International Seminar on Strengthening Public Investment and Managing Fiscal Risks from Public-Private Partnerships

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OECD Principles for Private Sector Participation in Infrastructure

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OECD and its Investment Committee

- Overseeing OECD policies toward international investment and multinational enterprises. This includes:

- Responsible business conduct

- OECD's investment instruments. The Declaration on International Investment and Multinational Enterprises is open to non-OECD adherents.

Why do we need private participation in infrastructure (PPI)?

- Worldwide infrastructure needs exceed what can be funded by the public purse
  - In OECD countries: ageing basic infrastructure
  - In developing countries: a need to step up efforts to meet development goals.
- Private participation brings efficiency gains
  - Tapping the technological and managerial expertise of the private sector
  - Competition, wherever feasible, brings market discipline

Why do we need "Principles"?

- A number of PPI projects in the past have failed
  - Often the main cause was not project specific, but short-comings in investment environments, capacities and attitudes
  - The time is ripe for a fresh push to mobilise private investment

- The Principles advice on how to avoid the mistakes of the past
  - Synthesising a large body of analysis and case examples
  - Offering recommendations of best practices, agreed among a variety of experts and policy communities

- The Principles are still work in progress
  - Further revisions are foreseen following today's discussions.

The Principles in overview

Annotated recommendations to host country authorities focussing on five topic areas:

- Deciding on public or private provision of infrastructure services
- Enhancing the enabling institutional environment
- Building capacity at all levels of government
- Making the public-private co-operation work
- Encouraging responsible business conduct

OECD instruments complementary to the Principles

- The Policy Framework for Investment
- The OECD Guidelines for Multinational Enterprises
- Development Assistance Committee's guidance on Infrastructure and Pro-Poor Growth.

Example 1 : Deciding on public or private provision of infrastructure services

- Principle 1: The choice by public authorities between public and private provision should be based on cost-benefit analysis taking into account all alternative modes of delivery, the full system of infrastructure provision, and the projected financial and non-financial costs and benefits over the project lifecycle.

- Principle 2: No infrastructure project should be embarked upon without assessing the degree to which its costs can be recovered from end-users and, in case of shortfalls, what other sources of finance can be mobilised.

- Principle 3: The allocation of risk between private parties and the public sector will be largely determined by the chosen model of private sector involvement, including the allocation of responsibilities. The selection of a particular model and an associated allocation of risk should be based upon an assessment of the public interest.

- Principle 4: Fiscal discipline and transparency must be safeguarded, and the potential public finance implications of sharing responsibilities for infrastructure with the private sector fully understood.

Example 2 : Building capacity at all levels of government

- Principle 9: Public authorities should ensure adequate consultation with end-users and other stakeholders including prior to the initiation of an infrastructure project.

- Principle 10: Authorities responsible for privately-operated infrastructure projects should have the capacity to manage the commercial processes involved and to partner on an equal basis with their private sector counterparts.

- Principle 11: Strategies for private investor participation in infrastructure need to be understood, and objectives shared, throughout all levels of government and in all relevant parts of the public administration.

- Principle 12: Mechanisms for cross-jurisdictional co-operation, including at regional level, may have to be established.

Example 3 : Making the public-private co-operation work

- Principle 13: To optimise the involvement of the private sector, public authorities should communicate clearly the objectives of their infrastructure policies and they should put in place mechanisms for consultations between the public and private partners regarding these objectives as well as individual projects.

- Principle 14: There should be full disclosure of all project-relevant information between public authorities and their private partners, including the state of pre-existing infrastructure, performance standards and penalties in the case of non-compliance. The principle of due diligence must be upheld.

- Principle 15: The awarding of infrastructure contracts or concessions should be designed to guarantee procedural fairness, non-discrimination and transparency.

Example 3 (cont.) : Making the public-private co-operation work

- Principle 16: The formal agreement between authorities and private sector participants should be specified in terms of verifiable infrastructure services to be provided to the public on the basis of output or performance based specifications. It should contain provisions regarding responsibilities and risk allocation in the case of unforeseen events.

- Principle 17: Regulation of infrastructure services needs to be entrusted to specialised public authorities that are competent, well-resourced and shielded from undue influence by the parties to infrastructure contracts.

- Principle 18: Occasional renegotiations are inevitable in long-term partnerships, but they should be conducted in good faith, in a transparent and non-discriminatory manner.

- Principle 19: Dispute resolution mechanisms should be in place through which disputes arising at any point in the lifetime of an infrastructure project can be handled in a timely and impartial manner.

The way forward and future co-operation

- The Principles are considered by the OECD Council on 7 March 2007.

- Working with authorities, in OECD countries and beyond, to implement the Principles
  - OECD-NEPAD Africa Investment Initiative
  - MENA Initiative on Government and Investment for Development
  - Sector specific applications