
THE PUBLIC-PRIVATE PARTNERSHIP LAW REVIEW

SECOND EDITION

EDITORS

BRUNO WERNECK AND MÁRIO SAADI

LAW BUSINESS RESEARCH

THE PUBLIC-PRIVATE PARTNERSHIP LAW REVIEW

The Public-Private Partnership Law Review
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This article was first published in The Public-Private Partnership Law Review – Edition 2
(published in March 2016 – editors Bruno Werneck and Mário Saadi)

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Second Edition

Editors

BRUNO WERNECK AND MÁRIO SAADI

LAW BUSINESS RESEARCH LTD

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Published in the United Kingdom
by Law Business Research Ltd, London
87 Lancaster Road, London, W11 1QQ, UK
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www.TheLawReviews.co.uk

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ISBN 978-1-909830-87-5

Printed in Great Britain by
Encompass Print Solutions, Derbyshire
Tel: 0844 2480 112

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ACKNOWLEDGEMENTS

The publisher acknowledges and thanks the following law firms for their learned assistance throughout the preparation of this book:

AIRD & BERLIS LLP

ALLENS

G ELIAS & CO

GRATA LAW FIRM

HERBERT SMITH FREEHILLS LLP

KILPATRICK TOWNSEND & STOCKTON LLP

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CONTENTS

Editor's Prefacevii
	<i>Bruno Werneck and Mário Saadi</i>
Chapter 1	ARGENTINA..... 1
	<i>María Inés Corrá and Leopoldo Silva Rossi</i>
Chapter 2	AUSTRALIA..... 10
	<i>David Donnelly, Nicholas Ng and Timothy Leschke</i>
Chapter 3	BELGIUM..... 20
	<i>Christel Van den Eynden, Frank Judo, Aurélien Vandeburie and Marjolein Beynsberger</i>
Chapter 4	BRAZIL 35
	<i>Bruno Werneck and Mário Saadi</i>
Chapter 5	CANADA 47
	<i>Douglas J S Younger, Heidi Visser, Patrick Oufi</i>
Chapter 6	CHINA..... 64
	<i>Hui Sun</i>
Chapter 7	DENMARK..... 78
	<i>Henrik Puggaard and Lene Lange</i>
Chapter 8	FRANCE 90
	<i>François-Guilhem Vaissier, Hugues Martin-Sisteron and Anna Seniuta</i>
Chapter 9	INDIA 110
	<i>Sunil Seth and Vasanth Rajasekaran</i>

Chapter 10	IRELAND.....	119
	<i>Mary Dunne and Fergal Ruane</i>	
Chapter 11	JAPAN	129
	<i>Masanori Sato, Shigeki Okatani and Yusuke Suehiro</i>	
Chapter 12	KAZAKHSTAN	144
	<i>Shaimerden Chikanayev</i>	
Chapter 13	MOZAMBIQUE.....	166
	<i>Taciana Peão Lopes</i>	
Chapter 14	NIGERIA.....	173
	<i>Fred Onuobia, Okechukwu J Okoro and Bibitayo Mimiko</i>	
Chapter 15	PARAGUAY.....	184
	<i>Javier Maria Parquet Villagra and Karin Basiliki Ioannidis Eder</i>	
Chapter 16	PERU	195
	<i>Miguel Sánchez-Moreno Cisneros and Pierre Nalvarte Salvatierra</i>	
Chapter 17	PHILIPPINES	206
	<i>Marievic G Ramos-Añonuevo and Arlene M Maneja</i>	
Chapter 18	PORTUGAL.....	218
	<i>Manuel Protásio and Frederico Quintela</i>	
Chapter 19	TANZANIA.....	229
	<i>Nicholas Zervos</i>	
Chapter 20	UNITED KINGDOM.....	238
	<i>Adrian Clough, David Wyles and Paul Butcher</i>	
Chapter 21	UNITED STATES	255
	<i>Robert H Edwards, Jr, Randall F Hafer, Mark J Riedy, Benjamin P Deninger and Ariel I Oseasohn</i>	

Appendix 1	ABOUT THE AUTHORS.....	281
Appendix 2	CONTRIBUTING LAW FIRMS' CONTACT DETAILS..	299

EDITOR'S PREFACE

We are very pleased to present the second edition of *The Public-Private Partnership Law Review*. Notwithstanding the existence of articles in various law reviews on topics involving public-private partnerships (PPPs) and private finance initiatives (in areas such as projects and construction, real estate, mergers, transfers of concessionaires' corporate control, special purpose vehicles and government procurement, to name a few), we identified the need for a deeper understanding of the specifics of this topic in different countries. The first edition of the book was an initial effort to fulfil this need.

Brazil marked the 10th year of the publication of its first Public-Private Partnership Law (Federal Law No. 11,079/2004) in 2014. Our experience with this law is still developing, especially in comparison with other countries where discussions on PPP models and the need to attract private investment into large projects dates back to the 1980s and 1990s.

This is the case for countries such as the United Kingdom, the United States and Canada. PPPs have been used in the United States across a wide range of sectors in various forms for more than 30 years. From 1986–2012, approximately 700 PPP projects reached financial closure. The UK is widely known as one of the pioneers of PPP model; Margaret Thatcher's governments in the 1980s embarked on an extensive privatisation programme of publicly owned utilities, including telecoms, gas, electricity, water and waste, airports and railways. The Private Finance Initiative was launched in the UK in 1992 aiming to boost design–build–finance–operate projects. Canada has developed a sustained and robust market for the development of public infrastructure using the PPP model. Since the 1990s PPP procurement has significantly expanded to the extent that PPP projects are now procured in the federal, provincial and municipal levels of government across that country.

On the other hand, in developing countries with similarities with Brazil, PPP laws are more recent. Argentina was the first country in Latin America to enact a PPP Law (Decree No. 1299/2000, ratified by Law No. 25,414/2000). The PPP Law was designed to promote private investment in public infrastructure projects that could not be afforded exclusively by the state, especially in the areas of health, education,

justice, transportation, construction of airport facilities, highways and investments in local safety. In Mozambique, Law No. 15/2011 and Decree No. 16/2012 stipulated the Public-Private Partnerships (PPP) Law and other related PPP regulations, which establishes procedures for contracting, implementing and monitoring PPP projects. In Paraguay, a regulation establishing the PPP regime has recently been enacted (Law No. 5102) to promote public infrastructure and the expansion and improvement of goods and services provided by the state; this law has been in force since late 2013.

In view of the foregoing, we hope a comparative study covering practical aspects and different perspectives on public-private partnership issues will become an important tool for the strengthening of this model worldwide. We are certain this study will bring about a better dissemination of best practices implemented by private professionals and government authorities working on PPP projects around the globe.

With respect to Brazil, the experience evidenced abroad may lead to the strengthening of this model in the country. In this preface, we call your attention to one specific feature of the PPP law in Brazil – state guarantees. This feature permits payment obligations undertaken by the public party in PPP agreements be guaranteed by, among other mechanisms authorised by law: (1) a pledge of revenues; (2) creation or use of special funds; (3) purchase of guarantee from insurance companies that are not under public control; (4) guarantees granted by international organisations or financial institutions not controlled by any government authority; or (5) guarantees by guarantor funds or a state-owned company created especially for that purpose.

The state guarantee pursuant to PPP agreements is, without question, an important innovation in administrative agreements in Brazil; it assures payment obligations by the public partner and serves as a guarantee in the event of lawsuits and claims against the government. This tool is one of the main factors distinguishing the legal regimen of PPP agreements from ordinary administrative agreements or concessions, and is viewed as crucial for the success of PPPs, especially from the private investors' standpoint.

Nevertheless, the difficulty in implementing state guarantees on PPP projects has been one of the main issues in the execution of new PPP projects in the country. This point is made worse due to the history of government default in administrative contracts.

In other jurisdictions, however, state guarantees are not a rule. On the contrary, unlike PPP projects in developing countries, government solvency has not historically been a serious consideration. That is the case in countries such as Australia, Canada, France, Ireland, Japan, the United Kingdom and the United States.

We expect that the consolidation of PPPs and the strengthening of the government in Brazil may lead to a similar model, enabling private investments in areas where the country lacks them most.

In the first edition, our contributors were drawn from the most renowned firms working in the PPP field in their jurisdictions, including Argentina (M&M Bomchil), Australia (Allens), Belgium (Liedekerke), Canada (Fasken Martineau), China (Jun He Law Offices), France (White & Case), Ireland (Maples and Calder), Japan (Mori Hamada & Matsumoto), Mozambique (TPLA), Paraguay (Parquet & Asociados), Philippines (SyCip Salazar Hernandez & Gatmaitan), Turkey (Paksoy), the United Kingdom (Herbert Smith Freehills) and the United States (Kilpatrick Townsend &

Stockton LLP). We would like to thank all of them and our new contributors for their support in producing *The Public-Private Partnership Law Review* and in helping in the collective construction of a broad study on the main aspects of PPP projects.

We strongly believe that PPPs are an important tool for generating investments (and development) in infrastructure projects and creating efficiency not only in infrastructure, but also in the provision of public services, such as education and health, as well as public lighting services and prisons. PPPs are also an important means of combating corruption, which is common in the old and inefficient model of direct state procurement of projects.

We hope you enjoy this second edition of *The Public-Private Partnership Law Review* and we sincerely hope that this book will consolidate a comprehensive international guide to the anatomy of PPPs.

We also look forward to hearing your thoughts on this edition and particularly your comments and suggestions for improving future editions of this work.

Bruno Werneck and Mário Saadi

Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados

São Paulo

March 2016

Chapter 16

PERU

Miguel Sánchez-Moreno Cisneros and Pierre Nalvarte Salvatierra¹

I OVERVIEW

In the course of the past 20 years, public-private partnerships (PPPs) have become a major mechanism for the implementation of huge public infrastructure and utility projects in Peru. PROINVERSION² has awarded projects involving a proposed global investment of almost US\$29 billion, in the form of concessions, private initiatives, and other undertakings, over the past 15 years.³

Although this mechanism has been vastly used in the transportation sector, there is much yet to be done in other sectors, like sanitation, in terms of investment in infrastructure as well as in improvement of the quality of services.

There is also keen interest in using PPPs to enhance infrastructure and services in the areas of urban transportation, health, education and justice. Notwithstanding advances in the organisation of PPPs, there is still much to be done in our country, and future administrations have the responsibility to preserve suitable conditions for attracting private investment flows.

II THE YEAR IN REVIEW

The principal projects awarded in 2015 include:

- a* four projects for the installation of broadband and internet access, to serve 1,344 localities in the interior in benefit of more than 700,000 people. The committed investment has reached US\$178.5 million.

1 Miguel Sánchez-Moreno Cisneros is a partner and Pierre Nalvarte Salvatierra is a senior associate at Rosselló Abogados.

2 Private Investment Promotion Agency.

3 Source: PROINVERSION.

- b* The new electrical substation in Carapongo, at an estimated investment of over US\$42 million, which will permit to centralise power distribution in Lima and make it more efficient.
- c* The 220kV Azángaro–Juliaca–Puno transmission line, involving a committed investment of over US\$33 million, which will help transmit electricity to new power stations in the southern part of the country.
- d* The 220kV Montalvo–Los Héroes transmission line, involving a committed investment of over US\$20 million, which will improve the power supply to the city of Tacna and its area of influence.

The principal projects pending award are:

- a* Lines 3 and 4 of Lima’s Metro (metropolitan bus service). Considering that the committed investment for Line 2 is approximately US\$5 billion, a significant investment is expected for Lines 3 and 4.
- b* Headwork structure (*obras de cabecera*), a sanitation project designed to capture more water, plus expansion of the water treatment plant, and expansion of the water distribution capacity: an estimated investment of US\$600 million.
- c* The Huancayo–Huancavelica Railway: Rehabilitation of 128km of railway, with a committed investment of around US\$200 million.
- d* San Gaban III hydroelectric station, a power station with an estimated output of 200MW and a committed investment of over US\$400 million.

III GENERAL FRAMEWORK

i Types of public-private partnership

In Peru, PPPs are classified by their funding source as:

Self-funded PPPs

These PPPs are exclusively financed with income generated by the project. The most notorious examples are the Jorge Chavez International Airport⁴ and Callao’s North Wharf,⁵ each involving a committed investment of approximately US\$1 billion, financed solely with the income obtained from the use of infrastructure.

Co-funded PPPs

PPPs sustainable only with a direct government contribution to ensure recovery of the investment, and even – in certain cases – subsidise operating and maintenance costs. One such example is Line 2 of Lima’s metro,⁶ a project involving a committed investment of about US\$5 billion, viable thanks to co-financing by the state.

4 Concession Contract signed on 14 February 2001.

5 Concession Contract signed on 11 May 2011.

6 Concession Contract signed on 28 April 2014.

PPPs are classified by origin as:

Created through public initiative

All the PPPs created on the initiative of ministries, regional governments and local governments. As such, these projects must go through a planning stage, which means that they must be included in the Multi-annual Report on Investments in PPPs,⁷ and a formulation stage, at which point it is determined whether the PPP will be self-funded or co-funded. For example, all the PPPs in the airports sub-sector have been created on the government's initiative.

Created by private initiative

Our legal framework permits the submission of unsolicited proposals for both self-funded as well as co-funded projects.

Whereas the project is proposed by the private sector, it does not have to go through the planning stage. Once the project is evaluated, it is formulated by the competent entity. Notorious cases of unsolicited proposals are the wastewater treatment plant at La Taboada⁸ and the concession of the Yellow Line (viaduct) project,⁹ the latter involving a committed investment of over US\$700 million.

According to the type of contract, PPS are classified as:

Concessions

This is the most common form of PPP in Peru, established primarily under Build-Operate-Transfer (BOT) and Build-Own-Operate-Transfer (BOOT) contracts. There are numerous examples of concessions involving roads, ports, airports, railroads, sanitation, energy, hydrocarbons, etc.

Other types of contracts

Our legal framework permits other types of contracts for the creation of PPPs, such as management contracts, joint venture agreements, silent partnerships and others authorised by the law.

Other types of contracts have been carefully used by the health sector in Essalud (mixed contracts combining a surface contract, a construction contract and a services contract), and for the management of Hospital del Niño (Children's Hospital)¹⁰. Other atypical contracts have been used in the justice sector for the implementation of mobile phone jammers.¹¹

7 Article 14, Supreme Decree 410-2015-EF – Implementing Regulations of the law governing PPPs.

8 Concession Contract signed on 04 August 2009.

9 Concession Contract signed on 12 November 2009.

10 Management Contract signed on 13 October 2014.

11 Services Contract signed on 17 October 2014.

ii **The authorities**

The authorities involved in the planning, formulation and development of PPPs are the following:

The Promotion Agency

The Agency for the Promotion of Private Investment (OPIP) is the government entity responsible for handling the process of creation of the PPP, which includes the following stages: formulation, structuring and transaction (bid or auction).

The OPIP is the local government (municipality) in the case of a project of local scope (e.g., an urban road).

The OPIP is the regional government in the case of a project of regional scope (e.g., the Olmos Irrigation Project).¹²

In the case of a project of national scope, the OPIP is PROINVERSION, the entity especially created for the promotion and development of PPPs.

In exceptional cases, the competent OPIP for a PPP could be a Ministry if the amount of the investment ranges between 10,000 and 15,000 UITs¹³ (minimum taxable units).

The public entity

The public entity is the government entity to which the infrastructure and/or utility will be transferred once the PPP is dissolved. The public entity is the counterparty in a PPP contract with the private sector.

For example, in the case of PPPs engaged in major national roads, the public entity is the Ministry of Transportation and Communications, and the OPIP is PROINVERSION.

However, in certain cases the same government body can act as the OPIP and public entity, as in the case of projects of regional and local scope (except if the project is assigned by agreement to PROINVERSION).

The Ministry of Economy and Finance

This is the entity responsible for regulating the National System for the Promotion of Private Investment. Its main functions include:

- a* pass a favourable opinion on the proposed PPP during the formulation stage;
- b* pass a favourable opinion on the declaration of interest of unsolicited proposals;
- c* pass a favourable opinion on the final version of the proposed PPP contract;
- d* pass a favourable opinion on proposals for the modification of PPP contracts; and
- e* pass a binding opinion regarding the interpretation of the rules governing PPPs.

In all the foregoing cases, the favourable opinion of the Ministry of Economy and Finance is an essential condition to go ahead with the process.

12 Concession Contract signed on 11 June 2011.

13 One UIT is equivalent to S/. 3,950, that is, a little over US\$1,000, considering the exchange rate effective in January 2016 (3.45).

The Regulatory Agency

In areas where there is an established regulatory agency (e.g., transportation, sanitation, energy), this agency must issue a non-binding technical opinion on the final version of the PPP contract as well as on any proposals for modification of the contract.

PROINVERSION

This agency is the OPIP for most projects of national scope and other projects of regional or local scope, if delegated on it by agreement.

Although this agency specialises in PPPs, it has a wealth of valuable experience that is useful for assisting and supporting other government entities in their task of promoting PPPs.

The controlling body

The office of the Controller General of the Republic issues a prior report in respect of PPPs involving a commitment by the state in the form of co-funding or guarantees.

The work of this office focuses on preventing and detecting irregular acts by public officials, if any.

iii General requirements for PPP contracts

The general terms and conditions that must be included in every PPP contract are the following:

Pricing regime

A PPP may grant to a private party the right to operate or use an infrastructure or service. Consequently, either of the following two alternatives must be chosen: establish the pricing regime in the contract, as done in the case of roads and airports or establish that the prices will be determined by the regulator, as done with some co-funded PPPs.

Indices for assessing the quality of the service

One of the principles of PPPs is the use of a results-based approach. This means that a PPP is not essentially interested in the how (the means) but rather in the outcome. This is translated into the quality of the work and services, which must be assessed using objective indices, insofar as possible.

Risk distribution

The legal framework establishes that PPPs are structures that incorporate risks and resources, preferably private¹⁴ ones. This means that the private sector must assume most risks, such as risks arising from the design, construction, quality of the service, etc.

Depending on the type of PPP, the state can assume or share the risk related to the demand.

14 Article 11 of Legislative Decree 1224 – Ley de APP.

Economic-financial equilibrium

PPP contracts may include an economic-financial equilibrium clause, which will apply only if changes are introduced in the applicable legislation.¹⁵

In such case, the state may compensate the private investor in some way for the losses or damages suffered by the latter as a result of the change in law.

Arbitration agreement

The legal framework establishes that the dispute resolution mechanism of a PPP is recourse to arbitration.¹⁶ The contracts contain a mechanism that provides for direct negotiation in first instance and the option of seeking a ‘friendly mediator’.¹⁷

Depending on the amount involved, the dispute may be referred to national or international arbitration. In the latter case, the International Centre for Settlement of Investment Disputes is generally used.

IV BIDDING AND AWARD PROCEDURE

i Expressions of interest

In the case of PPPs created on the government’s initiative, depending on the magnitude of the project, PROINVERSION promotes and advertises the project nationally and internationally. This promotional activity generally includes road shows in various cities in the United States, Europe and Asia. It is important to note that one of the purposes of PPPs in Peru is to promote competition, insofar as possible.

In the case of unsolicited proposals, the government publishes the general description or type of projects in respect of which it would welcome proposals from the private sector.

ii Requests for proposals and unsolicited proposals

Government initiatives

The OPIP publishes the bid terms containing the technical and financial requirements, for companies interested in participating in the process.

The technical requirements are intended to verify the financial solvency of the bidder to carry out the implementation of the project without problems.

Unsolicited proposals

In the case of projects submitted by the private sector, *ex ante* requirements cannot be established, but the legal framework establishes that one essential element for evaluating if an unsolicited proposal is acceptable is a review of the technical and financial capacity of the bidder, based on the characteristics of the project.

15 Article 58 del Decreto Supremo 410-2015-EF.

16 Article 23 of Legislative Decree 1224.

17 Article 67 *et seq* of Supreme Decree 410-2015-EF.

iii Evaluation and award

Broadly, the process of evaluation and award is carried out as follows.

Initial participation

Once the bid terms are published, the interested parties pay a fee for the right to participate in the bidding process; the prospective bidders then submit queries on the bid terms and suggestions regarding the proposed contracts.

Interaction

Generally four to six successive versions of the original contract are published, taking into account the bidders' suggestions and the opinions of other entities involved in the process.

Pre-qualification

Simultaneous to the preceding interaction, a deadline is set for the interest bidder to certify *prima facie* to the OPIP that it meets the established technical and financial requirements. To this end, the bidder must submit financial statements, powers-of-attorney, contracts, certificates, and so on.

Technical proposal

After the bidder is pre-qualified, it submits the technical and economic proposals. The technical proposal is evaluated first, and generally considered approved or not approved. That is, the proposal is not assigned a specific rating, but rather approved or not approved before advancing to the evaluation stage.

Economic proposal

This is the last evaluation stage. The winning bid is selected based on objective criteria (highest amount payable in benefit of the state, lowest subsidy requested, etc.). However, many tied bids have occurred, requiring a second or third round to define a winner.

Award and signing of the contract

Once the winner is selected, the award is publicly announced and a deadline is set for compliance with the requirements established in the bid terms before the contract can be signed, that is, incorporation of the new legal entity (special purpose vehicle), posting of the necessary guarantees (performance bond) and obtaining the necessary insurance.

V THE CONTRACT

i Payment

Payments by the private party to the state

Some contracts provide for payment by the private party of a certain percentage of its income in benefit of the state. For example, under the concession of the Jorge Chavez International Airport, the concessionaire pays 46 per cent of its income to the state, and under the concession of Red Vial 6 (Lima – Ica Highway), the concessionaire pays 18.61 per cent of its income to the state.

The payment is made monthly and it is controlled by the regulatory agency.

Payments by the state to the private party

Some co-funded PPPs establish that the state must pay a fixed periodic amount to the private party to enable the latter to recover the investment made, as well as the costs of operation and maintenance.

For example, the concessions for the Interoceanic Highway establish the obligation of the state to pay to the concessionaire an annual payment for the work for a period of 15 or 20 years following completion of the works.

ii State guarantees

There are two types of guarantees.

Financial guarantees

These guarantees are automatically enforceable, similar to a bank guarantee. To set up these guarantees, express approval from the Ministry of Economy and Finance¹⁸ and enactment of a Supreme Decree are required. Financial guarantees have been issued for the Olmos Water Transfer project and the North Amazonas Highway.

Non-financial guarantees

These guarantees are established in the contracts; they are not automatically enforceable, and are applicable in certain cases subject to a verification procedure, e.g., the guarantees covering a minimal income or demand included in important road concessions, such as Red Vial 5, Red Vial 6 and Autopista del Sol (Road Network 5, Road Network 6 and Motorway of the Sun).

iii Risk distribution

As stated above, the aim for PPPs is that the private sector will assume most risks, without disregarding the principle that the risk must be borne by the party in a position to do so. The main risks for PPPs include:

Design risks

Generally, the final design of the project is the responsibility of the private party. Consequently, it is reasonable for the private party to bear the risk of defects in the design of the project.

Construction risks

The private party is responsible for carrying out the work, so it bears the risk of and is responsible for delays in performance of the work or defects in the quality of the workmanship.

18 Article 26 of Legislative Decree 1224.

As for the cost of the work, in some PPPs the state has assumed part of the risk of variations in the project budget, but lately the form of contract used relieves the state from this risk (lump-sum contract).

Quality risk

The private party is responsible for carrying out the work and providing the services; consequently, it is responsible for the quality of the work and the services. If any problems or defects are detected, the private party has the obligation to remedy the problem or be subject to the imposition of penalties or sanctions.

Environmental risks

Environmental risks are borne by the private party, as this party is responsible for preparing the environmental impact study and implementing environmental mitigation actions. In exceptional cases, the state is responsible for environmental liabilities produced prior to the transfer of the project to a private party.

Regulatory risks

This risk is assumed by the state, subject to certain conditions. A clause providing for the restoration of the economic-financial equilibrium in case of variation of the income from the project or project costs as a result of a change in law is inserted in the contracts.

Money exchange, inflation and interest risks

These risks are mitigated in the contract by setting a price in US dollars and including an inflation-adjustment formula. The risk relating to the interest rate is generally assumed by the private party.

iv Adjustment and revision

The modification of PPP contracts must follow a strict procedure outlined in the current legal framework.

For this purpose, a joint evaluation process is carried out by the public entity, the regulator, the OPIP and the Ministry of Economy and Finance, which meet to analyse the addendum proposed by the private party and propose changes thereto, as appropriate.¹⁹

Subsequently, each of these entities issues an opinion in writing, but the positions of the public entity and of the Ministry of Economy and Finance prevail.

It should be noted that the legal framework has become stricter, mainly because of the numerous addenda to PPP contracts proposed between 2006 and 2010.

v Ownership of underlying assets

In most PPPs in Peru, the ownership of the assets is retained by the state. This is the typical case in BOT projects. The private investor designs, builds and operates the infrastructure, but ownership of the assets is at all times in the hands of the state.

19 Article 53 *et seq.* of Supreme Decree 410-2015-EF.

Exceptionally, in projects involving transmission lines and gas pipelines, the ownership rights are held by the private party during the term of the contract. Later, when the PPP is terminated, ownership of the property reverts to the state.

vi Early termination

All PPP contracts establish some mechanism for reimbursement of the amount invested in construction of the work or repayment of the financing granted for that purpose, in the event of termination.

The contracts specify the causes of termination, the termination procedure, the remedy period and provide for notification to the authorised creditors, if any. In some contracts, the creditors are also given the opportunity to remedy the problem and avoid the termination of the contract.

The state has the right to unilaterally terminate the contract, giving prior notice within a specified period (e.g., six months), and subject to reimbursement of the investment made.

VI FINANCE

The responsibility for financing the project is assigned to the private party, which must determine whether to obtain funds from a financial institution, the capital market or related companies. Notwithstanding the foregoing, at the time of drafting the contract, one of the main aspects considered is that the project must be bankable.

Eventually, the state may authorise the issue of guarantees in benefit of the creditors, such as a mortgage on the concession. Consequently, in the event of non-payment by the private party, the creditors may intervene and auction the concession rights to recover the unpaid amount. Generally, an effort is made to include in all PPP contracts a mechanism that ensures – to a greater or lesser extent – repayment of the funds used to make the committed investments.

VII RECENT DECISIONS

The new law governing PPPs – Legislative Decree 1224 and its implementing regulations – Supreme Decree 410-2015-EF – was published in 2015.

The new law sanctions a new legal framework applicable to PPPs, which imposes stricter control of the use of this mechanism and confirms the position of the Ministry of Economy and Finance as the governing entity of the national system for the promotion of private investment.

Under this new legal framework, budgetary aspects are carefully scrutinised and the extent that public resources can be committed, as firm commitments or contingent commitments, is reviewed throughout the process of creation of the PPP. Under this perspective, it will become increasingly difficult to obtain guarantees from the state for future PPP contracts.

VIII OUTLOOK

i Principal achievements

As an example, four PPP contracts that contemplate committed investments of more than US\$1.7 billion have been signed in the airports subsector, most notably the contracts related to the Jorge Chavez International Airport and the new International Airport in Chinchero, Cusco.

The infrastructure covered by one concession includes 20 airports, with an accumulated traffic on domestic and international flights of more than 180 million passengers, an accumulated income of nearly US\$2 billion from the Jorge Chavez International Airport only, and an accumulated income of over 2.3 billion soles (Peruvian currency) from other regional airports.

Most of the PPP contracts signed refer to the roads subsector, a total of 16. These contracts contemplate investment commitments of more than US\$4.4 billion, most notably the concession contracts relating to the Interoceanic Highway.

In this case, the infrastructure assigned under one concession covers almost 7,000km of road networks, with an accumulated toll income of more than 3.4 billion soles.

In the case of highways, the quality of this service has been good, as all assessments by the regulatory agency (OSITRAN) have reported a level of compliance exceeding 95 per cent of the respective indices.

ii Main challenges

PPPs have been successfully used in the transportation sector (roads, ports, airports and railways), and, to a lesser extent, in the sanitation and agricultural sectors.

However, this mechanism has not yet been used in the education, health and justice sectors, only to mention a few. Although efforts have been made for many years to implement PPPs in these areas, this has been prevented by many legal, institutional and social obstacles.

Another challenge that must be met is the promotion of PPPs among regional and local governments, which sometimes lack adequately trained personnel to perform this task.

Finally, though not less importantly, another challenge to be overcome by the state is to complete within reasonable time frames the task of expropriating lands and eliminating interferences. This problem has unfortunately delayed for years the implementation of various infrastructure projects on the terms stipulated in PPP contracts.

Appendix 1

ABOUT THE AUTHORS

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Rosselló Abogados

Mr Cisneros is a partner at Rosselló Abogados. He earned his degree in law at Universidad de Lima and holds a master's degree in economic international law. He obtained a degree as customs broker from Escuela Nacional de Aduanas and holds tenure in the master's degree programme of finance and corporate law at Universidad ESAN.

He is a specialist in legal designing and structuring on projects such as private investment, public private partnerships, private initiatives, concessions and privatisation projects, procurements in public infrastructure and services under the Peruvian Government Procurement Act and Works for Taxes.

Former manager of the legal department of ProInversión and head of the team responsible for the legal designing and structuring of several projects and bidding processes for different road concessions, such as: national railways, Interoceánica Roads 1 to 5, IIRSA Norte; IIRSA Centro; Red Vial No. 6; Red Vial No. 1, Red Vial No. 4; Proyecto Costa Sierra.

He was in charge of legal advice for projects and bidding processes on concessions of infrastructure and public services, as well as in privatisation processes, such as: mining projects, natural resources (regional gas pipelines), airports, ports, energy, roads, telecommunications, water and sewage projects, hydro energetic and irrigation projects (Olmos y Angostura), projects for local and municipal governments, agricultural projects, tourism projects, securities, aquaculture, and forestry projects. He was also in charge of legal advice on the Peruvian Railway System concession, among others.

PIERRE NALVARTE SALVATIERRA

Rosselló Abogados

Pierre Nalvarte Salvatierra is a senior associate at Rosselló Abogados. He earned a degree in law at Universidad de Lima and holds an MBA, majoring in finance, from ESAN.

He pursued a graduate degree in transport infrastructure financing from Fundación CEDDET (Madrid). Mr Nalvarte holds a master's degree in state procurement from Universidad Castilla La Mancha (ongoing).

Former manager of the legal department at Aeropuertos Andinos del Perú SA (AAP), concessionaire of the airports of Arequipa, Juliaca, Tacna, Ayacucho and Puerto Maldonado; which includes an investment of approximately US\$79 million.

He is a former legal and economic adviser of the Presidency of the Cabinet of Ministers on issues related to the promotion of private investment.

He is former UNDP consultant for the Ministry of Transportation and Communications (MTC), participating in the bidding process for the concession of IIRSA Sur (Sections 1 and 5); as well as in the legal, tax and financial matters for the concession contracts of IIRSA Norte and IIRSA Sur Sections 2, 3 and 4.

Former UNDP consultant for ProInversion. He participated in the concessions of: IIRSA Sur (Sections 2, 3 and 4), the new container pier (South Dock), the first group of regional airports, and the Buenos Aires–Canchaque Road. He also was part of the team of the private investment promotion process in mining projects such as La Granja and Bayóvar.

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