive dialogue
 - Competitive negotiation
 - Unsolicited Offers
 - ✓ Remedies
 - Summary judgment: conditions and consequences
 - other

- **Legal framework**
 - ✓ General : regulatory and contractual aspects
 - ✓ Public contract law
 - Economic equilibrium: scope and consequences, principles for avoidance, allocation or sharing of risks
 - Special rights for the public authority
 - Special rights for the investor
 - *Intuitu personae*
 - ✓ Investors legal status
 - ✓ Legal status of land and assets
 - ✓ Real rights and guaranties
 - ✓ Environmental obligations : EISE and **licenses**
 - ✓ Permitting



- ✓ Expropriation law, obligation of compensation and of resettlement
- ✓ Prevention and Dispute Resolution, Arbitration, Governing Law

- **Mandatory contractual clauses list**
 - ✓ Basic list
 - ✓ Additional list for the PPP concession family
 - ✓ Example clauses requiring a minimum of information/precision/specification
 - Tariff clauses
 - Clauses on authorizations and licenses
 - Clauses on partnering and dispute resolution
 - Clauses on transparency, reporting and monitoring
 - Clauses on applicable law
 - Clauses on early termination, compensation conditions and dispute resolution by arbitration

