IGC International Growth Centre

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Conference Report

African Conference on Public-Private Partnerships

6-7 December 2012

The International Growth Centre (IGC) hosted the African Conference on Public Private Partnerships on 6-7 December 2012 in Kampala, Uganda at the request of the Ministry of Finance of Uganda and organised in partnership with the Bank of Uganda. The conference brought together policy-makers, practitioners and experts from across the globe to share their knowledge and experiences in Public-Private Partnerships (PPPs). The conference came at a critical time for the region; PPPs are receiving growing attention from governments in Africa as a means to fill the expanding gap in finance for infrastructure development. Both Rwanda and Uganda are ratifying PPP bills in parliament. Day 1 of the conference was devoted to theoretical and best practice frameworks for implementing PPPs, with sessions on ex-ante institutional arrangements, project development and feasibility studies as well as project management. During Day 2, participants applied these concepts and frameworks to specific country cases and situations. Participants presented case studies from Africa, Latin America and the Middle East, highlighting both success and challenges, and drawing out lessons.

The Minister of Finance, The Right Honourable Maria Kiwanuka opened this two day event, and acknowledged the importance of work on this topic. She noted that Uganda has sustained remarkable economic growth in recent years and that this has come with increasing pressure on roads, air transport, energy, rail and water-ways. Public investment alone cannot meet all of these needs: the magnitude of investment required in Uganda in the next decade exceeds that which government can expect to provide, even with the support of donor finance. Public Private Partnerships, while not a panacea, and still relatively new in Africa, can play a role in helping overcome some of these constraints. Well-structured PPPs which allocate risk appropriately can provide attractive new opportunities for private investors and in doing so provide much needed resources, innovation and efficiencies. The Government of Uganda has identified the importance of PPPs in project and service delivery to address the current infrastructure deficit; a number of projects have been completed and many more are underway. In order to strengthen the institutional and legal framework for PPPs in Uganda, the Ministry of Finance, Planning and Economic Development has developed a PPP policy. The Honourable Minister noted that they will soon bring this policy before Parliament.

Session 1: Overview of PPPs

Ronald Fischer (University of Chile)

Professor Fischer provided an overview of Public-Private Partnerships, first explaining how both economic arguments as well as political arguments can be important in determining whether or not to rely on public provision, privatisation, or PPPs for the provision of infrastructure services, such as electric power generation and distribution, highways, or public hospitals. Professor Fischer defined PPPs by highlighting their three essential features: (i) assets owned by the public sector but controlled temporarily by a private party; (ii) planning and design done by the public sector, sometimes in collaboration with a private party; and (iii) public sector is usually the residual claimant, and the owner of much of the risk associated with projects. The assignment of responsibility for risk in a PPP is not always straightforward and there often exists a significant gap between the assignment of risk as written in the contract and the de facto responsibility for risk. This is particularly so in developing countries.

Professor Fischer used highways as an instructive example of PPP projects, to draw out the major risks and benefits, emphasizing that PPPs may reduce life cycle costs, reduce waste of funds and provide resources and human capital to dramatically improve infrastructure. However, he also warned that there are no major fiscal benefits and only fiscal risk for the government. In most PPP cases governments apply guarantees, implicit if not explicit, to elicit the investment, so the project becomes an actual or contingent liability. PPPs do not relax fiscal constraints, and should in fact be considered equivalent to government debt, despite their differential treatment from standard public investment in fiscal accounting. PPPs also provide scope for corruption, especially if there is not sufficient competition in the process of awarding contracts.

Assessing quality of service to hold operators to contractual terms can prove difficult, and this was discussed in the Q&A. It is relatively straightforward to observe and objectively measure highway quality, but much more difficult to measure the quality of service delivery in hospitals and prisons. A second problem that arose in the Q&A was how to prevent political interference in the selection of prospective projects and even winners. Fischer suggested that one way to structure politician involvement in the selection of projects is ensure that potential PPP projects are evaluated using social cost-benefit analysis tools, wherein the government determines the shadow cost of public funds and only approves projects whose social profitability achieves the hurdle rate. Politicians can then exercise discretion over the pool of projects that cleared the social profitability threshold.

Session 2: Key Institutional Decisions

Taziona Chaponda (Genesis Analytics)

Building on his experience in the PPP Unit in the South African Treasury, Taziona Chaponda discussed key institutional decisions in the implementation of a successful PPP programme. Chaponda identified the objective of PPPs as attracting private capital and skills to further develop infrastructure, and highlighted the great scope for innovation in project formulation in PPPs. However, institutions must work together to create a conducive environment for PPPs and help build the government's reputation as a sound partner for the private sector.

The presentation focused on the legislative foundation that provides easy access to a fair, predictable and stable legal environment and thereby reassurance to the private sector that contracts will be honoured. Laws and regulations should provide a clear definition of the scope of application of the legal framework, and a clear definition of PPPs. The law should also clearly allocate roles and responsibilities for PPPs between relevant institutions within government. Ambiguity in roles and responsibilities can create obstacles to solving potential conflicts. Importantly, all PPPs should be channelled through the same structured and transparent process to limit the scope for corruption.

The importance of trained, technically competent staff to apply legislation and regulation in a way that facilitates investment and encourages private sector innovation was emphasized in Session 2 and throughout the conference. Many countries have established a PPP unit, as a centre of technical expertise within government, which provides centralised oversight and performs a gatekeeper role, screening projects to ensure PPPs provide value for money, are fiscally affordable and sustainable from a macroeconomic perspective, and that risk transfer is appropriate. The capacity to assess and price risks so that they can be managed is a fundamental technical expertise that government must have. The PPP unit, irrespective of where it is located (usually in the Ministry of Finance), should be a central body because of the specialized skills needed; it needs to work closely, however, with the Ministry, Department or Agency (MDA) implementing the project because

the latter is responsible for contract management and supervision. During discussion following the presentation Chaponda emphasized his view that governments should not entertain unsolicited bids until they possess the adequate capacity and skills, without which unsolicited bids become a major source of governance problems, and bad projects.

Session 3: PPP Project Development, Feasibility Studies

Lloyd Richardson (US Treasury)

Session 3 addressed PPP project preparation, specifically screening, feasibility, risk and structuring. In the discussion of project screening the presenter emphasized the need to develop a standard application that contracting authorities – the Ministry, Department or Agency (MDA) – can use to prepare and send relevant information on project details, financial issues, and risks to the PPP unit. This standardization is essential to ensuring the PPP unit can compare projects and assess three important items: (i) affordability; (ii) opportunities for risk transfer; and (iii) value for money. Competitive bidding can serve as a proxy for value for money, which is otherwise hard to measure. Feasibility studies are the only way to address these three key questions, and due diligence has to be comprehensive: every risk associated with a project must be insured against or controlled. Due diligence early in the process is essential to identifying risks and facilitating project costing. On affordability, Richardson suggested that the key question to ask is whether the project can support itself, that is, generate enough revenue to pay for the expenses associated with the project, including investment debt service. He also responded to a question from the audience on discount rates, emphasizing that while there are many different views on this topic, choice of discount rate must be informed by current activity in the financial markets.

Session 4: The Bidding Process

Ronald Fischer (University of Chile)

Session 4 focused on the bidding process, and the important elements that should be included as standard practice. In the selection of projects, government must determine whether projects are socially beneficial, for example by determining the shadow cost of public funds. Only projects whose social benefit is above that threshold should be funded. The importance of competition to encourage innovation was emphasized; a "road show", once projects are well defined, is particularly important to attract multiple bids. Surety bonds can be a useful tool to weed out firms that do not have the financial backing to carry out the project.

Many countries combine quantitative and qualitative variables into a score that is used to compare bids. The grades assigned to qualitative variables are subjective, so they become easy to corrupt, and the weights assigned to variables are also a source of potential corruption. An alternative procedure involves two stages, a technical proposal followed by financial proposal. Firms' technical proposals are evaluated and if they pass a quality threshold, the bidders can move on to the economic stage. In this stage, firms' proposals are evaluated on only one dimension, which could be, for example, present value of revenue. In this case the PPP would be awarded to the firm which asks for the lowest present value of user fee revenues. This strategy is also useful when renegotiating the PPP contract (for example, to widen the road by adding more lanes), because the uncollected present value of tolls represents a fair value for repurchase in case no satisfactory agreement is

reached in the renegotiation process. The time length of concessions can be adjusted to be longer or shorter horizons depending on the flow of demand risk. Finally, responsibility for the promotion and regulation of PPPs are often located in the same unit, but in fact should be separated.

In this session Benson Turamye, Director of Procurement Audit and Investigations at the Public Procurement and Disposal of Public Assets Authority (PPDA) in Uganda, commented on the importance of having competition in the bidding process based on a well-defined project including a statement of requirements, technical specifications and evaluation criteria, and transparent processes. He also highlighted the importance of involving those who will be responsible for managing the project contract in the various stages of the procurement cycle. During the discussion, the need to have mechanisms in place for conflict resolution arose. In Chile, creating a separate panel for each project proved unsuccessful, and the Government recently opted to create permanent, independent and specialized adjudicatory panels to resolve all PPP conflicts. This strategy is still new and as of yet, untested.

Session 5: Project Management

Henrique Pinto (Brazilian Development Bank - BNDES)

The focus of Session 5 was Brazil's approach to Public Private Partnerships. BNDES is an entirely state-owned company and the key instrument for implementing the Brazilian Federal Government's industrial and infrastructure policies. It is the main provider of long-term financing in Brazil, with an emphasis on financing investment projects. Due to high volatility and inflation it was suggested that long-term projects would not exist without BNDES. Importantly, the Project Structuring Area in BNDES is responsible for fostering, structuring and coordinating PPP projects for the federal government, states and municipalities in Brazil. The Government of Brazil outsources PPP project preparation to BNDES. BNDES has multiple mechanisms of project structuring. The Project Structuring Fund supports research aimed at guiding public policy, improving sector knowledge and regulatory frameworks and developing new and better projects. The PSP Development program is focused on innovative projects involving long-term contracts in sectors where the private sector is not currently active. Finally, the Brazilian Project Structuring Company (EBP) holds responsibility for the development of infrastructure projects of public interest and attractive to private investors. Pinto emphasized the importance of aligning public and private interests in BNDES' work, in order to ensure that the private sector is an adequate partner of the public sector. Interestingly, EBP owns the risk for undertaking costly feasibility studies; if the project is not ultimately used, then EBP absorbs the losses, rather than the Government. However, if the project is successfully tendered, then the winning firm picks up the cost of the feasibility study.

Discussant Taziona Chaponda emphasized the uniqueness of the Brazilian model for administering PPPs, noting that BNDES has successfully developed a permanent pool of skilled people to carry out this work, and once again highlighting the difficulty of retaining skills in the public sector.

Session 6: Case Studies

Henrique Pinto presented the PPP which introduced private sector participation in strategically selected airports in Brazil. The PPP was initiated to increase the regional aviation infrastructure network, capacity and efficiency to meet the increasing demand for air transport in the country, as well as to improve the operational and financial performance of Infraero, the Brazilian airport administrator. Pinto explained the rationale behind the government's decision to utilize a PPP in this instance, which was based on both macro conditions (strong demand growth in airports leading to infrastructure bottlenecks and difficulty in increasing capacity) as well as micro conditions (strategic assets and the desire to have airport infrastructure ready for the World Cup). One notable component of this contract is that expectations for the quality of service were well specified and monitored every five years. A quality of service index was used that contained both objective measures of quality such as technical reports, as well as subjective measures captured in user surveys. There were penalties for a failure to meet the quality targets, and bonuses for surpassing them.

Ronald Fischer provided many examples of problematic PPPs in Chile, ranging from highways to prisons. From these experiences he drew a number of lessons, which echoed many of the points made during day one. Fischer recommended that only one government unit should negotiate the PPP, and warned that private firms will try to exploit the rules and lack of knowledge that limit the government's ability to manage PPPs effectively. Chile – one of the least corrupt countries in the world – experienced severe cases of corruption in the ministry negotiating PPP contracts, which ultimately culminated in the sending of a Minister to prison. This underscores the crucial need to build public sector capacity to manage PPP implementation; this requires knowledge and experience.

Session 7: Case Studies

Augusto Sumburane (Ministry of Finance, Mozambique) discussed the regulatory framework for PPPs in Mozambique, and emphasized the importance of the equitable sharing of risks and benefits between the public and the private sector. A number of tendering modalities are available in Mozambique; one of these is a two-stage process of bidding in which the government writes up a call for proposals, setting out general requirements during the first phase (pre-qualification phase), and once proposals have been received, the government conducts the official tender. This process helps mitigate the risk of having no participants and helps deal with unsolicited bids.

Taziona Chaponda discussed the importance of the political and design strategy behind two transportation projects in South Africa: a BRT (Bus Rapid Transit) system and a Rapid Train (Gautrain). A critical feature of the BRT implementation was the success of the government in ensuring demand for the service, by incorporating the incumbent operators (unsafe minibus taxis) into the operation of the new BRT system. Additionally, the Government introduced a taxi recapitalization process (destroying old, unsafe vehicles) by providing monetary incentives to the taxi drivers to turn in their vehicles. The Government was also successful in managing demand risk for the Rapid Train, by providing a bus service that is integrated with train schedules.

Christopher Olobo (IFC) presented the first PPP project in the Middle East (Jordan) without a government guarantee and combining both conventional and Islamic Finance. Two main challenges of the Queen Alia international airport PPP were: (i) convincing the Government to scale down the project to align with projected demand growth; and (ii) managing the political risk stemming from instability in the region. Crucial to the success of the project was the division of risk. The private actor paid an initial good will investment, in addition to 55 per cent of annual gross revenues annually, while the Government bore the risk of pre-existing environmental liabilities, inflation and foreign exchange. The benefits of this PPP for the Government include reduction of risks, a new revenue stream, private sector financing, and operating efficiencies.

Session 8: Case Studies and Ideas for the Future in the Region

David Ssebabi (Ministry of Finance, Uganda) discussed the challenges of PPP renegotiation in an electricity project in Uganda and underscored the need for transparent procurement including a feasibility review, competitive tendering, and extensive stakeholder engagement and public awareness. Political commitment, political and economic stability, legal and regulatory reforms, and technical and management capacity were identified as key drivers of success in PPPs. He warned that the temptation of the Government to take back projects may actually result in a lost opportunity to realize investments, an increase in the political risk profile of the country, and an erosion of the confidence of the private sector in contracting with Government.

John Mboya (Prime Minister's Office, Tanzania) discussed the PPP experience in Tanzania, reiterating many of the points made earlier in the conference, namely that comprehensive feasibility studies are key, as is assessing value for money, a well-specified contract with clear obligations for all parties, and competitive tendering. It was noted that in Tanzania PPP projects have had mixed results, largely due to contract terms and the absence of a legal and institutional framework designed for long-term contractual cooperation between the public and private sectors. These challenges are now being mitigated through the development of an enabling PPP regulatory environment.

Stanley Kamau (Ministry of Finance, Kenya) presented Kenya's experience with PPP projects and also highlighted the opportunity for regional coordination on PPPs in infrastructure development. He suggested that in railways, roads and ports, oil and gas pipelines, as well energy generation and transmission there may be large benefits to the development of cross border projects.

Bimerew Dessie (Ministry of Finance and Economic Development, Ethiopia) discussed the forums in Ethiopia which were recently established to facilitate dialogue between the public and private sectors, and emphasized the importance of extensive

consultation. In Ethiopia these forums aim to improve the business environment, facilitate dialogue between the public and private sectors on new initiatives and policies prior to their implementation as laws, and increase common understanding on the nation's vision and strategies, echoing the earlier point about the necessity to align public and private interest and reinforce common understanding of PPPs.

Closing Remarks

Professor Arsene Balihuta (Office of the President, Uganda) delivered remarks on behalf of Honourable Aston Kajara, the Minister of State for Finance in charge of privatization. He suggested that the role of politicians in PPPs is to make countries and "enabling systems" competitive and attractive to private actors in the PPP market. To this end Uganda is committed to creating a single centre of PPP expertise within government, which will act as the primary point of contact with the private sector and will promote PPP awareness initiatives across government institutions. Uganda has also approved a PPP Policy; the Bill was passed by the Cabinet and an initial pipeline of projects has been published. Uganda will utilize PPPs to finance accelerated infrastructure development and service delivery as well as to reduce life-cycle costs of projects and appropriately assign risks to the party best suited to manage them. In the short term, Uganda hopes to gain technical support to boost local human resources and build capacity within government to administer PPPs. At the same time, there is a plan to roll out pilot PPP projects. In the medium-to-long-term, Uganda expects to deliver PPP projects in energy, mining, roads and rail, air transport and waterways, and also aims to undertake regional projects with other East African states.

The Governor of the Bank of Uganda, Professor Emmanuel Tumusiime-Mutebile, formally closed the two day conference. Professor Tumusiime-Mutebile shared words of appreciation for the many fruitful presentations and discussions of the conference, and, importantly, set the conference in the context of wider economic issues that Uganda, as well as many of the other participating countries, face today.

About the IGC

The International Growth Centre (IGC) aims to promote sustainable growth in developing countries by providing demand-led policy advice based on frontier research. Based at the London School of Economics and in partnership with Oxford University, the IGC is initiated and funded by the UK Department for International Development.

The IGC has 14 active country programmes in 13 countries (Bangladesh, Ethiopia, Ghana, India (Bihar state and Central), Liberia, Mozambique, Pakistan, Rwanda, Sierra Leone, South Sudan, Uganda, Tanzania and Zambia) as well as 10 research programmes spanning topics such as trade, agriculture, macroeconomics and human capital.

The country team for Uganda includes Marguerite Duponchel, In-Country Economist; Annabelle Burgett, Hub Economist; Agnes Kasule, Programme/Office Manager; Jakob Svensson, Lead Academic; Tessa Bold, Lead Academic; and Richard Newfarmer, Country Director.

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