Delivering Sustainable Development Through PPPs

Part I

ITD-UNCTAD Regional Workshop: Phase 2 of IIA Reform

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In 381 BCE. . .

the ancient Greek city of Eretria signed a contract with a wealthy citizen, Chairephanes, to drain a lake in its territory to create more usable land for agriculture. According to the contract, Chairephanes was responsible for financing and managing the drainage operation. In return, he was granted the right to use the land for 10 years and an exemption from tax duties on materials imported for the project. The contract foresaw a four-year construction schedule, renegotiable in case of war, and it bound heirs in case of the contractor's death. Anyone attempting to rescind the contract was subject to extreme sanctions. The contract was carved in marble and placed on public display (Bresson 2016, 165). Similar contracts may date as far back as the Achaemenid (First Persian) empire (6th to 4th century BCE), when, by royal decree, all individuals who dug a quanat (a subterranean gallery used to intercept water sources for irrigation) had the right to retain all profits for up to five generations (Goldsmith 2014, 11).

Taken from World Development Report 2017: Governance and The Law

SUSTAINABLE DEVELOPMENT GOAL 9

Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation

SUSTAINABLE DEVELOPMENT GOAL 17

Strengthen the means of implementation and revitalize the global partnership for sustainable development

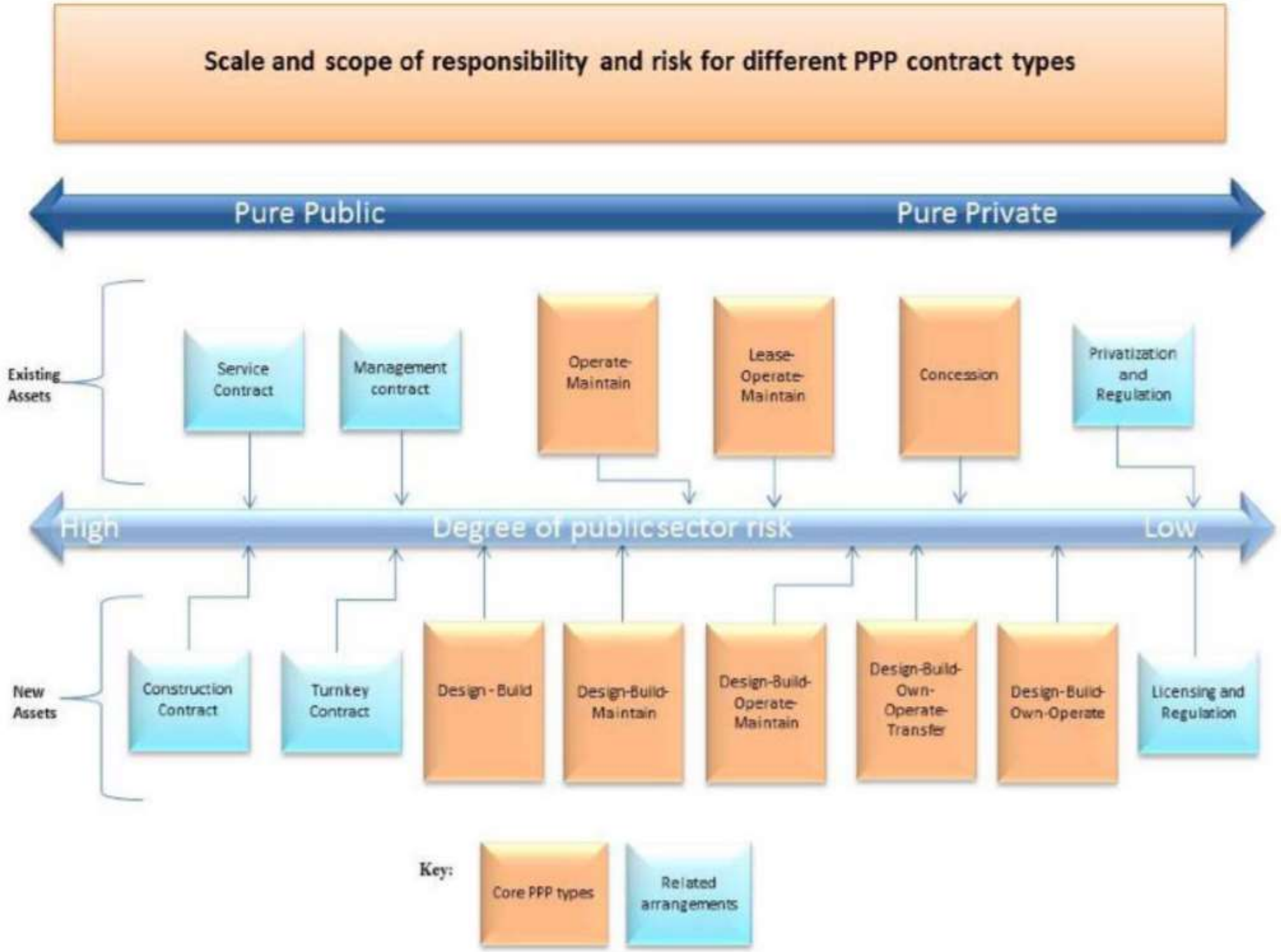
What are PPPs?

Narrower definition

- Long-term contracts where the private sector supplies infrastructure assets and services that traditionally have been provided by the government (IMF; European Commission)
- Excludes concessions, information sharing mechanisms, voluntary initiatives, joint research and innovation projects, and financial leases, since they do not transfer enough risks (OECD, several MDBs)
- AKA: P3; PFI (Private Finance Initiative)

Broader definition

- Addis Ababa Action Agenda definition (for blended finance)
- Joint venture between public and private parties (UNECE)
- Some definitions include partnerships with NGOs
- PPPs as part of Public-Private Interface (PPI)

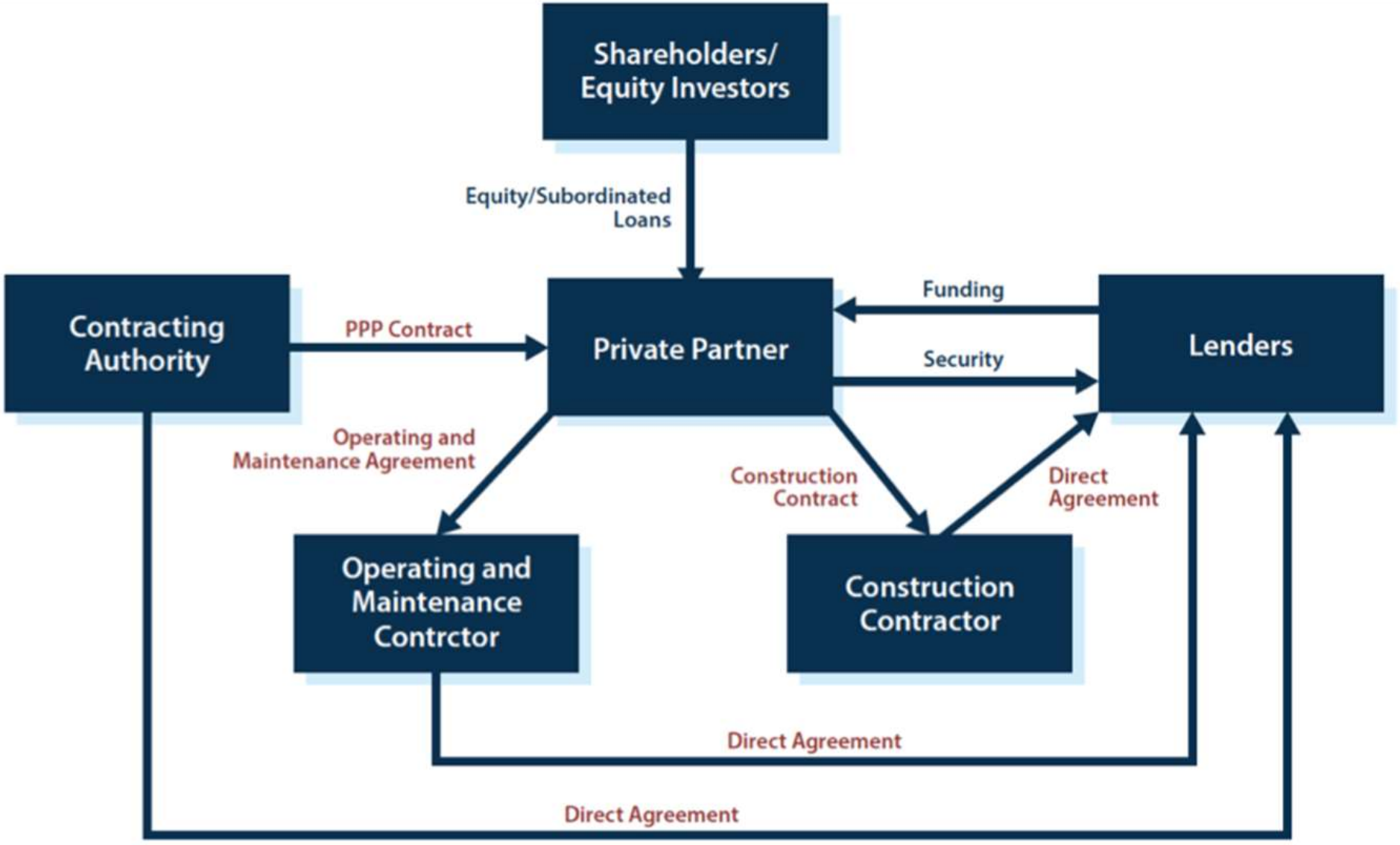


Source: FfD Paper: Public Private Interfaces in Development Financing

Key Features of PPPs (Narrower definition)

- A **long-term contract** between the public contracting authority and the private sector company for **procurement of services, not assets**
- The **transfer of risks** to the private sector, notably with regard to designing, building, operating and/or financing the project
- The specification of **project outputs** rather than inputs
- The application of **private financing**, and
- **Payments to the private sector for services delivered**

Typical PPP Structure



Source: IISD

PPP Life Cycle

Phase	Stage	Step
1 Project Identification	1.1 Project Selection	• Investment assessment • Output specification
	1.2 Assessment of PPP Option	• Affordability • Risk allocation • Bankability • Value for money analysis • Debt and deficit treatment of PPPs according to Eurostat
2 Detailed Preparation	2.1 Getting organised	• Set up project team and governance structure • Engage team of advisers • Develop project plan and timetable
	2.2 Before launching the tender	• Carry out further studies • Prepare detailed design of PPP arrangement • Select procurement method • Select bid evaluation criteria • Prepare draft PPP contract
3 Procurement	3.1 Bidding process	• Procurement notice, prequalification and shortlisting • Invitation to tender • Interaction with bidders • Evaluation of tenders and PPP contract award
	3.2 PPP contract and financial close	• Finalise PPP contract • Conclude financing agreements • Reach financial close
4 Project Implementation	4.1 Contract management	• Attribute management responsabilities • Monitor and manage project delivery and service outputs • Manage changes permitted in the PPP contract • Manage changes not provided for in the PPP contract • Dispute resolution • When the contract ends
	4.2 Ex post evaluation	• Define institutional framework • Develop analytical framework

THE epec PPP GUIDE

Examples of sectors in which PPPs have been successful

Both economic and social infrastructure projects can be implemented through PPPs:

Australia: transport and urban regeneration

Canada: energy, transport, environment, water, waste, recreation, information technology, health and education

Greece: airport and roads

Ireland: road and urban transport systems

Netherlands: social housing and urban regeneration

Spain: toll roads and urban regeneration

United Kingdom: schools, hospitals, prisons and defence facilities and roads

United States: projects that combine environmental protection, commercial success and rural regeneration

Source: UNECE (2008)

“The 21st Century will not be a competition over territory but over connectivity.”*

*Khanna 2016. A New Map for America. New York Times (15 April).

Emergence of National/Regional Infrastructure Master Plans

- Several master plans per region
- Each with mega/giga-infrastructure projects
- Fueled by growth imperative and competition for resources
- Aim to improve connectivity and trade facilitation
- **Dependent on PPPs to deliver**
- Potential cumulative impacts in regions
- But data is scarce

Why are PPPs controversial?

- **PPPs are complex and expensive to design and implement:**
  - **Require complex financing schemes, complex structures and contracts; high transaction costs**
- **Not always cheaper than a public sector option especially if project life cost**
  - **"Over budget, over time, over and over again": Bent Flyvbjerg, Saïd Business School**
  - **Lesotho Hospital PPP**
- **Fiscal risks (off budget spending, threats to macro sustainability), budgetary risks (direct costs and contingent liabilities), e.g., Portugal**
- **Insufficient risk sharing + no benefits sharing**
- **Locks in risk allocation, obsolete technology, business as usual model for two or more decades**
- **Renegotiation is common and tend to favor private sector operators**
  - **IMF: 55 percent of all PPPs get renegotiated, on average every 2 years**
- **Climate risks, large environmental and social footprint, corruption risks**
- **Unsolicited PPPs**
- **Increasingly difficult to meet high public expectations**

Public Services International Research Unit (PSIRU)
www.psiru.gr

PPPs and the SDGs:

Don't believe the hype[1]

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PSIRU, June 2016

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[1] For a more detailed treatment of the issues raised in this briefing paper, please refer to Hall (2015).

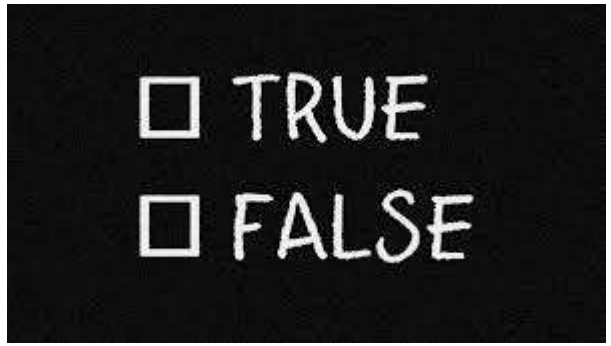
Deficits in Transparency, Participation, Accountability

- **In 2013 World Bank looked at 11 jurisdictions with a PPP disclosure framework**
  - **Facilitates commercial stakeholders but not necessarily citizens**
    - **Unsure of citizens' informational needs**
  - **Disclosure may be waived when unsolicited offers with proprietary information**
  - **In contrast to more than 120 jurisdictions with PPP laws**

- **Fiscal transparency: Contingent liabilities in PPPs are not consistently disclosed**
  - **The OECD surveyed 25 countries, of which 16 responded in relation to the question of whether the budget documentation or other published material contain an assessment with respect to contingent liabilities derived from PPPs and concessions. 11 responded that contingent liabilities are listed and priced, 4 said they are listed but not priced, and 1 responded neither**
- **Countries don't have sufficient capacity to manage disclosure and invite citizen participation and consultation early in the process**
- **Accountability for PPPs: What mechanism is available for PPP accountability?**

PPP POP QUIZZ: True or false?

1. **A PPP is an accounting exercise to put assets ‘off the country’s balance sheet’**
2. **A PPP is a means of providing better services at an overall lower cost than through traditional public procurement, giving tax payers ‘value-for-money’**
3. **PPPs can take many shapes including partnerships with ‘not for profit’ philanthropic bodies that promote an ethical approach**
4. **PPPs put people first and are compliant with SDGs**



A: Progression of PPP Models?

Generations of PPPs

1st generation: An accounting exercise to put assets 'off the country's balance sheet'

2nd generation: A means of providing better services at an overall lower cost than through traditional public procurement, giving tax payers 'value-for-money'

3rd generation: Partners are more widely spread and include 'not for profit' philanthropic bodies that promote an ethical approach to PPPs; people first PPPs that are compliant with SDGs

Source: UNECE

Legal/Normative/Financial/Technical Frames for PPPs (hint: no international standards)

- **IIAs**
- **FfD / Addis Ababa Action Agenda – blended finance principles (but these are not PPP principles)**
- **UNCITRAL's legislative guide on privately financed infrastructure projects (now being updated)**
- **PPP laws – around 120 jurisdictions have own PPP laws**
- **Various websites of UN agencies, G20, MDBs, nonprofits, etc**
  - **PPP guidance, tools and templates**
- **Multilateral / bilateral loans and technical assistance**
- **Specific PPP contracts**

PPP Principles in the Addis Agenda*

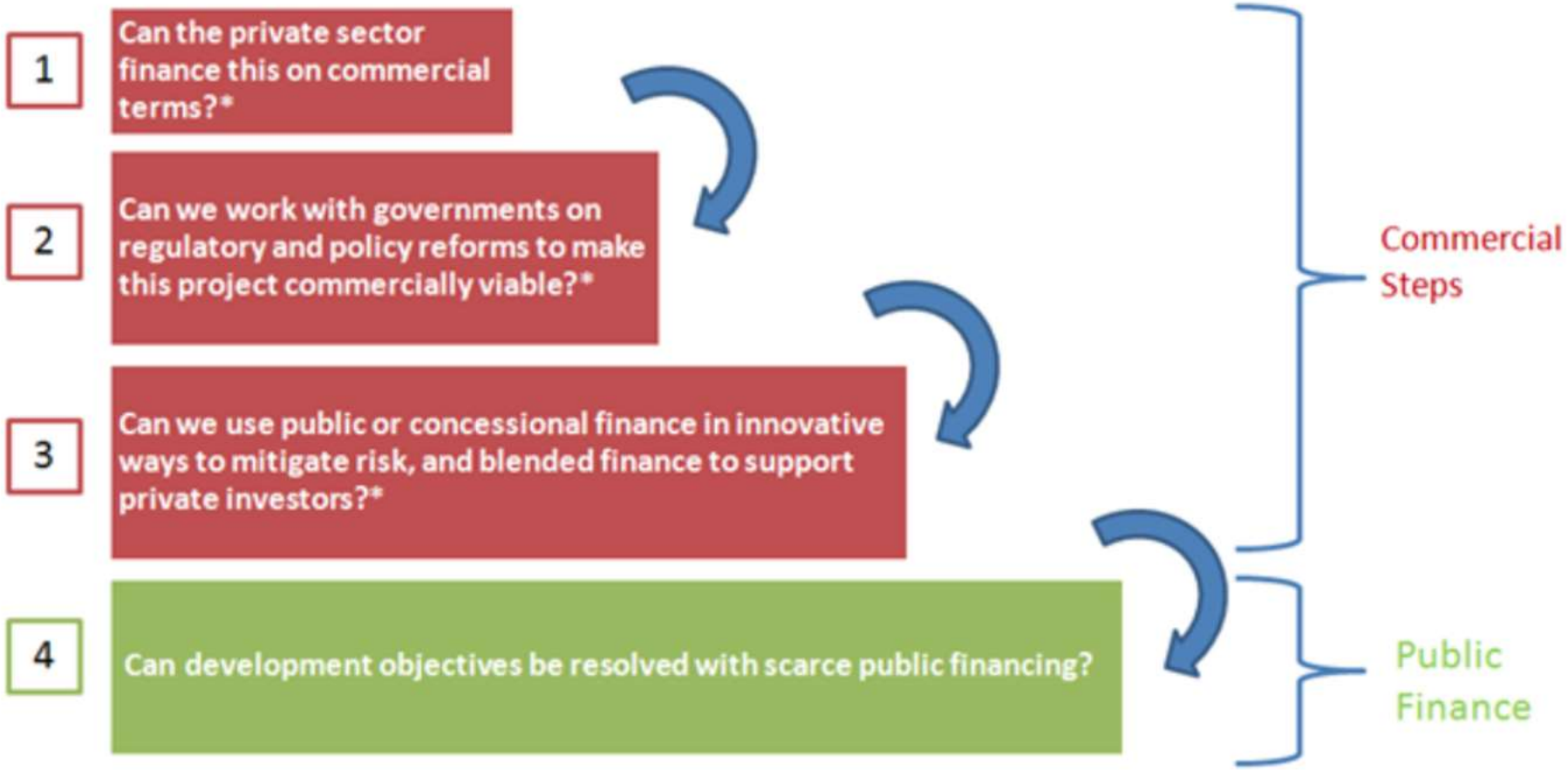
- **Careful consideration given to the structure and use of blended finance instruments**
- **Sharing risks and reward fairly**
- **Meeting social and environmental standards**
- **Alignment with sustainable development, to ensure "sustainable, accessible, affordable and resilient quality infrastructure"**
- **Ensuring clear accountability mechanisms**
- **Ensuring transparency, including in public procurement frameworks and contracts**
- **Ensuring participation, particularly of local communities in decisions affecting their communities**
- **Ensuring effective management, accounting, and budgeting for contingent liabilities, and debt sustainability; and**
- **Alignment with national priorities and relevant principles of effective development cooperation**

*** For blended finance.**

Maximizing finance for development: MFD

- **From “billions” in ODA to “trillions” in investments of all kinds to achieve the SDGs**
- **Now “Maximizing Finance for Development” (2017), rooted in the Addis Agenda**
- **Private finance necessary to meet the SDGs. MDB s commit to increase it by 25-35% in the next three years. PPPs are an important instrument**
- **Nine countries will pilot MFD: Cameroon, Cote d’Ivoire, Egypt, Indonesia, Iraq, Jordan, Kenya, Nepal, and Vietnam**
- **In addition, tools, templates, etc will be available to standardize private investment**

A new context for PPPs: "from billions to trillions"
The Cascade / Maximizing Finance for Development (MFD)



* Derived from the speech "Rethinking Development Finance" at the London School of Economics by Jim Kim on 4/11/2017

PPP Guidelines Reviewed for the Scoping Study

PPP Guidelines	
ADB Public-Private Partnership Handbook (2014)	UN ECE Guidebook on Promoting Good Governance in Public-Private Partnerships (2008)
EIB-EPEC Guide to Guidance. How to Prepare, Procure and Deliver PPP Projects (2011)	UN ECE Promoting People first Public-Private Partnerships for the UN SDGs (2016)
European Commission Guidelines for Successful PPPs (2003)	UN ESCAP Guidebook on Public-Private Partnership in Infrastructure (2011)
IMF Public-Private Partnerships. Government Guarantees and Fiscal Risk (2006)	World Bank Public-Private Partnership Reference Guide: Version 2.0 (2014)
OECD Public-Private Partnerships: In Pursuit of Risk Sharing and Value for Money (2008)	World Bank Report on Recommended PPP Contractual Provisions (2015)
OECD Principles for Public Governance of Public-Private Partnerships (2012)	World Bank Framework for Disclosure in Public-Private Partnership Projects (2016)

FINDINGS:

- Most guidelines take a narrower view of public governance – not yet aligned with the Addis Agenda
- The next generation of PPPs should be driven by a fuller vision of public governance
  - Stakeholder perspectives
  - Climate, human rights and sustainability considerations

Recommendations

- **New guidance for the next generation of PPPs, reflecting the PPP principles of the Addis Agenda**
  - Fully explore the key elements of public governance – including:
    - Stakeholder perspectives
      - Disaggregation of stakeholder groups; attention to vulnerable groups
    - Climate and human rights considerations; ESG sustainability
  - Provide examples of fair sharing of rewards
  - Explore a broader definition of value for money / a more balanced way to assess costs and benefits
  - Sustainable procurement
  - When not to use PPPs

- **PPPs as one tool in infrastructure toolbox**

- **Capacity building**
  - Public sector
  - Others – parliamentarians, civil society, and the media

A Scoping Study of PPP Guidelines: http://www.un.org/esa/desa/papers/2018/wp154_2018.pdf

SUSTAINABLE DEVELOPMENT GOAL 17

Strengthen the means of implementation and revitalize the global partnership for sustainable development

PPI as a more flexible partnership model under SGD17 to deliver SDGs?

- "The public sector provides a legal, regulatory or contractual benefit, subsidy or concession to private sector entities with the intent of achieving sustainable development outcomes, human rights impact or other public objectives"
- Identification of multiple existing models; for example:
  - Alliance Contracting (ACEVO 2015) involves joint risk and reward sharing in design and building contracts, while a public body owns/maintains the actual asset
  - Challenge funds, prosperity funds, etc.
  - Regulated private concessions, new model of SOEs, etc

Alternatives to PPPs?

PPIs (Public Private Interface)

PUPs (Public-Public Partnerships)

PPPPs (Public-Private-Proprietor-Partnership, where “Proprietor” = “owners” of land or resources = communities)

People-First PPPs

Impact Investment

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Thank you!
QUESTIONS?