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I. COUNTRY INFRASTRUCTURE AND POLICY DIRECTIONS

Realizing infrastructure as a precondition for social and economic development, the government of Uzbekistan pays great attention to the development of the transport infrastructure and the related industry. The infrastructure today remains a priority direction of expenditures of budgetary funds, state non-budgetary funds, and external loans guaranteed by the government.¹ So far, the country is underway to establish a modern road transport network. Furthermore, an air communication system has been created in the country, the power system is developing, and other sectors and facilities of infrastructure are being modernized.²

But, successes of the economic policy, directed on development of private sector, and also favorable market conditions, have naturally led to increase of burden on infrastructure capacities. There is a strong need to create new infrastructure capacities for maintaining economic growth, but also to modernize or replace existing capacities, as well as to adjust infrastructure in order to respond to changing needs of the economy and the society.³ Today, Uzbekistan is faced by a shortage of infrastructure capacities and an insufficient efficiency of the infrastructure.

In order to solve the infrastructure shortfalls, the Resolution of the President of the Republic of Uzbekistan № ПП-1446 December 21, 2010 “On the acceleration of infrastructure development, transport and communication development in 2011-2015” approved the main parameters of capital investments and investment program's of the Republic and address a program of projects implemented with foreign credits guaranteed by the Government of the Republic of Uzbekistan. Furthermore, the Resolution of the President of the Republic of Uzbekistan № ПП-927 dated on 24.07.2008 “On measures to improve the process of attracting foreign investments and loans” was given the task of wide informing foreign investors and international financial institutions about favorable investment climate and potential investment opportunities in the economy created the Republic of Uzbekistan. The document paid special attention to ensure coordination of the activities of governmental and economic management. The tasks are to provide comprehensive assistance and support to foreign investors.

Annually, the President of the Republic Uzbekistan declares by resolution the investment program for the coming year.⁴ Pursuant to Presidential Decision, the executive body of the Cabinet of Ministers shall issue special regulations to implement the investment policy (see annex 1 for an example of investment program in the rail sector).

1.1 IMPLEMENTATION PROCESS

In accordance with decision of the Cabinet Council of the Republic of Uzbekistan dated on November 21, 2000 № 456 "On improving the tenders" the procedure of establishing a project development process, from the idea of the project until its completion, proceeds as follows:

1. To cover a specific demand, relevant national transport companies (public or joint) prepare pre-feasibility studies for projects and coordinate with appropriate authorized state bodies (Ministry of Economy, Ministry of Foreign Economic Relations, Investments and Trade (IBEC), the Ministry of Finance, etc.)

2. After coordination, the companies refer to financial institutions on the allocation of funds (ADB, EBRD, JBIC, etc.).

3. If a financial institution is interested in the project, they begin negotiating the terms of the involvement of the financial institution.

4. Under the regime of the financial institution the companies are developing feasibility studies (FS) for the projects, which are also to be agreed by the relevant authorized bodies.

5. Government decides on the implementation of a project based on provided sets of documents.

6. The financial institution enters into a loan agreement with the relevant national transport company, guaranteed by the Government.

7. The company creates a project implementation unit. However, the financial institution appoints a foreign consultant to support project and procurement preparation.

8. The implementation unit prepares tender documents and carries out the tender for supply of goods and services. As a result of tendering a contract is assigned to the winner of the tender. Sign a contract with the winning bidder.

9. After contract signing the contract has to be recorded in the relevant authorized bodies (MFERIT, National Bank, Customs Committee).

10. After completion of services the contract will be closed and the relevant transport company has to report to the financial institution on the completion of the project.

All investment projects pass through the tender procedures, by rules of the international norms and requirements. According to legislation a tender commission has to be installed, which involves relevant Ministries, the company and the serving banks. Announcements of carrying out of tenders are published in all local newspapers prior to the confirmed date of carrying out of competition.

1.2 LEGAL AND REGULATORY FRAMEWORK FOR INFRASTRUCTURE

The law on natural monopolies refers to pipelines for transportation of hydro carbonic raw material, manufacturing and transportation of electric and thermal energy, railways, postal services, water pipelines, sewer networks, air navigation services, ports and airports. The
basic tools of state regulations are price regulation, identification of consumers subject to
obligatory service, and/or establishment of minimum level of providing the consumers with
monopoly services. Cabinet of Ministers of the Republic of Uzbekistan, represented by the
State committee on de-monopolization, support of competition and entrepreneurship is the
regulating body in the sphere of natural monopolies, whereas the authority of price regulation
belongs to the Ministry of Finance.5

As stated above, the Cabinet of Ministers has relevant competences to implement
investments:

- development of programs of priority directions,
- determination of the order and conditions for carrying out competitions and auctions,
- determination of the order for carrying out state expert appraisal for concessionaire
  projects and programs,
- determination of the concessionaire agreements registration order,
- determination of the list of objects not subject to concession transfer or with limited
  concession transfer,
- organization of control of concession agreements.

Where authorized, the organization of competition and the conclusion of contracts could be
transferred to administrative state bodies. Regularly, the competences are born by the local
state bodies, where they are responsible to manage infrastructure.

The legal base for PPP in Uzbekistan is created by national legislation on privatization,
restructuring and regulating natural monopolies, on measures on developing competition,
introducing rent and concessions, attracting foreign investments, as well as on reforming
certain sectors of social and economic infrastructure.

Projects financed by multilateral have to apply the rules and guidelines. For example
“CARREC” – projects has to follow ADB guidelines.

II. GOVERNMENT PERSPECTIVE ON THE ROLE OF PRIVATE
SECTOR INVOLVEMENT

Modernization and expansion of infrastructure is a priority of national economic strategy, and
therefore a series of actions are carried out for the implementation and development of the
Private Public Partnership in the transport sector.

By the Presidential Decree dated on April 9, 1998 N УП-1987 “On measures to further
stimulate private sector development, small and medium-sized businesses" the relevant
authorities adopted several measures to further develop the private sector to take part on an
equal footing with government agencies at all industries, manufacturing, construction, and
trade.

By the Presidential Decree dated on 24 January 2003 of № УП-3202 "On measures to drastically increase the proportion and value of private sector in the economy of Uzbekistan" the Center of Corporate Governance by the Cabinet Council dated on 4 July 2003 was created. The Centre trains citizens (regardless of age, sex and national origin) to a qualified business in different fields of industries, agriculture, construction, transport, trade, etc.

PPP is widely seen as a tool to overcome budgetary constraints in infrastructure development, to improve the efficiency of service delivery and to secure the conditions of infrastructure according to the needs. But, in Uzbekistan at the present time there are only limited legal, institutional, financial and personnel preconditions for successful introduction of PPP model. Therefore, it is obvious that in Uzbekistan the implementation of the PPP model will be accompanied by further legal and institutional developments.

2.1 RESPONSIBLE AGENCY FOR PRIVATE SECTOR INFRASTRUCTURE PROCUREMENT

PPP idea is of growing interest in the government circles of Uzbekistan (where it receives special support from the State committee on de-monopolization, support of competition and entrepreneurship), and in the business - community, where the Expert Council on private-public partnership has been created under the aegis of Chamber of Commerce and Industry of Uzbekistan with the support of United Nations Development Program. Furthermore, the law “On concessions” is established since 1995. The "authorized administrative state body in the area of concessions" shall organize the competitions and auctions and conclude concession agreements. This implies the existents of a permanent body, which is not established or at least not visible so far.

In accordance with the Government, the following authorized bodies are to be engaged within the provision of an investment project:

- “Gosarhitektstroy”,
- Ministry of Economy,
- Ministry of Foreign Economic Relations, Investments and Trade,
- Ministry of Finance.

2.2 CONSTRAINTS REGARDING PRIVATE SECTOR PARTICIPATION

The legislation of the Republic of Uzbekistan doesn't limit acquisition of infrastructure by private, except highways of the general using, municipal roads, the railways, the airports and objects of strategic appointment. The Cabinet of Ministers develops the programs of priority directions and determines the list of objects not being subject to “concession transfer” or transfer of which is limited. To date, the aforesaid list has not been developed or at least it is

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not available to the public. But, the government sets up several joint stock companies to develop the infrastructure sectors.

Furthermore, Uzbekistan accepted the law “On concessions” in 1995 already. But, from the moment of acceptance not a single complete concession agreement has been concluded.\(^8\)

Its scope of application needs serious improvement (concession defined as an authorization “for the performance of a certain kind of economic activity connected with the granting to such investor of property, plots of the land and subsoil on the basis of the conclusion of the concession agreement”, discrimination against domestic investors, unclear definition of concerned sectors).\(^9\)

Therefore, the projects implemented so far are mainly on the municipal level and are based on “quasi-concessions”. A law on public-private partnership has not yet been adopted.

Some constraints could be defined as follows:\(^{10}\)

- tariff regulation doesn’t meet specification of modern concessions, e.g. level of compensation of costs remain below necessary level,
- the mainly used partial privatization model creates problems with the definition of responsibilities and opens potential for corruption,
- no sufficient experience is available to handle PPP,
- Issuing financial instruments under PPP or concession projects, will become an obstacle, because the national financial markets are at early stage of development. Foreign investors will need reliable guarantees for their investments.
- today there is a limitation in reliable data on market capacity, pre-investment research materials and feasibility studies,
- so far no typical PPP tools adapted for local needs, which could be used at drawing up concrete agreements,
- required educated staff, both in private and in public sectors, is not available (especially staff both with special technical knowledge, necessary for work in modern sectors of infrastructure and competence in administrative, legal and financial issues)
- In former times, in Uzbekistan infrastructure services were provided by the state free-of-charge, or in strongly underestimated, sometimes symbolical prices.

### III. SOURCES OF FINANCING

Uzbekistan is already a full-fledged member of many leading international financial institutions, including the Asian Development Bank, the World Bank, and the Islamic Development Bank among others. The number of projects in Uzbekistan backed by these institutions stands at 198. Of these projects, 153 have already been implemented. The Asian Development Bank, the World Bank, and the Islamic Development Bank are currently in the

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\(^{10}\) Private-public partnership in Uzbekistan: problems, opportunities and ways of introduction (2007), page 21 ff.
process of implementing 45 more projects.\textsuperscript{11} These projects can take place in the sectors of healthcare, education, infrastructure and communications development, modernization of the power sector and other areas.

Following international financial institutions among others are active in the transport sector in Uzbekistan:

- development banks (ADB, EBRD, KfW (Germany), KFAED (Kuwait), JBIC (Japan), World Bank, IDA, IBRD, China’s Eximbank, EDCF (Korea)),
- governmental and non-governmental organizations and related institutions (Chinese government credit institution, Chinese corporation ZTE, OPEC Fund

In addition, financial resources of the National Bank WED of Uzbekistan, other commercial and private banks, institutions, and the Fund for Reconstruction and Development of the Republic of Uzbekistan are mobilized for the development of the transport sector.

These financial institutions are supporting infrastructure development by concrete actions in the form of allocation of credit and investment funds. So, for example in 2010, foreign investments were involved in infrastructure in the amount of 145.0 million USD, including:

- aviation - 15.0 million USD,
- railway - 42.0 million USD,
- road - 88 million USD.

In addition, at the expense of the Republican Road Fund under the Ministry of Finance of the Republic of Uzbekistan for the modernization and reconstruction of roads 587.8 million dollars has been allocated.

In accordance with the Resolution of the President of the Republic of Uzbekistan № ПП-927 dated on 24.07.2008, "On measures to improve the process of attracting foreign investments and loans" was given the task of wide informing foreign investors and international financial institutions about favorable investment climate and potential investment opportunities in the economy created the Republic of Uzbekistan. The document paid special attention to ensure coordination of the activities of governmental and economic management.

\textsuperscript{11} \url{http://www.investor.uz/?p=438#more-438}. 

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Annex 1: Example of investment program in the rail sector


3. The project "Renewal of locomotives" RMB Uzbekistan dated on 26.11.1999, № 510. Loan from the European Bank for Reconstruction and Development in the amount of 40 mill USD for the purchase of 12 locomotives.

4. The project "Modernization of railways of Uzbekistan" Uzbekistan RMB dated on 20.03.2001, № 136. Asian Development Bank loan in the amount of 70 mill USD and OPEC loan 5 mill USD to overhaul the railway route from Samarkand to Bukhara, 340 km.


7. The project "Electrification of the railway section Tukumachi-Angren" by the resolution of President dated on 19.02.2007, № ПП-582. German bank KfW loan in the amount of 35 mill USD and Kuwait Fund of Arab Economic Development KFAED to 22 mill USD for the electrification of the railway line between Tashkent (Tukumachi) and Angren.