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APEC SEMINAR ON ADDRESSING CONSTRAINTS IN PROMOTING PUBLIC – PRIVATE PARTNERSHIP IN INFRASTRUCTURE DEVELOPMENT AND INVESTMENT IN THE APEC REGION

Ha Noi, Viet Nam
March 12th & 13th, 2015

Summary Report

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Asia-Pacific Economic Cooperation Secretariat
35 Heng Mui Keng Terrace
Singapore 119616
Tel: (65) 68919 600
Fax: (65) 68919 690
Email: info@apec.org
Website: www.apec.org

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APEC Seminar on Addressing Constraints in Promoting Public – Private Partnership in Infrastructure Development and Investment in the APEC Region

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Summary Report

I. Introduction

On March 12th & 13th, 2015, the *APEC Seminar on Addressing Constraints in Promoting Public – Private Partnership in Infrastructure Development and Investment in the APEC Region*, initiated by Viet Nam and co-sponsored by China, Indonesia, Japan, Malaysia, Papua New Guinea and Thailand, was held in Ha Noi, Viet Nam. Speakers and participants came from eleven APEC member economies (Canada, Chile, Indonesia, Japan, Malaysia, Mexico, Peru, the Philippines, Russia, Thailand, and Viet Nam), the Asian Development Bank Institute, Davis LLP/Davis & Takahashi, Mitsubishi Research Institute, and PricewaterhouseCoopers Japan. Most of the Seminar participants were from the public sector, academic institutions or the private sector relating to infrastructure investment and development.

The Seminar sought to create a suitable platform for the representatives from public and private sector to discuss and to identify impediments/constraints in promoting PPP projects in infrastructure development and investment in APEC member economies from the perspectives of both public and private sectors. It also aimed at sharing experiences among APEC member economies on efficient framework to support PPP in infrastructure development and investment. Last but not least, the Seminar was expected to build a set of recommendations for APEC on possible future works to help promote PPP in infrastructure development and investment in APEC member economies, with a particular focus on government capacity building.

II. Background

In 2013, under Physical Connectivity, APEC Leaders reaffirmed their commitment to cooperate in developing, maintaining and renewing our physical infrastructure through a Multi-year Plan on Infrastructure Development and Investment. The Plan will assist APEC economies to improve the investment climate, promote public-private partnerships, and enhance government capacity and coordination in preparing, planning, prioritizing, structuring and executing infrastructure projects. Under the umbrella of this Multi-Year Plan, APEC Leaders instructed Ministers and Officials to develop additional capacity building activities that will assist economies to promote

sustainable and resilient infrastructure development and investment, and look forward to monitoring its implementation. `

Therefore, this project is designed to implement APEC Leaders' instructions in 2013 by providing opportunities for discussions, sharing experiences and best practices among APEC member economies as well as between policy makers and private sector representatives to identify unnecessary impediments with regard to infrastructure investment to build better legal framework and business environment in the APEC region. In addition, this project also contributes to the implementation of APEC Finance Ministers' instructions in the efforts to enhance private sector participation in infrastructure projects in order to meet infrastructure needs in the region by providing a set of recommendations for future policy actions by both national and regional level. Themes covered during the two-day event included: *(i)* Overview on Public – Private Partnership (PPP) in Infrastructure Investment in the APEC Region; *(ii)* Identify Constraints in Promoting PPP Projects in Infrastructure Development and Investment in APEC Member Economies; *(iii)* Infrastructure PPP Projects with a focus on Finance Aspect; *(iv)* PPP Projects in Infrastructure Development and Investment – Constraints and the perspectives of the private sector; *(v)* PPP Projects in Infrastructure Development and Investment – Sharing Experiences among APEC Member Economies in Regulatory Aspects; and (vi) Case studies of PPP in Infrastructure Development and Investment in APEC Member Economies.

III. Discussion

Key Issues Discussed

Opening remarks

In his opening remarks, **Mr Luong Hoang Thai (Director General, Multilateral Trade Policy Department, Ministry of Industry and Trade, Viet Nam – also Former Senior Official of Viet Nam to APEC)**, stressed the importance of the Seminar in the context that APEC Leaders and Ministers highlighted the needs of implementing mid- and long-term capacity building activities to address challenges in the process of infrastructure investment and development. Mr Luong Hoang Thai stated that pursuing a modern, synchronized, convenient and practical infrastructure investment to serve the people's lives and contribute to the prosperity of the region is a critical factor to the development of each nation. Furthermore, infrastructure also means vital for economic development, trade, GDP growth and foreign direct investment attraction. In actual fact, economies suffering from a weak, backward and asynchronous infrastructure face difficulties in attracting foreign investment and in securing economic and social development. Infrastructure, in both hard and soft types, is considered to form the backbone of the economy, creating competitive advantages,

advancing the economy in a fast, strong and sustainable manner, connecting economies more comprehensively to build a seamless region on every level.

He expressed hope that given the importance and meaning of developing and investing in infrastructure as described above, and in order to build a fully connected Asia - Pacific, the private sector, corporations and businesses could play an active role, in partnership with the public sector to develop infrastructure. Last but not least, he encouraged the Seminar participants to pay close attention to the speakers' presentations and to engage in active discussions, so as to facilitate a fruitful exchange of information on opportunities and challenges in infrastructure investment, leading to practical recommendations for tackling such challenges.

Seminar Overview

Following Mr Luong Hoang Thai's speech, **Ms Pham Quynh Mai, Project Overseer, Senior Official of Viet Nam to APEC, Deputy Director General, Multilateral Trade Policy Department, Ministry of Industry and Trade**, **Viet Nam,** welcome and delivered an overview of the seminar, with a stress that this Seminar is under the framework of the APEC Leaders' APEC Multi-year Plan on Infrastructure Development and Investment.

She also drew the participants' attention to the Seminar's objectives and encouraged all the delegates to participate actively in all the Seminar's sessions, especially in the group breakout session the 2nd day as their inputs would be fully taken into consideration and reported to APEC for further action.

Seminar's sessions

Experts provided presentations on the following topics:

1/ During Session 1 on "*Overview on Public – Private Partnership (PPP) in Infrastructure Investment in the APEC Region*", **Dr Peter Morgan (Senior Consultant for Research, Asian Development Bank Institute)** gave a comprehensive presentation on Asia Pacific current state of infrastructure. He outlined his presentations into six parts: (i) Infrastructure investment and growth, (ii) Dimensions of infrastructure, (iii) Infrastructure investment needs, (iv) Project finance market and PPPs, (v) Pension funds and sovereign wealth funds (SWFs), and (vi) Conclusions. Dr Morgan came to the conclusion that APEC economies have made major progress in infrastructure development in the last time though this process is not even among the members, especially Asia has tended to lag behind. Also, many economies still face challenges in attracting private investment in infrastructure. Besides, there is a need for consistent data on infrastructure spending, including spending by sector and at different levels of governments and need for a better

understanding the extent to which institutional investors can support the infrastructure sector in APEC.

2/ During Session 2 on *"Identify Constraints in Promoting PPP Projects in Infrastructure Development and Investment in APEC Member Economies",* there were two speakers: **Mr. Shuhei Sugie**, Senior Researcher, Industrial Strategy Consulting Group, Mitsubishi Research Institute; and **Dr. Khairus Masnan Abdul Khalid**, Director of Infrastructure Section, UKAS, JPM

- **Mr. Shuhei Sugie** focused on identifying constraints in the area of electric power which are expected to be relatively similar in other areas. They include securing of funds; gaining permits/approval for the construction; acquiring the land; international environmental policies; opposition by local residents; development of bidding schemes; PPP specifications; appropriate management of bidding; development of human resources. He stressed that quality of infrastructure needs to be regarded as an important factor in a PPP Project as it ensures the long term sustainable development. The quality of infrastructure can be addressed through enhancing management skills, including the government's capacity, increasing the awareness of ensuring quality infrastructure by a long term vision calculation of the lifecycle cost, and a careful selection of business operators.

- **Dr. Khairus Masnan Abdul Khalid's presentation** focused on Public – Private Partnership (PPP) Constraints in Implementing PPP in Malaysia. Malaysia has gained achievements in PPP thanks to their framework improvement. In 1983, Malaysia incorporated Policy Privatization Policy; in 1985, they promulgated Privatization Guideline; in 1991, the Privatization Master plan was developed. In 2009, the PPP Guideline and PPP Unit was introduced, followed by the launch of the Facilitation Fund in 2010. From 1983 until 2014, Malaysia has implemented 575 projects with the total value estimated to USD 96,6 billion. He cited a case study of toll highway, stressing that beside the achievements, Malaysia also face a number of challenges during the implementation such as (i) the availability of funding, investment and government support; (ii) prudent technical requirements – traffic projection, toll collection; and (iii) political/social issues.

3/ During Session 3: *"Infrastructure PPP Projects with a focus on Finance Aspect",* **Dr. Peter Morgan (Senior Consultant for Research, Asian Development Bank Institute)** gave a comprehensive presentation on the topic. As infrastructure projects normally require huge capital, finance is an important factor that needs to be considered and addressed carefully. There might be obstacles to private infrastructure, eg: issues ralated to general cross-border (restrictions on cross-border finance such as capital flow restrictions, etc.), restrictions on foreign direct investment (FDI), foreign

exchange restrictions, governance issues, etc.; and obstacles to "bankability" such as long gestation periods, lumpiness of capital and high financing costs, combined commercial and non commercial elements, and government policy issues and risks (land acquisition, rehabilitation & resettlement, environment approval, non-tariff barriers to imports of capital goods, etc.). PPP projects are a promising model for private capital, but are very complex in practice and certainly require high-quality implementation. PPPs' "bankability" can be improved through various related policy interventions, namely: (i) credit and other guarantees, as well as risk sharing by governments; (ii) various forms of government subsidies; (iii) options such as securitization for rolling over investments over the life of the project can increase attractiveness and a align better with investor risk/return preferences; and (iv) regional infrastructure funds and multilateral banks can provide important bridging roles.

4/ Session 4: *"PPP Projects in Infrastructure Development and Investment – Constraints and the perspectives of the private sector",* there were two speakers: Mr. Sanjeev Sinha, Director, Deals, PPP and Infrastructure, Cities Solution Centre, PricewaterhouseCoopers Japan, and Dr. Vo Tri Thanh, Vice President, Institute for Economic Management.

- **Dr. Vo Tri Thanh** shared Viet Nam's experience in promoting infrastructure development. Viet Nam is part of both Master Plan for ASEAN Connectivity (MPAC) and APEC Framework on Connectivity. Viet Nam's Government have promulgated a legal framework on PPP, namely some: Decree 108/2009/ND-CP on investment under BOP, BTO, BT (currently nullified), Decision 71/2010/QD-TTg on Pilot Regulations on PPP (currently nullified), Decree 24/2011/ND-CP on amending some articles of Decree 108/2009/ND-CP (currently nullified), Decree 15/2015/ND-CP on PPP investment (still effective). However, regulations on PPP and sectoral plans are still in primitive stages and subject to change, which might be a risk for the private sector. Besides, the private sector also faces lengthy and cumbersome enforcement of contract, which lead to costly dispute settlement.

- **Mr. Sanjeev Sinha's** presentation entitles: *"Prospects and Challenges in Collaboration among APEC economies: an India – Japan – Asia study*". He portraited the different decision making processes between developed and developing economies and then the prospects and challenges for the infrastructure in the area.

5/ During Session 5: *"PPP Projects in Infrastructure Development and Investment – Sharing Experiences among APEC Member Economies in Regulatory Aspects", there* were 3 speakers: ***Mr. Tran Viet Dzung, Head of PPP Office, Public Procurement Agency, Ministry of Planning and Investment, Ms. Cristina Holuigue Miranda,***

Economic and Financial Advisor, Ministry of Public Works of Chile, Mr. Juan Molina, Ministry of Finance, Mexico.

- The presentation of **Mr Tran Viet Dzung** focused on Viet Nam's case. He highlighted the challenges on PPP implementation. Those are: complex legal framework, shortage of fund and needs for capacity building. To overcome such big challenges, Viet Nam has made efforts in institutional reform, financial support strategy, consistent approach to developing PPP project pipeline, and communication capacity building to overcome the challenges.
- Ms Cristina Holuigue Miranda shared Chile's experiences in regulatory aspects. Chilean Concessions Law allows to ensure a reliable PPP environment for investors. The legal framework empowers the Ministry of Public Works to grant under concession every public work under its jurisdiction, and in the event a project is under the jurisdiction of another public organism, to grant it under concession through a mandate agreement. Through 20 years of implementation (1992 – 2014), Chile has had 79 projects awarded with over USD 19.5 billion investment. Main aspects of the Chilean experience in regulatory aspects of the PPP framework, pointed out in the presentation, are the conditions for bidding and contracting, dispute resolution mechanism, contract modifications, unsolicited proposals and service level definition and its enforcement.
- Mr Juan Molina's presentation shared that Mexico has several public and private vehicles to promote infrastructure development, as well as a recently revised legal framework that fosters private participation. However, Mexico also face challenges: (i) institutional investor's participation in infrastructure is limited due to a lack of appropriate financing vehicles and infrastructure investment and risk management expertise. Also, current incentives among institutional investors provide for a low risk appetite for infrastructure products; (ii) the government is working on designing financial vehicles that can efficiently promote the capital markets development for infrastructure financing, fostering the participation of institutional investors; (iii) it is necessary to promote a greater participation of states and municipalities in infrastructure development and financing; (iv) the PPP legal framework should encourage technology transfer, entrepreneurship and financing in order to develop a bigger and better infrastructure platform. Nonetheless, it is a complex framework that requires appropriate training. The Mexican Federal Government is currently working on an ambitious investment strategy in order to foster private investment and to improve the efficiency of public sector's capital expenditure.

6/During Session 6: "**Case studies of PPP in Infrastructure Development and Investment in APEC Member Economies", Mr Anthony McArthur, Partner,**

Davis LLP and **Mr Sanjeev Sinha, Director, Deals, PPP and Infrastructure, Cities Solution Centre, PricewaterhouseCoopers Japan** gave presentations. Mr. Anthony McArthur's title was "Canadian Model PPP – Applications in Asia", and Mr Sanjeev Sinha focused on case study of India and Japan.

- Mr Anthony McArthur's title presentation was "The Canadian Model PPP – Applications in Asia". Canadian Model PPP is considered a global leader model, which features:

- Faster than other PPP models: much work done at beginning, that makes later stages fast and effective: From "RFQ" to "Close" about 16 months with Canadian Model (30 months in UK).
- Canadian Model is fair and "transparent": Fairness Auditor is appointed.
- Canadian Model is consistent and predictable.
- Honorarium for losing short listed bidders that submitted compliant bids.

In Asia, a number of jurisdictions adopting or considering the Canadian Model, includes but not limited to: (i) Bermuda - program completed and first transaction closed; (ii) Viet Nam and Indonesia – studied and considered the Canadian PPP Model for adaption and use in Viet Nam; (iii) Asian Development Bank Institute – has studied and considered the Canadian PPP Model for use in Asia.

- **Mr. Sanjeev Sinha** shared the case study of India – Japan – Asia in promoting PPP in infrastructure, stressing on Japan's capital and technology, India's global human resource development, and Asia's fast growth.

IV. Conclusions and Recommendations

1/ There is a common view among speakers and participants that the project achieved its intended objectives. They considered the Seminar to be good for APEC to continue to identify impediments in infrastructure investment world-wide and across the APEC region. They also commented that it was interesting to learn about PPP experience in various APEC member economies.

Participants also said that the Seminar provided a great opportunity for networking with experts from within and outside APEC region.

2/ All speakers and participants shared, discussed and came to the following conclusions:

Regarding how to address constraints in promoting PPP in infrastructure from the government perspective, there are recommendations that APEC governments can consider the followings:

(i) Providing good regulatory mechanism conducive to promote PPP and providing better incentives to boost the engagement of private sector;

(ii) Setting up a good monitoring and evaluation for PPP projects;

(iii) Developing clear guidelines for PPP projects developers and managers;

(vi) Ensuring that project identification, evaluation and selection should be transparent across multiple agencies, including community and environmental evaluation;

(vii) Handling "bankability" issue: it is needed to clarify risk-sharing among governments and private sector, providing credit enhancement measures to cover construction risks, assistance in land acquisition (e.g., expropriation and advance land acquisition by government if needed, or compensation for costs of delays);

(viii) Ensuring transparency in bidding process by make documents available; making project identification, evaluation and selection transparent;

(ix) Establishing a sound dispute resolution mechanism among government and investors;

(x) Facilitating intra-government coordination through identifying the responsible agency for overall coordination of investment pipeline;

(xi) Considering to establish functioning, well-trained PPP centers based on their needs and circumstances to promote PPP as a method for facilitating infrastructure investment, and share experiences, cooperate and coordinate on PPP development in Asia-Pacific region.

Regarding how APEC could assist in addressing constraints in PPP in infrastructure, including providing capacity building activities for APEC member economies, the Seminar agreed that APEC should consider the followings:

(i) Carrying out specific case studies of particular successful PPP initiatives for a purpose of lesson learning among interested APEC members;

(ii) Promoting continued policy dialogue on methods of financing infrastructure investment, including through PPP instruments. Such dialogue can raise awareness and common understanding of APEC economies on the definition, characteristics, merits and challenges of applying PPP modality in infrastructure investment, as well as creating policies conducive to infrastructure investment;

(iii) Continuing to share good policies and practices in applying PPP modality, including through innovative financial mechanisms for infrastructure investment;

(iv) Early launching the PPP Guidebook that aims to compile information on the variety of PPP frameworks already put in place by APEC economies;

(v) Considering to develop guidelines on project prioritization and guidelines on best practices regarding community and environmental issues;

(vi) Collecting information on PPP projects APEC-wide for information sharing;

(vii) Developing monitoring and evaluation frameworks for PPP projects;

(viii) Launching capacity building initiatives to address identified impediments in promoting PPP projects in infrastructure development and improving the ability of developing economies to better utilize PPP (for example, APEC to provide capacity building to train people who develop and manage PPP projects etc..).
