

## **SUMMARY REPORT OF THE DIALOGUE BETWEEN ASIA-PACIFIC INFRASTRUCTURE PARTNERSHIP (APIP) PANEL MEMBERS AND THE MALAYSIAN GOVERNMENT**

**4th December 2013, Majestic Hotel, Kuala Lumpur.**

### **SUMMARY REPORT**

#### **Introduction**

Over 50 people attended the Dialogue, including APIP panel members and officials representing 15 Malaysian Ministries. Y.B. Senator Dato' Sri Abdul Wahid Bin Omar, Minister in the Prime Minister's Department welcomed the Dialogue and APIP panel members.

UKAS (Malaysia's Public Private Partnership Unit in the Prime Ministers Department) plays an important role in Malaysia's economic transformation progress. Key policy objectives include the Economic Transformation Program (ETP) to turn Malaysia into a high income economy with a reduction of the fiscal deficit and a balanced budget by 2020 and with no segment of society being left behind in the growth process. Investment to fund this transformation program is anticipated to total US\$444 billion. A significant proportion will be by the private sector.

UKAS Malaysia has implemented more than 600 PPP projects, has a wealth of experience to share and is open to supporting capacity building initiatives in the region. PPPs in Malaysia are driven by the private sector and while seeking to implement a master plan of excellence and sharing best practices, there are challenges, including; financing, refinancing, contractual complexities and in monitoring by agencies.

Effective and smart partnerships, particularly between the public and private sectors, will be instituted as a mechanism to drive the economic transformation agenda in Malaysia. To encourage greater participation of the private sector in improving the delivery of infrastructure facilities and public services UKAS is currently updating the Privatisation Master Plan and the PPP Guideline, strengthening the monitoring tools and establishing a PPP Centre of Excellence (COE) as a platform to provide Government support in PPP projects, sharing of best practices and improving commercial and legal frameworks for PPP.

#### **Malaysia's approach to formulating bankable projects including access to finance and risk allocation**

- The current focus is on user pay PPP projects in order to attract private sector investment. Emphasis is on supporting projects through pre-payments and resolving issues around such payments through the "Facilitation Fund". There will be less emphasis on "build lease maintain transfer" projects.

- The private sector is expected to know whether a PPP project is bankable; the role of UKAS is to assess the viability of projects. Risk allocation is discussed in terms of technical based

risk, and the contractual frameworks in which partnerships with the private sector are formed. These are critical aspects to be accounted for in PPPs.

- UKAS does not have specific views on returns that shareholders should make but it seeks to ensure that business models are viable and feasible.

- PPP guidelines allow for foreign participation provided there is a lack of domestic expertise or capital, particularly in areas where there is lack of local expertise such as green technology and high tech projects involving oil, gas and health sectors. In this regard, smart partnerships or joint ventures between suitable domestic companies with potential and foreign companies that are leaders in these sectors are encouraged in order to develop local expertise.

- Commercial banks are generally not in the PPP space; they do not have a full appreciation of the PPP concept and there is an unwillingness of lenders to accept revenue from third party sources.

### **Facilitating inter-agency coordination and collaboration**

- Officials explained that challenges in PPPs in Malaysia related mainly to inter-agency coordination, the prioritisation of projects and bringing projects to market.

- The one-stop shop process provides the policy under which UKAS puts a recommendation to government for approval in principle. Negotiations then proceed with the private sector and a final paper is presented to Cabinet for approval. Any matter or dispute arising out of the PPP agreement which cannot be settled by the parties through the Dispute Resolution Committee (DRC) shall be referred to an arbitrator prior to further reference to the courts. While processes are centralised, the resolution of issues resides with the relevant implementing agency.

- Centralised planning and processing is undertaken by UKAS and the role of project implementation and monitoring is undertaken by implementing agencies. The PPP Committee (JKAS) and High Level PPP Committee (JTAS) are responsible for negotiation and standardisation of terms and conditions of concession agreements.

- A number of agencies are involved in transactions and both the federal and state governments may be involved in a seamless process. However, the aim should be to reduce time on closing deals. Delays are a recurring theme and the one-stop shop centre concept is not being fully realized.

### **APIP Observations**

- Large sums are envisaged for future infrastructure investment and Malaysia would be in competition with others for funds. Significant changes are likely to impact on the regional and global outlook, including negotiation of the Trans Pacific Partnership and other potential

regional agreements. Changes will involve the need for greater receptivity of foreign direct investment and a need for governments in the region to ensure that the gains from economic growth are shared.

- The huge sums expected from the private sector under Malaysia's financing plans could pose a challenge when rating agencies assess credit risk. Linkages are drawn between sovereign exposure and projects which involved operating risks and, where the private sector is reliant on payments for services from the government that are not always automatic and could impact on cash flow. They present risks that may constrain sovereign ratings.

- Investors have some concerns about the growing level of sukuk concentration in Malaysia; while this is not of immediate concern, it is a growing issue. In terms of debt/equity finance, equity moves more easily from one market to another and investors can choose between Asian markets.

- ABAC's work in 2013 on the "Enablers of Infrastructure Investment checklist" should assist economies in reviewing their progress in responding to APEC's multi-year plan on Investment Development and Investment.

- The governance in PPPs by UKAS Malaysia is of high quality and well regarded within the region; nevertheless continued consultation with the private sector is needed. While the government does provide flexible support for projects, the private sector needs to see more support from the central government where projects involve local governments. Well balanced approaches to bringing domestic and foreign technical partnerships together, needs to also be accompanied by well-balanced approaches in financing arrangements.

- More diversification in financing ought to be considered, including through Export Credit Agencies, private banks and investors, to attract foreign groups into the market.

- The more transparent and clear the processes are, the more likely it is that the private sector would be attracted to invest. If processes are too complex the private sector will simply look for opportunities elsewhere.

- UKAS could consider sharing any losses that might be incurred in refinancing a project. However it is noted that this is not currently under UKAS's consideration.

- The imposition of tariffs and taxes on imported equipment get embedded in the overall costs of infrastructure and could pose a burden on Malaysian growth and competitiveness.

### **Suggestions and Conclusions**

- Robust studies of potential projects are important and the platform proposed by APEC to establish a regional centre of excellence in Jakarta provides a rare opportunity to enhance PPP development in the region.

- Dialogues with APIP panel members improve awareness, help in networking and facilitate experience sharing within the region.
- Benefits would be generated by transparency in project development, administration, and greater competition. There would be value in cross-border analysis on the delivery of projects in various jurisdictions and over the life-cycle of projects.
- Deal structuring is a key element and comparisons on these matters with other jurisdictions would be particularly helpful in assessing best value for money.

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