

**Short report on the OECD / NEPAD Round Table on:
“Investment for African Development: Making it happen”
25 - 26 May 2005 – Entebbe, Uganda**

The main conclusion of the round table is that successful Public sector/Private sector partnerships (PPP) in Africa are characterised by i) a rigorous planning phase and detailed feasibility studies, ii) widespread consensus within the population, iii) strong government involvement and iv) an independent control mechanism.

In order to facilitate the implementation of the PPP prioritized by NEPAD, INICA offered to put in place informal contact groups representing all stakeholders, including local populations. These contact groups will be responsible for i) evaluating the situation, ii) developing best practices based on previous projects and/or projects developed in other regions, iii) following-up the implementation of selected projects in order to provide solutions to non-technical problems.

The round table sessions mainly focused on two categories of constraints to private investment in infrastructure projects in Africa:

- i) Constraints that discourage private investment in general;
- ii) Specific constraints attached to the nature of the PPP as defined in the NEPAD priority plan for the telecommunication and land transport sectors.

A – General obstacles

► Investment climate

The legislative framework and the negative perceptions of it held by investors are recognised as key impediments to investment on the continent, although ultimately, commercial interests determine private investments. Obscure, complex laws that are arbitrarily applied by an agency lacking independence from the regime in power, significantly increases real or imagined investment risks. In a context where investors are increasingly hesitant and losing interest in Africa, it is imperative that African governments establish strategies to overcome these deficiencies. Certain governments have attempted to surmount these weaknesses through more detailed contracts, which are, however, also more complex. These overly detailed contracts, written and negotiated by insufficient numbers of often unskilled staff, generally increase the potential for corruption and risks of delay, failure or renegotiation of the project.

It is therefore essential to simplify and strengthen the legislative framework, and/or provide resources to manage projects efficiently from beginning to end. Contracts need to be drawn up and managed by experts, based on detailed feasibility studies and implemented following transparent procedures suitable to each country's needs and stage of development. Furthermore, these contracts should be 'neutral' regarding the technology to use, particularly in sectors where innovations are frequent. Governments should mandate an independent audit agency able to resist pressures and to respect procedures.

South Africa has put these solutions in practice and published the "Manual and Standardised PPP Provisions" which provides precise rules for creating and managing PPP including checklists for each stage of a project. Besides the legislative and regulatory framework, foreign investors are also watchful of the general climate of investment, i.e. the time and expenses required to register a company, the government attitude to national investors, infrastructure availability and levels of competition in local markets. Experience also shows that in order to attract investors, governments need to develop strategic interventions such as creating ducts for telecommunications cables when building roads.

► **Poor financial capacity**

The near impossibility of funding projects locally increases risks attached to exchange rate fluctuations and can discourage investors. Foreign investors also face difficulties in obtaining credit from local banks that fear investors will leave the country without honouring their debts in the event of political upheavals.

It is essential to implement alternative funding solutions and encourage local saving in order to overcome this situation – Africa has one of the lowest savings ratios in the world and over 50% of it is invested in the OECD countries.

The alternative financial solutions most commonly mentioned are:

- To develop national or regional stock exchanges which could provide certificates in national currency in order to limit risks attached to exchange rate fluctuations;
- To mandate international institutions to cover this kind of risk. For example, the African Development Bank developed a series of financial products including loans in local currency;
- To encourage the development of independent credit agencies;
- To develop the bond market in order to allow long-term loans that are cheaper than bank loans and to promote local savings by providing investment alternatives.

Moreover, national investors also have difficulty finding funding as, beside the low financial capacity available, most banks in Africa are not from the continent and therefore lack sufficient understanding of local realities and entrepreneurs (who generally can not provide guarantees).

► **Lack of capacity**

A lack of resources and staff to carry out detailed feasibility studies, negotiate efficiently with the private sector and develop realistic expectations are also constraints to PPP development in Africa. Governments could create an agency specialised in PPP development and management to surmount this difficulty. This would entail the identification of qualifications needed and the development of training programs if there is no available expert from the private sector. The Tanzanian experience shows that it is preferable to first test staff teams on small PPP before moving on to larger projects. The international community and NEPAD in particular, have a significant role to play in providing regional teams of PPP experts for the countries interested in the project and in defining a methodology adapted to regional realities.

► **PPP must be balanced**

Most African governments decide to undertake PPP when they no longer have the resources needed to provide services in sufficient quantity or at subsidised prices. Consequently, in order to reassure private investors it is necessary to develop a structure which allows them to fix their prices in relation to real costs and not social objectives.

Therefore, the roles and expectations of the public sector need to be realistic. An impartial system should be put in place to intervene in case of conflict between private investors, public companies and government administration. Solutions need to be simple and suitable to local realities rather than copy those of more developed countries. If, for political reasons – for example to guarantee a minimum service to the most disadvantaged populations – prices cannot be fixed in relation to real costs, a system of reliable subsidies will need to be developed to attract private investors like, for example, the rural community fund developed for the communication sector in Uganda.

► Need to involve local communities

Introducing the private sector into infrastructure projects can produce negative reactions in the population – increased prices, potential job losses, profits considered too high, corruption etc. It is therefore necessary to build a consensus between government, local populations and private investors and to develop mechanisms for maximum transparency at each stage of the project.

Local communities also need to benefit from the project in order to endorse it. It is necessary:

- To collect precise data on their situation and their real needs, make sure they are informed, and avoid neglecting any information, for example prepaid cards for telecommunication and electricity services etc. African governments are often inspired by standards in the most advanced countries when setting norms for PPP, and consequently services remain inaccessible to the majority of the population as they are too expensive or too complex;
- That project instigators develop the conditions necessary to facilitate access to services for the population including improvement and maintenance of secondary infrastructure;
- To create a regulatory agency to prevent contracting parties from fixing prices too high in relation to service costs, assuming that certain infrastructures are natural monopolies.

B - Specific constraints to PPP in the land transport and telecommunications sectors

In addition to general constraints, PPP in the land transport and telecommunications sectors can face constraints specific to their cross border nature, for example the COMTEL project aiming to link twenty-one countries together or the Northern Corridor project to link isolated East African countries with the port of Mombassa in Kenya.

The most frequently mentioned constraint is the lack of harmonisation in the legislative and regulatory frameworks between countries. It is therefore essential to follow the example of conferences by investment promotion agencies for East African countries by promoting dialogue between government agencies responsible for investments in each country. International organisations and NEPAD must facilitate this dialogue and develop a system to implement coherent investment codes in the whole region. There are generally two other constraints to this kind of project: i) the difficulty of finding financial partners and ii) the risk of political crisis:

i) The difficulty of finding financial partners is related to the risk of one or more countries withdrawing from the project and therefore jeopardizing it. Thus, i) international institutions, such as the European Investment Bank with the COMTEL project, must take over and implement relevant funding programs, ii) a mechanism to resolve inter-State conflicts must be developed.

ii) The difficulty of protecting cross border projects from risks of political crisis in a country logically increases with the number of participants. In order to promote these crucial large-scale infrastructure projects, it is imperative to promote partnerships such as the one between the Agence

pour l'Assurance du Commerce en Afrique and the Overseas Private Investment Corporation, an American agency which provides insurance to US companies against political risks when they invest overseas – when MIGA can not cover the project.

It is important to note that significant delays in carrying out projects run the risk of i) pushing countries to undertake works without common coordination and/or ii) urging private investors to undertake localised infrastructure construction. Such an approach is more expensive in the long term and will make it difficult to connect national networks.

► Specificities of the telecommunications sector

The telecommunications sector's profitability and high growth should incite African governments, and those of more developed countries, to create legal frameworks to open their markets to private operators, despite reluctance by national operators.

Indeed, Uganda's experience shows that under certain conditions, the opening of the telecommunications market to competition increases the quality and accessibility of services without raising prices and on the contrary, the SAT 3 example shows that an infrastructure monopoly held by national operators provides expensive services with no demand take-off.

The conditions of Ugandan success are:

- Reform of the legislative and regulatory frameworks that set clear and simple laws;
- A progressive introduction of competition;
- A relevant subsidisation policy;
- A neutral position with regard to the technologies used.

► Specificities of the land transport sector

The large financial resources needed for land transport infrastructure investments imply a significant involvement of governments, who must be ready to:

- Finance i) the rehabilitation and/or development of the required infrastructure, ii) ensure efficient connections between the various modes of transport, and iii) balance the debts of the former public operator;
- Develop the conditions necessary for entrepreneurs to invest over the long term, for example the concession to renovate and operate train freight between Kenya and Uganda will be allocated for a period of 25 years.

It is even more important to undertake detailed feasibility studies before investing in this sector as the implementation of projects can have a significant impact on the environment as well as on local populations – displacement, expropriations etc.

However, as in other sectors, the major constraint to PPP development in the land transport sector is the absence or inappropriateness of legislative frameworks. The lack of relevant regulation in Kenya seems to be the most significant constraint to the implementation of the railway concession between Uganda and Kenya. Indeed, the bill on privatisation was voted by the Parliament in August 2005 but still needs to be ratified by the President while Uganda passed the law reforming public companies (*Public Enterprise Reform Divestiture Act*) in 1993. To overcome the lack of legislation, governments set up agencies or departments within ministries in charge of privatisation and reform of public companies but, as mentioned above, they are often perceived not to be independent enough to be effective.