

THE ASIA PACIFIC INFRASTRUCTURE PARTNERSHIP (APIP)

SUMMARY REPORT OF THE SECOND DIALOGUE HELD WITH THE PHILIPPINES GOVERNMENT AT THE MAKATI CITY SHANGRI-LA HOTEL, MANILA, 23RD JANUARY 2013.

Introduction

An impressive number of senior Philippine officials engaged in a constructive and fruitful dialogue with APIP panel members and representatives of multilateral development banks on 23rd January, organised in conjunction with the first ABAC meeting of 2013. The dialogue was preceded by a short meeting of APIP panel members before officials joined the panel for the dialogue, which started over lunch, generously hosted by ABAC Philippines.

The agenda is attached to this report. The dialogue, the second with the Philippines, was convened at the request of the government to exchange of views on changes being implemented to PPP policies and processes and followed up in part on issues flowing from matters discussed in the first APIP dialogue on 28th October 2011. Impressive improvements in policies and processes to facilitate infrastructure development were noted and discussed.

Mr. Guillermo M Luz, Co Chairman of the National Competitive Council and ABAC Alternate Member for the Philippines welcomed participants noting that President Aquino had intended to participate but the timing clashed with his departure to participate in the Davos summit meeting. Mr. Luz noted the critical role that infrastructure development is playing in the economy and the value attached to the dialogue by the President and the Cabinet.

The panel chair, Mark Johnson, thanked the Philippines government for its hospitality and its strong support for and the value it placed in the work of the APIP. He was impressed that the panel was being given the opportunity to discuss developments in this critical area of activity since the first dialogue in late 2011.

PPP developments in key sectors

- The road sector

Productivity and efficiency of the Philippines economy is adversely affected by under investment in roads. Investment in 2011 had been delayed because of the focus on reforms to government processes. In 2012 PPP contracts had been entered into and there was an impressive rise in activity of around 31% over 2011

Work on project processes for infrastructure contracts in 2013 had started in October 2012 and around 7% of the 2013 infrastructure budget had been awarded – important investments in and around Manila and regional areas and in particular in Mindanao were planned.

Full feasibility studies would be undertaken on road projects and a solid business case developed before projects are taken to the market.

- **The water sector**

Ramping up investment in the sector is occurring; approval for a national plan is anticipated. Flood management projects would be the subject of ODA but work would be open for international competitive bidding. Changes had been effected to overcome regulatory issues relating to the sector.

Contemporary challenges resolved or yet to be resolved

- Right of way issues. Processes are sometimes delayed, caused by executive and judicial tensions and legislation might be needed to improve right of way processes.
- Assisting local contractors enhance their capacities; small package projects may not attract investor interest and as a consequence larger project packages are under consideration to incentivise investors.
- Guarantees. Guarantees on future income streams to the private sector will cease and replaced by other policies.
- Solicited bids preferred over unsolicited bids. Where projects are taken to the market, and it is determined that there is a “viability gap” in funding, the government will arrange a capital expenditure subsidy up front rather than enter into a long-term risk guarantee involving the prospect of significant future payments.
- Bid selection. In determining between tender applications in the road sector, the government will judge bids in favour of proposals that require the lowest government subsidy.
- Foreign participation. There are no restrictions on foreign participation in infrastructure projects.
- Commercial risk. The government will not assume commercial risk.
- Policies and administration of PPPs. Rules and regulations have been implemented in relation to the decrees on BOT and alternative dispute resolution clauses, and a review on processes had been presented to Congress.
- Amendments to Executive Orders now provided for the PPP Centre’s Governing Body to be the central policy organ; work is progressing on guidelines for project selection.
- While key performance indicators have been developed, the administration requires an enhanced capacity to monitor projects.
- A Policy Development Monitoring Facility (PDMF) of consulting firms had been established supported by technical assistance.
- The Master Plan is being updated; the PPP Centre holds planning sessions with implementing agencies and arrangements are in place where “viability gap funding” is embedded in the budgets of implementing agencies. A fund is being established to provide for contingencies.

In the disaster and emergency relief spheres of activity, 2 projects have been awarded and 8 projects successfully rolled out last year.

- Development of a robust pipeline of projects. Presently, the PPP Centre is working on around 22 projects including one relating to the computerisation of the health system. A challenge, inter-agency coordination, now been resolved, resulting in major achievements in efficiencies in PPPs. The establishment of the PPP Council Board and the development of policy briefs for agencies has been particularly beneficial.
- Notwithstanding the fact that project financing is not well developed in the banking sector, recent financing deals have been successfully closed. Some regulatory rules, for example, single lender limits, do sometimes impact on bank funding.

On specific issues relevant to business, the panel observed that:

- Bidding processes remain highly prescriptive and there are concerns that the government's focus is on price rather than quality. From a bidder/investor viewpoint, bid requirements ought to focus on the bidders' technical capacities and on financial and probity considerations. Private sector bidders should have the opportunity to outline their approach to other aspects of a project.
- While appreciating reluctance to move from determinations based on price alone, it would be important to move to "value for money" determinations; delays in doing that could impact on perceptions of the credibility of good projects
- Probity checks by outside agencies could be useful in ameliorating any public concerns of political credibility.
- There is value in keeping things simple and that when projects are presented to the market they should be well thought through. In the water sector, the government ought to determine an affordable price and encourage bidders to frame their bids with that price in mind; the process would point to what the government might be required to provide to support from viability gap funding.
- Inclusive growth is a feature evident in some programs under consideration.
- Private sector is more likely to be involved in IT and communications systems relating to the delivery of government services, for example in health, if the government adopts a whole of government approach. (Inter-agency cooperation is on-going and new programs will provide guidelines to coordinate IT platforms and agency coordination in respect of government services).
- Projects involving only government agencies would generally not involve conflict of interest since the government would normally determine how a project would be administered. However, in projects involving the private sector and where the government is both an operator and regulator, there should be an expectation that the government would separate out its operating and regulatory functions, perhaps by split into two projects. Importantly, where

There is a possible conflict of interest issue; the matter ought to be resolved in the design stage of a PPP and not in the contractual stage.

- A World Bank report on global practices in respect of viability gap funding could be made available to assist consideration of this aspect of project funding.

Concluding the dialogue, the chairman noted that the exchange had been very fruitful. He recalled that in 2011, the dialogue then had considered some fundamental issues and these against an insatiable need for PPP financing. This dialogue had pointed to major changes that had or were occurring and there had been consideration of new issues. He noted that the panel would be pleased to return to discuss issues in the context of rapidly changes in the promotion of PPPs in infrastructure in the Philippines. Mr. Luz thanked panel members for their inputs to the dialogue, noting that the discussions would contribute to advancing thinking in government agencies and that the observations and suggestions made by the panel were particularly valuable.

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