博士論文

A Development Process of PPP Scheme for Infrastructure Projects in Vietnam

（ヴェトナムのインフラ事業における PPP スキームの発展過程）

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ABSTRACT

The development process of the Vietnamese PPP scheme has a strong relationship with its transitional economy. Vietnam's government drove the nation under a centrally-planned and subsidized regime through policies to collectivize agricultural and industrial production after unification in 1975. Over the following 10 years, the general public faced many difficulties such as a shortage of staple and consumer goods, industrial stagnation, and a mounting of foreign debts. In 1986, the "Doi moi/renovation" policy was introduced by the sixth Party Congress of Vietnam. One of the strategies of this policy was to allow private sector participation in the delivery of infrastructure under a PPP scheme, which materialized as the BOT Decree enacted in 1993. As in other countries where PPP was applied, the Vietnamese government had its own strategies and objectives concerning its PPP scheme and created its own PPP trajectory through more than twenty years of application.

However, even after such lengthy experiences, only 20 percent of BOT projects have been evaluated as successful (Giang, 2012). During the process of PPP practices, the Vietnamese government keeps changing legal systems on PPP scheme and the number of applications dramatically changed over time. Economist Intelligence Unit (EIU, 2011) thus still evaluates the Vietnamese PPP market as a "nascent" market. The previous literature has mainly concentrated on addressing particular issues such as risk management in BOT projects (Toan, 2008), the current legal framework for the PPP scheme (Giang, 2012; Huyen, et al., 2013; Giau et al., 2012), and the potential of a PPP scheme (Hoa, 2015). In contrast, studies examining how the scheme developed over time are still rare considering influencing factors to the scheme. The research questions have thus arisen as, why do changes in PPP Decrees occur in Vietnamese PPP scheme? In addition, what can explain the significant changes in the number of PPP applications in Vietnam?

To address these research questions, this study investigates the legal framework and organizational system of the Vietnamese PPP scheme through an investigation of project stakeholders in three sectors – the power sector, transport sector and water sector – to understand the development process of PPP scheme deeply. The research aims to clarify two issues within the development process:

1. Clarify salient features of historical changes to PPP regulations
2. Clarify why significant changes in the number of PPP applications occurred

Various types of data consisted of interview data (i.e. 52 interviews with 47 interviewed-hours recorded) and secondary data (i.e., reports of PPP implementations, references from PPP workshops, and media press releases) were collected. Two field studies conducted in several municipalities and provinces in Vietnam from May, 26th 2015 to June, 15th 2015 and from April 5th to 27th, 2016 to address the research objectives. Influencing factors are extruded from the literature review, and procedures to implement PPP and stakeholders on decision-making are identified from the collected information. Political process analysis is adopted to clarify the development process of the Vietnamese PPP scheme in the power, transport, and water sectors. All of the data was qualitatively analysed to triangulate the findings on the development process of the Vietnamese PPP scheme.

This research has revealed that PPP was adopted in Vietnam due to the pressure of national economic conditions. The historical development of the PPP scheme in Vietnam is primarily driven by responses to domestic economic conditions and managed by the government through strong control of private inclusion into the public infrastructure industry. Historical changes of the PPP regulatory framework can be divided into four phases: the nascent phase before 2007, transitional phase 1 from 2007 to 2010, transitional phase 2 from 2011 to 2012, and transitional phase 3 from 2013 to 2015. Throughout these phases, fundamental changes occurred in the role and requirements of investors and the government (Authorized State Agencies-ASAs). The legal framework of the PPP scheme has slowly improved over these four phases. After consolidating inconsistent regulations of domestic and foreign investors, inconsistencies persisted within regulations of PPP-sub models (PPP vs BOT/BT), and regulations finally consolidated to include all models in the early 2015. Regulatory changes to the role and requirements for investors and ASAs appear to be reactionary in terms of management responsibilities and investment barriers. The influence of changes to economic conditions, lessons learned from the enforcement of issued regulations, different interventions of leading politician/institution who take charge of PPP regulations promulgation, and the changes of PPP-related laws are identified as factors that led to numerous changes of PPP regulations over time.

The organisational system within the development process of the PPP scheme began with actions to open up infrastructure markets to foreign investors and foreign lenders, but the market gradually became occupied by State-Owned-Enterprises (SOEs) and State-Owned-Commercial-Banks (SOCBs). Project sponsors are gradually becoming more composed of private enterprises and partly-SOEs. The Government has also gradually improved

their executive skills and managerial institutions with the recent establishment of the PPP Office and PPP Divisions at multiple levels of government.

PPP applications have significantly changed since 2007 (Transitional Phase 1) and are influenced by the (i) political environment, (ii) legal framework, (iii) stakeholder capacity, (iv) market conditions, (v) economic conditions, and (vi) project outcomes. During this transition, positive changes to economic and market conditions, and lower legal barriers introduced in 2007 encouraged investors to propose many PPP-proposals. However, the lack of capacity among ASAs and incomplete regulations resulted in only a fraction of these proposals being applied. The Vietnamese economy then faced negative economic and market conditions after the period of 2008-2009 and combined with a bad legacy on PPP projects, private investors were discouraged from developing PPP-proposals and the government was forced to take more control of the PPP scheme. As a result, a significant decrease of PPP applications can be observed in transitional phase 2. Moreover, positive effects of political actions and strategic policies, combined with capacity improvements among ASA staff led to the creation of many PPP-proposals. The availability of financial packages with supportive actions by politicians resulted in a dramatic increase of PPP applications in transitional phase 3 of the PPP development process.

Based on the analysis and findings, possible improvements to the current legal framework are proposed regarding the regulation of equity ratios; it is suggested that equipty ratios should be determined by stakeholders rather than regulated by Decree. In addition, improvements to the organisational management are suggested to enhance the capacity of the PPP office to execute projects.

The findings represent incremental steps in ongoing and future research on the development of the PPP scheme in Vietnam. Further work should aim to better understand the influence of the institutional environment regarding stakeholder interactions and organizations on the development of PPP schemes in each infrastructure sector.

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LIST OF ABBREVIATIONS

ADB	Asia Development Bank
ASAs	Authorized State Agencies
BLOT	Build-Lease-Operate-Transfer
BLT	Build-Lease-Transfer
BOO	Build-Own-Operate
BOOT	Build-Own-Operate-Transfer
BOT	Build-Transfer-operate
BT	Build-Transfer
BTL	Build-transfer-lease
BTO	Build-Transfer-Operate
CPI	Customer Price Index
DBFM	Design-Build-Finance-Maintain
DBFO	Design-Build-Finance-operate
DCMF	Design-Construct-Manage-Finance
EIU	Economist Intelligence Unit
ERAV	Electricity Regulatory Authority of Vietnam
EVN	Vietnam Electricity
FDI	Foreign Direct Investment
FS	Feasibility Study
GDE	General Directorate of Energy
GDP	Gross Domestic Product
IMF	International Monetary Fund
IPP	Independent Power Producer
JSCBs	Joint Stock Commercial Banks
JVC	Joint stock Company
LLC	Limited Liability Company
MOC	Ministry of Construction
MOIT	Ministry of Industry and Trade
MOT	Ministry of Transport
MPI	Ministry of Planning and Investment
ODA	Official Development Assistance
PDF	Project Development Fund
PFI	Private Finance Initiative
PMU	Project Management Unit
PPP	Public private partnership
SOCBs	State Owned Commercial Banks

SOEs	State-Owned Enterprises
VCP	Vietnamese Communist Party
WB	World Bank

Chapter 1
INTRODUCTION

1.1 RESEARCH BACKGROUND

1.1.1 INFRASTRUCTURE SYSTEMS AND INFRASTRUCTURE SYSTEMS FOR PPP SCHEME

1.1.1.1 INFRASTRUCTURE SYSTEMS

Infrastructure which includes physical structures and facilities is constructed to serve people's daily lives and to enhance socio-economic activities. They consist of roads, bridges, tunnels, water supply, electrical grids, telecommunications, and so on. Infrastructure can also be categorized into "hard" infrastructure referring to the provision of physical facilities (i.e., bridges, roads, buildings, and so on); and "soft" infrastructure referring to the provision of essential services for enabling, sustaining societal living conditions (i.e., street cleaning, the health care system, the education system, or other social services).

In order to deliver Infrastructure service to the public, it is needed to consider the management for developing physical facilities and those operation & maintenance. Furthermore, legislative, financial, organizational and technical systems should be constructed so as to make the management cycle active. Infrastructure systems can be defined as systems including physical facilities and such social systems to deliver infrastructure service.

Infrastructure systems could be managed and owned by governments or private entities. Generally, most roads, bridges, major ports, airports, water distributions, electricity grids are publicly owned and managed; whereas schools, hospitals, buildings could be owned and managed by private entities. History shows that infrastructure could be delivered by governments via public investment scheme or governments facilitate private entities via public-private-partnership (PPP) scheme or governments transfer the rights to deliver infrastructure for private entities via privatization of infrastructure scheme. Even under any scheme of infrastructure delivery, to delivery infrastructure involved institutions (i.e., legislative jurisdictions, management agencies, financial institutions, implementation institutions, and so forth) need to be set up to ensure the delivery effectively and efficiently.

1.1.1.2 INFRASTRUCTURE SYSTEMS FOR PPP SCHEME

Public-private-partnership (PPP) was introduced to allow the participation of private entities to deliver infrastructure, a task which is traditionally public in nature (Li and Akintoye, 2003; The World Bank, 1992). The participation of private entities in infrastructure could be seen firstly in France in 1438 with a river concession – a private party was granted the rights to charge fees from shipping on the Rhine (Manas Chakrabarti, 2014).

Much later on, in 1792, the first franchise contract was introduced in France for water distribution with a period of fifteen years of water distribution operation rights (Steve H. Hanke et al. 2011; Manas Chakrabarti, 2014). The term "PPP" firstly appeared in the United States in 1950 and referred to collaboration between a public and private party to deliver an educational program, and then for urban renewal projects later on (E.R.Yescombe, 2007). Since then, PPP has been broadly utilized all over the world under many various models of PPP schemes. For instance, Private Finance Initiatives (PFI) has been used in the United Kingdom (UK) since 1992, while the term private sector participation (PSP) is used by the Asian Development Bank (ADB) (ADB, Public private Partnership Handbook). Thereby there is not a single unique definition of PPP. The term encompasses various definitions given by researchers and practitioners, such as:

PPP is the institutionalized collaboration between public actors and private actors in which each actor has their own objectives with the final aims at gaining joint targets (Nijkamp et al., 2002).

PPP is considered an institutionalized collaboration of public and private parties wherein joint resources and capital can be leveraged; each party can use their own advantages to gain common goals (Jamali, 2004).

PPP is a modality for effectively mobilizing funds, managerial expertise, skills and know-how from the private sector in which public sector still retains the right to control long-term strategy on the asset/facility (Vining and Boardman, 2008a).

PPP as a part of private sector participation (PSP), includes some kinds of contractual relationship between the public and private sector for provision of public service via management contracts, lease contracts, build-operate-transfer (BOT) contracts, concessions or joint ventures (ADB, 2009).

PPP is an in-commensurate cooperation between private actors and government or authorized agencies wherein the government has dominant influence on financial structuring (Chowdhury et al., 2009).

PPP is a situation wherein involved stakeholders share cost and/or capital for provisions of telecommunications service (Kruesmann and Timmermann, 2009).

PPP is a long-term contractual agreement to which private party has rights and obligations to deliver the design, construction, maintenance and operation of a public infrastructure (Jong et al., 2010).

PPP is defined as a sustained and long-term partnering relationship between public bodies and private entities; often with one or more private entities; to provide public services or infrastructure (Manas Chakrabarti, 2014).

PPP is a sustainable relationship between a public party and private party based on collaboration with the aim at delivering products and/or services in which value for money is gained and risks, cost, benefits would be reasonably allocated (P.M. Panayides et al., 2015).

PPP is a sustainable relationship between a public party and private party based on collaboration with the aim at delivering products and/or services in which value for money is gained and risks, cost, benefits would be reasonably allocated (P.M. Panayides et al., 2015).

The above mentioned-PPP definitions illustrate that it is not easy to develop a consensual definition of PPP. Conceptually, various definitions of PPP in the literature also indicate some common features of PPP such as the institutionalized collaboration of public party and private party (Nijkamp et al., 2002; Jamali, 2004; Chowdhury et al., 2009); based on the long-term contractual relationships (Jong et al., 2010; ADB, 2009; Manas Chakrabarti, 2014); but they also simultaneously display some different characteristics of which imply the motivation behind utilizing PPP, such as taking advantage of the private sector (Jamali, 2004; Vining and Boardman, 2008a), still maintaining control rights of government on the facilities (Vining and Boardman, 2008a) or simply shifting the rights for delivery facilities from public tasks to private sector's (Jong et al., 2010; Manas Chakrabarti, 2014).

On the basis of the legal nature of private sector operating in the facilities as well as a particular country, there are many types of PPP schemes that have been widely implemented including Design-Build-Finance-Operate (DBFO), also known as Design-Construct-Manage-Finance (DCMF) or Design-Build-Finance-Maintain (DBFM); Build-Operate-Transfer (BOT) also known as Build-Own-Operate-Transfer (BOOT); Build-Transfer-Operate (BTO) also known as Build-transfer-lease (BTL) or Build-Lease-Operate-Transfer (BLOT) or Build-Lease-Transfer (BLT), Build-Own-Operate (BOO), (E.R.Yescombe, 2007, p.11-13). Nevertheless, owing to the specialized characteristics of PPP as well as the different particular contexts/situations of countries or regions, PPP would be implemented differently across boundaries (Jooste et al., 2011; M.E. Opera, 2014), as it depends on a country's objectives as well its government's aims at developing a PPP model (Abdel Aziz, 2007). For instance, in the UK, the Private Finance Initiative (PFI) model is successfully utilized (CMS, 2009) in a wide-range of sectors including health, education, transport, defence, leisure, waste, culture and housing. In Australia, the Design-Build-Finance-Operate/Maintain (DBFO/M) model is most commonly used in PPP projects (JETRO, 2010). In India, approximately two thirds of the total PPP projects are complemented under the BOT model, with a focus on energy and transport sectors (India branch equity foundation, 2013). In Japanese PFI projects, the Build-Transfer-Operate (BTO) contracts are typically utilized (JETRO, 2010).

Statistical data provided by World Bank 2015 illustrates that there is an increasing number of private investment in delivering infrastructure and public services and this process is taking place with different regional trends from 2000 to 2015 (see Figure 1.1).

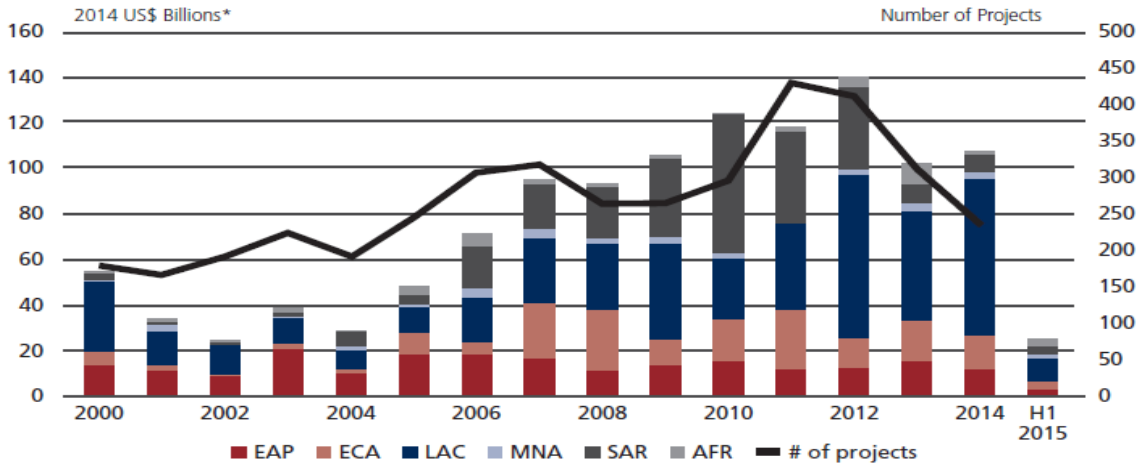


Figure 1.1 Private investment in infrastructure by region, 2000-2015

(Source: World Bank, PPI project database)

In according with Sagalyn (2007), it can be said that the development of public-private (PP) projects is divided into three main stages. With the first stage, PP projects have been developed just as nascent projects coinciding with many pitfalls derived from the lack of experiences among project stakeholders. The second stage is comprised of specialized PP urban development projects which were developed by large development companies or Corporations that often employed planners that managed PP projects for public parties. The last stage was defined by which PP projects would be developed by developers seeking for private-sector involvement.

1.1.1.2.1 Stakeholders in PPP scheme

There are two main stakeholders involved in a standard PPP project including the public authority (*i.e., government*) and private party.

The public authority is responsible for the design (*e.g., pre- Feasibility study and feasibility study*), tender, management of the PPP contract, and is ultimately responsible for the project when it is transferred from private party.

Private parties include PPP contractors (*i.e., normally referred as to Special Purpose Vehicle - SPV*), which are responsible for the development and delivery of the project in the terms specified by the public party; and the lenders who are responsible for providing the financial resources. SPVs can make contracts with other agents such as construction contractors, operations contractors, and supplier contractors depending on the nature of PPP projects (see Figure 1.2).

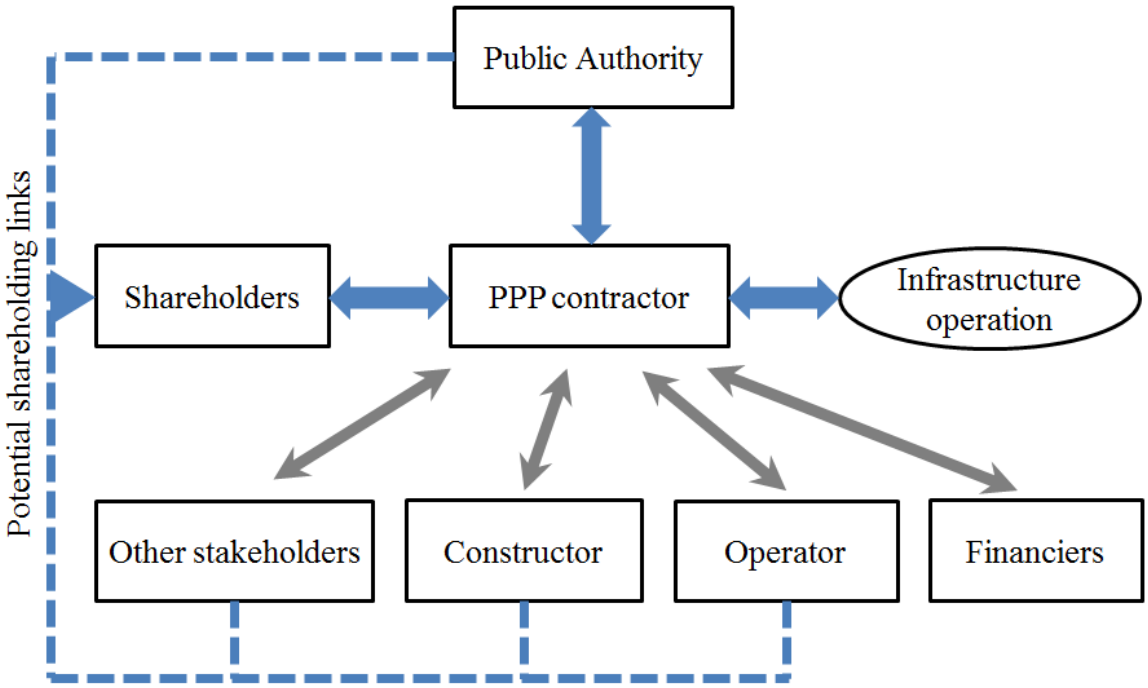


Figure 1.2 Main stakeholders in PPP scheme

(Source: CEDR, 2009)

1.1.1.2.2 Legal/institutional framework

According to Ahmed M. Abdel Aziz, (2007) a legal framework establishes the limits within which the government units operate. The experiences of United Kingdom and British Columbia (Canada) show that the implementation of PPP starts with initiatives and acts allowing the delivery of infrastructure projects under a PPP scheme that is followed by detailed guidelines and policies utilized to standardized the process at different levels.

1.1.1.2.3 Implementation Unit/PPP Office

The practical PPP implementation scheme of many countries shows the necessity of the existence of PPP implementation units or offices at different levels. The establishment of centralized PPP Units has recently become the predominant method for ensuring sufficient governmental capacity (Dutz et al. 2006; Farrugia et al., 2008; PPIAF, 2007).

According to Ahmed M. Abdel Aziz (2007) the roles of PPP unit/PPP Office are manifested as follows

i. Policy development, e.g., through guidelines, approaches, and advice;
ii. Implementation and procurement management, e.g., assistance in the identification/assessment of PPP projects, selection of a PPP delivery system,

development of project documents, selection of PPP contractors, and evaluation of proposals; and

iii. PPP project approvals

On the other hand, the OECD (2008) indicated that in order to achieve a successful PPP program, the main roles of a PPP unit are to control the discretion of line agencies to ensure that (i) avoid line agencies mistakenly making unrealistic commitments on behalf of the government, (ii) prevent line agencies acting wilfully to make such unsustainable commitments, and (iii) ensuring that line agencies fulfil all requirements (in terms of affordability, value for money, and risk transfer) to ensure successful PPP projects.

1.1.2 PPP SCHEME IN VIETNAM

1.1.2.1 OVERVIEW OF INFRASTRUCTURE CONSTRUCTION INDUSTRY IN VIETNAM

The development of the construction industry depends heavily on the economic growth and macro-economic policies of the government. As a major supporting industry for the development of the economy, the growth of the construction sector depends on various factors such as urbanization rates, foreign direct investment (FDI) inflows, interest rates and inflation, fiscal policy, and monetary policies, among others. The volatility of the construction industry in Vietnam from 1985 to 2015 can be seen in Figure 1.3. Additionally, the construction industry also creates a foundation for the development of other industries within a national economy. Therefore, the government always gives priorities and has retained a certain level of disbursement in the construction sector particularly for infrastructure (see Figure 1.4)

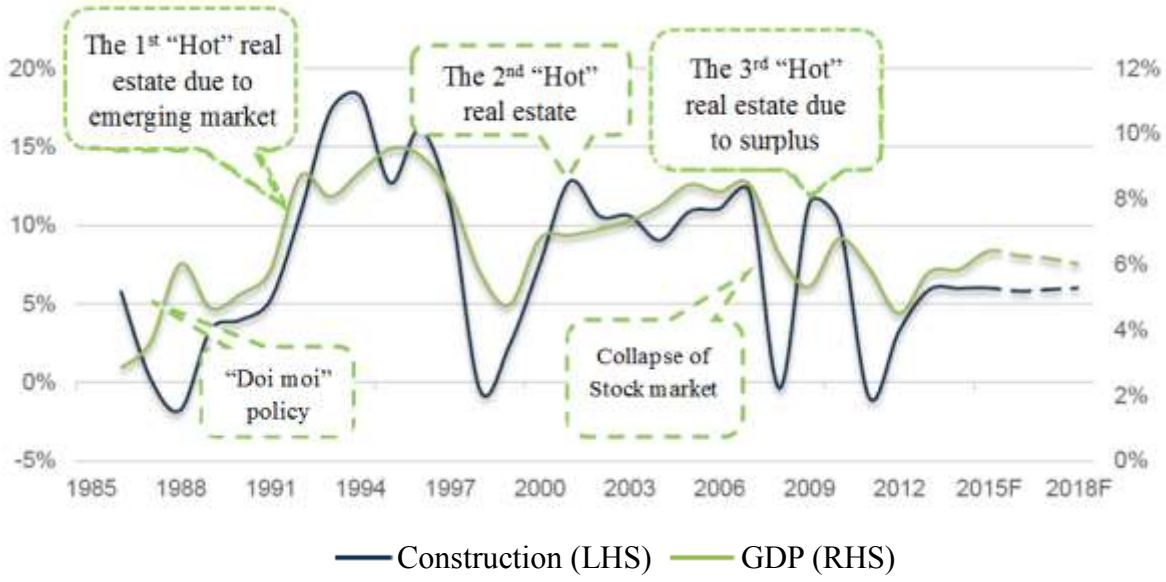


Figure 1.3 The volatility of construction industry and GDP

(Source: IMF, BMI, and FPTS's compilation, Cited in "Construction sector Report", 2015[1])

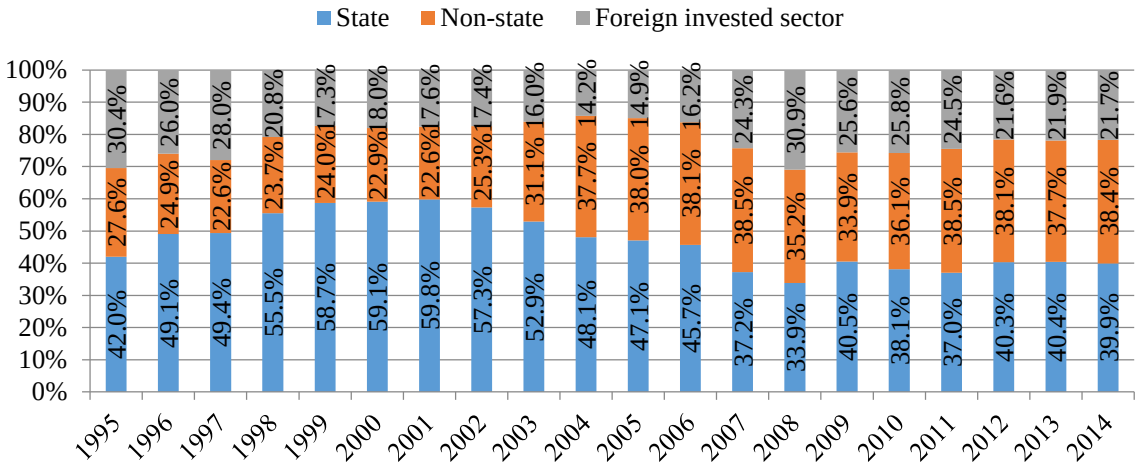


Figure 1.4 The investment ratio of economic-sectors in construction for society development

(Source: GSO, yearbook 2005 and 2014)

The infrastructure sector accounts for the largest share of projects within the construction industry, and can access various funds and multiple resources including the state budget (*e.g., government bonds, budgets, and official development assistance (ODA) loans, etc.*), foreign direct investment (FDI), private financing and other resources (see Figure 1.5, Figure

[1] Cited in "Construction sector report" – *FPTS.*
Available at http://fpts.com.vn/FileStore2/File/2015/05/13/FPTS_baocaonganhxaydung_052015.pdf

1.6). The state always plays a key role in delivering infrastructure projects. Recently, various means have been tried to attract more non-state participants to help the state deliver these projects but so far, private participation in this sector has remained limited.

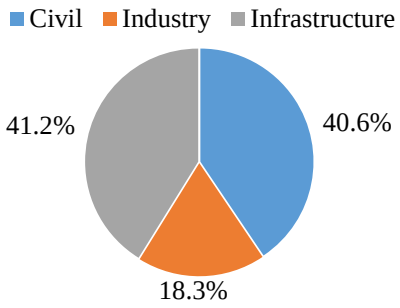


Figure 1.5 The ratio of construction by sector

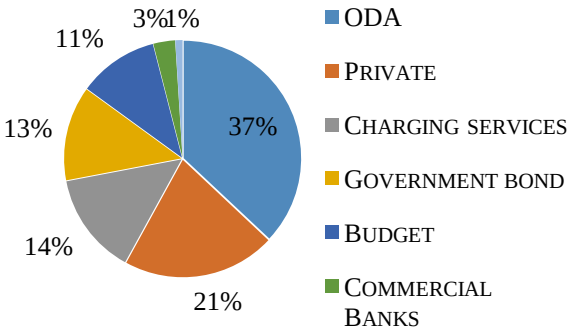


Figure 1.6 The capital ratio for infrastructure investment by 2015

(Source: Cited in "Construction sector Report", 2015)

One of Viet Nam's largest sources of funds for infrastructure investment comes from Official Development Assistance (ODA). As seen as from the state budget, in 1993 Viet Nam restored relationships with bilateral donors and multilateral financial institutions (Asian Development Bank (ADB), International Monetary Fund (IMF), and the World Bank (WB)) and then immediately received development aid funding from these sources. The funds have been increasing gradually over time particularly in infrastructure development sector. To date, there are around 50 aid donors providing ODA to Viet Nam. Currently, ODA loans have been invested mainly for transport, power, agriculture, and poverty reduction projects. Figure 1.7 shows the ODA inflow into Vietnam from 1993 to 2012.

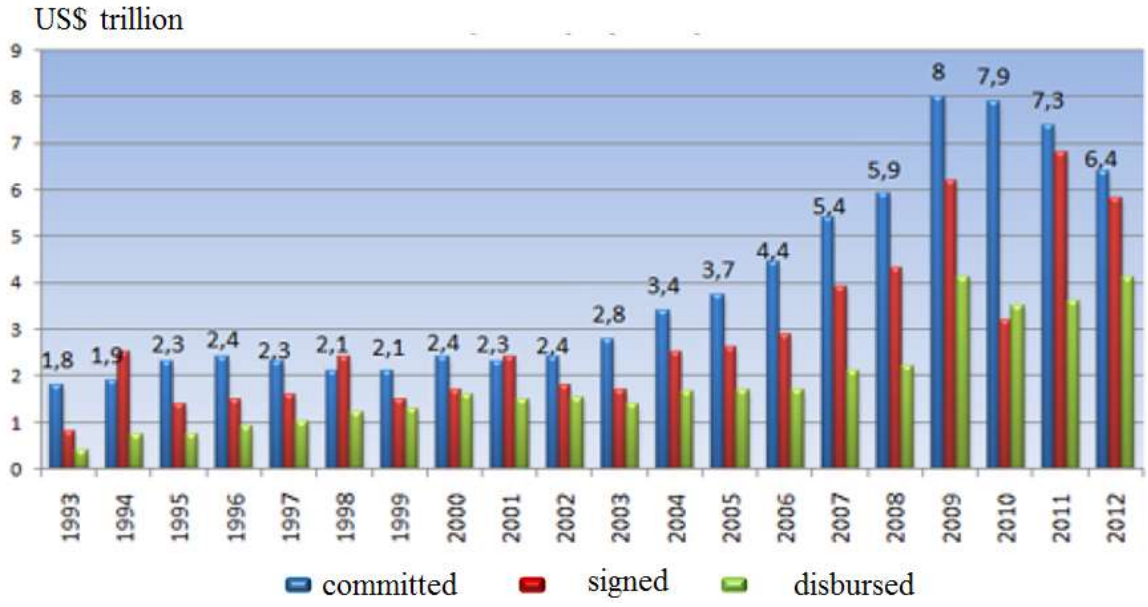
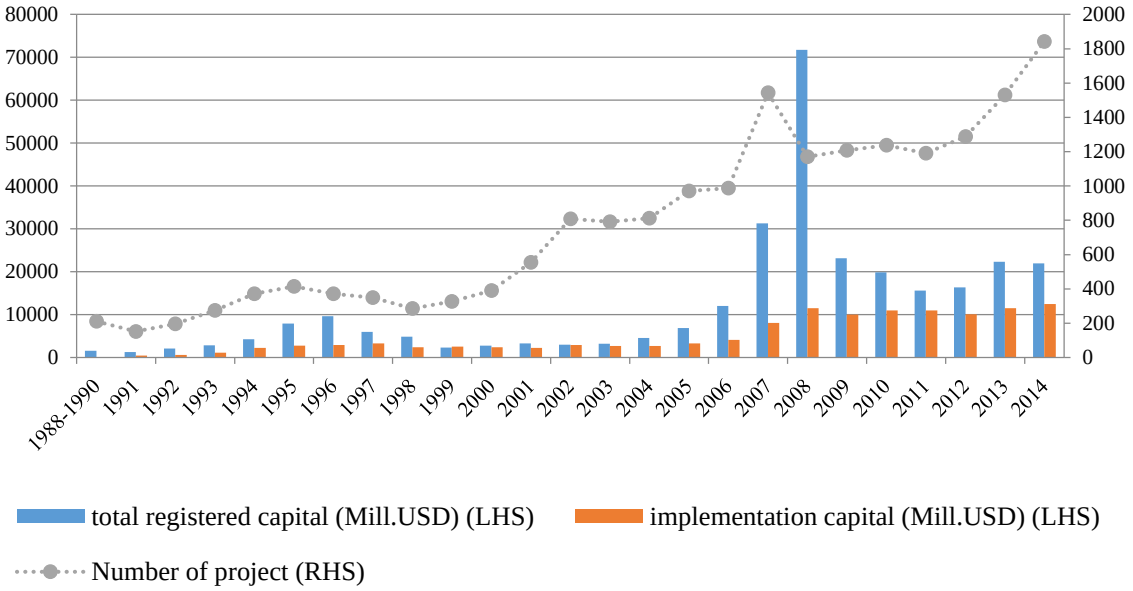


Figure 1.7 ODA development in the period of 1993- 2012

(Source: MPI[2])

Regarding FDI funds, this capital began accruing into Viet Nam from 1988 with a relatively stable amount over time, mainly focusing on the industrial production sector. Figure 1.8 shows the FDI inflows into Vietnam from 1988-2014. As familiar as ODA capital, it seems to face the same problems - disbursal issues. Currently, Japan and Korea are the two countries with the largest FDI inflows into Viet Nam, both focusing mainly in the industrial production sector (see Figure 1.9 and Figure 1.10).

[2] Cited in "Việt Nam: 20 năm thu hút 80 tỷ USD vốn ODA/ Viet nam"/ "20 years attracted USD$20 billion ODA"
Available at: http://www.camautravel.vn/vn/newsdetail/5621/vietnam20namthuhut80tyusdvonoda.
Html, accessed in June 2015.



(Source:GSO)

Figure 1.8 FDI inflows into Vietnam in the period of 1988-2014

(Source: GSO, yearbook 2005 – 2014)

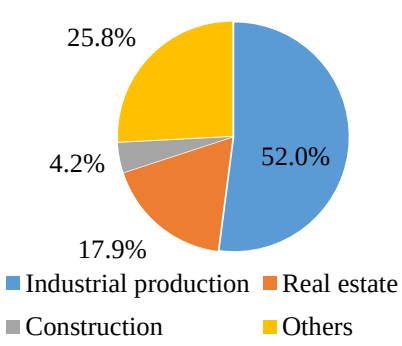


Figure 1.9 Composition of FDI inflows for construction industry by 2014

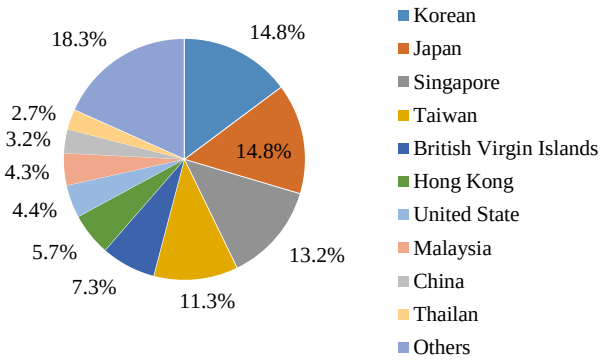


Figure 1.10 FDI inflows by country by 2014

(Source: FPTS, 2015)

Currently, the Vietnamese government considers this capital resource as a potential funding source for infrastructure financing and takes various efforts to structure its investment climate to attract more foreign investors towards the infrastructure sector. The existing schemes and their application towards specific sectors – the power, transport, and water sectors – will now be described.

1.1.2.2 POWER SECTOR

Overview

The development of power sector can be divided into four periods:

1954-1975: The first State management agency is established that is in charge of electricity and is placed directly under the Department of Electricity of the Ministry of Industry and Trade (MOIT). Two thermal power plants and the largest hydropower plant in Viet Nam is built during this period. The Thac Ba Uong Bi is an important power plant which contributes toward raising the electrical generating capacity of the country up to 1.326,3 MW.

1976-1994: This is the foundational development period for the electricity sector and when general national electricity development network was approved by the government. Many power plants were built such as the Pha Lai thermal power plant (with a capacity of 440 megawatt), Hoa Binh Hydropower plant (with a capacity of 1,920 megawatt), and the Tri An Hydropower plant (with a capacity of 400 megawatt). Many transmission lines and transformer substations were also built to develop the electric grid.

1995-2002: This period represents a maturing of the electricity sector. In this stage, the Vietnam Electricity (EVN) was established. This is state agency which holds exclusive operating rights for electricity in Vietnam. During this period, many solutions were proposed and provided by the government to mobilize capital resources for constructing power plants.

2003 to date: This stage can be considered a restructuring period of the electricity sector. The EVN has changed its managerial model and become a key national economic corporation. It plays the key role for investments and the development of national electricity facility systems.

The status quo of "supply and demand" of electricity

The status quo for electricity supply and demand in Vietnam in from 2001-2015 is shown in Figure 1.11.

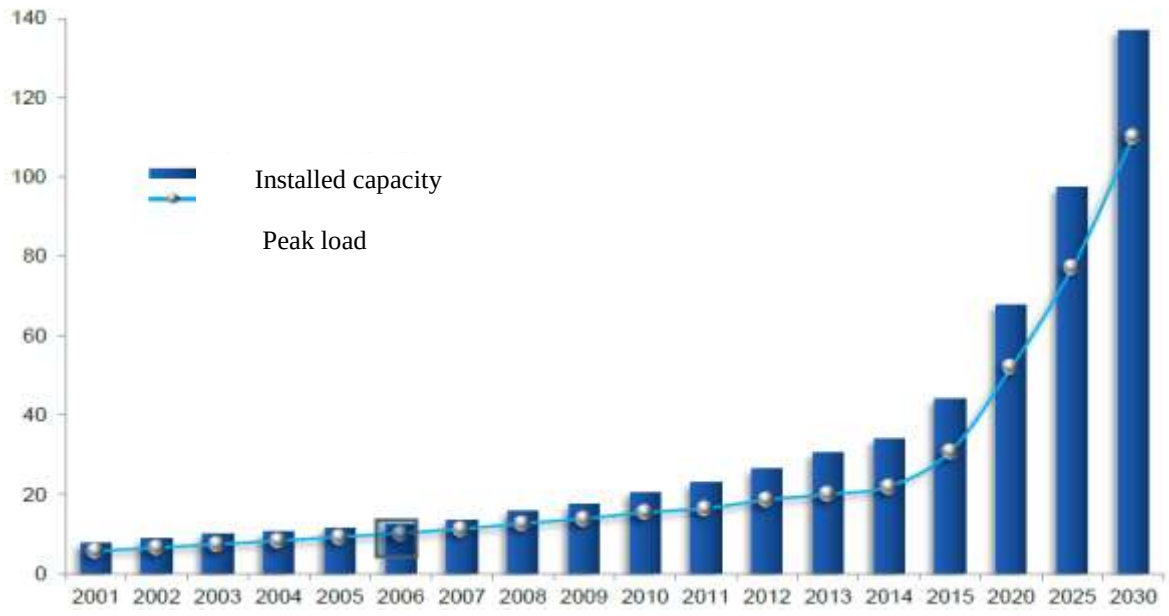


Figure 1.11 Supply and demand of electricity in Vietnam in the period 2001-2014 and the projection for the period of 2015-2013

(Source: FPTS, 2015)

The composition of suppliers within the power sector is unique in that it is the only section that has the participation of organizations outside the EVN. There are two main groups of electricity generators.

(1) Group 1 includes EVN and GENCOs (including GENCO 1, GENCO 2 and GENCO 3)

(2) Group 2 includes Independent Power Producer (IPP). PVN and Vinacomin are two biggest IPP investors in Vietnam now. These corporations and EVN are now generating 75% of total national electricity production. Besides that, there are some domestic investors invest in power plants such as Song Da Corporation, Licogi, etc. under IPP model. In addition, some foreign investors also take part in in building thermal power plants and supplying electricity for EVN under BOT model with a capacity of approximately 2,000 megawatt.

Managerial framework

Vietnam's Electricity sector is structured vertically with the strict management of the Government. The Ministry of Industry and Trade (MOIT) is the agency directly in charge of managing the entire operation of the national electricity system through two advisory bodies: the General Directorate of Energy (GDE) and the Electricity Regulatory Authority of Vietnam (ERAV) (see Figure 1.12).

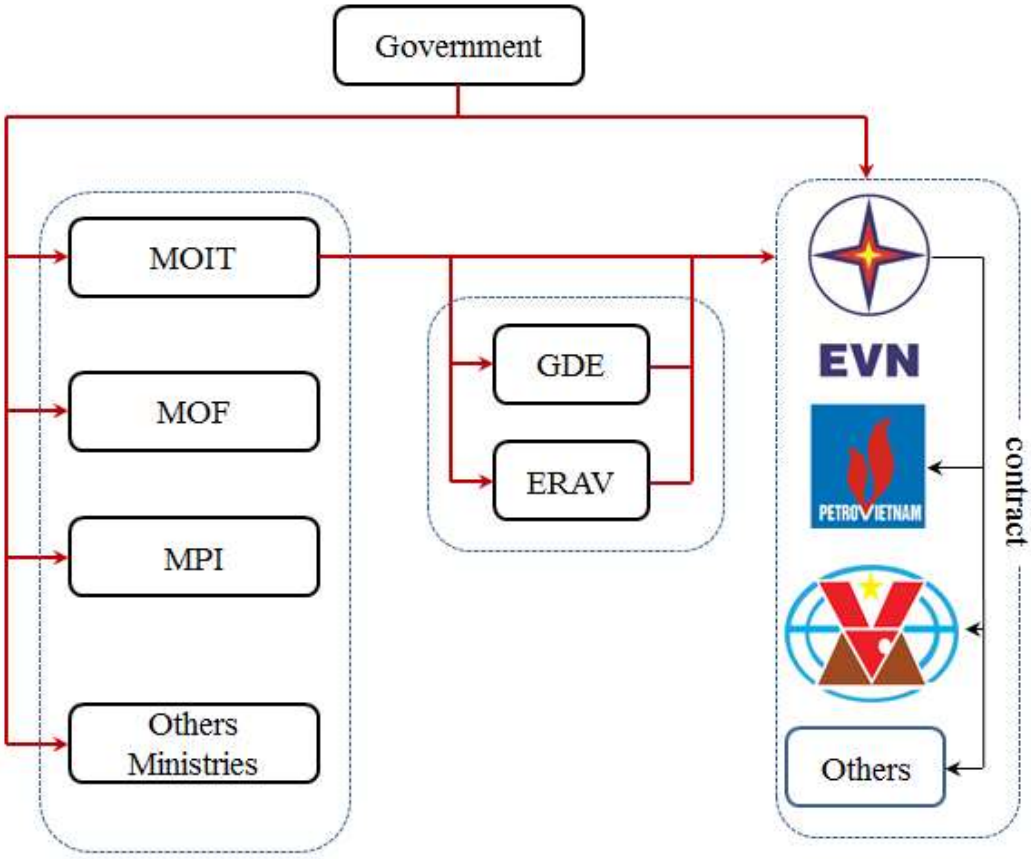


Figure 1.12 Managerial framework of electricity sector

(Source: FPTS, 2015)

1.1.2.3 TRANSPORT SECTOR

Vietnam's transport system has recently been upgraded and repaired with the construction of many new roads and expressways. These contribute to improved travelling conditions and increased operational capacity of the current transport system. However, the majority of the roads are small-scale, not synchronous, and not continuously connected. Therefore the current transport network could not satisfy the rapid growth of national economy.

The total investment capital for the development of transport infrastructure managed by the Ministry of Transport (MOT) has increased significantly over time. Investment has increased from an average of 12 trillion VND (approximately 0.76 billion USD) per year in 2001-2005, to 36 trillion VND per year (approximately 1.9 billion USD) in the period 2006-2010. It currently stands at 70 trillion VND per year (approximately 3.1 billion USD). In terms of the investment capital structure, the state budget (which includes ODA), government bonds, and non-budgetary resources (i.e., mobilizing from private investors) accounted

for 39%, 26% and 35%, respectively[3]. The ratio of the State budget and ODA capital tends to decrease while the ratio of government bonds and mobilized private capital is increasing.

Regarding the investment structure by transport mode, a majority of investment capital focuses on roads, followed by maritime and aviation, with rail and inland waterways holding the lowest share of investment.

In terms of public expenditure on transport, the ratio of public investment expenditures for the construction of transport facilities at both governmental and provincial levels (by about 1.2 times the governmental budget) is 3.5% of GDP in the period 2009-2013.

The managerial framework is structured to be managed by two levels depending on the classification of the projects as illustrated in Figure 1.13

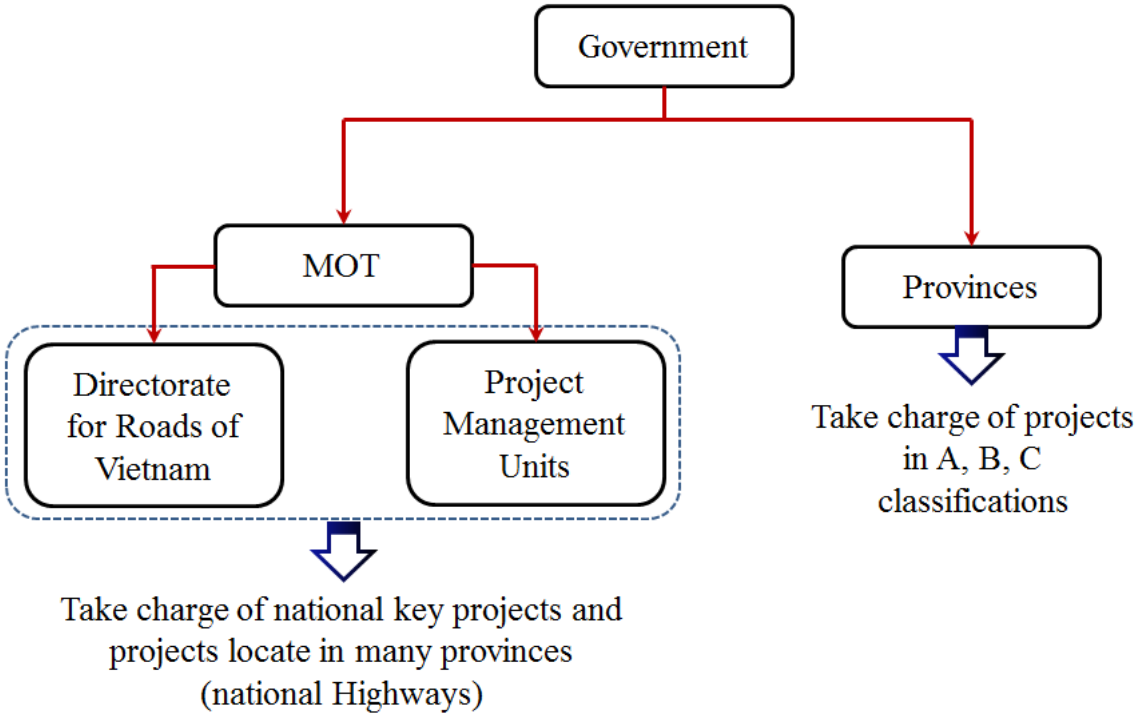


Figure 1.13 Managerial framework of transport sector

(Source: Compilation based on the Decree 46/2015/ND-CP dated in May, 12th 2015)

1.1.2.4 WATER SECTOR

In Vietnam, the water sector is managed only at the provincial level. Each province has its own strategy for the development of this sector. With decentralized management, reports of water supply and wastewater treatment are rarely available. According to an ADB

[3] According to Decision No. 2657/QD-BGTVT dated 24 July 2015

report in 2015, officially, 98% of the population has access to "improved water sources"[4]. However, only 59% of people have a house connection; while 39% have access to water through shared stand posts or protected wells. Data from the Water Sector Review of 2009 indicates a wide range in access to clean water, from 70% in major cities and towns to less than 15% in district towns[5]. Of 754 towns surveyed, only approximately one-third had any form of piped water supply. Vietnam has 68 urban water companies, mainly supplying provincial centres, with an installed capacity of 5.5 million cubic meters per day, but they only deliver 4.8 million cubic meters per day[6]. Issues hampering management efficiency and incentives for the private sector are exacerbated by low water tariffs and a lack of accountability. Nonrevenue water (NRW) is reported to have reduced from 39% in 2000 to around 30% in 2009 in a low service pressure context. Development focus is shifting to benchmarking the performance of water companies and to improving coverage in small towns and peri-urban areas[7].

From a legal standpoint, Decision No. 38/2007/QD-TTg on the equitization of water, wastewater, and drainage companies has brought about changes in the structure of these companies and the nature of their control. The equitization process for these water supply companies should have been completed by 1st July 2010, yet efficiency improvements are yet to be realized. Private sector participation in urban water supply in Viet Nam has been limited to bulk water supply.

1.1.2.5 PPP SCHEME IN VIETNAM

Vietnam's government drove the nation under a centrally-planned and subsidized regime, to collectivize the agricultural and industrial production after unification of the country in 1975. Over the following 10 years, the general public faced many difficulties such as a shortage of staple and consumer goods, industrial stagnation, and a mounting of foreign debts. In 1986, the "Doi moi/renovation" policy was introduced by the sixth Party Congress of Vietnam. One of the strategies of this policy was to allow private sector to take part in the delivery of infrastructure under a PPP scheme which materialized as to the BOT Decree enacted in 1993. As other countries where PPP was applied, the Vietnamese government had its own strategies and objectives set up for the PPP scheme and created its own PPP trajectory within more than twenty years of application. However, even after such length experiences, only 20 percent of BOT projects have been evaluated as successful (Giang,

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[4] Asian Development Bank (ADB). 2009. *Key Indicators for Asia and the Pacific*, Manila; and World Health Organization–United Nations Children's Fund (WHO/UNICEF) 2008. Joint Monitoring Programme for Water and Sanitation 2008. New York

[5] ADB. 2009. Water Sector Review Project, Final Report. Manila (TA 4903-VIE)

[6] Data in this paragraph from Benchmarking Surveys by Vietnam Water Supply and Sewerage Association. Report on Benchmarking Study on Urban Water Supply Utility Performance in Viet Nam for the Period 2007–2009. Water and Sanitation Program–World Bank, September 2010

[7] The Government has announced a $500 million program for reducing NRW between 2011 and 2025

2012). During the process of PPP scheme application, the Vietnamese government keeps changing legal systems apply to PPP scheme and the number of applications has significantly changed overtime (see Figure 1.14). The Vietnam PPP market is thus still evaluated as a "*nascent*" market by Economist Intelligence Unit (EIU, 2011), and the conventional literature has concentrated mainly on addressing particular issues such as risk management in BOT projects (Toan, 2008), the legal framework for PPP scheme (Giang, 2012; Huyen et al., 2013; Giau et al., 2012), the potential for PPP scheme (Hoa, 2015), while studies on the developing process of PPP are still rare. Besides that, in reality, during the application of the PPP scheme, the Vietnamese government keeps changing the legal system apply to the PPP scheme and the number of applications has significantly changed over time. The research questions have thus arisen as, why are many changes of PPP regulations? And, what can explain the significant changes in PPP applications in Vietnam?

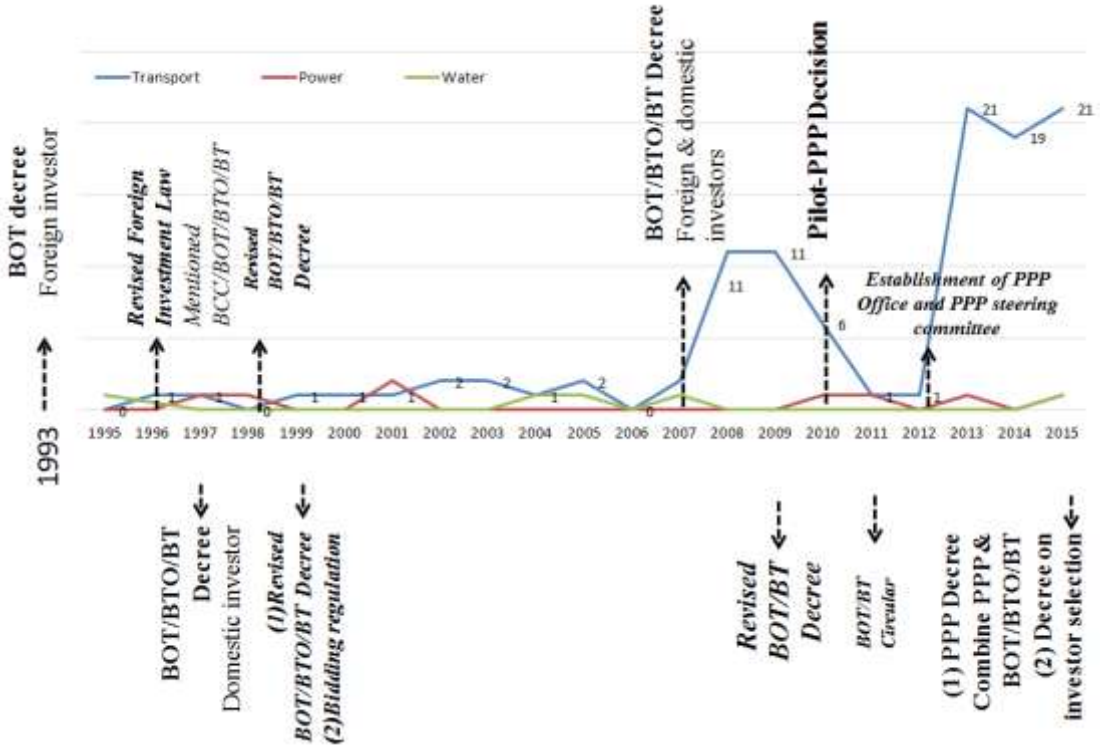


Figure 1.14 Overview of historical events related to PPP scheme in Vietnam

1.2 RESEARCH OBJECTIVES/RESEARCH SCOPE

The research objectives are as follows:

To understand deeply the development process of PPP scheme for Vietnamese infrastructure projects in the power, transport and water sector. Namely,

1. Clarify salient features of historical changes to PPP regulations
2. Clarify why significant changes in the number of PPP applications occurred

In this research, an investigation on the PPP scheme is concentrated on legal framework and organizational system including project stakeholders. The research concentrates on infrastructure projects in three different sectors including power sector, transport sector and water sector.

The legal framework applied for construction projects is set up by many laws issued by the National Assembly. These laws are detailed by decrees issued by the Government and decrees will be detailed by circulars issued by line ministries or provinces. This research concentrates on the decree and circular level (see Figure 1.15.)

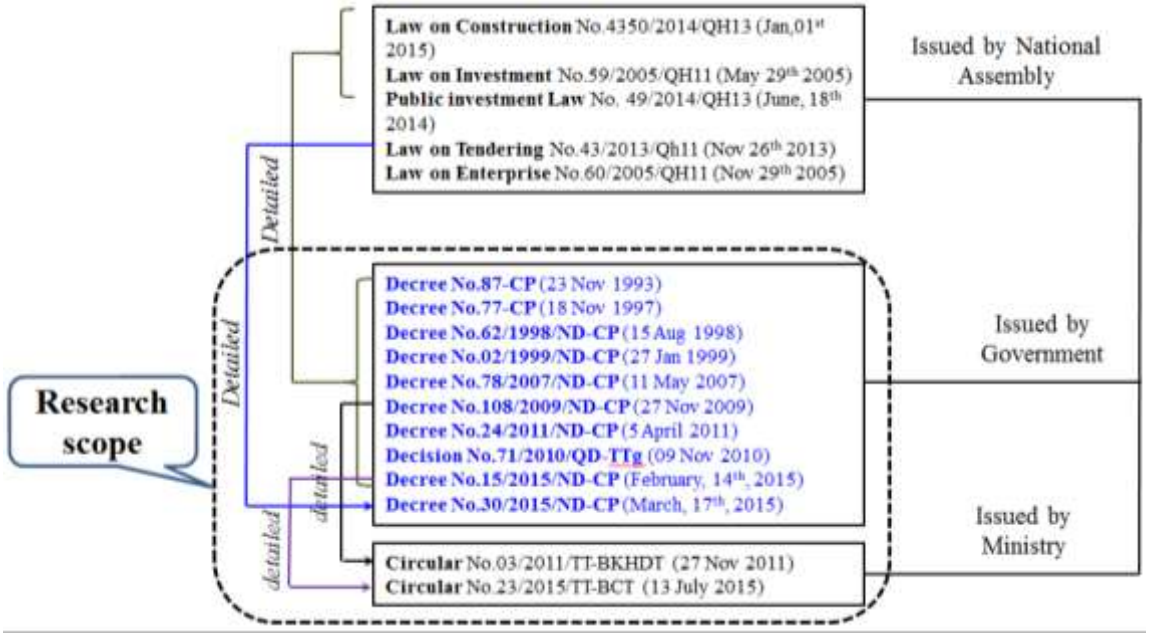


Figure 1.15 The research scope in terms of legal aspect

Organizational system includes managerial organization of government bodies and project stakeholders such as equity investors, financial institutions delivering debt services and EPC contractors. In 1993-2015, many of state-owned-enterprises (SOEs) have shifted to purely private enterprises and a financial market has developed due to the socio-economic change in Viet Nam. Investigations clarify the effect of those changes to PPP applications in these years.

1.3 RESEARCH METHODOLOGY

1.3.1 RESEARCH APPROACH

In accordance with Fellows and Liu (2002), a research methodology is chosen depending on the type of research variables, the in-depth of research problems. It must be suitable for the research question "why" and "how" (Perry, 1994; Derek, 1997). With objectives of

this research, a mixed method approach that is a combination of qualitative method, quantitative method and desk/secondary research method is proposed as follows:

- With the qualitative method: interview with PPP-involved people will be conducted (*i.e., including politician leaders, official staffs in PPP-involved ministries/departments/divisions/office, PPP investors, consultants, lenders, donors and PPP researchers*)
- With quantitative method: number of PPP projects, total investment in power sector, transport sector and water sector will be collected over every development period of PPP scheme's application.
- With a desk/secondary method: related laws, regulations issued by Vietnamese Government; annual reports of involved line ministries, authorized agencies; reports compiled by World Bank, Asian Development Bank (ADB), the International Monetary Fund (IMF); the previous researches on the topic.

The research framework is elaborated based on the research methodology, shown as in Figure 1.16.

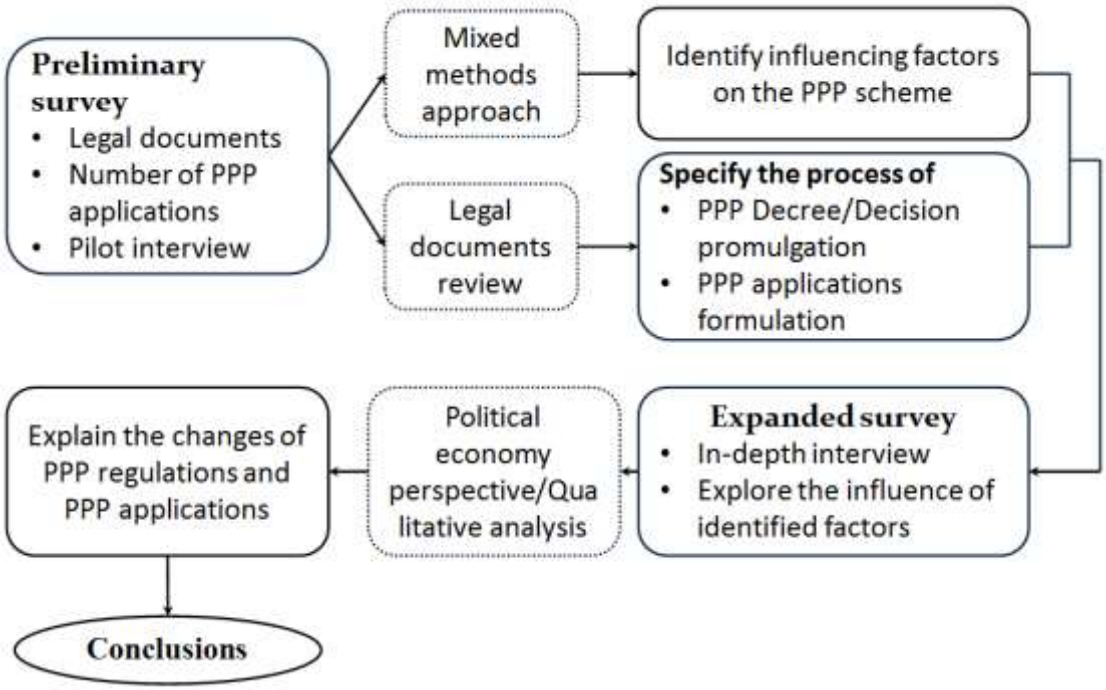


Figure 1.16 The research framework

1.3.2 METHODS OF ANALYSIS

As Boardmand A., et al, (2012) claims the classic PPP can be considered as a type of regulation. This research starts with the analysing of the legal framework that apply to the PPP scheme by utilizing a combination of comparative analysis method based on the viewpoints of the roles and requirement of private investors and the government and qualitative

analysis to identify historical changes of PPP regulatory framework. The analytical frameworks for analysing the historical changes of the regulatory framework are indicated in Figure 1.17 and Figure 1.18

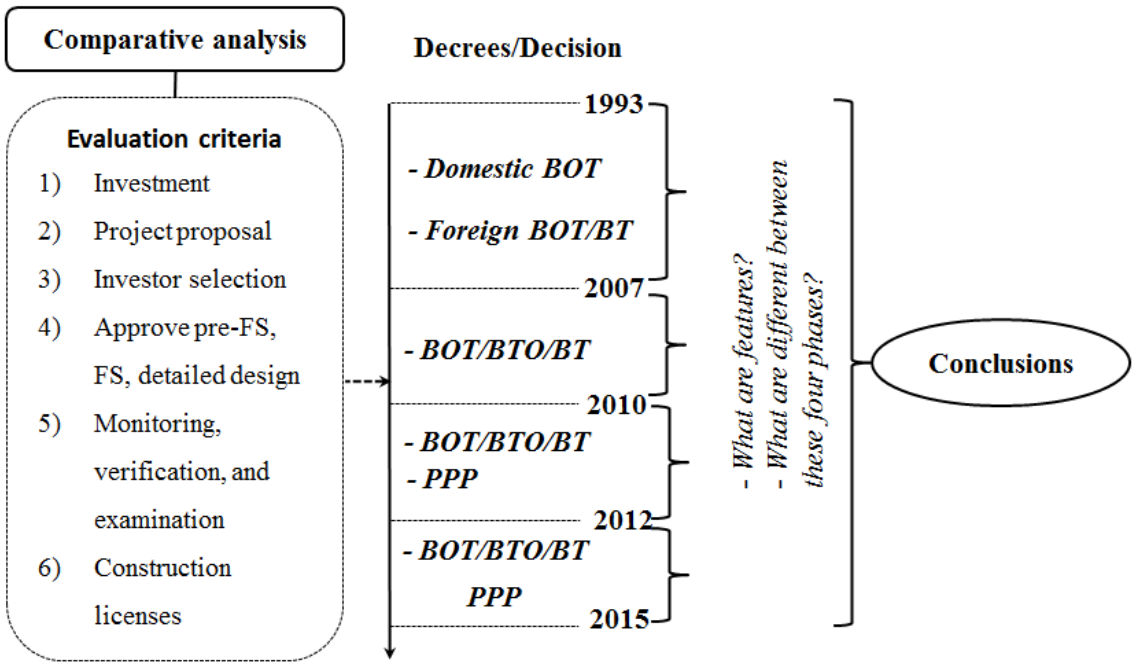


Figure 1.17 Analytical framework apply for comparative analysing of the PPP regulatory framework

Figure 1.18 Analytical framework apply for analysing the changes of the PPP legal framework

For analysing influencing factors of the development process of the PPP scheme (the formulation of PPP applications *in particular*), a technical literature and a qualitative analyse are utilized as follows

The use of technical literature

This research employed some insights gained from the political economy theory to provide a theoretical basis for the description, the research question and the working hypothesis. Insights from the theory are summarized as follows: "Political economy theory focuses on governments' and firms' actual motivation and behaviours" (Boarmand A., et al, 2012: 122). The theory analyses the behaviours of individual actors with various capacities to generate particular outcomes that one observe might observe (Buchanan, 1996). In this study, insights from the theory provided a basis for analysing relationships of PPP-stakeholders and the formulation of PPP applications. In addition, the analysis of political process is also adopted to clarify the development process of Vietnemese PPP scheme.

The analytical framework applies for analysing influence of influencing factors is shown in Figure 1.19.

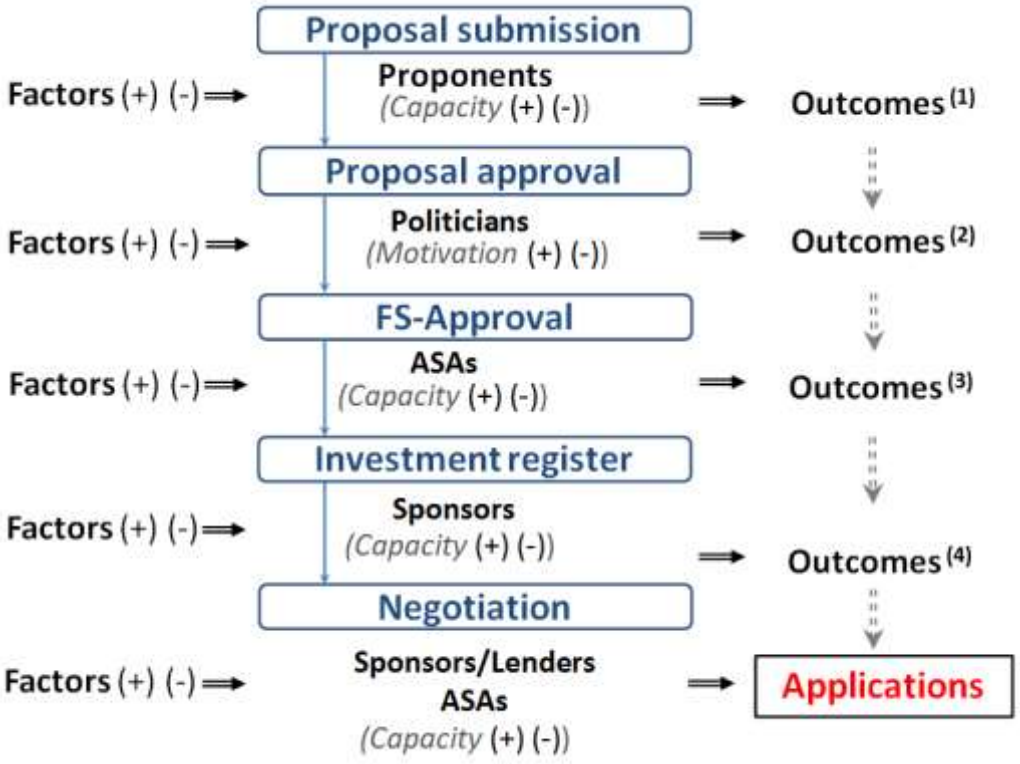


Figure 1.19 The analytical framework applies for analysing the influencing factors on the PPP applications formulation

1.4 RESEARCH CONTRIBUTIONS

Academic contribution

The study contributed to improve the current understanding on institutional history related to infrastructure systems in a transition economy. Namely, the historical development process of the PPP scheme for infrastructure projects in Vietnam has been explored as well as its influencing factors are identified to explain the whole developmental process. This research will be an incremental step to further researches on the development of the PPP scheme.

Practical contribution

Policy implications based on the lessons learned from experiences in the past. This research provided some implications for future PPP scheme in Vietnam related to legal framework, organisational systems which may be useful for practitioners and policy-makers during the execution of PPP program in the reality.

1.5 STRUCTURE OF DISSERTATION

This dissertation consists of ten chapters. Chapter 1 introduces overall view of the research including research background, research objectives, research methodology/research framework, research contributions and structure of the dissertation. In addition, this chapter also provides overall of the PPP scheme based on current literature including history and definition of public private partnership (PPP), stakeholders in PPP scheme, legal framework applied for PPP scheme, and overview of infrastructure construction industry in Vietnam.

Chapter 2 illustrates rationale for utilizing PPP scheme worldwide as well as indicates PPP approach methods from current literature. This chapter also provides influencing factors on the development process of a PPP scheme and success factors in PPP projects from previous researches.

Chapter 3 describes the data collection strategy. It shows the approach methodology for collecting data as well as describing classifications of collected data.

Chapter 4 describes and analyses the historical change of PPP legal framework from the beginning time of its application to 2015. Based on the salient features of the legal framework set up for the PPP scheme, the whole developmental process of the PPP scheme is divided into four periods including the nascent phase, the transitional phase 1, 2 and 3.

Chapter 5, chapter 6, chapter 7 and chapter 8 are equally designed under the same structure which will explore the developmental process of the PPP scheme in Vietnam in the nascent phase, transitional phase 1, transitional phase 2 and transitional 3, respectively. In each chapter, salient features of the PPP scheme will be described, and influencing factors will be identified and interpreted.

Chapter 9 supplies discussions on the significant changes of PPP applications based on the identified influencing factors from the perspective of political economy theory and some implications for future PPP scheme in Vietnam.

Chapter 10 summarizes the research findings in relation with the research objectives as well as the research contributions are also illustrated. Limitation of the research is pointed out and future research is suggested.

1.6 SUMMARY

This chapter illustrated the general structure of the dissertation, which included research background, research objectives, research framework, and research contributions. Based on the research background, this chapter clarified the research objectives and research scope. The research framework is also provided and additionally the research contribution is also mentioned in this chapter.

Chapter 2
LITERATURE REVIEW

2.1 INTRODUCTION

The objective of this chapter is to illustrate the rationale and methods for utilising PPP, as applied by governments across various countries, and to exclude influencing factors and success factors of the PPP scheme for analysing the development process in Viet Nam.

2.2 RATIONALE FOR UTILIZING PPP

The initial reason for PPP utilisation referred to by Grimsey and Lewis (2004) was to simply bring private investment into the provision of public services. In accordance with Walker et al., (1995), there are three preliminary reasons that result in a society's decision to utilise the PPP approach. These include (1) taking advantage of managerial skills, know-how and resources of the private sector;(2) trading off profitability and risks with private sector partners with better capability in delivering services; and (3) restrictions on the public sector's ability to mobilise large funds for large-scale projects. In addition, another significant reason is to alleviate financial burden on the public sector through private participation.

Ghobadian et al. (2004) suggested two additional-reasons for PPP-use to deliver infrastructure and public services. These include (1) private sector knowledge of the needs of public clients and (2) the ability to produce multiple offers in their attempts to provide better services. Various other reasons are also mentioned in the literature, such as a State budget deficit (Malik, 2010); the efficiency/effectiveness of provision for service and infrastructure is mentioned by Ezebilo and Animasaun (2012), Chowdhury (2002), Newell (2004), Jamali (2004), Malik (2010), and Kruesmann and Timmermann (2009); Fiscal pressures and risks transfer reasons are mentioned by Jong et al. (2010) and Triodos Facet (2010); restrictions on domestic resources and the expectation of attracting foreign resources of government are mentioned by Chowdhury et al. (2009), Oyediran (2002), and Jamali (2004); and political reasons are referenced by Phlix et al. (2011), Kuriyan and Ree (2008).

Mahalingam (2011) claims that in order to ensure PPP projects are most likely to succeed, a government requires a clear rationale. Hence, in order to adopt PPP schemes for delivering infrastructure and public service, countries worldwide provide their own rationales for PPP utilisation.

United Kingdom (UK)

PPP was initially launched in the UK in 1992 under a Private Finance Initiative (PFI) model. This was an initiative of the Conservative Party with an aim to increase the participation of the private sector in delivering public services and infrastructure. The purposes of

PFI was to build infrastructure by using private finances (E.R.Yescombe, 2007) and achieve a closer partnership between public and private sectors at both a governmental and local level (Akbiyikli, 2006). After launching, PFIbecame a preferred method of government in the procurement of public services in the UK (Handley-Schachler and Gao, 2003). At the end 2011, there were 712 PFI projects awarded finance, with an average investment of approximately £54.3 billion. The majority of these projects focussed on the health care sector and were implemented under a Design-Build-Finance-Operate (DBFO) model. Nevertheless, in accordance with the study by Cheung et al. (2009), it is indicated that the critical reason that the UK adopted a PPP scheme was the shortage of government funding in the delivery of public services. In addition, there are other cited reasons, including the increase in demand for facilities as a result of economic development, and a need to avoid public investment restriction. Akbiyikli's (2006) claim is that the intention of PFI was to increase access to private capital due to the restriction of public expenditure, as well as to take advantage of management skills within the private sector. The acting principal of PFI was to transform public bodies from owners/operators into purchasers (HM Treasury Taskforce, 1997).

Australia

The implementation of PPP in Australia differs depending on the State. Each state government has its own policy to carry out PPP projects (Cheung et al. 2009). The first infrastructure project, with the participation of the private sector in Australia was carried out in 1932, in a PFI road project funded by tolls – a scheme that remained unpopular until 1988 (E.R.Yescombe, 2007). In 2000, the Victoria Government issued The Partnerships Victoria policy with guidelines for developing PPP projects (Australian government Department of Treasury and Finance, 2000). In the period between 2010 and 2020, Australia needs approximately A$750.0bn for infrastructure investment, but only 15% of this amount is projected to be delivered via PPP models (JETRO, 2010). The rationale for PPP utilisation is linked to efficiency, which is strengthened by taking the expertise, resources, skills, and knowledge of the private sector (Australian government Department of Treasury and Finance, 2000). Cheung et al. (2009) also claims that Australia's requirements for high quality service was the most critical reason resulting in the use of PPP in Australia. Currently, Australia is lauded for its PPP procedures, with a clear and transparent bidding process (JETRO, 2010) and is evaluated as a matured PPP-market (EIU-2011).

Indonesia

The Indonesian Government started calling for private investment in infrastructure in the early 1990s (World Bank, 2011) when the rapid economic growth of the country outpaced its infrastructure development. Currently, the investment in infrastructure accounts for approximately just 3% of the total national output, and is at a lower level than before the Asian financial crisis, when it accounted for approximately 7% (Indonesian Government, 2013).From 2010-2014, Indonesia needed around IDR1,400 trillion (approximately

USD140 billion) to support its national economic growth rate of 6.5-7.0%, but the government was only able to meet one third of these required investments (Susantono, 2010). The Indonesian government (2013) revealed that one motivation to use PPP was to address the demand for investment and development of infrastructure as a means of ensuring strategic economic growth targets. On the other hand, Andreas Wibowo et al., (2011) argued that the limited budget has likely resulted in the strengthening of PPP in Indonesia.

Malaysia

The participation of the private sector in Malaysian public facilities and services has existed since the mid- 1980s. In accordance with Ismail and Rashid (2007), the influence of the world economic recession resulted in the commencement of privatisation in Malaysia. After many years of delivering public facilities and services via privatisation, in 2006 the Malaysian government officially launched a PPP/PFI model with the aim to revise and improve the actual implementation process of existing privatisation policies (Ninth Malaysia Plan, 2006 and Tenth Malaysia plan, 2010).

2.3 APPROACH METHOD FOR UTILIZING PPP IN INFRASTRUCTURE PROJECTS

Infrastructure projects and public services have traditionally been delivered by governments via design-bid-build procurement systems (Ahmed M. Abdel Aziz, 2007). However, with the rapid growth demands of the development and maintenance of infrastructure systems, public funds could not satisfy actual needs (Augenblick and Custer 1990, FHWA 2005a). Therefore, PPP schemes have been utilised as an acceptable alternative method to deliver these kinds of projects, and are accepted by many governments worldwide.

Ahmed M. Abdel Aziz, (2007) identified two approaches for utilising PPP, these include (1) a finance-based approach (2) and a service-based approach at the program level. The finance-based approach relies mainly on user fees and project demand to supply finance for the projects. This approach was utilised widely in the early phase of PPP application via BTO, BOT and BOO models (WB 1998; UNIDO 1996; Kumaraswamy and Moris 2002; Zhang and Kumaraswamy 2001). The second approach is the service-based approach, which relies mainly on using the skills, innovation, and management of the private sector to optimise the quality of the supplied services, including time, cost, and efficiency. One of the typical models applied in this approach is the Design-Build-Finance-Operation (DBFO) mode – a model that has been applied widely in the UK, Asia/Far East (HK) (FHWA, 2005c), Canada (Ahmed M. Abdel Aziz, 2007), and Australia (Cheung, 2009). With this approach, governments supply funds for the development of projects instead of charging users a fee. Research shows that each country has its own approach to utilising PPP in infrastructure delivery. For instance, in the UK, usage-based and direct toll Build-Own/Operate-Transfer (BOT-BOOT) models were used in the early adoption stages of PPP. Afterwards, the PFI

model was initiated and applied (Ahmed M. Abdel Aziz, 2007) in which the shadow-toll DBFO contracts, performance-based DBFO contracts, and congestion active-management DBFO contracts were used for delivering various infrastructure projects. Similar trajectories of PPP approaches can also be observed in the cases of Hong Kong and Australia (Cheung, 2009).

2.4 THE INFLUENCING FACTORS OF THE DEVELOPMENT PROCESS OF PPP FOR INFRASTRUCTURE

Influencing factors are those, which have effects on the implementation of PPP at program and project level. The current researches do not directly outline the term "*influencing factors*" but many authors have conducted researches on the impediments considered as barriers for the development of PPP, as well as the critical success factors (CSFs) of PPP. For instance, six factors were identified as barriers for the development of PPP by Zhang (2005b) via questionnaire surveys conducted in the United Kingdom, China and other countries. These include:

(1) Social, political and legal risk
(2) Unfavourable economic and commercial conditions
(3) Inefficient public procurement framework
(4) Lack of mature financial engineering techniques
(5) Problems related to the public sector
(6) Problems related to the private sector

In addition, there are two main impediments that are recognised as obstacles within the implementation of PPP by the US Department of Transportation (2004):

(1) State laws and policies such as lack of state PPP legislation; lack or discontinuity of public-sector leadership for example political champions for PPP may enter and leave office.
(2) Local opposition such as lack of local community support.

Besides these factors, there are some additional impediments of the PPP scheme also outlined by another report by the US Federal Highway Administration (2005b), which include:

(1) Lack of statutory authority to enter into PPP
(2) Lack of familiarity with the mechanisms for developing and implementing PPP projects
(3) Bureaucratic government processes for environmental review, right-of-way acquisitions, and project contracting
(4) Cultural differences between the public and private sector interests
(5) Opposition by transportation program administrators/staff

(6) Lack of dedicated revenue sources/innovative financing tools to enable projects to be developed

Furthermore, Harris (2004) also indicated other factors which contribute to successful PPP implementation, including high-level political support, addressing staff concerns of losing jobs, a need for the press to promote of PPP, and the prioritisation of projects.

In a comparison to PPP projects in the Netherlands and Tamil Nadu (India), Matos-Castano et al., (2014) pointed out that different perspective outlooks on PPP led to different trajectories. Learning from previous PPP projects was deemed a key factor of a successful program. The study also indicated the importance of political willingness towards PPP implementation. Long-term orientation towards institutional change and a willingness to learn and modify transitional change were identified as predicting factors for the change of PPP institutional environments.

In addition, Ahmed M. Abdel Aziz, (2007) argues that the success of PPP implementation depends on the initiation and management of PPP at the program level. The development of a PPP project needs adequate preparations at both the project level and the program level. There are eight important principles for the implementation of PPP at the program level based on an analysis of experiences in the UK (ibid.). These include:

(1) The importance of understanding the objectives of using private finance when selecting a PPP arrangement
(2) The implication of allocating project risks to the private sector
(3) The necessity of a broad and comprehensive PPP legal framework
(4) The need to assess the value for money when selecting a delivery system
(5) The importance of creating a PPP unit for policy development and/or implementation
(6) The necessity of maintaining the transparency in the selection process
(7) The importance of standardising the procedures and contracts
(8) The importance of using performance specifications

2.5 SUCCESS FACTORS IN PPP PROJECTS

Success factors of PPP implementation are aspects that influence the success of a PPP project in general. Many success factors in PPP projects have been identified via interviews and questionnaire surveys. According to R. Osei-Kyei, et al., (2015) 57 success factors were identified from PPP examples between 1990 and 2013. The top five success factors of PPP implementation were identified as (i) appropriate risk allocation and sharing, (ii) a strong private consortium, (iii) political support, (iv) community/public support (v) and transparent procurement. However, critical success factors (CSFs) are classified in many ways within the literature. The classifications depend on the research purposes of the authors as well as

the stages of PPP project implementation. For example, Hardcastle et al. (2005) recognise five main groups of CSFs including (i) effective procurement; (ii) project implementation ability; (iii) government guarantee; (iv) favourable economic conditions (v) and available financial markets, or ability to test the viability of a PPP project. On the other hand, Ozdoganm and Birgonul (2000) developed a list of CSFs which were divided into four groups, and included (i) financial and commercial factors, (ii) political and legal factors, (iii) technical factors (iv) and social factors.

At program level, CSFs were classified into various areas, including the political environment, the legal framework, stakeholder characteristics, and application issues.

- *Factors related to Political environment*: Political support (Qiao et al.,2001; Zhang et al.,1998); Stable political environment (Qiao et al., 2001)
- *Factors related to legal framework:* Favorable legal framework (Bennett, 1998; Boyfield ,1992; Stein, 1995; Jones et al.,1996); Government involvement by providing guarantees (Stonehouse et al.,1996; Kanter,1999;Qiao et al.,2001; Zhang et al.,1998); Sound economic policy (EBI, 2000); Attractive financial package (Qiao et al.,2001); Existence of a sound governmental economic policy (Asian Business, 1996, Grilo et al.,2005, Hardcastle et al., 2005, Industry Canada, 2003).
- *Factors related to stakeholders*: Shared authority between public and private sectors (Stonehouse et al.,1996; Kanter, 1999); Availability of government experiences in packaging similar PPP project (Birgonul & Ozdogan,1998; Chan et al., 2004; Chua et al., 1999; Jaselskis &Ashley,1991; Jefferies et al., 2002; Ozdoganm and Birgonul, 2000; Pearson,2005; Sanvido et al., 1992;Yener,1998)
- *Factors related to application:* Competitive procurement process (Jefferies et al., 2002; Koop, 1997; Gentry and Fernandez, 1997); Matching Government's strategy and long-term objectives (Heinke &Wei, 2000; Johnston, 2004).

2.6 SUMMARY

This chapter has illustrated the rationale for utilising PPP, as applied by various governments worldwide. Existing rationales for PPP utilisation differ from country to country and is context dependent. Two approach methods which have been broadly utilised within the implementation of PPP to deliver infrastructure projects and public services have been described. Previous case studies of specific PPP program group the influencing factors of PPP development into the following categories:

(i) Political factors *(e.g., political willingness, political supports, political leadership, development strategy, etc.)*

(ii) Legal factors *(e.g., quality of legal framework, adequate or regulations, efficient policies, etc.,)*

(iii) Stakeholders' factors *(e.g., capacity, culture, support of public users, etc.,)*

(iv) Market/commercial factors *(e.g., demands, size of market, mature of financial engineering, etc.,)*

(v) Economic conditions factors *(e.g., GDP, budget deficit, public debt, etc.)*.

There are numerous studies on the CSFs of PPP; however, they are still rare, particularly at program level. Furthermore, studies looking at why the above factors influence the development process are also lacking.

Chapter 3
DATA COLLECTION

3.1 DATA COLLECTION STRATEGY

Data collection plays an important role for reaching the research objectives set out in Section 1.2. Although the PPP scheme was adopted in Vietnam several years ago, it is still considered quite a "*new model*" within the construction industry. The industry did not have an organisation in the past to take control of summarising and storing the data of implemented PPP projects. The first objective of this chapter is to describe the approach method and survey process to collect data regarding performed PPP projects. Incremental steps for reaching an understanding of the phenomena within the PPP scheme's development will be described in further detail within subsequent chapters. The second objective of the chapter is to describe the features of the collected data, and how they have been utilised in the research.

3.2 METHODOLOGY

First, sectorial and relational approaches have been utilised to collect data on implemented PPP projects. Each sector is managed by different Authorised State Agencies (ASAs) and at different managerial levels. Due to the fact the research objectives focus on three infrastructure sectors, a sectorial approach method turned out to be the most appropriate approach for reaching the survey objectives. Moreover, relational approaches were vital in accessing data resources that suffer from under-documentation.

Second, interviews were designed, organised, and implemented to collect qualitative data on "why and how" certain phenomena occurred. This approach method was designed in consistency with suggestions by Perry (1994) and Derek (1997).

3.3 SURVEY PROCESS

The preliminary survey was conducted between May, 26th2015 to June, 15th 2015 in Hanoi city, Ho Chi Minh City, and Ben Tre province to collect data on the implementation of PPP in Vietnam. Various governmental institutions were approached and accessed, including:

- PPP Division which belongs to the Ministry of Transport (MOT)
- Legal procurement Division - MOT
- Hanoi Department of Planning and Investment
- Ho Chi Minh Department of Planning and Investment
- Ho Chi Minh Department of Transport
- Some Projects Management Units belong to MOT

A total of 33 in-depth interviews were conducted with an average of 30-45 minutes allocated per interview, resulting in approximately 26 hours of interviews for the preliminary survey.

The second survey was conducted between April 5th to 27th, 2016 in Hanoi city, Ho Chi Minh City, and Ben Tre province. Nineteen PPP-involved practitioners were interviewed and many governmental institutions were also accessed including:

- PPP Office which belongs to Procurement department- Ministry of Planning and Investment (MPI).
- Inspection Division which belongs to MPI.
- Procurement Management Division - MPI
- General Statistic Office of Vietnam - MPI
- BOT department which belongs to General Directorate - Ministry of Industry and Trade.
- Construction Management Division- Ho Chi Minh Department of Transport
- Ha Tay Transport Department – Ha Tay province (which is now belongs to Hanoi City)
- Project Management Board - Ben Tre Department of Transport

The composition of interviewees within the surveys are shown below in Figure 3.1 and Figure 3.2, and have been segregated by profession and experience respectively.

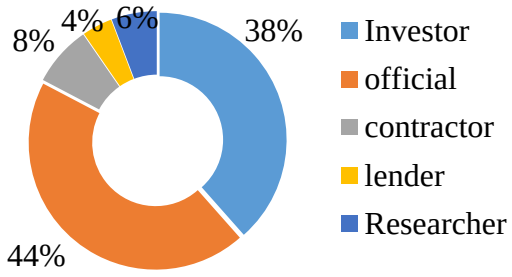


Figure 3.1 The composition of interviewees by profession

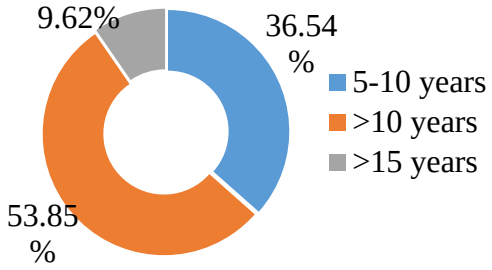


Figure 3.2 The composition of interviewees by experience

3.4 DATA DESCRIPTION

During the process field surveys, many types of data were collected. Generally speaking, they can be categorised into three groups: quantitative data, qualitative data and secondary data.

3.4.1 QUANTITATIVE DATA

Quantifiable data includes project types, total investment, number of investors, the contractual type of 121 licensed PPP projects in power sector, transport sector and water sector carried out from 1995 to April 2016. The data set was formulated based on information collected from two surveys conducted at various governmental institutions, as well as through an investigation of available PPP-involved reports on media and websites. This data set is shown in Appendix 1. This data is utilised for a comparative analysis of the application of PPP schemes

in different sectors of infrastructure within the process of PPP development. In addition, the quantitative data on public investment and macro-economic indicators are also utilised to represent evidence of the influencing factors identified in the survey and secondary data.

3.4.2 SECONDARY DATA

Many reports on PPP implementation of MOT and MPI were collected to describe the status quo of on-going PPP projects; the problems faced, and suggested resolutions. Talks and discussions on relevant PPP-involved issues which were available online were also gathered, as well as references created for PPP workshops. The data is diversified and aims to reflect issues within PPP projects over time.

3.4.3 QUALITATIVE DATA

The main questions and topics guiding the first survey were "why was a PPP scheme applied and promoted?", "how was a BOT/BT project developed?", "how did the private sector *(e.g., investors, lenders)* get involvement in a BOT/BT project?" and "what has regularly happened during the process of PPP project implementation?". During the process of the interviews, expanded questions were asked to obtain a deeper understanding about the issues involved. For the first survey, 33 subjects were interviewed, creating two hundred pages of transcripts from 26 hours of interviews,

Based on the results from the first survey, some salient features and phenomena of the PPP implementation process were identified particular in legal issues and stakeholders' behaviour during the formulation of PPP projects. Therefore, during the second survey, additional questions were developed, focusing on the following aspects:

(i) The process of PPP development (e.g., what are influencing factors of the development process of PPP applications, how those factors effect on the process, etc.)

(ii) Legal framework (e.g., what are the opinions of interviewees about the transitional process of PPP legal framework, what are their evaluations, how were PPP regulations developed, etc.)

(iii) Why is the PPP scheme a more popularly applied scheme in the transport sector than other sectors of infrastructure?

(iv) What are the interviewees' opinion about the emergence and development of BT projects?

(v) PPP office (e.g., what is the motivation of its establishment? What are its roles? How it influence on the formulation of PPP projects, etc.)

(vi) Stakeholders (e.g., evaluation about their capacity, what are their perceptions about PPP, etc.)

In the second survey, a total of approximately 21 hours of interview were recorded and 150 pages of transcripts were created. Some of the detailed questions and answers utilised in this research are shown in Appendix 2.

The featured outcome of this data is heavily dependent on the subjective opinions and experiences of interviewees. Additionally, the data could not cover every possible issue involved in the process over time, and focuses mainly on current issues. The qualitative analysis aims to identify reasons and influencing factors of the PPP scheme with appropriate and specific time frames. The survey data is combined with secondary data and qualitative interviews to verify the influencing factors and phenomena that were identified for a comprehensive mixed-method approach.

Chapter 4

THE LEGAL FRAMEWORK FOR PPP SCHEME IN VIETNAM

4.1 OBJECTIVE

The development of a PPP program aims to create an environment to attract private entities to take part in PPP projects through the development and application of a consistent legal framework (Yescombe, 2007). The objectives of this chapter are to (1) illustrate the general circumstances that surround Vietnam's decision to introduce PPP, (2) describe the historical changes of the legal framework regulating PPP schemes based on a comparative analysis of the features, roles, and requirements of private investors and the government as stipulated in issued Decrees/Circulars, and (3) discuss on the changes of PPP regulations over time.

4.2 METHODOLOGY OF COMPARATIVE ANALYSIS

To understand the historical changes of the Vietnamese PPP legal framework over time, a comparative analysis is utilised. The analytical framework is depicted in Figure 1.16

The comparative criteria utilised to compare the changes to the PPP legal framework include regulations on the processes of: (1) investment, (2) project proposals, (3) investor selection, (4) approval of pre-FS, FS, detailed design, (5) monitoring, verification, and examinations, and (6) construction licenses. Specific details about how each process is regulated within the decrees/circulars are as follows:

- *Investment* is regulated by mean of defining the equity ratio and investment ratio of State
- *Project proposals* are regulated by providing the right to develop unsolicited proposals
- *Investor selection* is regulated by defining procedures for investor selection
- *Approval of pre-FS, FS, detailed desi*gn are regulated through requirements to produce and stipulating approval authority for pre-feasibility and feasibility studies, and detailed designs
- *Monitoring, verification, and examination* procedures are regulated through a definition of rights to monitor project implementation, and to check and examine quality of completed works
- *Construction licenses* are regulated through the requirement of acquiring a construction license

4.3 THE INTRODUCTION CIRCUMSTANCE OF PPP SCHEME

In 1986, under a centrally-planned and subsidised regime, the Vietnamese economy faced multiple difficulties such as poverty, outdated infrastructure systems, and economic blockades enforced by countries worldwide. The consumer price index (CPI) stood at approximately

775% while gross domestic product (GDP) was at approximately 2.8%. Under these circumstances, the Vietnamese Communist Party (VCP) changed its rationale for economic drivers in the country. The "Doi moi/renovation" policy was introduced by the sixth Party Congress of Vietnam. The VCP recognised the Private sector as an economic force. During this time, the Vietnamese Government wanted to diversify economic elements to enhance national economic development. It called for foreign investors to invest in industrial zones, export processing zones and infrastructure projects. Therefore, many laws and regulations were enacted to encourage the participation of the private sector in the national economy such as the Foreign Investment Law (1987), and the Company Law (1990), this created the basis for establishing private companies, Limited Liability Companies (LLC), and Joint Stock Companies (JSC). Then in 1992, the national constitution was revised and introduced the term "Build-Operate-Transfer (BOT)" without providing any further details. In 1993, the Foreign Investment Law was revised to reduce the pressures against enterprises with one hundred percent foreign investment. A preliminary definition of the BOT contract type (hereinafter referred to as the BOT model) with details based on the rationale for PPP and a description of the motivation to accelerate foreign investment was also introduced. From this initial definition of the BOT model, PPP schemes have been applied in Vietnam under various sub-models such as BOT, Build-Transfer (BT), Build-Own-Operate (BOO), Build-Transfer-Operate (BTO), Operate & Maintenance (O&M), Build-Transfer-Lease (BTL), Build-Lease-Transfer (BLT).

4.4 THE LEGAL FRAMEWORK APPLIED FOR PPP SCHEME BEFORE 2007

4.4.1 THE HISTORICAL CHANGE OF LEGAL FRAMEWORK

The regulatory system applied to Vietnam's PPP scheme is complex. Various regulatory documents affect the PPP scheme such as the Foreign Investment Law; the Law on Construction; the Law on Investment; the Law on Public Investment; the Law on Tendering; the Law on Enterprise; the Law on Land; the VAT law, and the Enterprise Income Tax law, among others. In addition, a series of guidelines, which were enacted by Authorized State Agencies (ASAs), are involved in the PPP implementation. These legal documents have continuously changed over time. However, as mentioned in Section 1.2, this research only focuses on decree level and circular level.

On November 23rd 1993, during the initial stages of PPP adoption, in order to stimulate investment and construction of infrastructure in Vietnam[8] and to materialise the policy of attracting foreign investment[9], the Vietnamese government enacted Decree No.87-CP to regulate BOT models applied to foreign investors. This was the first regulatory document which mentioned the participation of the private sector in the infrastructure sector. The document was quite simple, cursory and only applied to foreign investors. On November 18th 1997, BOT decree No.77/CP was issued and applied to domestic investors. The distinguishing points between

[8] Indicated in decree No.87-CP
[9] Investment Law, Law 4-HĐNN8 dated in December, 29th 1987

these two decrees are the "*enforcement subject*" and the "*investment sector*". The Foreign Investment Law was also modified in 1996, resulting in a replacement of the BOT Decree with Decree No.62/1998/ND-CP on August, 15 1998. Within this decree, two new contractual-type definitions were indicated including Build-Transfer-Operate (BTO) and Build-Transfer (BT). Additionally, details on the investment sector were also provided. On February 27th 1999, Decree No.02/1999/ND-CP was enacted to amend some regulations of Decree No.62 including:

- Additional regulations on the nature of relationships between BOT Companies and foreign project sponsors
- Additional regulations on the project's takeover right of lenders in the case of a BOT Company (or foreign investors) not performing to contractual obligations.
- Supplemental regulations on the application of International Law in BOT, BT, and BTO contracts
- Supplemental regulations for addressing disputes/conflicts between project stakeholders during project implementation

Thus between 1997 and 2007, two different regulatory frameworks (see Figure 4.1) existed. One was applicable for the implementation of infrastructure projects under BOT, BTO, and BT models that provided enforcement towards foreign investors as subjects. The other regulatory framework subjected domestic investors to enforcement rules for the implementation of infrastructure projects under the BOT model. During this time there was a noticeable policy applied for foreign investors that stated that the Vietnamese government would give a 100% guarantee on foreign exchanges of investments and revenues of PPP projects.

For the investor selection for PPP projects during this period, there was a bidding law applied for construction projects in general, that did not provide clear regulations for PPP projects.

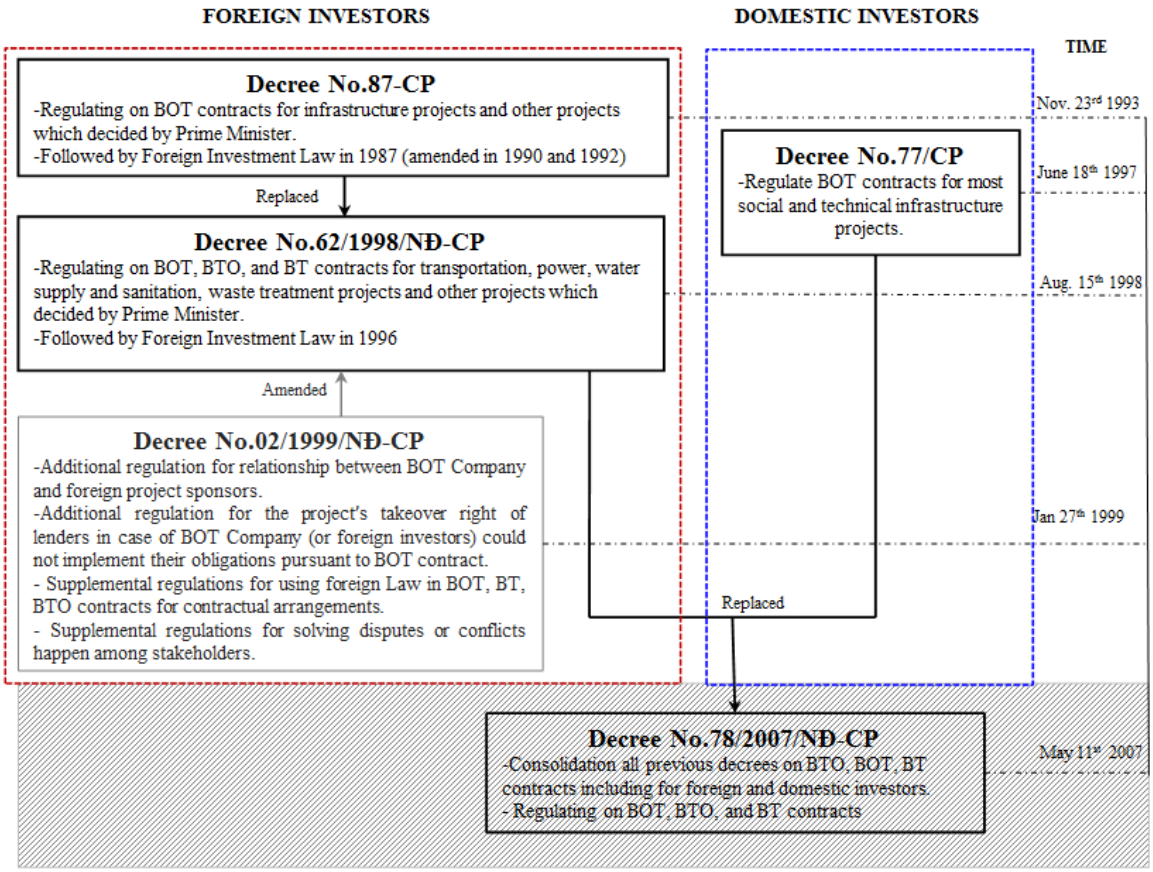


Figure 4.1 Regulatory framework applied to PPP projects before 2007

4.4.2 SALIENT FEATURES

From the above description, it can be seen that during this stage the Vietnamese government issued two different regulatory frameworks that were applied inconsistently to domestic and foreign investors. The comparison of the two different regulatory frameworks (Decrees) applied in this stage, based on the roles and requirements of private investors and the government is shown in Table 4.1

Table 4.1 The comparison of provisions between regulatory frameworks applied to foreign investors and those for domestic investors in PPP projects in the period before 2007

Comparison criteria	**Foreign investors (applied from 1993)** *(According to Decree No.87-CP and subsequent emending decrees)*	**Domestic investors (applied from 1997)** *(According to Decree No.77/CP and subsequent emending decrees)*
Investment	- Not regulated	- Equity ratio>=30% total investment capital (*Article 6)* - In case of public investment >=30% total investment→ project would be managed as public invested project *(Article 27)*
Investor selection	- Not clearly regulated	- Not clearly regulated (most direct appointment in practice)
Project proposal	- Can develop unsolicited proposal *(Clause 2, Article 13)*	- Not regulated (most solicited proposals in practice)
Approve pre-FS, FS, detailed design	- ASAs approve pre-FS *(Article 13)*	- ASAs approve pre-FS, FS and detailed design *(Article 5)*
Monitor, verify and examine	- Not regulated	- ASAs monitor, verify and examine quality of projects *(Article 42)*
Requirement of construction license	- Not regulated	- Perform PPP (BOT) projects without having construction license (*Article 22)*

In this phase, with the provisions shown in table 4.1, it was found that there were inconsistent domestic and foreign investor regulations, with higher regulatory restrictions on domestic investors; non-transparent bidding procedures (only direct appointment); and strong control of detailed design and monitoring procedures of project quality by the government for domestic-invested projects. Additionally, with the exception of finance and equity regulations that apply to private investors, all regulations that guided PPP domestic-invested projects were almost identical to those that applied to conventional public projects.

4.4.3 DISCUSSION

In order to understand the historical process of PPP regulatory changes during the period before 2007, an analytical framework could be considered as shown in Figure 4.2

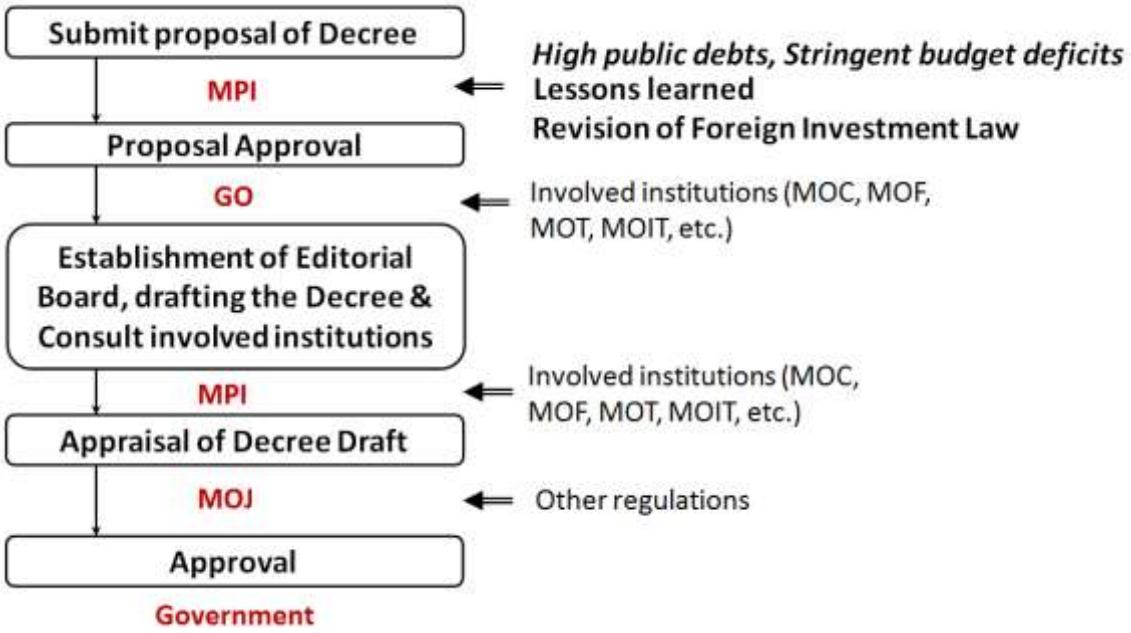


Figure 4.2. Analytical framework for analysing the changes of PPP regulations before 2007

Figure 4.2 depicts the process of a PPP Decree promulgation *(the steps of the process followed the Law of Legal Document Promulgation-Law No.17/2008/QH12 enacted in June 3rd 2008 – From Article No.59 to Article No.66)* and its possible influencing factors. Generally, the promulgation of a Decree includes five essential steps as shown in Figure 4.2. We can see that in order to promulgate a PPP decree, the Ministry of Planning and Investment (MPI) submits a proposal of expected PPP Decree to the Government Office (GO) based on practical demands. The GO approves the proposal after obtaining consulting opinions from involved institutions (i.e., MOC, MOF, MOIT, MOT and equivalent institutions). Then the Decree draft is compiled by an Editorial Board, appraised by Ministry of Justice (MOJ), and finally approved by the government. This process of decree promulgation often takes place for months even for years and is affected by various factors. In the case of PPP decrees, one can say that initially under the pressure national economic conditions, the Vietnamese Government set up a PPP legal framework, which applied to foreign-invested projects. However, the obtained outcomes could not satisfy the government's expectation *(i.e., the number of PPP applications was very few with only 4 foreign-invested applications realized before 2007).* Therefore, after four years if the the PPP regulatory framework being issued, the Vietnamese government set up another PPP regulatory framework that applied to domestic-invested projects. Along with that, because of the revision of Foreign Investment Law in 1996, regulations (Decrees) that applied to foreign-invested projects under the PPP scheme also needed to be revised following this 1998 Law. In

fact, many disputes occurred in PPP foreign-invested projects around 1996-1998 due to a lack of regulations surrounding dispute resolution. Such issues may have been a major factor behind continuous revisions to regulations on foreign-invested projects around 1999.

To sum up, it is claimed that during this period, the revision of the Foreign Investment Law and lessons learned from the challenges associated with enforceming inadequate and inconsistent PPP decrees fuelled efforts to modify PPP decrees.

4.5 THE LEGAL FRAMEWORK APPLIED FOR PPP SCHEME IN THE STAGE OF 2007-2010

4.5.1 THE HISTORICAL CHANGE OF LEGAL FRAMEWORK

With inconsistent regulations contained within two legal frameworks in the period before 2007, on May 11th 2007 Decree No.78/2007/ND-CP was promulgated to consolidate all previous decrees on BOT, BTO and BT contracts. Apart from the consolidation of the two existing legal frameworks, the new Decree also added and modified the following articles:

- Additional regulations on the establishment of inter-sector groups to support project implementation
- Modifications to regulations on the right to appoint consultants for developing project proposals, and the rights of Authorised State Agencies (ASAs) to authorise their appointments
- Additional regulations on the responsibilities for site clearance and resettlement
- Modifications to regulations on the rights for approving detailed designs

Following these changes, in November, 27th 2009 the Decree No.108/2009/ND-CP was enacted to replace Decree No.78. In addition, Decree No.12/2009/ND-CP was enacted to regulate construction management. These legal documents defined the sectors, conditions, procedures and incentive policies applicable to infrastructure projects developed under BOT, BTO and BT models. In comparison with Decree No.78/2007/ND-CP the modifications and complements contained:

- Additional regulations on the rights for approving proposals not included in the approved project list
- Modifications to the regulation of required equity ratios
- Modifications to regulations on the procedures for investor selection in unsolicited proposals
- Modifications to regulations on the responsibility for site clearance and resettlement
- Additional details to the rights and obligations of ASAs
- Additional regulations on the modifications of contractual agreements

4.5.2 SALIENT FEATURES

The major changes to the legal framework of the PPP scheme in this period is the unification of two different regulatory frameworks – the separate frameworks that applied to foreign and domestic investors. From the view point of the role and requirement of investors and the government, the features of the legal framework applied in this period is shown in Table 4.2

Table 4.2 The features of regulatory framework applied for the PPP scheme during the period 2007-2010

Comparison criteria	Content of provisions *(According to Decree No.78/CP and subsequent emending decrees)*
Investment	- The equity ratio is 10% to 30% of total investment according to Article 4, Decree 78/2007/ND-CP and replaced by 10%-15% according to the Article 5, Decree No.108/2009/ND-CP
Investor selection	- Not clearly regulated *(most direct appointment in practice)*
Project proposal	- Foreign investors and domestic investors can propose unsolicited proposals (*Article 12, Decree No. 78/2007/ND-CP; Article 11, Decree No. 108/2009/ND-CP)*
Approve pre-FS, FS, detailed design	- ASAs approve pre-FS, FS (*Article 9, Decree No. 78/2007/ND-CP)* - Investors approve detailed design *(Article 24, Decree No. 78/2007/ND-CP)*
Monitor, verify and examine	- Investors have the rights to monitor, verify and examine *(Article 22, Article 24, Decree No. 78/2007/ND-CP)*
Requirement of construction license	- Not regulated

From table 4.2, it is found that in comparison to the nascent phase (before 2007), there are:

(1) Consistent regulations for both domestic and international investors, leading to lower investment barriers for domestic investors, and more procedural regulations for foreign investors – namely, pre-FS and FS are now required of foreign investors (domestic investors already needed to go through these procedures).

(2) Increased investor control over detailed designs – namely, domestic investors also possess approval rights for design details (foreign investors already had the rights from the nascent phase). In addition, the rights to examine project quality (previous not regulated for foreign investors) shifts from the governments to the investors.

(3) Non-transparent bidding procedures (direct appointment) remain the same.

4.5.3 DISCUSSION

The existence of inconsistent regulations within two separate regulatory frameworks that applied to PPP projects in the nascent phase was supposed to have a negative influence on the application of the PPP scheme in reality. For instance, higher regulatory restrictions were placed on domestic investors than on foreign investors, but the number of foreign-invested applications was much fewer than domestic-invested applications (i.e., 4 foreign-invested applications out of 19 applications in total during the nascent phase). In addition, the positive trend of the national economy after Vietnam's accession to the WTO in the end of 2007 may have inspired the Vietnamese government to revise the existing PPP decrees to stimulate more participation of private entities in infrastructure delivery, particularly of domestic investors. In fact, a consistent PPP regulatory framework was issued in the middle of 2007. However, due to problems arising during the implementation of BT and BOT projects, combined with the promulgation of a Decree on "Quality Management of Construction Projects" (Decree No.12/2009/ND-CP, enacted in February 2rd 2009) in which PPP projects were an "*enforcement subject*", and PPP Decrees were continually revised up to the the end of 2009 (Decree 108/2009/ND-CP). Evidentially, due to changes in the size of "*project classifications*" this may have influenced changes to regulations of equity ratio in PPP projects in a new Decree (Decree 108/2009/ND-CP) *(i.e., equity ratio was 10 to 15 % instead of 10 to 30% of the total investment)*. In addition, modified regulations in the new decree mainly related to the implementation of PPP projects *(refers to section 4.5.1)*. Thus, it can be claimed that changees of economic conditions, combined with the influence of other decree promulgations and lessons learned from the enforcement of previous PPP decrees resulted in change to PPP regulations (Decree) in this phase. Figure 4.3 illustrates the relationship between the identified influencing factors on the process of PPP Decree promulgation in the period between 2007 and 2010.

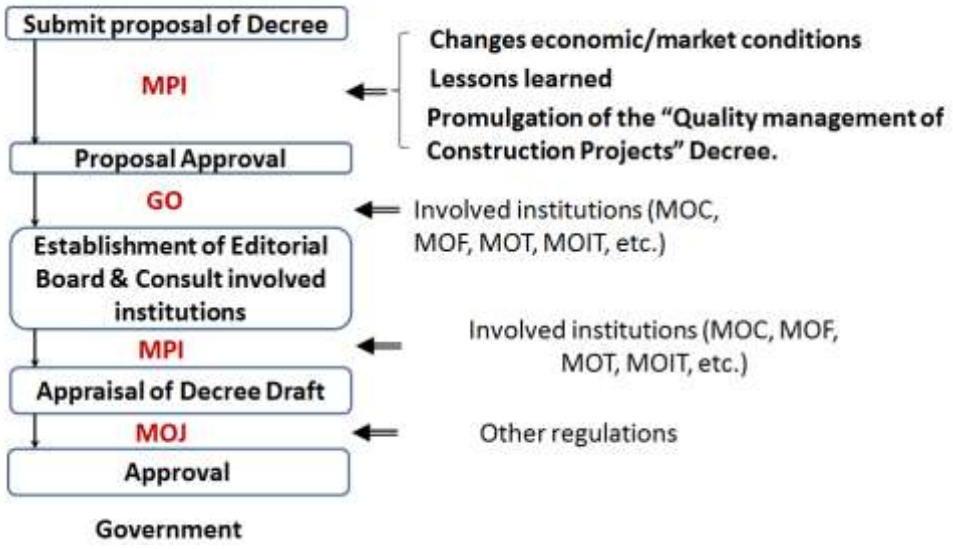


Figure 4.3. Analytical framework for analysing the changes of PPP regulations in the period between 2007 and 2010

4.6 THE LEGAL FRAMEWORK APPLIED FOR PPP SCHEME IN THE STAGE OF 2011-2012

4.6.1 THE HISTORICAL CHANGE OF LEGAL FRAMEWORK

After the promulgation of Decree 108/2009/ND-CP in the end of 2009, Decree No.24/2011/ND-CP enacted in April 2011. This decree modified several articles of Decree No.108/2009/ND-CP and expanded the applicability of the PPP scheme to additional sectors including health, education and training, culture, sports, and facilities. These two decrees were followed by detailed guidelines provided in Circular No.03/2011/TT-BKHĐT enacted in November 27th 2011.

Additionally, in October, 2010, the Pilot Decision on public private partnerships was enacted, entitled Decision No.71/2010/QD-TTg, and regulated conditions, procedures and applied principles for the provision of several developmental infrastructure projects and public services under a PPP scheme. This Decision and Decree No.108/2009/ND-CP were both applied simultaneously for infrastructure projects, but Decision No.71/2010/QD-TTg was aimed at large-scale projects with an urgent demand for national/regional economic development, while Decree No.108/2009/ND-CP would apply to BOT/BT/BTO projects. In practice, BOT/BT/BTO projects were considered to be different from PPP projects during this period.

The historical change of the legal framework within this stage is shown in Figure 4.4.

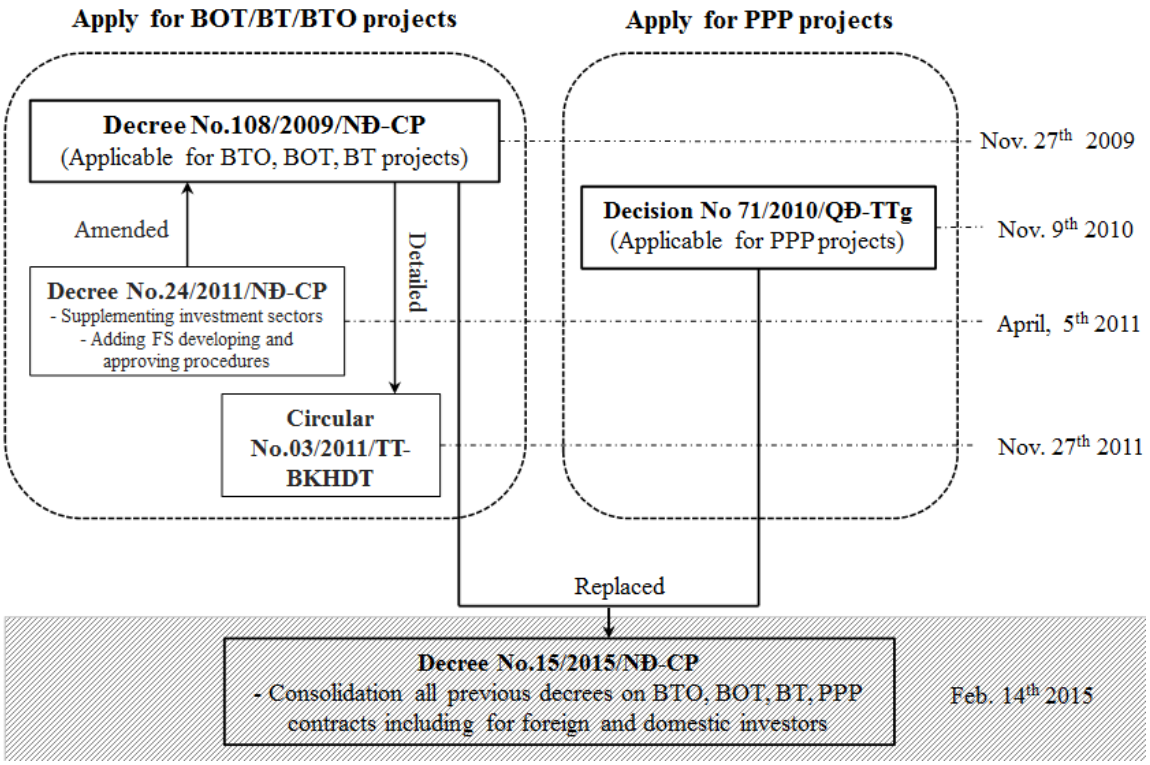


Figure 4.4 Transitional process of regulatory framework from 2010 to 2015

4.6.2 SALIENT FEATURES

The salient feature of the legal framework as applicable to the PPP scheme in this period is again the existence of two different legal documents with inconsistent provisions. From the view point of role and requirement of investors and government, the features of the legal framework applied in this period are shown in Table 4.3

Table 4.3 The features of legal framework applied for PPP scheme in the period 2010-2015

Comparison criteria	Legal framework applied for BOT/BT/BTO projects *(According to Decree No.108/2009-ND-CP and subsequent Decree)*	Legal framework applied for PPP projects *(According to Decision No.71/2010/QD-TTg)*
Investment	- Equity ratio equal 10-15% of total investment (*Article 5* - State capital not exceeding 49% of total investment and not included in the total investment *(Article 6)*	- Equity ratio equal 30% of total investment (*Article 3)* - State capital not exceeding 30%of total investment *(Article 9)* and included in the total investment *(Article 2)*
Investor selection	- Not clearly regulated	- Investors have to be selected via open-bidding *(Article 19)*
Project proposal	- Investors can propose unsolicited proposals (*Article 11)*	- Investors can propose unsolicited proposals (*Article 11)*
Approve pre-FS, FS, detailed design	- ASAs approve pre-FS, FS (*Article 12)* - Investors approve detailed design *(Article 31)*	- ASAs approve pre-FS, FS (*Article 17)* - Investors approve detailed design *(Article 35)*
Monitor, verify and examine	- Investors have the rights to monitor, check and examine *(Article 31)*	- Investors have the rights to monitor, verify and examine *(Article 35)*
Requirement of construction license	- Not regulated	- Not regulated

From Table 4.3, when compared to those in phase 1 of the Transitional, it is found that:

(1) New (Pilot) PPP regulations are developed, leading to inconsistent regulations between "PPP" and BOT/BT/BTO projects.

- Required equity ratios and maximum investment amounts differ from "PPP" projects vs BOT/BT/BTO projects.
- Regulations restricting the amount of public investment are put in place.

(2) Government controls over planning procedures remain the same and investors still hold control over detailed design procedures. Investors retain the right to examine project quality.

(3) Open bidding procedures are applied to "PPP" projects (but not for BOT/BT/BTO where direct appointment is still common)

4.6.3 DISCUSSION

Within this section, the political process was analysed to understand changes to PPP regulations. Namely, although the revised PPP decree had just been issued in the end of 2009 (the Decree No.108/2009/ND-CP), a Pilot PPP Decision was promulgated by the end of 2010. It was very surprising that although there was the existence of the PPP Decree, which provided regulations on the implementation of PPP projects, new PPP regulations were promulgated via the pilot PPP Decision. In order to understand deeply this phenomenon, the process of decision promulgation was considered which is shown in Figure 4.5.

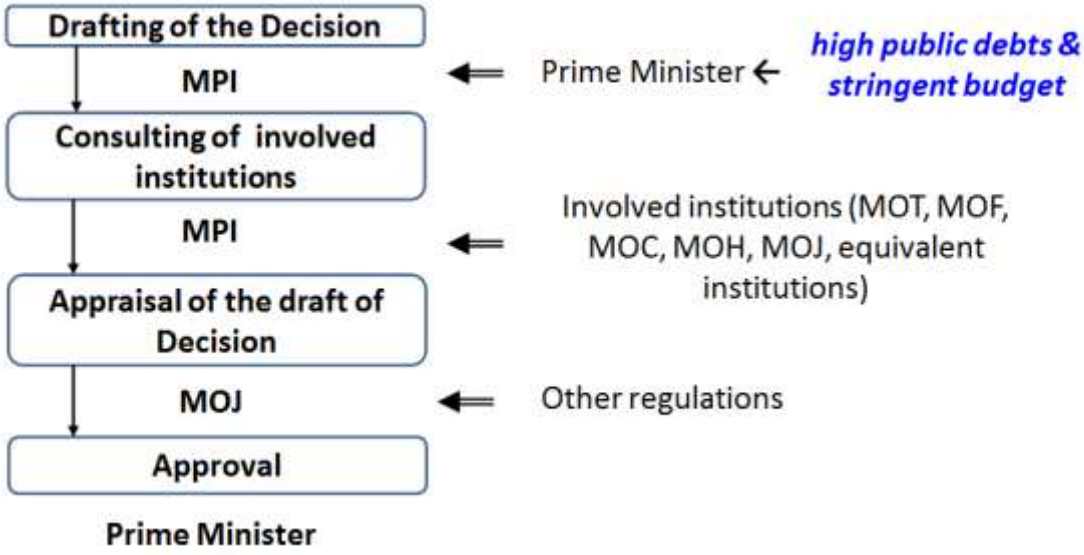


Figure 4.5 The process of PPP decision promulgation

It can be seen from Figure 4.5 that a decision was promulgated based only on the directive of the Prime Minister (PM) and finally approved by the PM. In the case of the PPP Decision, based on investigation, high public debts and stringent budget deficits were identified as predisposing factors that influenced the PM, and under his directive, MPI compiled the draft of a pilot PPP Decision. Consultations were requested from involved institutions and final approval was provided by the PM. This process differed from the promulgation of PPP Decrees particularly in the first step and the final step of those processes *(refers to Figure 4.3)*. The original idea for the promulgation of a PPP decree stems from MPI, which acts on behalf of the government to execute the PPP program. Meanwhile the original idea for the promulgation of a PPP decision stems from the directive of PM. Thus, although the PPP decree had just been revised in short time, due to the different interventions of MPI and PM, and different understandings

about the PPP scheme by those taking charge of compiling PPP-related regulations, new PPP-regulations were issued with many inconsistencies with existing regulations.

As an interviewee expressed

> *"[…] what a pity that we could not realize that BOT/BT/BTO are sub-models of the PPP scheme, experiencing two years as the promulgation of Decision No.712010//QD-TTg we just realized that, otherwise we had concentrated on revising Decree No.108/2009/ND-CP in steads of promulgating a pilot-PPP regulation/ Decision No.71 [...]"* – Head of Procurement Department – MPI – Cited in "PPP – Vì sao vẫn tắt"[10].

> *"[…]Firstly, we just developed the draft of the decision and then consulted authorized state agencies (e.g. department of planning and investment at provinces) as well as this draft also uploaded online, if anyone cared about these regulations, they shall give their comments for the edition board which took charge of the drafting PPP regulations. However there were very few people paid their attentions on such things […]"* – Official in charge of law making [refer to question 1- Appendix 2]

Concerning the PPP Decrees, lessons learned from the enforcement of Decree 108/2009/ND-CP should have been a factor resulting in the promulgation of Decree 24/2011/ND-CP in 2011 – two years after the promulgation of Decree No.108/2009/ND-CP. Provisions provided by Decree No.24/2011/ND-CP were mainly supplemental provisions for the regulatory system of Decree No.108/2009/ND-CP.

Thus, it can be claimed that under the influence of economic conditions, the intervention of political leaders on PPP regulations and lessons learned from the enforcement of previous regulations were reasons that resulted in the changes to the PPP regulations in this phase.

4.7 THE LEGAL FRAMEWORK APPLIED FOR PPP SCHEME FROM 2013 TO 2015

4.7.1 THE HISTORICAL CHANGE OF LEGAL FRAMEWORK

This period coincided with a phase of numerous changes to laws and regulations within the construction industry. PPP projects were one of the subjects enforced by the laws and regulations which applied to the construction industry as a whole. Actually, halfway through 2013, after recognising the shortcomings and overlaps of the existing legal documents within the PPP scheme, the Prime Minister approved a plan for revising and consolidating Decree No.108/2009/ND-CP and Decision No.71/2010/QD-TTg. By February 2015 the PPP scheme

[10] "PPP- Vì sao vẫn tắt". An Nhi - Tạp chí Kinh tế và Dự báo
Avaiblable at http://kinhtevadubao.com.vn/xuc-tien-dau-tu/ppp-vi-sao-van-tac-1346.html, accessed in August, 12th 2013

decree was issued, entitled Decree No.15/2015/ND-CP. Apart from consolidating previous regulations, this regulatory document also provides some revised and additional regulations in comparison to the previous development stage (2011-2012). These are as follows:

- Additional regulations on the rights and obligations of the Steering Committee on PPP at the national level, and procedures for establishing Steering Committee on PPP at the provincial level in case it is deemed necessary *(Article 7);*
- Modifications to regulations of required equity ratios *(i.e., being at least 10-15 percent of total investment capital instead of 30 percent regulated in Decision No.71) (Article 10);*
- Consolidating regulations of obligations for developing and publicising the project portfolio *(i.e., decentralization for many managerial levels) (Article 17);*
- Additional details on required criteria for sponsors of PPP projects in case the sponsor is a State-Owned-Enterprise *(Article 20).*
- Additional details on the rights for approving feasibility studies *(Article 26 and Article 27);*
- Regulations on procedures and obligations for granting investment licenses for different classifications of PPP projects *(Article 39);*
- Regulations on the rights of ASAs for the requirement of replacing under-qualified construction contractors *(Article 48);*
- Regulations on the required contents of financial disclosures and audit reports of a Project Company *(Article 52).*

Following the promulgation of Decree No.15/2015/ND-CP, some circulars were also declared by line ministries to provide detailed regulations for the implementation of PPP schemes in specific sectors. Namely, the Ministry of Industry and Trade issued Circular No.23/2015/TT-BCT on July, 13th 2015, detailed transitional procedures for PPP projects implemented in the power sector, and Circular No.38/2015/TT-BCT in October, 30th 2015 defined the investment areas for PPP power projects. Ministry of Planning and Investment issued Circular 02/2016/TT-BKHDT in March, 1st 2016 to provide details on PPP project selection.

Along with the promulgation of Decree No.15/2015/ND-CP, Decree No.30/2015/ND-CP was enacted on March, 17th 2015 which regulates the investor selection process of construction projects included in PPP projects. A salient characteristic of this regulation is that the Decree stipulates that all PPP projects must utilize open-bidding.

In addition, on June, 8th 2015 the Vietnamese government issued Decree No.59/2015/ND-CP with regulations surrounding management-involved issues within the process of construction projects, and PPP projects also comply with this decree. The legal framework of this period is shown in Figure 4.6

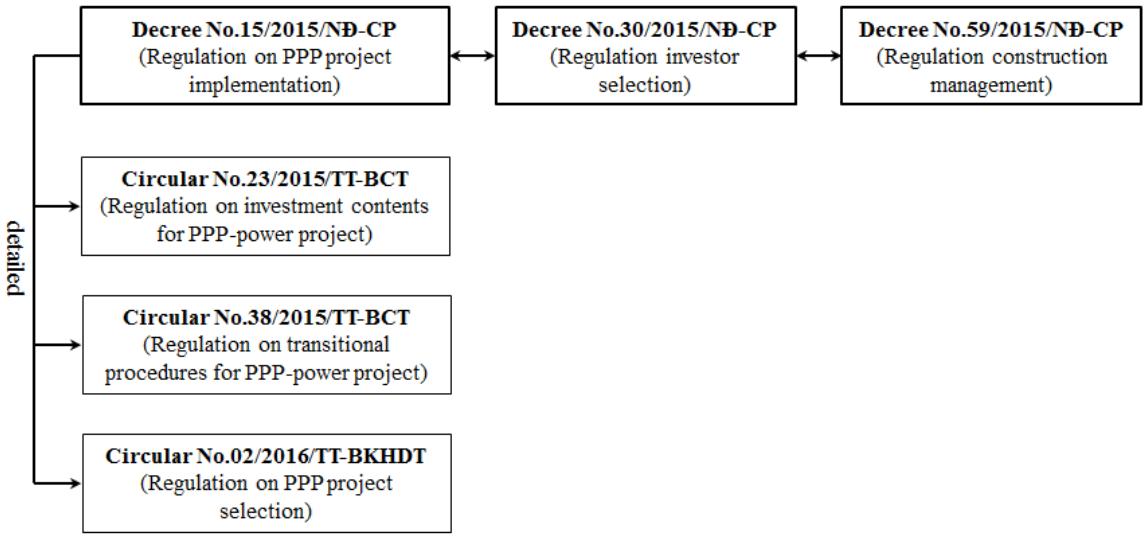


Figure 4.6 The regulatory framework applied for PPP projects since 2015

4.7.2 SALIENT FEATURES

In comparison with the period between 2011 to 2012, the PPP-regulations applied to PPP projects which had been granted investment licenses in this stage had not changed. The new regulations will be applied for future PPP projects (since the middle of 2015). However, the significant changes to the regulatory framework within the new Decree was the unification of two different regulatory frameworks that apply separately to BOT/BT/BOT projects and PPP projects, as well as the promulgation of Decrees and guidelines (circulars) that regulate investor selection. In reference to the roles and requirements of investors and the government, the features of the legal framework in this period is shown in Table 4.4

Table 4.4 The features of regulatory framework applied for PPP scheme in the period since mid-2015

Comparison criteria	Content of provisions
Investment	- The equity ratio is from 10% to 15% of total investment *(Article 10, Decree No.15/2015/ND-CP)*
Investor selection	- Investors have to be selected by international open-bidding *(Article 29, Decree No.15/2015/ND-CP and comply with Decree No.30/2015/ND-CP)*
Project proposal	- Investors can propose unsolicited proposals (*Article 20, Decree No.15/2015/ND-CP)*
Approve pre-FS, FS, detailed design	- ASAs approve pre-FS, FS (*Article 27, Decree No.15/2015/ND-CP* - Investors approve detailed design *(Article 46, Decree No. 15/2015/ND-CP)*
Monitor, verify and examine	- Investors have the rights to monitor, check and examine *(Article 22, Article 24, Decree No. 15/2015/ND-CP)* - ASAs monitor, verify the entire construction process of PPP projects and examine the quality of each finished section of a project before project investors perform the following sections of the project, requiring project investors to change contractors in case ASAs realise the quality of the on-going PPP project is not able to satisfy standards *(Article 48 Decree No. 15/2015/ND-CP)* - In case of the amount of state capital is more than 30% of total investment capital (or less than 30% of total investment capital but more than 500 billion VND (*approximately around $25USD million*)) the PPP project will be managed as public invested project *(According to Decree No.59/2015/ND-CP)*
Requirement of construction license	- Not regulated

As illustrated in Table 4.4, the legal framework of the PPP scheme has seen significant changes since 2015. In comparison to Transitional phase 2, it is found that:

(1) The PPP scheme merges BOT/BT/BTO models with the (pilot) "PPP" framework

- Projects with high public capital investment (>30% total investment or more than 500 billion VND) are to be controlled/managed like conventional public

projects, even though such a regulation did not appear in Transitional phases 1 and 2

(2) Investors still retain the right to monitor, verify, and examine the project quality, however, government approval is now required for quality inspections

(3) International/national open-bidding must now apply to all PPP projects

4.7.3 DISCUSSION

With policies in place for the restructuring of the national economy, many laws related to the construction industry have been revised or newly promulgated in the period between 2013 and 2015 such as the Law on Enterprises, Law on Tendering, and the Public Investment Law. Following the changes to these laws, previously promulgated PPP regulations which were provided via Decrees, Decisions, and Circulars must also be revised. Thus, PPP-related regulations need to be revised to become consistent with the generic regulations provided by these laws. In addition, based on investigation it is found that insconsistent regulations between current PPP regulatory frameworks were also identified as one of factors resulting in the promulgation of a new PPP decree in early 2015. Figure 4.7 illustrates the identifed factors that influence the promulagation of the PPP decree in the early 2015.

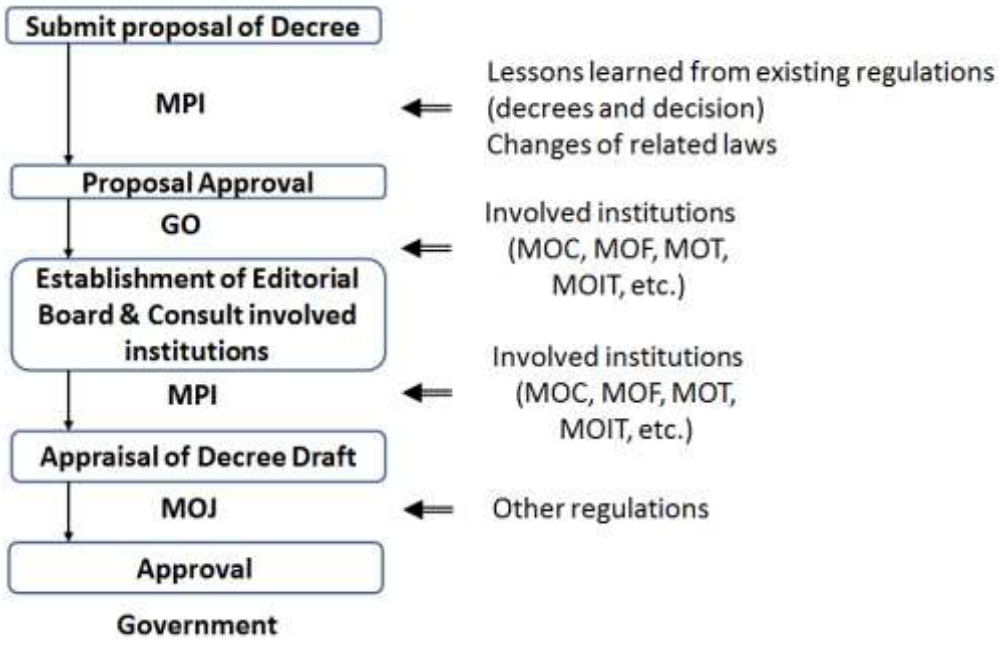


Figure 4.7 Analytical framework for analysing the changes of PPP regulations in the early 2015

The promulgation of PPP decree in this period was deliberated by MPI and involved organisations.

As an interviewee expressed:

"[…] in order to issue the Decree No.15/2015/ND-CP, we have consulted many involved organisations and international experts. Actually, we have already conducted consultation

with involved institutions seven times before finalizing the draft of decree […]" – Official in MPI - refer to question 2- Appendix 2.

Albeit the economic conditions have not changed so much in comparison with those in the previous stage (2011-2012) but under the changes of related-laws and realized pitfalls existing within the current PPP regulatory frameworks, changes were made to PPP regulations (Decree) in this stage.

To sum up, the whole process of historical PPP legal changes regarding the roles and requirements of investors and the government are shown in table 4.5

Table 4.5 Summary of the historical PPP regulatory changes from 1993 to 2015

		Before 2007	2007-2010	2011-2015	Since 2015
Investment	Equity	**>=30%**	**10-30% then 10-15%** (since 2009)	**10-15%**	**10-15%**
	State	-	<=49%	<=49% (BOT) <30%("PPP")	-
Unsolicited proposal		Foreign	Foreign + domestic		(not encourage in reality)
Investor selection		**Not clear regulated**		**Open-bidding ("PPP")**	**Open-bidding**
		(almost all directly appointed in practice)			
Approval	Pre-FS, FS	ASAs	ASAs	ASAs	ASAs
	Detailed design	ASAs *(for domestic projects)*	Investors	Investors	Investors/ASAs
Monitoring, verification, and examination		ASAs *(for domestic projects)*	ASAs (verify) Investors (Mo., Ex.)	ASAs (verify) Investors (Mo., Ex.)	ASAs/ Investor
Construction licenses		Not require	Not regulate		

4.8 SUMMARY OF THE CHAPTER

This chapter illustrated the historical background of the initial birth of a PPP scheme, as well as the historical change of the PPP legal framework through to 2015. Using the role and requirements of investors and the government (ASAs) as a reference point, the historical change and developmental process of Vietnam's PPP scheme could be divided into four stages based on major changes to its legal framework

- The nascent phase (before 2007) is characterised by (1) inconsistent domestic and foreign investor regulations, placing higher regulatory restrictions on domestic investors; (2) the government possessing strong control of detailed design and quality examination procedures; (3) and non-transparent bidding procedures. In this period,

apart from finance and equity regulations that apply to private investors, all regulations were identical to those applied to conventional public projects.

- Transitional phase 1 (2007-2010) is characterised by (1) consistent regulations for both domestic and international investors, leading to lower investment barriers for domestic investors and more planning regulations for foreign investors; (2) domestic investors given increased control over detailed design procedures; (3) and non-transparent bidding procedures in place remaining the same.
- Transitional phase 2 (2011-2012) is characterised by (1) newly developed PPP regulations that create inconsistencies between PPP models in terms of equity requirements and public capital limits; (2) investor controls over detailed design procedures and quality examination remaining the same; (3) and open-bidding procedures are put into place for "PPP" projects (but not for BOT/BT/BTO projects).
- Transitional phase 3 (2013-2015) is characterised by (1) a consolidated "PPP scheme" for all models that provide increased managerial control to the government for projects with considerable public capital; (2) weakened investor control over quality examinations as approval is now required by the Government; (3) and all PPP project investors need to be selected by international open-bidding procedures.

Four factors were identified to have influenced the numerous changes of PPP regulations over time including: changes of economic conditions, lessons learned from the enforcement of issued regulations, interventions of leading politicians and institutions taking charge of PPP regulations promulgation, and changes of related laws.

Chapter 5

EXPLORING THE PPP SCHEME DEVELOPMENT - THE NASCENT PHASE (BEFORE 2007)

5.1 OBJECTIVE

The objective of this chapter is to clarify the development process of the PPP scheme for infrastructure projects in Vietnam in the nascent phase *(i.e., the stage before 2007)*. Namely, (1) to describe the applications and transitional procedures of the PPP scheme as well as its features of the stakeholders involved PPP projects across the transport, power, and water sectors from 1993 to before 2007; (2) to identify the salient features of the PPP scheme in this stage; (3) and to identify and interpret the influencing factors on the development process of the PPP scheme.

5.2 METHODOLOGY

The methodology applied in this chapter is indicated in section 1.3 of Chapter 1, and comprises a combination of quantitative observation methods and secondary research methods, which are applied to look at changes over time and differences in infrastructure sectors that apply to PPP schemes.

The research framework applied in this chapter consists of the following steps:

- The application of the PPP scheme in the power, transport, and water sectors, as well as an outline of the stakeholders involved in each developmental period will be observed and described
- Based on the comparative analysis of the application of PPP in the transport, power, and water sectors, salient features of the PPP scheme are identified
- Combining the observations and salient features with existing literature, a hypothesis is generated
- Based on qualitative analysis of interview data and secondary data compiled in Vietnam, influencing factors on the development process of the PPP scheme are identified and interpreted.
- Conclusions

5.3 THE DEVELOPMENT OF THE PPP SCHEME IN THE NASCENT PHASE (BEFORE 2007)

5.3.1 APPLICATIONS OF THE PPP SCHEME

5.3.1.1 POWER SECTOR

The participation of private parties in this sector appeared in the final years of the 1990s under the BOT model. Several examples of BOT schemes with various international companies are presented. In 1997, the Quang Ninh power plant was granted an investment license which was carried out by a Consortium of Oxbow Itn. (US) and Marubeni (Japan) with a total investment of 300 million USD. In 1998, Song Da Corporation invested in the Can Don hydropower plant with a total investment of approximately 81.6 million USD. In 2001, a consortium with Electricite de France of France international (EDFI), Sumitomo Corporation, and Tokyo Electric Power Co. of Japan (TEPCI) invested a total of 480 million USD in the Phu My 2-2 thermal power plant. This project was financed by many international financial institutions such as ANZ investment Bank, Asian Development Bank (ADB), Japan Bank for International Cooperation, and Sumitomo Mitsui Corporation. Around the same time, a consortium of foreign investors including BP Holdings BV (UK), Semp Corp Utilities (Singapore), Kyushu Electric Power (Japan)and Nissho Iwai (Japan)invested a total of 412 million USD in the Phu My 3 thermal power plant.

Up to 2007, there were no additional power projects invested under the PPP scheme. In other words, there were 4 PPP projects that were granted investment licenses during this period under the BOT model, with an average investment amount of 320 million USD. Every BOT project within this period was also given a government guarantee on the foreign exchange.

The transitional procedures for the implementation of PPP for power projects are shown in Table 5.1 and Table 5.2.

Table 5.1 The transitional procedures of BOT project implementation in power sector applicable for unsolicited proposals

No	Category	Detailed content		Decision maker
		Official	**investor**	
1	Project proposal	- Receive pre-Feasibility Study (pre-FS) from proponent - Submit the pre-FS to Prime Minister - Pre-FS approval	- Propose a pre-FS and submit it to MOIT	- Prime Minister
2	Investor selection	- Submit the plan for investor selection - Organise investor selection - Approval of investor selection result		- Prime Minister
3	MOU Negotiation	- Release the draft of memorandum of Understanding (MOU) to selected investors - Organise negotiations	- Give opinions about the draft of MOU and negotiation plan	
4	Sign up MOU	- Sign up MOU	- Sign up MOU	Minister of MOIT and Investors
5	Develop the detailed plan for the deployment of the project	- Receive the detailed plan for the deployment of the project - Response by written document	- Develop the detailed plan for the deployment of the project - Submit the detailed plan for the deployment of the project to Directorate of Energy - MOIT	
If the project has been available in the national electricity network plan, skip step No.6, if not, go to step No.6				

6	Development, appraisal and approval of the place for the construction of Electricity Central	- Proposal of the strategy for the Electricity Central Planning		Directorate of Energy (DOE)
		- Approval the strategy for the Electricity Central Planning		Prime Minister
		- Selection of consultant services to perform the Electricity Central Plan - Submit the Electricity Central Plan - Appraisal and Approval the Electricity Central Plan		Minister of MOIT
7	Development, appraisal and approval of Feasibility Study (FS)	- Receive FS and involved documents - Appraisal of FS - Approval of FS	- Develop FS - Submit FS and involved documents to DOE	Minister of MOIT
8	Contractual negotiation	- Selection of consultant services - Establishment of inter-sectors group - Organise contractual negotiations	- Take part in contractual negotiations	
9	Sign up Investment agreement	- Submit the result of contractual negotiations to the Prime Minster - Sign up the Investment agreement	- Sign up the Investment agreement	Minister of MOIT/Minister of involved Ministries/Investor
10	Granting of Investment License	- MPI receives the procedures for granting of Investment License - Granting Investment License	- Submit the procedure for Investment License to MPI	Minister of MPI

11	Establishment of BOT Enterprise		- Establishment of BOT Enterprise	Investor
12	Sign up BOT Contract and project's documents	- Sign up BOT Contract and project's documents	- Sign up BOT Contract and project's documents	Minister of MOIT/ ASA/Investor
13	Construction	- Monitor the process of contract implementation	- Conduct the construction	Investor
14	Operate	- Monitor the process of contract implementation	- Operate	Investor
15	Transfer	- Take over BOT project	- Transfer	Investor/MOIT

(Source: Compilation based on investigations)

Table 5.2 The transitional procedures of BOT project implementation in power sector applicable for solicited proposals

No	Main steps	Detailed content		Decision maker
		Official	Investor	
1	Project proposal	- Submit the pre-FS to Prime Minister - Pre-FS approval		- Prime Minister
		- Develop FS - Appraisal of FS - Approval of FS		- Minister of MOIT
2	Investor selection	- Submit the plan for investor selection - Organize investor selection - Approval of investor selection	- Investment register - Seek to lenders	- Prime Minister
3	MOU Negotiation	- Send the draft of memorandum of Understanding (MOU) to selected investor - Organize negotiation	- Give opinions about the draft of MOU and negotiation plan	
4	Sign up MOU	- Sign up MOU	- Sign up MOU	Minister of MOIT and investor
5	Develop the detailed plan for the deployment of the project	- Receive the detailed plan for the deployment of the project - Response by written document	- Develop the detailed plan for the deployment of the project - Submit the detailed plan for the deployment of the project to General Bureau of Energy - MOIT	

6	Contractual Negotiation	- Selection of consultant services - Establishment of inter-sector group - Organize contractual negotiations	- Take part in contractual negotiations	
7	Sign up agreements of Investment	- Submit the result of contractual negotiation to the Prime Minster - Sign up the agreements of Investment	- Sign up the agreement of Investment	Minister of MOIT/minister of involved ministries/investor
8	Granting of Investment license	- MPI receive the procedure for the granting of Investment Certificate - Granting of the Investment Certificate	- Submit the procedure for the granting of Investment Certificate to MPI	Minister of MPI
9	Establishment of BOT Enterprise		- Establishment of BOT Enterprise	Investor
10	Sign up BOT Contract and project's documents	- Sign up BOT Contract and project's documents	- Sign up BOT Contract and project's documents	Minister of MOIT/ ASA/investor
11	Construction	- Monitor the process of contract implementation	- Conduct the construction	Investor
12	Operate	Monitor the process of contract implementation	- Operate	Investor
13	Transfer		- Transfer	Investor/MOIT

(Source: Compilation based on investigations)

5.3.1.2 TRANSPORT SECTOR

Twelve PPP-transport projects were granted investment licenses in the period before 2007, under the BOT model, with a total investment of 9,197.326 billion VND. The number of licensed projects over time is illustrated in Figure 5.1

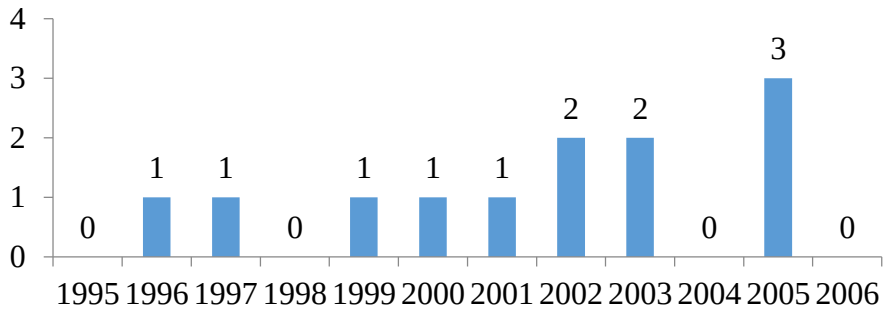


Figure 5.1 The number of licensed PPP- transport projects from 1995 to 2006

(Source: Compilation based on data of MPI, MOC, MOIT, and other sources)

In this period, most road projects consisted of upgrades and repairs, while only bridge projects were new construction projects. The transitional procedures for the implementation of transport projects are shown in Table 5.3

Table 5.3 The transitional procedures of PPP projects in transport sector apply to solicited proposals

No	Category	Detail contents		Decision maker
		Authorized State Agencies (ASAs)	Investor	
1	Project proposal	- Develop proposal documents (pre-FS)		
		- Submit to approve		
		- Approval		Prime Minister/President of Provinces/Municipality
2	Develop Feasibility Study (FS)	- Develop FS (ASAs can hire consultants to develop FS)		
		- Approval of FS		Minister/Director of PMU
3	Calling for investment	- Publish the project portfolio online - Release bidding dossiers/requirement dossiers - Submit and approve the investor selection plan	- Register for investment - Seek to expected lenders	Prime Minister/President of Provinces/Municipality
4	Selection of investor	- Organize the investor selection (open-bidding/direct appointment) - Approval of investor selection result - Publish the result of investor selection	- Submit bidding dossier/requirement dossier - Take part in bidding	Prime Minister/President of Provinces/Municipality /Director of PMU
5	Sign-up PPP-Principal agreements	- Contractual negotiation	- Contractual negotiations	Director of PMU/ investors

6	Establish-ment of Project Company		- Establishment of Project Company	Director of Depart-ment of Planning and Investment
7	Selection of contractors	- Monitoring the process of contractors' selection	- Selection of contractors (design con-sultant, material sup-pliers, constructors, etc.)	Investors
8	Granting of Invest-ment License	- Receive the procedures for granting Investment Li-cense - Granting Investment Li-cense	- Submit the procedures for granting In-vestment License	Minister of MPI/Director of De-partment of Planning and Investment
9	Sign-up contract	- Sign-up contract	- Sign-up con-tract	Minister / Chair-man of Provinces/Munici-pality /investors
10	Construct	- Monitor the implementa-tion of the BOT contract	- Deploy to con-struct the BOT project	ASAs/inves-tors/contractors
11	Operate	- Monitor the implementa-tion of the BOT/BT contract	- Operate	
12	Transfer	- Appraisal of the quality of the project - Take over the BOT project	- Transfer the project to the government	Minister / Presi-dent of Provinces/Munici-pality /investors

(Source: Compilation based on investigations and Decree No77-CPenacted November, 18th 1997)

5.3.1.3 WATER SECTOR

Private sector involvement in the water sector appeared in the early 1990s when the first Decree of BOT was enacted in 1993. During this time, recognising the enormous demand for clean water of Ho Chi Minh City, the City government signed a treaty agreement with Malaysian investors for the Binh An water plant, with a capacity of 100,000m^3/day and a total of 37.5 million USD under a BOT scheme. Even though this project was proposed in 1992, the investment license was only granted in 1995 and official implementation did not begin until 1996. The second project was the Song Da water plant which was granted an investment license in 2004 under a BOO model, with a total investment of 1,515 billion VND. The third project was the Thu Duc water plant, which was granted an investment license in 2005 under a BOO model with a total investment of 1,547 billion VND. In summary, three water projects were licensed in this period under BOT and BOO models.

A salient feature of water projects was that although the BOO model was not regulated in the PPP-legal framework at that time, regulations still applied to water projects. Due to the fact there were very few existing water projects, and regulations were not in place within the laws at that time, procedures for project implementation were said to depend on specific projects.

5.3.1.4 INVESTOR SELECTION

In this period, there were two projects *(i.e., B.O.O Thu Duc water plant and Phu My 2-2 thermal power plant)* in which project investors were selected via open-bidding. The remaining PPP projects utilised "*direct appointment*" for investor selection.

5.3.1.5 EXCEPTIONAL CASES

According to the regulations of the legal framework in this period, the PPP scheme was introduced under two contractual types including BOT and Build-Transfer (BT) models. In fact, some exceptional cases about incentive policy were recognised. In addition, there were a few exceptional cases carried out in the water sector under the BOO model which were not regulated in the scheme at the time. Two case studies were selected as exceptional cases during this stage. These are as follows:

5.3.1.5.1 BOT Phu My Bridge

i. Project introduction

The Phu My Bridge is one of the biggest cable-stayed Bridges in Ho Chi Minh City, Vietnam, and spans Sai Gon River to connect district 7 and district 2. It is also a missing section of Ho Chi Minh Ring Road No.2 in accordance to the Ho Chi Minh transport system

plan toward 2020. This Bridge was built under BOT model with an estimated cost of around 1,800 billion VND.

The Phu My Bridge was constructed, and reaches 2,031 meters long and 27.5 meters wide, including four lanes for cars at the speed of 80kmkph, two lanes for motorbikes and bicycles, and two pedestrian lanes.

The location of the Phu My is shown in Figure5.2

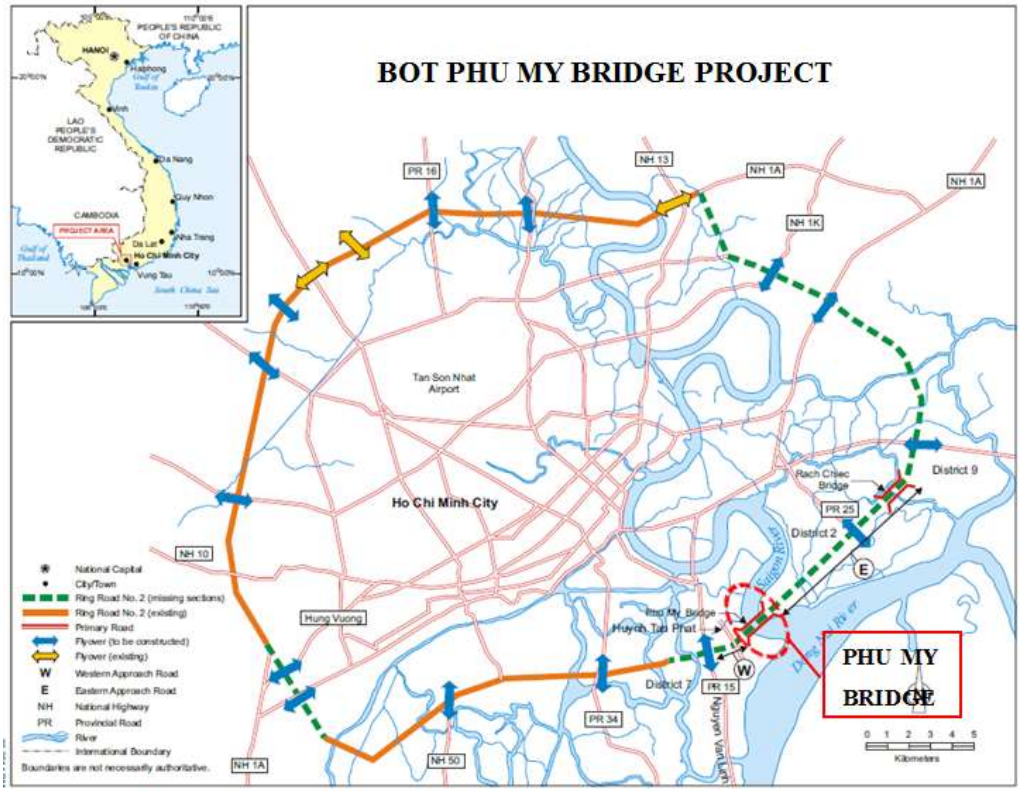


Figure 5.2. The location of the Phu My Bridge project

(Source: Technical assistance Report – ADB)

ii. Project development

In 2002, the People's Committee of Ho Chi Minh City (PC-HCM) realised the necessity to construct Phu My Bridge. The City Authority had a strategy to build this project. On June 17th 2002, the project feasibility study had been developed and it was approved on November 19th 2004 by the PC-HCM. On July, 21st 2003, the B.O.T Phu My Joint Stock Company had been appointed as a project sponsor (BOT-PM JSC). On December 17th 2004, the project investment had been approved with a project investment of 1,806,520billion VND. The project investment license was then granted on April 2rd 2004. BOT contract was signed between PC-HCM and the BOT Phu My Bridge Joint Stock Company on February, 7th 2005. According to the BOT contract, the project was built between 2005 and 2007 (approximately 34 months) and the concessionaire period was 26 years. Subsequently, the

bidding process to select a general contractor took place around March, 2005. On November 2005, the detailed project design was approved by the PC-HCM. According to the BOT contract the Phu My Bridge had to be kicked off from September 2005, and the financial plan had to be submitted before September 2007 by the BOT-PM JSC. On January 2009, the project had to be put to use. In fact, on September 9th 2005, the project had been kicked off and on September 2rd 2009, the project was complete and put to use.

iii. Project stakeholders

Stakeholders in this project include sponsors, public sectors, and private sectors. The relationship among them is shown in Figure5.3

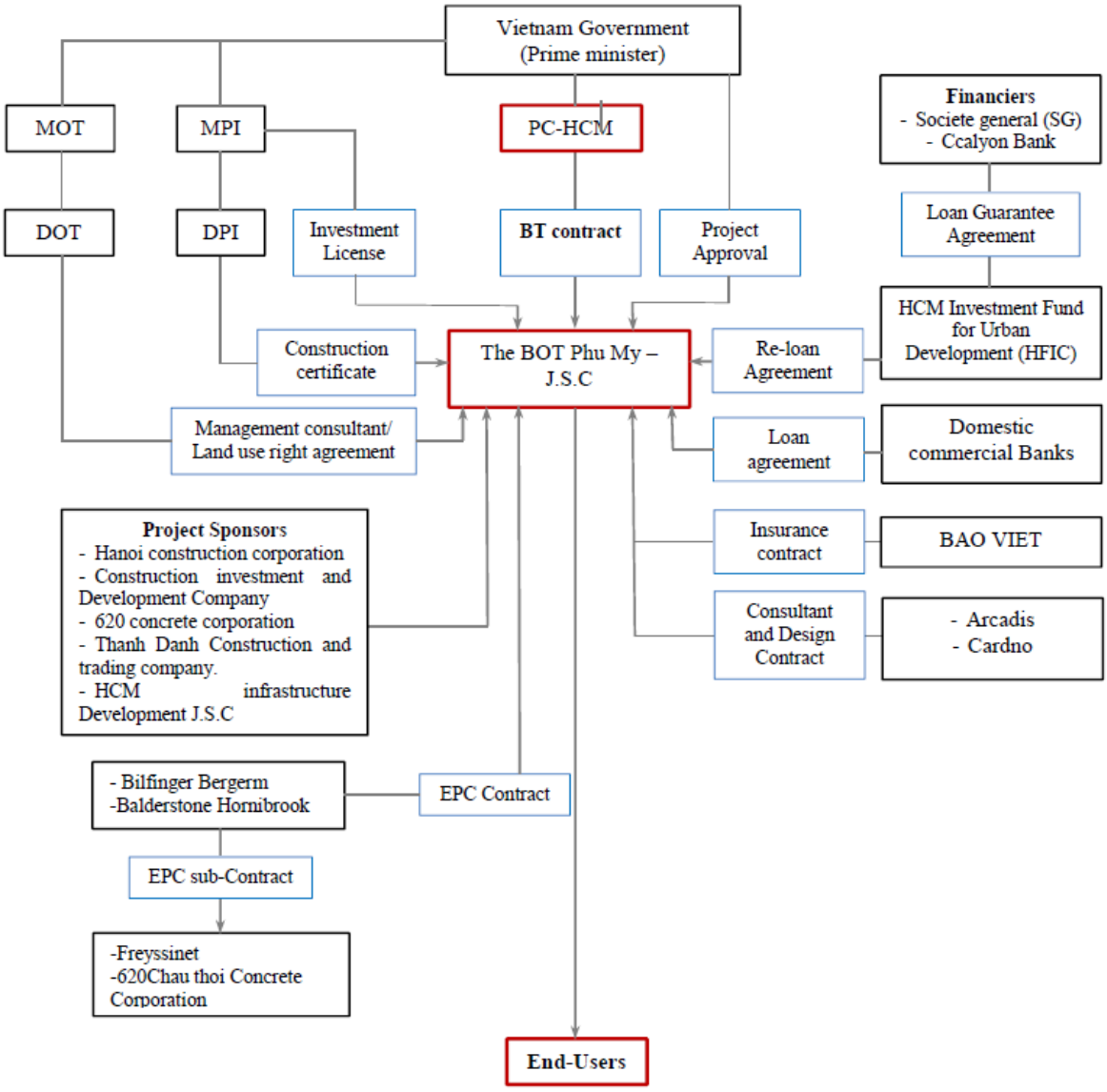


Figure 5.3 The structure of stakeholders in Phu My Bridge project

(Source: Compilation based on investigation)

Public sector

The major public stakeholder in this project was the People's Committee of Ho Chi Minh City. This State body was authorised by the Vietnamese Government to build and manage all projects under the management of Ho Chi Minh City. The other stakeholders included Vietnamese counter-parties such as the Prime Minister; Ministry of planning and investment (MPI); Ministry of Finance (MOF); Ho Chi Minh Planning and Investment Department (HCM-DPI); Ho Chi Minh Department of Transport (HCM-DOT);

According to the authorisation of the Vietnamese Government, the role of Vietnamese counter-parties in Phu My Bridge project was as follows:

- Prime Minister: Approving the project strategy.
- PC-HCMC: Approving the project investment; selecting the project sponsor; negotiating to sign the BOT contract with the project sponsor; making a decision to regulate the responsibilities and obligations of each under-municipal administrative officers to PMC and playing the major role of authorised state body to operate the project.
- MPI: Issuing the Investment License to set out the terms of license and providing for the establishment of the BOT PM J.S.C.
- MOF: Making disbursements to the PMC through recommendation of PC-HCMC.
- HCM-DPI: Documenting and pre-signing the BOT contract, supporting the BOT PM J.S.C to get investment license, issuing the relevant building activities certificate of the project to the BOT PM J.S.C and corporation with the others agencies to manage the project implementing.
- HCM-DOT: Enforcing under-relevant agencies to monitor project implementation. Responsible for site clearance and resettlement of affected people; provide the right to use land in the construction period to BOT PM J.S.C through land lease agreements and Certificates of land use right.

Private Sector

As mentioned above, the B.O.T Phu My Bridge J.S.C *(known as the project company or the Special Purpose Company)* was the project sponsor. This company comprised of the following shareholders: Hanoi Construction Corporation (SOE), Construction Investment and Development Company (SOE), 620 Chau Thoi Concrete Corporation (SOE company), Thanh Danh construction and Trading Company (private company) and Ho Chi Minh Infrastructure Development Joint-Stock Company. These shareholders contributed equity investment *(accounting for approximately 30% of the total project investment).*

Other private stakeholders include the lenders, sub-contractors, and the insurer.

In order to construct this project, the main contractor was selected through competitive bidding. The BBBH Consortium comprised of two shareholders, including Germany's

Bilfinger Bergerm (accounting for 60% of total stocks) and Australia's Balderstone Hornibrook (accounted for 40% of total stocks) won the bid. Construction was executed under the Engineering-procurement Contract (EPC). The main sub-constructors of the project were France's Freyssinet and Vietnam Chau Thoi 620 Concrete Corporation.

The designer for this project was France's Arcadis (for the main Bridge), and Australia's Cardno (approach viaducts). The consultant and project manager was Australia's Maunsell.

iv. **Incentive policies**

(1) Loan

The Ho Chi Minh City Authority was placed in charge of seeking loans that the BOT PM J.S.C would then borrow. The French Bank Societe Generale and Germen Calyon Bank made a loan of US$93million (*approximately 80% of total project investment*) to Ho Chi Minh City's investment Fund for urban development (HIFU). The BOT PM J.S.C then borrowed this money from the HIFU. The BOT PM J.S.C also received loans from other domestic commercial banks (Viet Nam Investment and Development Bank – BIDV, Vietnam commercial Bank – (VCB), Vietnam Industrial and Commercial Bank –Vietin Bank) to mobilise enough capital to invest in the project.

(2) Land acquisition

The Ho Chi Minh City Authority was responsible for site clearance and resettlement (*According to Decree 77/CP, this responsibility belongs to Project Company*). If compensation for land acquisition exceeded 100 billion VND, the extra-money would be paid from the state budget of HCM City.

(3) Tax

The BOT PM J.S.C would be offered preferential tax for corporate income and import duties, and be exempt from paying land lease fees for areas controlled by the State.

5.3.1.5.2 B.O.O Thu Duc Water Plant project

i. Project introduction

B.O.O Water Plant project located in Thu Duc District Ho Chi Chi Minh City, Vietnam. This project is one of water supply plants within Ho Chi Minh water supply network. The project would supply treated water to more than one million residents in Districts 2, 9, 7 and Nha Be District with a capacity of 300,000m^3/day. This project was carried out under a Build-Own-Operate (BOO) contract. The total investment cost in nominal prices was estimated at 1,547 billion VND. The equity investment capital accounted for 33 percent and the rest of investment capital came from debt financing.

ii. Project development

This project was initially proposed by foreign investor (France) in the mid-1990s. In 1997, Suez was awarded a 25-year BOT contract for this project and it took four years to reach financial close, it was then cancelled in 2003[11]. In November 2004, the project was taken over by Corporation of domestic enterprises under the name of B.O.O Thu Duc Corporation. In December 2004, the People's Committee of Ho Chi Minh City granted the investment license to B.O.O Thu Duc Corporation to invest, operate and own the B.O.O Thu Duc Water Plant. In September 2005, the project started construction and was put to use in September 2010.

iii. Project stakeholders

The main stakeholders in this project consisted of public bodies, sponsors, lender, contractor and funding agent. The structure of stakeholders is shown in Figure 5.4

Public sector

The major public stakeholder in this project was the People's Committee of Ho Chi Minh City. This State body was authorised by the Vietnamese government to build and manage all projects under the management of Ho Chi Minh City. The other stakeholders included Vietnamese counter-parties such as the Prime Minister; Ministry of Planning and Investment (MPI); Ministry of Finance (MOF); Ho Chi Minh Planning and Investment Department (HCM-DPI), B.O.O Thu Duc Project management Board which belonged to Ho Chi Minh City Department of Transport, People's Committee of Dong Nai Province.

According to the authorisation of the Vietnamese Government, the role of Vietnamese counter-parties in B.O.O Thu Duc Water Plant project was as follows:

- Prime Minister: Approving the project strategy.
- PC-HCMC: Approving the project investment; selecting the project sponsor; negotiating to sign the BOO contract with the project sponsor; making a decision to regulate the responsibilities and obligations of each under-municipal administrative officers to B.O.O Thu Duc Corporation and playing the major role of authorised state body to operate the project.
- MPI: Issuing the Investment License to set out the terms of license and providing for the establishment of B.O.O Thu Duc Corporation.
- MOF: Supplying taxation incentives.
- HCM-DPI: Documenting and pre-signing the BOO contract, supporting B.O.O Thu Duc Corporation to get investment license, issuing the relevant building activities certificate of the project to B.O.O Thu Duc Corporation and corporation with the others agencies to manage the project implementing.

[11]Cited in"Vietnam set to lay its PPP ghosts to rest". Available at http://globalwaterintel.com/archive/12/11/general/vietnam-set-lay-its-ppp-ghosts-rests.htm, accesses in 15th, April, 2014

- HCM-DOT: Enforcing under-relevant agencies to monitor project implementation through B.O.O Thu Duc Project management Board.

- People's Committee of Dong Nai Province is responsible for site clearance and re-settlement of affected people; provide the right to use land in the construction period to Thu Duc B.O.O Corporation through land lease agreements and Certificates of land use right.

Private Sector

Sponsor

As mentioned above, B.O.O Thu Duc Corporation *(known as the project company or the Special Purpose Company)* was the project investor. This company comprised of the following shareholders: Ho Chi Minh City Infrastructure Investment Corporation (CII), Construction General Corporation No. 1 (CIENCO 1), Ho Chi Minh City Fund for Infrastructure and Urban Development (HIFU), Refrigeration Electrical Engineering Corporation (REE), Thu Duc Housing Development Corporation (TDH), and Water and Environment Corporation (WACO).

Contractor

The other stakeholder in this project was Hyundai Mobis Corporation of South Korea; This Corporation would take charge of design and construction of the project under Engineering-Procurement-Construction (EPC) contract with B.O.O Thu Duc Corporation.

Funding agent

Saigon Water Corporation (SAWACO) was the funding agent of this project. This enterprise (SOE) would purchase treated water from B.O.O Thu Duc Corporation via the water purchase contract.

Lender

Development Bank of Vietnam (VDB) supplied loan for this project.

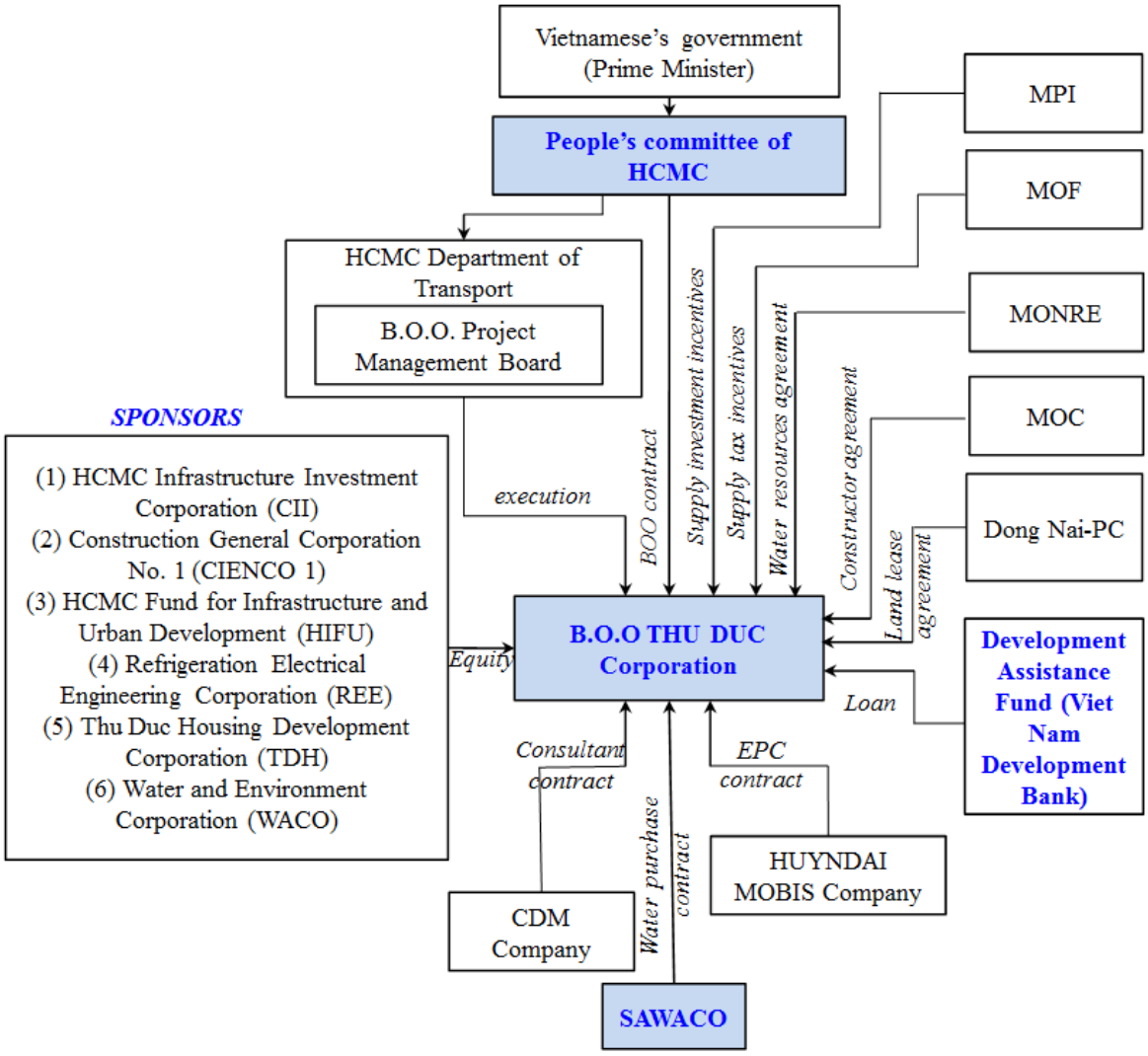


Figure 5.4 The structure of stakeholders in B.O.O Thu Duc Water Plant project

(Source: Compilation based on investigation)

5.3.2 STAKEHOLDERS IN PPP PROJECTS

5.3.2.1 PUBLIC PARTY

5.3.2.1.1 Organizational management structure

In the initial implementation phase of PPP projects under the BOT model, the Vietnamese government had not set up any specific department to take charge of this model. The officials in charge of execution BOT projects were the specialists on infrastructure project management.

Between 1993-2007, there were two different organizational management systems under the BOT scheme. One system was applicable to BOT projects carried out by foreign investors, and the other was applicable for BOT projects carried out by domestic investors.

For BOT projects carried out by foreign investors

The 1993-1998 period:

During this period, there clear regulations about the relationship among authorized state agencies (ASAs) during the project implementation process were lacking. Clear regulations on rights and obligations of involved agencies were also not in place. According to Decree No.87/CP, the institutions that are involved in BOT execution are:

(1) State planning committee and provincial People's Committees were responsible for development of a project portfolio.
(2) State planning committee on Investment Corporation was responsible for investor selection.
(3) National appraisal committee was responsible for appraisal of BOT project.

Most of BOT projects carried out during this period were executed by the central government.

The 1998 - 2007 period:

Figure 5.5 displays the organizational management structure that was in place since the issuance of Decree No.62/1998/ND-CP to replace Decree No.87/CP

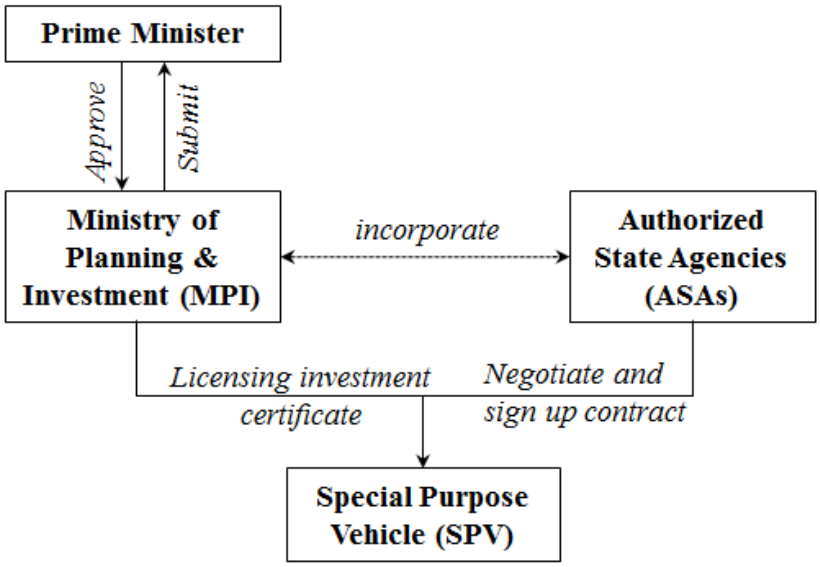


Figure 5.5 Organizational management structure applied for BOT/BTO/BT projects carried out by foreign investors in the 1998-2007period

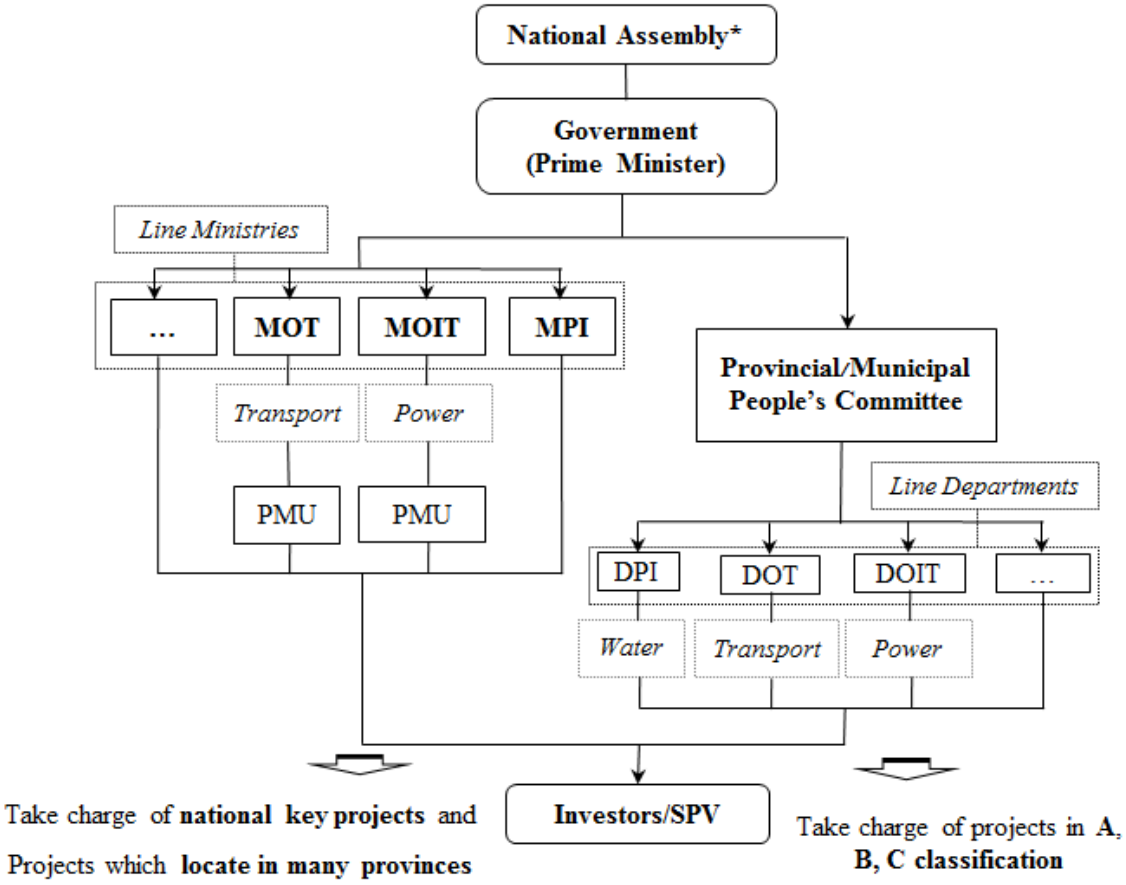
(Source: Compilation based on Decree No.62/1998/ND-CP enacted in August, 15th 1998)

Under this organizational management structure, the Prime Minister held the rights to approve the project portfolio, the results of investor selection, as well as the contents of the

BOT contract. ASAs[12]had obligations to propose the project portfolio, negotiate and sign-up the BOT contract, and manage the project's implementation. Noticeably, all BOT projects carried out by foreign investors must be approved by the Prime Minister, irrespective of different project classifications.

For BOT projects carried out by domestic investors

There was another organizational management structure for BOT projects carried out by domestic investors, shown in Figure5.6



*: extremely important projects need to get approval of the National Assembly

Figure 5.6 Organizational management structure applied for BOT projects carried out by domestic investor before 2007

(Source: Compilation based on Decree No.77/CP)

[12]ASAs consist of Ministries, equivalent agencies

The distinguishing features between these two organizational management structures were the decentralization of management. For the organizational management structures applied to foreign investors (see Figure 5.5), all PPP projects were managed at the ministerial level. For the organizational management structures applied for domestic investors (see Figure 5.6) the management of BOT projects was more decentralized at the local/provincial level. Namely, "A classification"[13] projects were managed directly by line ministries (ministerial level) or provincial/municipal People's Committees (provincial/local level) when approved by the Prime Minister. The Ministry of Planning and Investment (MPI) was responsible for granting investment license for such BOT projects. For BOT projects classified as "B" and "C", provincial/municipal People's Committees had obligations and rights for developing the project portfolio, approving project proposals, granting investment licenses, negotiating and signing-up BOT contract, and executing the project.

5.3.2.1.2 Capacity

Because the PPP scheme was new for both public and private parties in this period, PPP-involved officials were evaluated as un-experienced in their execution of PPP projects. As an interviewee expressed

> *"[...] actually, up to 2007 there were just a legal framework for PPP scheme which was considered to as quite "clear" but in fact the number of performed PPP projects were not many and most of implemented projects were managed at ministerial level therefore officials who know about PPP were limited even until now this model is still "strange" with many officials involved in construction industry [...]"* - Official in MPI - [refer to the question 3 – Appendix 2]

5.3.2.2 PRIVATE PARTY

5.3.2.2.1 Sponsor

Sponsors in PPP projects were enterprises including state-owned enterprises (SOEs) and non-state-Owned enterprises (non-SOEs) such as Limited Liability Companies (LLC), Joint Stock Companies (JSC), and others *(refer to Table 5.4)*. These enterprises can take part in PPP projects individually or combine with other enterprises to establish JSCs to take part in PPP projects.

[13] According Decree No.42/1996/ND-CP, infrastructure projects in Vietnam had been classified into three types including A, B, C basing on the size as well as the function of projects.

Table 5.4 The popular types of enterprise in Vietnam take part in PPP projects

(According to Law on State Owned Enterprise-Law 14/2003/QH11, and Company Law)

Types of enterprise	Founder/member	Finance resources
State owned enterprise (SOEs)	Government/State bodies	Allocated by state budget and having no right to issue shares to mobilize capital.
Joint stock Company (JSC)	At least three shareholders (including individuals, organizations, SOEs, etc.)	Contributed by its shareholders and having right to issue shares to mobilize capital.
Limited liability company (LLC/M-LLC)	Having one or more than one members (including individuals, organizations, state bodies, etc.)	Contributed by its members and having no right to issue shares to mobilize capital.
Partnership	At least two foundering members and may have capital contributing members	Contributed by its members and having no right to issue shares to mobilise capital.
Private Enterprise	Owner of private company (an individual)	Contributed by owner of private company and having no right to issue shares to mobilise capital.

In this period, with the exception of sponsors in power projects, the sponsors of PPP projects in the transport water sectors were almost entirely domestic SOEs. The composition of sponsors in licensed-PPP projects is shown in Figure 5.7.

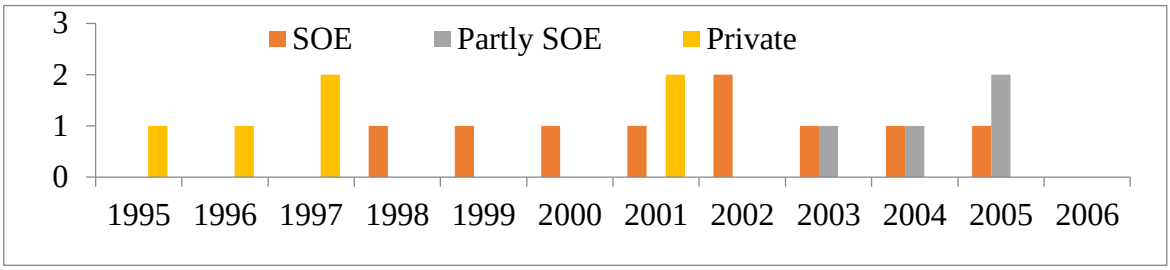


Figure 5.7 The number of licensed PPP- projects by sponsor type in the period before 2007

(Source: Compilation based on data of MPI, MOC, MOIT, and other sources)

Financial capacity manifests among the sponsors in their ability to mobilise equity. Due to the requirements of large capital investments for infrastructure projects, private investors have to possess a certain amount of equity, large enough large to undertake PPP projects. Equity can be mobilised in many ways, such as through shareholder contributions, issuing shares, or bonds in the stock market. During this period, non-state owned enterprises (non-SOEs) were almost all medium and small sized firms. SOEs were supposed to be larger and possess stronger financial capacity in comparison with non-SOEs. However, the accessibility to credit institutions of different types of sponsors did not remain constant. Figure 5.8 indicates the accessibility of enterprises measured by the ratio of total debt to total capital between the periods 2002-2006. Generally, the accessibility to credit institutions of SOEs was higher than that of non-state enterprises, and access for foreign investors grew.

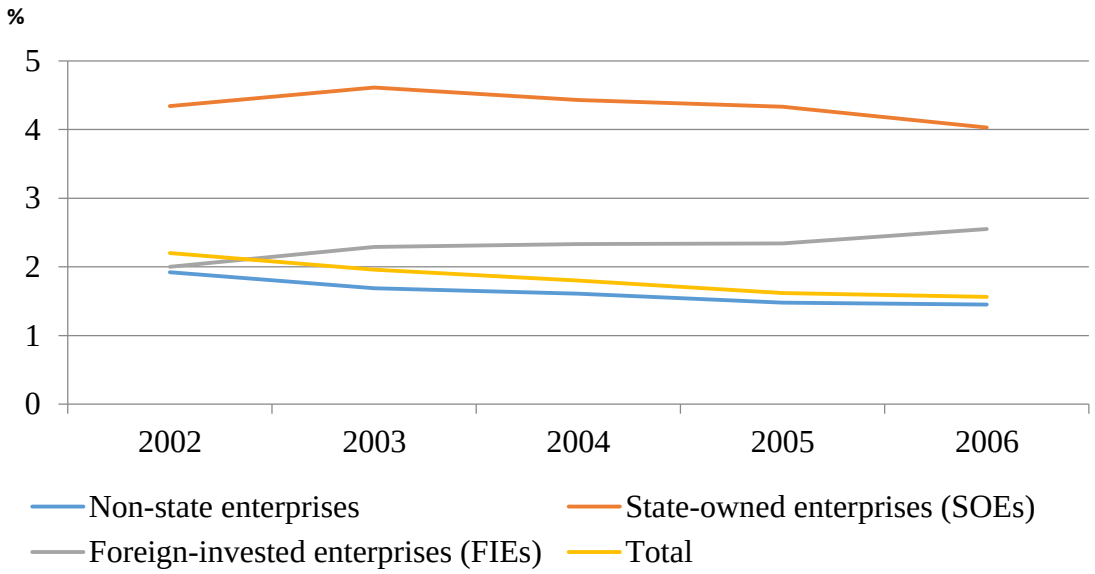


Figure 5.8 Debt index of enterprises in Viet Nam in the period of 2002-2006, measured by Ratio of total debt to total capital

(Source: OECD calculation based on General Statistics Office of Viet Nam (GSO), Enterprise Surveys, 2001 to 2006, cited in "Structural Policy Country Notes Viet Nam")

Since 2000, the Vietnamese Government enhanced the equitization of SOEs to improve the operational effectiveness of SOEs *(According to the Central Resolution No.3, the Ninth National Congress)*. There were many SOEs that equitized during the period before 2007 (see Figure 5.9). However, SOEs, which took part in PPP projects during this time, were still entirely SOEs.

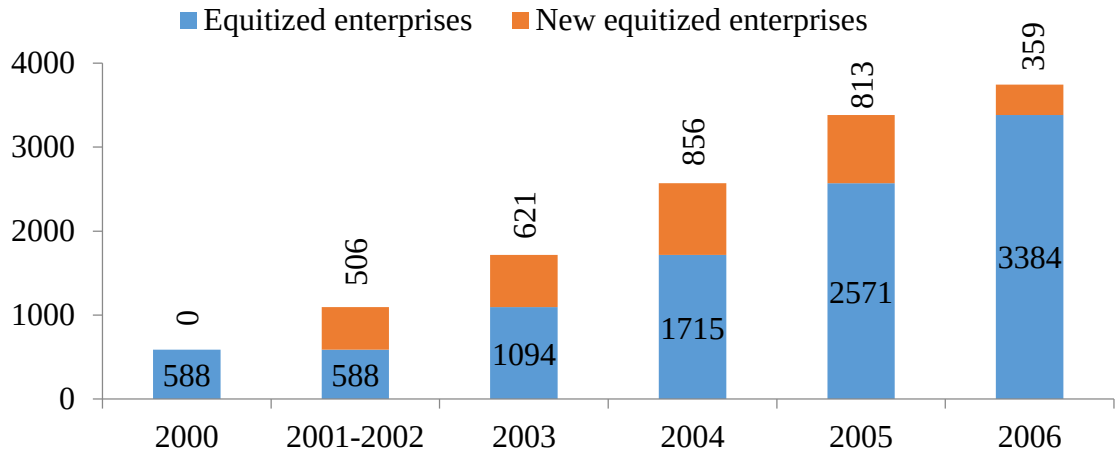


Figure 5.9 The equitization process of SOEs in the period before 2007

(Source: GSO, yearbook 2000-2010)

5.3.2.2.2 Lenders

The debt financing of PPP projects in Vietnam comes from bilateral and multilateral financial institutions such as the Asian Development Bank (ADB), World Bank (WB), and domestic financial institutions such as State-owned Commercial Banks (SOCBs), Joint Stock Commercial Banks (JSCBs), and Joint-Venture Banks (JVBs).

Unfortunately, for bilateral and multilateral financial institutions, due to the high standard of requirements of loans, PPP sponsors often suffer difficulties when it comes to attaining access. In the period before 2007, there were few PPP projects financed by international financial institutions such as the BOT Phu My Bridge project, financed by the French Bank Societe Generale and German Calyon Bank; the BOT Phu My 2-2 Power Plant project financed by ADB, ANZ Investment Bank, and Japan Bank for International Cooperation. Domestic sponsors often have difficulties approaching these loans because almost all financiers require government guarantees. However, government guarantees did not provide loans for all projects.

For domestic credit institutions, in practice, the main funding resources for infrastructure development are from the banking system. From 1990, state-owned banks began to equitize in order to become Joint Stock Commercial Banks (JSCBs). Until 2007, there were 35[14]JSCBs. Due to their small size, and the large capital investments required by PPP infrastructure projects, participation through providing loads was limited by these banks. In fact, there were four large State Owned Commercial Banks (SOCBs) which accounted for around

[14] Data of State Bank of Viet Nam (SBV)

80% of the capital, lending, and assets of the banking system and the majority of funding for PPP projects, including Vietnam Bank for Agriculture and Rural Development, Commercial Bank for Investment and Development of Vietnam (BIDV), Vietcom Bank, and Vietin Bank. Furthermore, Ho Chi Minh Stock Exchange (HOSE) was the first credit institution established in July 2000. This was one of the important basics for mobilisation and informational transparency in the financial system, and the promotion of effective business operations.

5.4 THE SALIENT FEATURE OF PPP SCHEME DEVELOPMENT WITHIN THE NASCENT PHASE

An investigation of the applications and stakeholders reveals two salient features in the development of a PPP scheme for infrastructure delivery in Vietnam. These are as follows:

(i) The application of a PPP scheme in the transport sector was much higher than those in other sectors in terms of the project number;

(ii) Most of investors *(i.e. sponsors)* of PPP transport projects were domestic (i.e., SOEs) while most of investors in PPP power projects were foreign.

The above features are presented in Table 5.5

Table 5.5 Summary of PPP scheme applications in infrastructure before 2007

	Number of applications	**Investor**	**Investment**		
			VND billion (1)	US million (2)	≈VND billion =(1)+(2)
Power	4	3 foreign + 1domestic		1273.6	**17830.4**
Transport	12	12 domestic	9197.326		**9197.326**
Water	3	1 foreign + 2domestic	3062	37.5	**3587**

Note: 1USD ≈ 14,500VND

5.5 IDENTIFYING INFLUENCING FACTORS

As indicated in Chapter 2, there are five groups of influencing factors that affect the development process of the PPP scheme, which are identified in literature, and include (1) political/social-involved factors, (2) legal-involved factors, (3) stakeholder-involved factors, (4) market/commercial conditions-involved factors, (5) and economic conditions-involved factors. When exploring the case of Vietnam, and the factors that have an influence on the

process of the Vietnamese PPP scheme development in its nascent phase, based specifically on the observations of the process, from the political economy perspective, the author developed the following two hypotheses:

(1) The incomplete feature of the legal framework and the unwillingness of politicians to increase tariffs in BOT projects led to very few PPP projects in power sector and water sector were realised.

(2) A weak financial capacity of private enterprises combined with priorities given by the government for SOEs led to the prevalence of SOEs in PPP transport project.

To identify the influencing factors, and validate the two hypotheses, a qualitative analysis of interview data and secondary data were conducted. The influencing factors have been extracted and illustrated in Table 5.6

Table 5.6 Extraction of influencing factors on the development process of PPP scheme in the nascent phase

Concept	Sub-category	Category
- The government's willingness for the participations of foreign investors in the infrastructure delivery in the very early time of the PPP adoption - Willingness of the Prime Minister for domestic private participations in the delivery of economic infrastructure projects in the period 1997-2007 - Unwillingness of government for foreign investor in BOT projects/having no BOT project for foreign players	(1.1) Willing to private engagement in PPP	(1) Political environment
- Unwillingness of politicians for increasing tariffs in BOT power and BOT water projects	(1.2) Unwilling to raise tariffs for BOT projects	
- The government often gives priorities for SOEs - SOEs were supposed to be more trustful than private entities	(1.3) Priorities given for SOEs	
- Power and water projects have strong relationship with the national security	(1.4) Reason of national security	
- The regulations of stipulating the participation of private entities to the delivery of infrastructure projects	(2.1) Encourage private investors participate in PPP	(2) legal framework

- The high regulated equity ratios before 2007	(2.2) Equity ratio regulations	
- Unsolicited proposal was not applied to domestic investors (inconsistency regulations on foreign investors and domestic investors)	(2.3) Proposal allowance	
- Incomplete regulations on loan security, foreign exchange and dispute resolutions - Having not clear regulations on the assigned obligations of PPP-staffs - No clear regulations on land-using rights that applied to foreign investors - Having no detail regulatory framework that provide governmental supports - Having not regulations about government guarantees on loans for the BOO projects	(2.4) Incomplete regulations	
- Features of small/medium size of private enterprise - Difficulties of private investors to access to financial institutions and making loans - No one wants to engage in PPP projects if a serious bidding process applied	(3.1) Small size of domestic private company	(3) Stakeholders' capacity
- Stronger capacity of SOEs comparing to private enterprises - Popularity of domestic private investors with weakness of financial and technical capacity - Technical capacity of domestic investors is often not able to meet requirements of projects with high technology	(3.2) Financial and technical capacity SOEs	
- Fears of losing from the Vietnamese PPP market of foreign investors	(3.3) Capacity of foreign investors	
- PPP-officials always stood in the passive side within the PPP project execution - Private investors completely controlled all PPP project's involved-issues in the period before 2010 - Private investors/project sponsors were always in the proactive side within the PPP project implementation	(3.4) Managerial capacity of ASAs and domestic investors	

- The decentralization of managerial structure in construction industry		
- Unbalanced budgetary allocation for sectors within infrastructure - Existence of constructed water supply projects in urban zones. - Low practical demands of treated water in rural areas	(4.1) Larger budget allocated for power and water projects	(4) Market conditions
- High Consumer Price index - Low Gross Domestic Product	(5.1) Economic indicators	(5) Economic conditions
- Electricity distribution and transmission are monopolized by EVN - Large-size feature of power projects - Huge investment-required power projects - Advanced technology requirement of power projects - Not too much huge required investment of transport projects - Not require advanced technology of transport projects - Most transport projects were built basing on existing routes - Funding agents of PPP-water projects are more than of those in PPP-power projects	(6.1) Project features/nature	(6) Project features/nature

Six factors were identified as influencing factors in the nascent phase of the PPP scheme development including (i) political environment, (ii) legal framework, (iii) stakeholders' capacity, (iv) market conditions, (v) economic conditions, (vi) and project features. Each influencing factor, as it applies to the current case will now be interpreted, alongside the observations made in the developmental process, as well as with qualitative data extracted from interviews with PPP practitioners.

5.6 INTERPRETATION OF IDENTIFIED INFLUENCING FACTORS

5.6.1 POLITICAL ENVIRONMENT

The political environment contains within it the notion of "*political willingness*", which appeared to have, to some extent, an influence on the development of a PPP scheme in this stage, especially within foreign-invested projects (*i.e., BOT power projects and BOT water projects*). Power projects and water projects were attractive for foreign investors at the

initial time of the PPP scheme adoption under BOT models. With many BOT power projects and water projects receiving investment from foreign investors, such as BOT Phu My 2-2 Power plant, BOT Phu My 3 power plant, the Wartsila power plant, BOT Binh Duong Water Supply plant, the Sai gon River supply project, Thu Duc water plant, and Binh An water plants, among others. However, very few projects reached "*financial close*" after this period. The problematic reason was assumed that of the "*raising tariffs*". Established as obstacles during the negotiation process, with the reason being, they were deemed to be down to the "*unwillingness of the government*". Some evidences presented from secondary data as follows:

> *"The government is unwilling to set the electricity tariff at a rate that will permit the project sponsors to receive a reasonable rate of return"*- Cited in "**Bringing a BOT Project to closure in Vietnam: problems and Prospects**"[15]
>
> *"Raising end-user tariffs is one solution, but the power to do so lies with local mayors and assemblies, which are very reluctant to take this unpopular step. There is a lot of room to increase water tariffs and still maintain affordability for the urban poor. The biggest obstacle in this process is still the politicians will not to raise tariffs" explains Cira of the World Bank* – Cited in "**Vietnam set to lay its PPP ghosts to rest**"[16]

Faced with many problems of foreign investors in BOT projects during this stage, in 2003 the government became unwilling to cooperate with foreign investors in BOT projects. As presented by GWI''s Olivia Jensen and Rama Rastiogi

> *"In 1997, Suez was awarded a 25-year BOT contract for the 300,000m^3/d Thu Duc water supply project serving HCMC. The project took four years to reach financial close, and was then cancelled in 2003. In the meantime, the policy tide had turned against PPPs and the government announces that no new BOT projects would be awarded to foreign players"* - Cited in "**Vietnam set to lay its PPP ghosts to rest**"[17]

5.6.2 LEGAL FRAMEWORK

As described in section 4.3, the legal framework set up for the PPP scheme in this period was considered inconsistent due to fact the "*domestic and foreign investor regulations place higher regulatory restrictions on domestic investors*". With the regulation of minimum equity ratio of at least 30 percent of the total project investment, very few private entities were able to meet this requirement.

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[15]http://www.mondaq.com/x/106924/Investment+Strategy/Bringing+a+BOT+Project+to+Closure+in+Vietnam+Problems+and+Prospects+Pat+2, accessed in June, 2015

[16] "*Vietnam set to lay its PPP ghosts to rest".* Available at http://globalwaterintel.com/archive/12/11/general/vietnam-set-lay-its-ppp-ghosts-rests.htm, accesses in 15th, April, 2014

[17] "*Vietnam set to lay its PPP ghosts to rest".* Available at http://globalwaterintel.com/archive/12/11/general/vietnam-set-lay-its-ppp-ghosts-rests.htm, accesses in 15th, April, 2014

An industry professional claimed in an interview that:

> " *[…]Mention about the Decree No.77*[18]*, under the period of Decree 77, the State managed strictly this model, it regulated a very high equity proportion along with the strict management on the project quality via the regulations on the approval of FS and detailed design of the ASAs. The PPP projects (i.e., BOT projects) were managed as public invested projects, project investors they just had the right to decide the form of contractor selection for PPP projects […]*"– Investor in industry - [refer to question 7 – Appendix 2]

On the other hand, during this period there was another regulatory framework that applied to foreign-invested PPP (BOT) projects *(i.e., Decree 87/CP and subsequent amending decrees).* However, this regulatory framework appeared to be incomplete. Investors identified three major weaknesses[19]: "*availability of foreign currency, security for loans, and dispute resolution*". These legal weaknesses resulted in the delay in the negotiation process of some on-going PPP projects and eventually led to the reluctance and withdrawal of foreign investors from some PPP projects in the power and water sector. An interviewee claimed:

> *"[…] even the power market in Vietnam is huge, but with a bad reputation on the negotiation processes from former PPP projects which were carried out at the end of the 1990s, many foreign investors became reluctant to invest with power projects in Vietnam [...]*" – Expert in ADB –[refer to question 8-Appendix 2]

5.6.3 STAKEHOLDERS' CAPACITY

Stakeholders consist of project sponsors and PPP-involved officials. During this period (before 2007), sponsorship for transport and water projects were dominated by SOEs. This may be affected by many factors, such as a lack of regulation on making unsolicited proposals that applied for domestic investors. Most of the proposed PPP (BOT) projects were solicited proposals. In the transport sector, the government (ASAs) appointed most investors of PPP transport projects. In fact, the government controls the financial sources and administrators of SOEs; therefore, SOEs would be preferred to non-SOEs in the process of investor selection for PPP projects.

Secondly, since SOEs have historically received preference over non-SOEs, their accessibility to financial institutions was higher than non-SOEs because SOCBs also gave them priority in comparison to non-SOEs[20]. This is presented in Figure 5.9.

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[18] Decree 77/CP was enacted in June 18th 1997 and put in place in the period of 1997-2007

[19] Cited in "Bring a BOT project to closure in Vietnam: Problem and prospect" Available at http://www.mondaq.com/x/106924/Investment+Strategy/Bringing+a+BOT+Project+to+Closure+in+Vietnam+Problems+and+Prospects+Pat+2, accessed in June, 2015

[20]According to "structural policy country note Vietnam"- ECONOMIC OUTLOOK FOR SOUTHEAST ASIA, CHINA AND INDIA 2014: BEYOND THE MIDDLE-INCOME TRAP © OECD 2013. Available at https://www.oecd.org/site/seao/Viet%20Nam.pdf, accessed in June 2015

Third, the capacity of purely private enterprises during this period was supposed to be low as they consisted of medium and small-sized enterprises. They could not meet the financial or technical requirements to undertake PPP projects. As an interviewee expressed:

> *"[…] the company law was issued in 1990; this was the initial basis for the development of private entities to take part in economic elements. However, until 2000, the Enterprise law had been improved and then many private enterprises were established. During this time the size of enterprises was small, therefore they were not able to take part in PPP projects. At this time, only SOEs participated in BOT projects […]"* – Investor in industry- [refer to question 6-Appendix 2]

With the above features of sponsor/investors in PPP projects, particularly in transport and water PPP projects, it can be suggested that with the exception of PPP power projects, the role of private and public parties were not identified clearly in the "public-private-partnership", particularly in the transport sector. In practice, what can be observed is more of a "*public-public-partnership*".

5.6.4 MARKET CONDITIONS

In this study, market conditions consist of:

- Construction market: such as demands for delivering infrastructure projects
- Financial market such as: availability of financial packages, lending interests
- The real estate market: land prices and apartment's prices

During this period, the primary data and secondary sources reveal that market conditions such as "*construction market demand*" appeared to have influence on the PPP scheme, but the relationship is unclear. Trends can be observed by looking at the proportion of public investment within infrastructure projects.

Figure 5.10 reveals that during this period, the government allocated a larger amount of the budget to the power and water sector than for the transport sector. This might be a factor leading to the demand for delivery of transport projects, following the utilisation of private investment capital under a PPP scheme being higher than the other sectors.

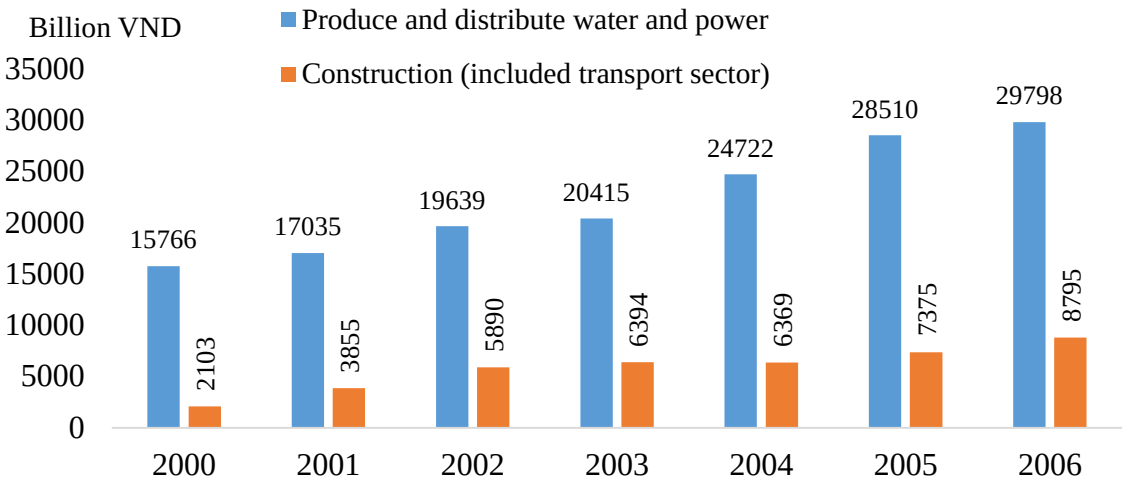

Figure 5.10 Public investment for power, water and construction in Vietnam from 2000 to 2006

(Source: GSO)

Some interviewees expressed that:

> "*[...] Due to national security, the distribution of electricity is monopolised by Viet Nam Electricity (EVN). Therefore, the government usually keeps a certain amount of budget for the development of this sector. The private sector is only able to take part in constructing power plants and produce electricity, followed by the sales of their production to EVN [...]"*– Investor in industry – [refer to question 4 – Appendix 2]
>
> "*[...] a water supply network has existed for many years and was built by using a budget or by funding from NGOs. Therefore, the actual demands for water supply in urban areas are not high [...]"* -Investor in industry– [refer to question 5 – Appendix 2]

5.6.5 ECONOMIC CONDITIONS

Figure 5.11 displays the very high Consumer Price Index (CPI) and low Gross Domestic Product (GDP) around the 1990s, along with the difficulties faced by the national economy at that time. In combination with the motivation to call for foreign investment by the government, this may have led to higher adoption of the PPP scheme for infrastructure projects. However, macro-economic conditions may only represent the initial reasons for the adoption of a PPP scheme under a BOT model in Vietnam.

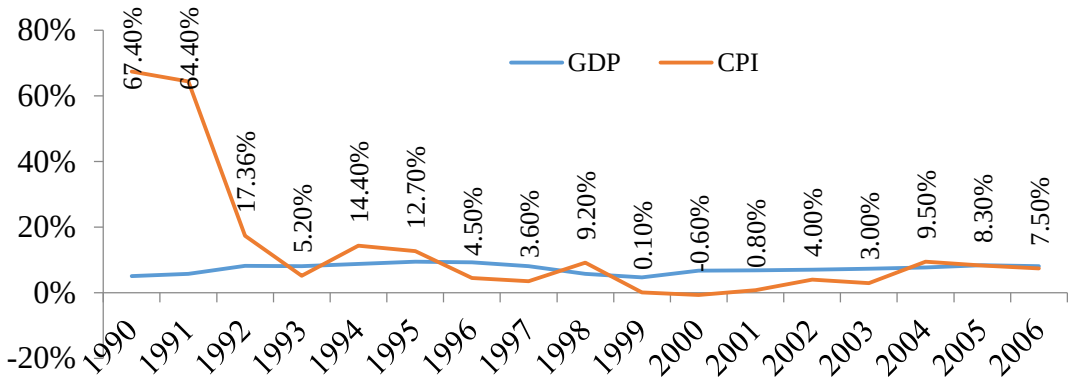

Figure 5.11 The relationship between Gross domestic product (GDP) growth and Consumer price index (CPI) in the period of 1990-2007

(Source: GSO, yearbook 2000-2010)

5.6.6 FEATURES/NATURE OF THE PROJECTS

In regards to the features of each project *(i.e., the size, as well as the required technology and total investment of projects)*, power PPP projects in Vietnam require a large investment, when compared with transport and water projects (see Figure 5.12). Contrarily, power projects usually require highly advanced technology in comparison with transport and water projects (Hammami, 2006). Thereby, if investors do not have a strong financial and technical capacity, they cannot take part in power projects.

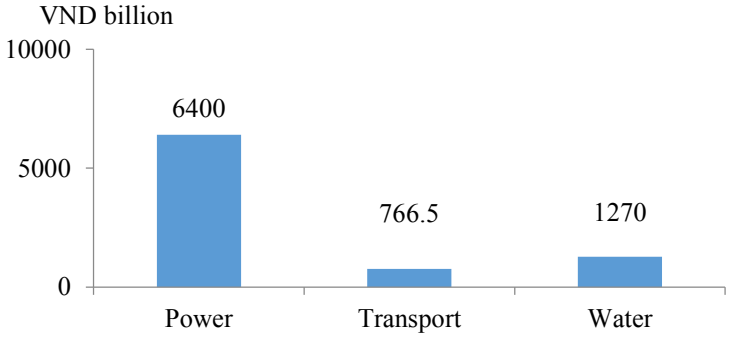

Figure 5.12 The average amount of investment capital of licensed-PPP projects by sector in the period before 2007

(Source: Compilation based on data from MOT, MPI, MOIT)

For project features, a salient feature of PPP transport projects *(i.e., road projects)* is that a majority of PPP transport projects are made up of repair and upgrade projects *(i.e., accounted for around 60% in total licensed transport projects during this period)*. PPP road projects will thus be developed on existing routes. This might help to reduce investment and

turn out to be more acceptable for investors in terms of projection of future demands. On the other hand, the feature of the funding agent[21] of different kinds of PPP projects might be an influencing factor on the participation of private investors in PPP projects. For each sector, the factors will be slightly different, in that:

- PPP power projects: EVN is the only funding agent.
- PPP transport projects: the users (general public) will be the funding agent
- PPP water projects: SOEs which operate exclusively water supply networks in specific regions *(e.g., a city, a municipality, etc.,)* will be the funding agents.

With such features, PPP projects in the power sector may appear less attractive to the private sector in comparison with PPP projects in other sectors because their revenue would depend heavily on the decision a single funding agent, the EVN.

On the other hand, when asked about differences amongst PPP schemes in power, transport and water sector, some interviewees stated that:

> "*[…] undoubtedly, the end user in BOT power projects is EVN, this is the only client for all BOT power projects' investors in Viet Nam. EVN has right to decide to buy or not to buy electricity from BOT power Companies. In additional, electricity prices are also decided by EVN. Therefore, regarding to the environment investment, power sector is not much favorable […]"* - Investor in industry – [refer to question 4 – Appendix 2]
>
> "*[…] another feature of BOT transports projects that most of BOT transport projects is the ones which were built basing on the existing routes. It means most of BOT projects are repaired and upgraded projects for example most of BOT projects belongs to National Road 1A. Therefore the BOT investors can take advantages of existing routes to minimize total investment for BOT projects […]"*- Investor in industry-[refer to question 4 – Appendix 2]

5.6.7 SUMMARY

The current study has found that in addition to the five groups of influencing factors identified from the literature, the "features/nature of the projects" appeared to have influence on the development of Vietnam's PPP scheme. Generally, of the six identified influencing factors, (1) "political environment" ("*unwillingness of politicians to raise tariffs in BOT power and water projects*" in particular), "legal framework" *(the weakness of* "*availability of foreign currency, security for loans, and dispute resolution*" in particular) applied for foreign investors led to the very few PPP power and water projects realized. (2) And "stakeholder capacity" (*"weak capacity of private entities and stronger capacity of SOEs"*

[21] Funding agents is responsible for providing the income stream on which the feasibility of the project rests

in particular), and regulation of equity ratio applied for domestic investors and of investor selection procedures along with "*features/nature of small investment and not required high advanced technology of transport projects*" and the priority given by the government for SOEs led to the prevalence of PPP (BOT) transport projects and the prevalence of SOEs under the role of projects sponsors in PPP transport projects.

5.7 SUMMARY OF THE CHAPTER

In general, with the expectation of attracting foreign investors to invest in infrastructure projects in Vietnam under the pressure of national economic difficulties, the Vietnamese government adopted a PPP scheme around 1990s under the BOT model. It then expanded the application of this model for domestic investors. Through fourteen years of its application *(i.e., from 1993 to late 2006),* the applications of this model were still limited.

This chapter explored the development process of the PPP scheme in the period before 2007 as follows:

(1) With 19 projects *(i.e., four power projects, 12 transport projects, and three water projects)* granted investment licenses under BOT, and BOO model. There was a strong prevalence of SOEs as project sponsors particularly in the transport sector. With the exception of PPP power projects, most transport and water projects were financed by SOCBs.

(2) The prevalence of PPP transports projects and of SOEs under the role of projects sponsor are the two salient features of this period. The relationship of "public-private-partnership" in PPP transport projects during this period was in fact similar to "*public-public-partnership*" in practice.

(3) Six groups of influencing factor have been identified to have influence on the development process of the PPP scheme in this stage including *(i) political environment, (ii) legal framework, (iii) stakeholders' capacity, (iv) market conditions, (v) economic conditions, and (vi) project features*. Of which, unwillingness of politicians to raise tariffs in BOT power and water projects and the weakness of legal framework *("availability of foreign currency, security for loans, and dispute resolution")* applied for foreign investors led to the very few PPP power and water projects realized (19 applications). And, "*stakeholders' capacity*" particularly *weak capacity of private entities and stronger capacity of SOEs,* regulation of equity ratio applied for domestic investors of investor selection procedures along with "*nature/feature of small investment and not required high advanced technology of transport projects*" and the priority given by the government for SOEs led to the prevalence of PPP (BOT) transport projects and the prevalence of SOEs under the role of project sponsors in PPP transport projects.

Chapter 6

EXPLORING PPP SCHEME DEVELOPMENT - TRANSITIONAL PHASE 1 (2007-2010)

6.1 OBJECTIVE

The objective of this chapter is to clarify the development process of PPP scheme for infrastructure projects in transitional phase 1 (2007-2010). Namely, (1) to describe the application of PPP schemes and its transitional procedures, particularly in the transport sector, power sector and water sector from 2007 to 2010 as well as stakeholder features, (2) to identify the salient features of the PPP scheme in this stage, and (3) to identify and interpret influencing factors on the development process of PPP scheme.

6.2 METHODOLOGY

This chapter and the following chapters describing the phases of development will apply the same methodology and analytical framework as the previous chapter.

6.3 THE DEVELOPMENT OF PPP SCHEME IN TRANSITIONAL PHASE 1 (2007-2010)

6.3.1 APPLICATIONS OF PPP SCHEME

6.3.1.1 POWER SECTOR

During this period, there was only one power project *(i.e., Mong Duong II thermal power Plant)* awarded with an investment license carried out by a consortium of AES (American), Posco (Korean) and CIC (China) under the BOT model with a total investment of 2.147 billion USD.

In addition, there were two other thermal power plants, which were approved with feasibility studies (FS) and started contractual negotiations in 2009, including the Hai Duong thermal power plant and Vinh Tan 1 thermal power plant with a total investment of 4.276 billion USD. These two projects were invested in by foreign investors from China and Malaysia.

The transitional procedures for project implementation do not differ from those in the nascent phase, as indicated in Table 5.1.

6.3.1.2 TRANSPORT SECTOR

There was a sudden increase and decrease in the number of PPP transport projects in this period as shown in Figure 6.1.

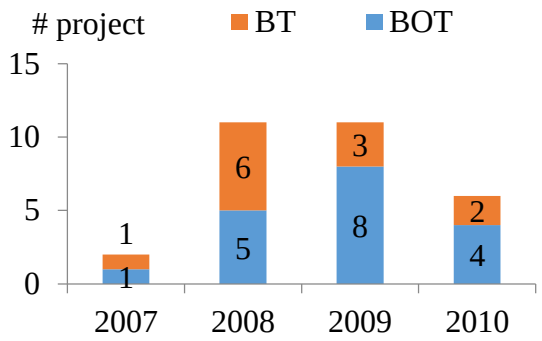

Figure 6.1 The number of licensed PPP- transport projects by contractual type from 2007-2010

(Source: Compilation based on data from MPI)

Thirty projects were awarded investment licenses with a total investment of 66,447.3 billion VND. Of these projects, 18 were BOT projects and 12 were BT projects with most being unsolicited proposals.

The transitional procedures for the implementation of solicited projects are similar with those in the nascent phase, as shown in Table 5.3 in Chapter 5. For unsolicited projects, the transitional procedures are indicated in Table 6.1.

Table 6.1 The transitional procedures of a PPP project implementation in the transport sector applicable for unsolicited proposals

No	Category	Detail contents		Decision maker
		Authorized State Agencies (ASAs)	Investor	
1	Project proposal		- Develop proposal documents (pre-FS) - Submit to approve	
		- Receive proposal documents (pre-FS) - Appraisal and Approval of the proposal documents (pre-FS) - Adding the project to the transport network planning of the regional if the project has not existed in		Prime Minister/President of Provinces/Municipality
2	Develop Feasibility Study (FS)	- Approval of FS	- Develop Feasibility Study	Minister/Director of PMU
3	Calling for investment	- Publicize the project portfolio online - Release bidding dossier/requirement dossier - Submit and approve the investor selection plan	- Register for investment - Seek to lenders	Prime Minister/Chairman of Province/Municipality
4	Investor selection	- Organize Selection of investor (open-bidding/direct appointment) - Approval of investor selection result - Publish the result of investor selection	- Submit bidding dossier/requirement dossier - Take part in bidding	Prime Minister/President of Provinces/Municipality /Director of PMU

5	Sign-up PPP-Principal Agreements	- Contractual negotiation	- Contractual negotiation	Director of PMU/ investors
6	Establishment of Project Company		- Establishment of Project Company	Director of Department of Planning and Investment
7	Selection of contractors	- Monitor the process of Selection of contractors	- Selection of contractors (design consultant, material suppliers, constructors, etc.)	investors
8	Granting of Investment License	- Receive the procedures for granting Investment License	- Submit the procedures for granting Investment License	Minister of MPI/Director of Department of Planning and Investment
9	Sign-up contract	- Sign-up contract	- Sign-up contract	Minister / President of Provinces/Municipality /investors
10	Construct	- Monitor the implementation of the BOT/BT contract	- Deploy to construct the project	ASA/investors/contractors
11	Operate	- Monitor the implementation of the BOT/BT contract	- Operate	
12	Transfer	- Appraisal of the quality of the project - Take over the project	- Transfer the project to the government	Minister / President of Provinces/Municipality /investors

Note: For BT projects, there is not the step No.11 (Operate)

(Source: Compilation based on Decree 78/2007/ND-CP and Decree 108/2009/ND-CP)

6.3.1.3 WATER SECTOR

During this period, there was only one water project awarded with an investment license *(i.e., B.O.O Dong Tam water plant)* with a total investment of 1,400 billion VND under the BOO model. This project was carried out by a domestic investor *(i.e., Ho Chi Minh City Infrastructure Investment Joint Stock Company- partly SOE)* and was financed by a SOCB *(i.e. Joint Stock Commercial Bank for Investment and Development of Vietnam- Tien Giang branch)*.

There were no regulations for the implementation of projects under the BOO model within the legal framework at that time. In reality, however, the transitional procedures for the implementation of this project were followed by the procedures, which are illustrated in Table 5.3.

6.3.1.4 INVESTOR SELECTION

Most investors of PPP projects in this period were selected via "*direct appointment*". In fact, there are two types of investor selection applied to construction projects according to Bidding Law 2005 *(i.e., Law No.61/2005/QH11)* including "*open-bidding*" and "*direct appointment of investor*". The investor selection process is illustrated in Figure 6.2. In fact, "*open-biding*" had almost not been utilized in PPP projects.

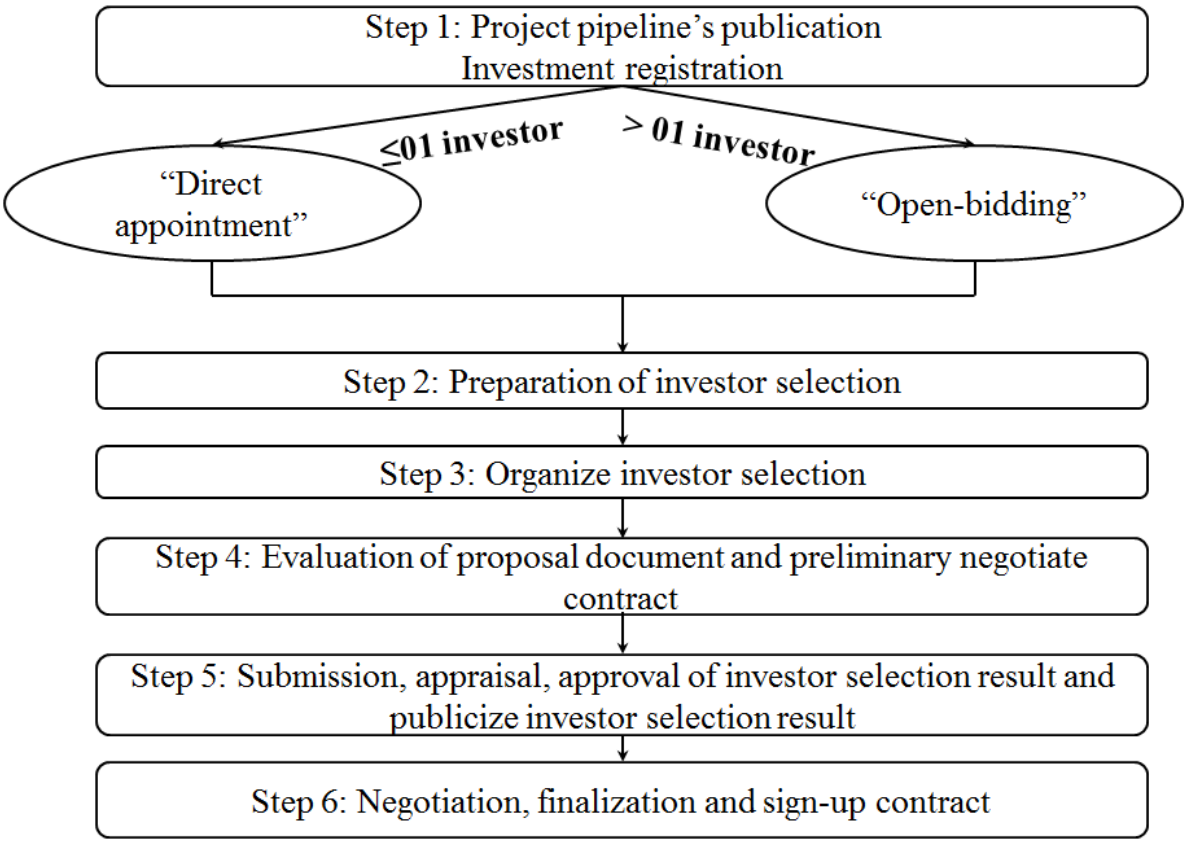

Figure 6.2 The investor selection process

(Source: Compilation based on Bidding Law 2005, Law No.61/2005/QH11 enacted in November 29th 2005)

6.3.1.5 EXCEPTIONAL CASES

There were some exceptional cases regarding incentive policies during this phase, particular in transport sector. A case study was selected to show the details of this exceptional case.

6.3.1.5.1 BOT Hanoi-Haiphong expressway

i. Project introduction

The BOT Hanoi-Hai Phong project is an expressway beginning at Ring Road No.3 in Hanoi City, extending 1025 meters towards Bac Ninh province and ending in Dinh Vu dam, Hai An District, Hai Phong City. The location of the project is shown in Figure 6.3

Figure 6.3 The location of Hanoi-HaiPhong Expressway Project

(Source: Ocean JSC[22])

This project was designed as an A-grade road with a total length of 105.5 kilometres including seven grade-separated junctions, 17 large-size bridges, 25 medium-size bridges, and 22 over-bridges. A crossing was designed with six 3.75 meters-lanes for cars that can handle automobiles travelling 120 km per hour and two emergency stopping-lanes. This project was delivered under a BOT scheme with a total investment of 45,487 billion VND and the concession period was 30 years.

ii. Project development

A pre-feasibility study of the project was developed in 2003 by TEDI and invested by Bien Dong Project Management Unit (Bien Dong PMU). However, Bien Dong PMU could not mobilize enough investment capital for project delivery. In 2007 the Prime Minister approved the FS of the project under a BOT model and VIDIFI was assigned to be the project sponsor. VIDIFI was also a Project Company made up of the Vietnam Development Bank, the Joint stock Commercial Bank for Foreign Trade of Vietnam (VCB) and the Consortium of Bitexco Corporation and Sai Gon Investment JSC.

In January of 2009, MPI granted an investment license for the project and construction began in February of 2009. The project was put in use in December 2015.

iii. Project stakeholders

Public sector

[22] Available at: http://www.dinhvuport.com.vn/vi/chi-tiet-tin-tuc/?ID=159, accessed in May 1st, 2016

The major public stakeholder in this project is the Ministry of Transport (MOT). This State body was authorized to negotiate and sign-up the BOT contract with the Project Company (and project sponsor, VIDIFI). The others counter-parties included the Prime Minister; Ministry of Planning and Investment (MPI); Ministry of Finance (MOF); Ministry of Construction (MOC), Ministry of Natural Resource and Environment (MONRE), People's Committee of Hanoi City, People's Committee of Hai Phong Province, People's Committee of Hai Duong province, and People's Committee of Hung Yen province.

According to the authorization of the Vietnamese government, the role of Vietnamese counter-parties in the Hanoi-Hai Phong expressway project was as follows:

- Prime Minister: Approving the project strategy.
- MOT: Approving the project investment; selecting the project sponsors; negotiating and signing the BOT contract with the project sponsors; making a decision to regulate the responsibilities and obligations of each sub-municipal administrator to VIDIFI and playing the major role of authorized state body to operate the project.
- MPI: Issuing the Investment License to set out the terms of license and providing for the establishment of the VIDIFI.
- MOF: Making loan guarantee for VIDIFI through recommendation of MOT.
- MOC: Issuing the relevant building activities certificate of the project to VIDIFI and corporation with the others State agencies to manage the project construction.
- MONRE: Appraisal and approval of the environment assessment of the project.
- People's Committee of Hanoi City, People's Committee of Hai Phong Province, People's Committee of Hai Duong province, and People's Committee of Hung Yen province were responsible for land acquisition and resettlement.

Sponsors

There were three sponsors in this project including Vietnam Development Bank (VDB) (accounted for 51% shares), Joint stock Commercial Bank for Foreign Trade of Vietnam (VCB) (accounted for 29% shares) and Consortium of Bitexco Corporation and Sai Gon Investment JSC (accounted for 20% shares). These three sponsors established the Project Company named VIDIFI.

Lenders

VDB and VCB provided 70% and 30% of debt, respectively for the project.

The structure of project stakeholders is shown in Figure 6.4

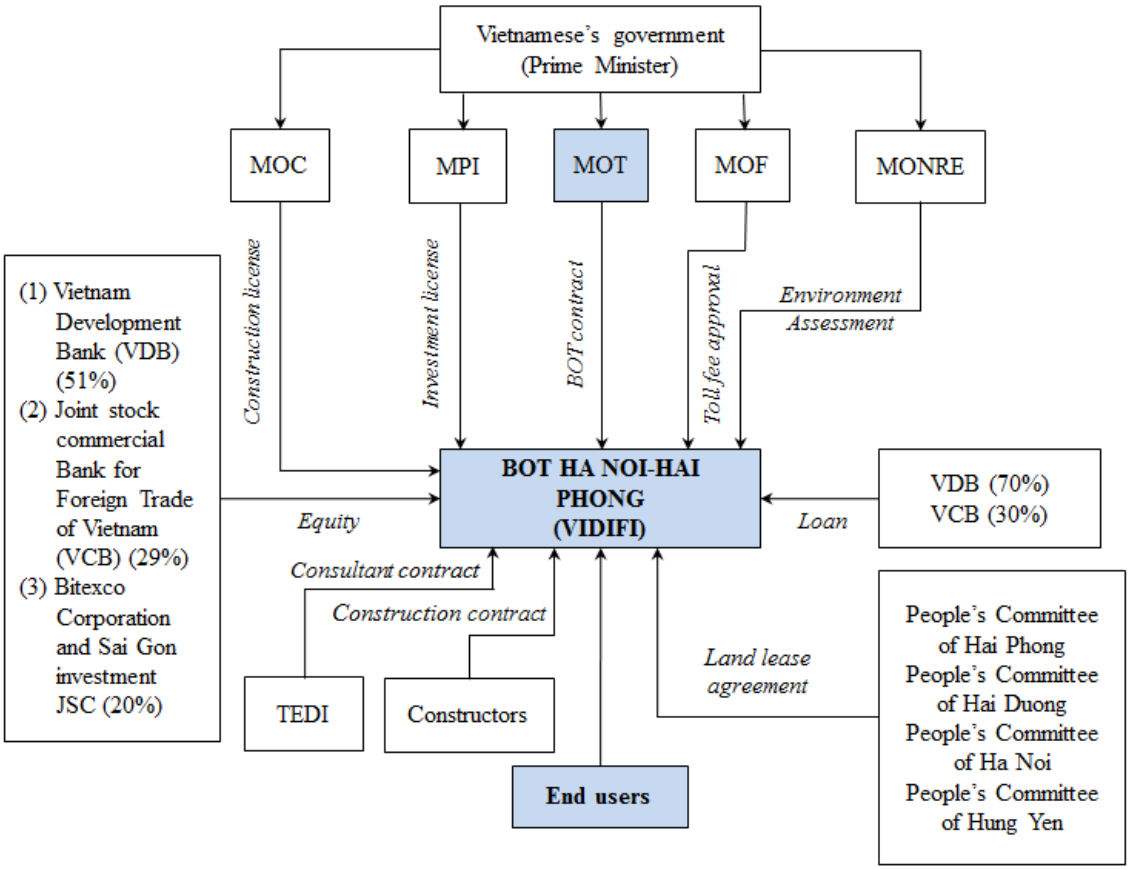

Figure 6.4 The relationship between stakeholders in the Hanoi-HaiPhong Expressway project

(Source: Compilation based on investigation)

iv. **Incentive policies** *(according to Decision 1621/QD-TTg dated November, 29th 2007 and Decision No 938/QD-TTg dated in July, 1st 2009)*

(1) Land acquisition

- Provincial government is obligated to complete land acquisition
- Land-clearance projects should only be developed under the form of on-step design.
- Contractors can be selected by direct appointment.
- Permission was given for the deployment of land-clearance projects at the same time with their approval time.

(2) Loans

Equity

- Vietnam Development Banks (VDB) are permitted to contribute 51% of authorized capital for VIDIFI (Project Company)

- Vietnam Commercial Bank (VCB-current name is Joint stock commercial Bank for Foreign Trade of Vietnam) is permitted to contribute 29% of authorized capital for VIDIFI.
- VIDIFI can sell shares (*i.e., Initial Public Offering-IPO*) to mobilize enough equity. If VIDIFI cannot mobilize enough investment capital, VDB shall support VIDIFI.

Debts

- VDB would finance 70% of total debt for VIDIFI
- VCB would finance 30% of total debt for VIDIFI
- Loan profile of VIDIFI would be exempt from appraisal
- MOF would provide a loan guarantee for VIDIFI
- VDB &VCB could mobilize domestic or foreign capital (*even ODA sources*) to ensure enough capital for VIDIFI.
- Government would give loan guarantee for VDB and VCB if necessary.

(3) Tax

- Preferential tax for corporate income and import duties
- Exemption of land use fees for areas controlled by the State

(4) Recoup invested investment

- Rights to decide tariffs of the project
- Rights to do business of infrastructure services belonging to the project area and can perform civil transactions for this right
- Rights to exclusive advertising business along the project location
- Rights to adjust the total investment under the fluctuation of market conditions
- Rights to collect tariffs of National Road No.5 to serve the implementation of the project
- Rights to invest into urban zones along the project

6.3.2 STAKEHOLDERS IN PPP PROJECTS

6.3.2.1 PUBLIC PARTY

6.3.2.1.1 Managerial organization structure

The managerial organization structure within this stage did not change in comparison with those in the nascent phase (refer to Figure 5.5). During this phase, according to Article 6, Decree 78/2007/ND-CP and Article 7, Decree 108/2009/ND-CP, an inter-sector working

group[23] could be established to assist ASAs during the project implementation. However, this group only assisted ASAs in implementing specific projects and usually would be disbanded when the construction of those PPP projects completed.

6.3.2.1.2 Capacity

During this period, the managerial capacity of PPP officials was evaluated to being insufficient for satisfying actual demands, particularly in the execution of BT project implementation. There were multiple issues occurring during the implementation of BT projects, which were considered to be out of the control of ASAs. In reality, more than one hundred BT projects[24] obtained approvals of pre-FS during this phase. However, only four projects completed construction and just six projects reached contractual agreements[25].

As an interviewee expressed

> *"[...] under the period of Decree 78[26], because of BT model was new, most of BT projects were unsolicited proposals therefore project investors (i.e., proponents) they "controlled" most of project-involved issues. On the other hand, at that time, there had no clear regulations applied to this model, so governmental officers they did not interfere so much into the project implementation, even they wanted to make intervention they were not able to do this, it was out of their capacity. [...]"* – Investor in industry – [refer to question 3- Appendix 2]

6.3.2.2 PRIVATE PARTY

6.3.2.2.1 Sponsors

The composition of sponsors in PPP projects within this stage is illustrated in Figure 6.5.

[23] Members of this organization are representatives of involved sector, normally being officials from involved ministries or involved departments of provinces and some economic/legal experts

[24] BT projects got approval pre-FS in this case including projects in transport sector, water sector, health care sector, and other sectors.

[25] According to "Các chiêu đội giá công trình"
Available at: http://www.tienphong.vn/xa-hoi/cac-chieu-doi-gia-cong-trinh-569627.tpo , accessed in January, 2016

[26] Decree no 78/ND-CP enacted in 2007 and put in place in the period of 2007-2009

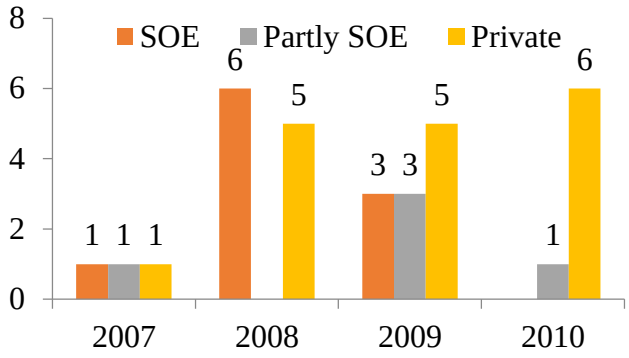

Figure 6.5 The composition of sponsors in licensed PPP projects from 2007-2010

(Source: Compilation based on data from MPI, MOT, MOIT)

There was an increase in the number of private enterprises and partly-SOEs in comparison with those in the nascent phase. Namely, there were 10 projects carried out by SOEs, 5 projects carried out by partly SOEs, and 17 projects carried out by private enterprises.

6.3.2.2.2 Lenders

Apart from power projects, most PPP projects in this stage were financed by SOCBs. Since 2007, the government began promoting the equitization of State-Owned-Commercial-Banks. In fact, this process progressed at a slow pace, with very few large-sized SOBCs that usually supplied loans for PPP projects during this phase.

6.4 THE SALIENT FEATURE OF PPP SCHEME DEVELOPMENT WITHIN TRANSITIONAL PHASE 1

Based on observations of the development of the PPP scheme in the period of 2007-2010, in comparison with the nascent phase, there are some noticeable salient features of PPP scheme in this phase. For example,

- A sudden increase and decrease in number of PPP transport projects.
- An appearance and prevalence of the BT model applied in PPP transport projects.
- A changing trend in the composition of sponsors in PPP transport projects in which there was more participation of partly-SOEs under the role of project investors.

6.5 IDENTIFYING INFLUENCING FACTORS

We must now consider whether the six influencing factors also apply to the development of the PPP scheme in Transitional phase 1. Based on the observation of the process, from the political economy perspective, the hypothesis considered after comparing the

phases became: "***the market conditions (the "bubble" real estate market) and the legal framework along with a lack of managerial capacity of PPP-involved officials resulted in the sudden change in the number of PPP transport projects***"

To identify the influencing factors in this period and validate the hypothesis, a qualitative analysis of interviews with PPP practitioners was conducted. The influencing factors have been extracted and shown in Table 6.2

Table 6.2 Extraction of influencing factors on the development process of PPP scheme in transitional phase 1

Concepts	Sub-categories	Categories
- The government often gives priorities for SOEs - SOEs were supposed to be more trustful than private entities	(1.3) Priorities given for SOEs	(1) Political environment
- Power and water projects have strong relationship with the national security	(1.4) Reason of national security	
- The regulations of stipulating the participation of private entities to the delivery of infrastructure projects	(2.1) Encourage private investors participate in PPP	(2)Legal framework
- The small regulated equity ratios	(2.2) Equity ratio regulations	
- All investors could develop unsolicited proposals	(2.3) Proposal allowance	
- Having not clear regulations on the assigned obligations of PPP-staffs - No clear regulations on land-using rights applied to foreign investors - Having no detail legal framework that provide governmental supports - Not clear regulations on the BT model - Not clear regulations on the land pricing	(2.4) Incomplete regulations	
- Stronger financial capacity of partly-SOEs comparing to of SOEs - The small size and medium size of private enterprises - Lack of understanding of private investors on the BT model	(3.1) Capacity of domestic private entity	(3) Stakeholders' capacity

- ASAs just approve FS - Out of control on project's quality and the implementation process of ASAs - Lack of capacity of government officials in the execution of BT projects - Confusion and embarrassment of ASAs in their execution of the BT model - Governmental officials did not have much understanding about the BOT model - PPP-officials always stood in the passive side within the PPP project execution - Private investors completely controlled all PPP project's involved-issues in the period before 2010 - Private investors/project sponsors were always in the proactive side within the PPP project implementation	(3.4) Managerial capacity of ASAs and domestic investors	
- Administrative merger of urban areas - "The heat" of the real estate market - The exploration of "the real estate bubble" - Availability of many attractive lands for the BT projects during the period of 2007-2008	(4.2) the real estate market	(4) Market conditions
- Influence of the global recession - The stringent budget deficits - High public debts	(5.1) economic indicators	(5) Economic conditions
- A few successful BOT projects realized in the past - A mountain problems occurred in BT projects during 2007-2010	(7.1) Bad legacy on PPP projects	(7) Project outcomes

Six factors have been identified as influencing factors in this period including (i) political environment, (2) legal framework, (iii) stakeholders' capacity, (iv) market conditions, (v) economic conditions, and (vi) project outcomes. Each influencing factor as it applies to the current case will be interpreted with observations made in the developmental process, as well as with qualitative data extracted from interviews with PPP practitioners.

6.6 INTERPRETATION OF IDENTIFIED INFLUENCING FACTORS

6.6.1 POLITICAL ENVIRONMENT

In the period of 2007-2010, because the new tenure of politicians had just begun and as a result there were few actions made by the politicians for PPP program. Only for large projects, the government would give some support actions to promote the participation of private entities, which were often realized in exceptional cases.

6.6.2 LEGAL FRAMEWORK

The legal framework appeared to have a significant influence on the development of the PPP scheme during this period. In comparison with the nascent phase, the legal framework applied in this period was considered to be characterized by *consistent regulations for both domestic and international investors, with domestic investors enjoying increased control over detailed design procedures* [refer to section 4.4] along with this feature, the regulation which permitted domestic investors to develop unsolicited proposals under a PPP scheme provided opportunities to increase the number of PPP projects. Evidently, there was an increase in the number of PPP projects (*i.e., BOT and BT transport projects*) during this period in which most were made up of unsolicited proposals. This was rarely seen in the nascent phase of PPP implementation.

As an interviewee expressed

> *"in the period of Decree 78 we were totally proactive to propose projects under the BOT/BT model because under the then Decree, investors were allowed to develop unsolicited proposals therefore many investors particularly investors in the real estate field took part in BOT/BT project, and at that time they proposed many projects under the BT model"* – Investor in industry – [refer to question 9 – Appendix 2]

Moreover, lower rate on the regulated minimum private equity ratio in comparison with those in the nascent phase created opportunities for small and medium-sized enterprises to enter the PPP market in this phase.

6.6.3 STAKEHOLDERS' CAPACITY

During this period, the BT model that applied to domestic investors had just been introduced via the new Decree. With the introduction of a new model the understanding and experiences of stakeholders (e.g., sponsors, PPP-involved officials) was lacking. Evidentially, many investors proposed unsolicited proposals under the BT model at the initial adoption time without a clear understanding about what the BT model was. Meanwhile, PPP-involved officials who were also unexperienced became confused in their execution of BT project implementation. As a result, many proposals under the BT model had been approved and then those proposals faced many issues. Eventually, many (i.e., more than one hundred

approved BT-proposals but only eight BT projects realized during the period between 2007 to 2011) BT projects had been forced to cancel. Obviously, with a lack of understanding of investors and managerial skills of involved officials about the BT model that had influence on its application in reality.

As an interviewee expressed

> *"at that time, we just thought a BT model meant we have discretion of all BT-involved issues but we were misunderstood, and BT-involved officials they also did not know so much about the BT model, but yet there were not clear regulations on it thereby there was a "chaotic" status quo of the BT projects within the period of 2007-2010"* – Investor in industry – [refer to question 9 – Appendix 2]

6.6.4 MARKET CONDITIONS

In November, 1st 2007 Vietnam became an official member of the World Trade Organization (WTO). Foreign direct investment (FDI) into Vietnam significantly increased (see Figure 1.10) and a "*real estate bubble*" appeared, mainly in Hanoi City and Ho Chi Minh City around 2007-2008. These economic trends attracted the interests of investors[27] in the construction industry. At that time, the Vietnamese government promulgated regulations, which permitted private investors to invest in infrastructure projects under the BT model[28] in which BT project investors are given land-use rights to develop "*exchanged projects*" to recoup invested investments made in BT projects. Simultaneously, according to the regulations of that time, domestic private investors could make unsolicited proposals, which could be carried out under a PPP scheme. This regulation had not been seen in the previous regulatory framework, and enabled the private sector to become more actively involved in developing feasible proposals under the PPP scheme. Afterward, the banking system began tightening their lending policies and the real estate market entered a "*downturn*" since 2008-2009. These factors combined together that might result in the sudden change in the number of BT projects during this stage.

As an interviewee expressed:

> "*[…] in the period of 2007-2008, the BT model was very attractive because of the "heat" of the real estate market. At that time, Ha Tay province was administratively merged to Hanoi city, therefore, there were many attractive planned*

[27] According to "Thị trường bất động sản Việt Nam – thực trạng và giải pháp" – Ph.D Nguyen Manh Hung – Avaiblable at http://nctu.edu.vn/uploads/page/2016_01/bai-nghien-cuu-bat-dong-san-02-tien-sy-Hung.pdf, accessed in June 2015

[28] According to Decree No 78/2007/ND-CP, there are two types of recouping invested investment in BT projects. One is "cash repayment" made by the government, the other way is the government gives the land-use rights for BT project investors and then project investors will develop other projects resting on those given lands to recoup invested investment, this type was known as "lands for infrastructure"

urban areas that the BT project investors assumed those areas would be attractive exchanged areas for BT projects. Besides that with the then regulations on BT project, it was not clear. Some BT investors thought that this model was simple; they would have discretion to decide everything which related in BT projects therefore many BT projects proposed by proponents […]" – Investor in industry [refer to question 9 – Appendix 2]

Subjects claimed that with the repayment structure set up to "*BT-land for infrastructure"* model at that time, project investors had to seek for potential lands where they could develop other projects to recoup investments made in BT projects. This turned out to be more advantageous for domestic investors than for foreign investors particularly in the transport sector in terms of making unsolicited proposals under the "*BT-land for infrastructure*" model due to the features of the "*host arena*". For power PPP projects, due to the large capital requirements, those projects were usually carried out by foreign investors and hence the BT model turned out to be less attractive as revenues from exchanged projects in the BT model alone would not be sufficient to recoup invested capitals. Furthermore, implementation of a project under the BT model was supposed to be more complicated than those under a BOT model.

As some interviewees expressed

"*[…] for the BT model, because the power projects are usually large size, advanced technology and huge investment therefore sponsors are often foreign investors hence I think maybe because of that BT model is not attractive for them […]"* – Official in MOIT- [refer question 10- Appendix 2]

"[…] actually, the regulations on the land-use right applied for foreign investors were not clear therefore it might be obstacles for them. Besides that, "BT-land for infrastructure" model relates to the volatility of the real estate market, hence investors often pay much care when they decide to apply this model […]"- Investor in power project- refer to question 10-Appendix 2]

Thus, from the above interpretation it could be seen that the real estate market appeared to have a certain influence on the development of BT projects (BT-land for infrastructure form in particular) and also led to changing trends in the composition of sponsors in the PPP scheme during this period. Namely, a larger proportion of partly-SOEs and private entities were realized in the composition of project sponsors under the PPP scheme, as a result of BT projects at this time involving private entities and investors from the real-estate market.

6.6.5 ECONOMIC CONDITIONS

The economic conditions in this period were manifested by Gross Domestic Product (GDP) Growth, Customer Price Index (CPI), and the ratio of public debt and budget deficit (see Figure 6.6). The significant increasing of public debts and the budget deficits around

2009-2010 was considered to be a critical factor influencing the promulgation of a Pilot PPP decision *(i.e., Decision No. 71/2010/QD-TTg)*.

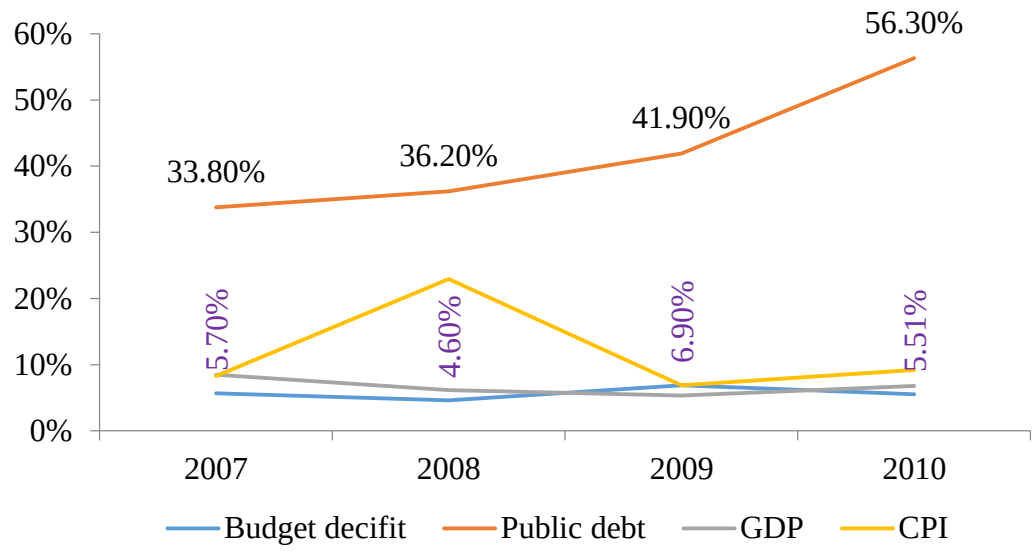

Figure 6.6 The Gross domestic growth (GDP), Customer Price Index (CPI), public debt and budget deficit in the period of 2007-2010

(Source: GSO)

As a law-maker expressed:

> *"[...] actually, in the period of 2008-2009, with the difficulties of the national economy due to the influence of global recession and the status quo of high public debt then the leader - who was in charge of budget allocation for economic elements - he realized the stringent budget deficit and, the need to call for private sector to take part in infrastructure investment therefore he chaired to develop the Pilot-PPP Decision and until the end of 2010 this decision enacted [...]"* – Official in MPI- [refer to question 11-Appendix 2]

Although the economic conditions did not appear to have a direct influence on the change of PPP applications, they are claimed to be a predisposing factor that resulted in changes of the regulatory framework that applied to the PPP scheme in subsequent stages of the scheme development.

6.6.6 PROJECT OUTCOMES

Project outcomes in this situation could be defined as "the number of performed BT projects and the revenues from BOT projects". Because problems brought about by the application of the BT model as well as a few successful BOT projects realized, this might lead to hestitaion among investors concerning PPP engagement, and a changing mindset of the

government to promote "*a pilot PPP*" model in the subsequent stage. As Giang, (2012) claims only 20 percent (approximately) of BOT projects were evaluated as successful, many investors became understandably reluctant to use this model.

6.6.7 CONCLUSION

From the above interpretations, it is found that of the six influencing factors identified in the nascent phase of PPP scheme development, only five appear to have influence on the process within this period including the political environment, legal framework, stakeholders' capacity, market conditions (i.e., *the real estate market*), economic conditions, and project outcomes. Namely, under the influence of the real estate market "*bubble*", the regulations of permissions for domestic investors to develop unsolicited proposals and a lower private equity ratio, lack of managerial capacity of BT-involved officials may have resulted in increased numbers of BT transport projects in the early stage of this phase. This was followed by a "*downturn*" in the real estate market and a subsequent decrease in successfully realized BOT projects and a reluctance of investors for PPP (BOT/BT) projects. This corresponds with an observable decrease in the number of PPP projects after 2008-2009. A combination of these factors has acted to influence the application and changes to the PPP scheme within its development process.

6.7 SUMMARY OF THE CHAPTER

This chapter explored the development process of the PPP scheme within the transitional phase 1 (2007-2010). In summary,

(1) There were 32 projects provided with investment licenses including one power project, 30 transport projects and one water project under BOT, BT and BOO models. More private enterprises took part in PPP projects, particularly in transport projects, in comparison to the nascent phase.

(2) There was a significant increase and decrease in the number of PPP transport projects, particularly for BT projects, and more private investors and partly-SOEs within the composition of sponsors for PPP transport projects.

(3) Six groups of influencing factors are seen to be prevalent during this phase including the (i) political environment, (ii) legal framework (iii) stakeholder capacity, (iv) market conditions (the real estate market) (v) economic conditions, and (vi) project outcomes. The real estate market *"bubble",* regulations of permitting domestic investors to propose unsolicited proposals, and easing restrictions on the equity ratio for domestic investors within the legal framework and lack of managerial capacity of BT-involved officials contributed to the sudden increase and subsequent decrease in the number of BT projects. Economic conditions of high public debt and strict budgetary deficits and project outcomes

were predisposing factors leading to the promulgation of the Pilot “PPP” Decision.

Chapter 7

EXPLORING PPP SCHEME DEVELOPMENT - TRANSITIONAL PHASE 2 (2011-2012)

7.1 OBJECTIVE

Under volatility within the national economy, the Vietnamese government began promoting the tightening of public investments and restructuring the national economy from 2011. Under such circumstances, the Vietnamese PPP scheme experienced a pessimistic landscape in the period between 2011 and 2012. The objective of this chapter is to clarify the development of PPP scheme in the period between 2011 to 2012 (*which is named the transitional phase 2*). Namely, (1) to describe the application of PPP scheme regarding to the applications and its transitional procedures particularly in the transport sector, power sector and water sector from 2011 to 2012 and stakeholder features, (2) to identify the salient features of the PPP scheme in this stage, and (3) to identify and interpret influencing factors on the development process of PPP scheme within this stage.

7.2 METHODOLOGY

In order to gain the research objectives, this chapter will apply the research methodology as mentioned in Section 5.2, Chapter 5.

7.3 THE DEVELOPMENT PROCESS OF PPP SCHEME IN TRANSITIONAL PHASE 2 (2011-2012)

7.3.1 APPLICATIONS AND STAKEHOLDERS OF PPP SCHEME

During this period, there was a significant decrease of PPP-projects granted with investment licenses. Only one BOT power project carried out by a foreign investor with an investment of 2.258 billion USD was approved, and two transport projects (one BT project and one BOT project) carried out by domestic investors with an investment of 17,643 billion VND were approved.

The transitional procedures applied to these projects were not different from those in the previous stage (2007-2010).

7.3.2 STAKEHOLDERS IN PPP PROJECTS

7.3.2.1 PUBLIC PARTY

7.3.2.1.1 Managerial organization structure

Up to the end of 2010, the definition of public private partnership[29] (PPP) was initially introduced in Decision No.71/2010/QD-TTg *(known as the pilot PPP regulation)*, and then January 14th 2011 "*inter-sector working group*" was established[30] to assist the materialization of Decision No.71/2010/QD-TTg. This group was made up of plurality officers working at various governmental institutions related to PPP project implementation. In 2012, the PPP Office was established within the Department of Procurement Management (DPM) under MPI as well as a Steering Committee on PPP led by the Deputy Prime Minister[31]. Members of the Steering Committee on PPP are the minister of MPI, and deputy minister or equivalent officials from line ministries including the Ministry of Finance (MOF), Government Office, State Bank of Viet Nam (SBV), Ministry of Justice (MOJ), Ministry of Transport (MOT), Ministry of Construction (MOC), Ministry of Industry and Trade (MOIT), Ministry of Health (MOH), Ministry of Information and Communications (MOIC), Ministry of Training and Education (MOTE) and Ministry of Environment and Natural Resource (MENR).

The mandate of the PPP Office according to Decision 392/QD-BKHDT dated in March, 30th 2012 is as follows:

(1) Being the focal point of MPI for solving PPP-involved issues
(2) Being the standing agency for PPP Inter-ministerial Task Force
(3) Assist to make project proposal, PPP F/S report and PPP project portfolio
(4) Cooperate with another agencies to carry out activities in technical support, capacity building and training on the PPP scheme
(5) Support PPP investment promotion
(6) Receive, manage and utilize funding sources for PPP project development
(7) Organize communication activities on the PPP scheme
(8) Carry out international cooperation activities on the PPP scheme
(9) Build up database on the PPP scheme
(10) Other tasks assigned by head of Procurement Management Agency

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[29] According to Decision No.71/2010/QD-TTg Investment in the form of public – private partnership (PPP) as the state and private investors implement jointly developmental infrastructure projects, and provide public services on the basic of contractual agreement of the project.

[30] Inter-sector group was established according to Decision No.30/QD-BKHDT in January 14th 2011

[31] PPP Office was established according Decision No.1642/QD-TTg October 29th 2012

In fact, due to the new establishment of this PPP Office, with unexperienced staff *(i.e., seven staffs: two with economic backgrounds, one with a construction background, one with a transport background, one with a financial background, one with an agricultural background and one with a diplomatic background)*. During this period its roles were mainly manifested in four relatively ambiguous aspects *[refer to question 12-Appendix 2]*

(1) Assisting of legal consultant service for the implementation of PPP projects but not interfere directly into the PPP projects.
(2) Proposing for compilation of legal documents for PPP implementation *(e.g., PPP Decree and circulars for PPP implementation)*
(3) Managing Project Development Fund (PDF)
(4) Organizing PPP training workshops/references

The managerial organisation structure is illustrated in Figure 7.1

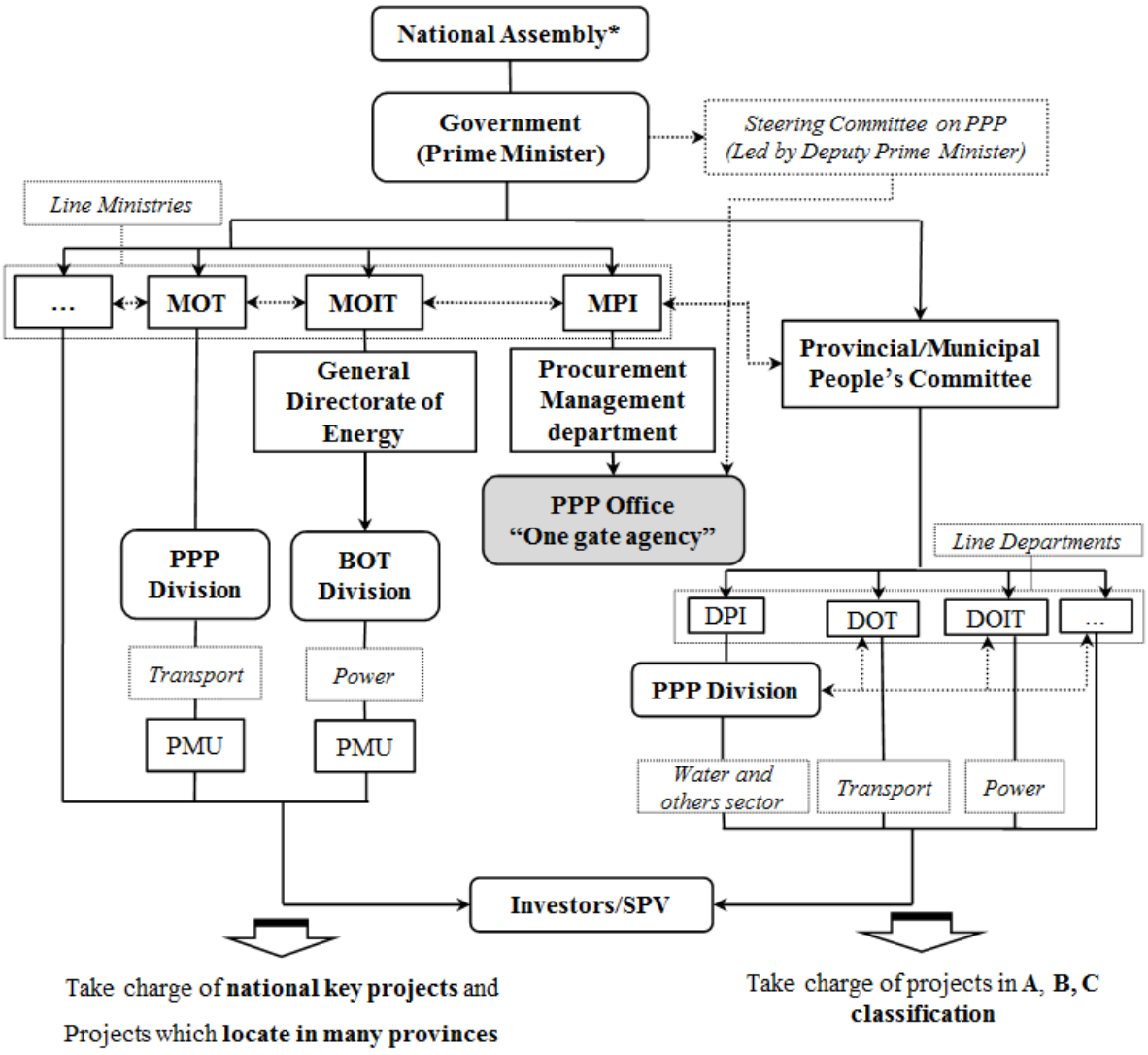

Figure 7.1 The managerial organisation structure since late 2012

(Source: Compilation based on investigation)

7.3.2.2 CAPACITY

Managerial capacity

Although at this point the PPP scheme has appeared for years under various sub-models, the managerial capacity of the public party on this scheme was still evaluated to be limited. According to the report developed by MOT:

> " *[...] due to the complexity, diversity and new nature of this scheme so the quality of human resources in various levels has still not satisfied the actual requirements particular in financial, legal and risk allocation aspects*" *[...]*. "*The lack of practical experiences on PPP projects execution of officials resulted in many problems occurred for instance albeit project carried out under PPP scheme but the perception of several PPP-involved officials and their executive way were still similar to of those in traditional public investment. Besides that, their perception on the PPP scheme is different from of one to another. This led to contract negotiations even amongst those who in the same institution during the project implementation were often difficult to get final consensus and often being time-consumption". […]. "Along with that, several PPP-involved officials who were used to get familiar with the traditional investment form therefore they were reluctant to learn about and apply the PPP scheme for infrastructure projects […]"* - Cited in Report No.13487/BGTVT-DTCT dated in October 12th 2015 of MOT.

7.3.2.3 PRIVATE PARTY

Sponsors (investors) and lenders

The sponsors of three licensed-PPP projects included one foreign investor, one SOE and one partly-SOE. All sponsors were selected via direct appointment by ASAs. Lenders were foreign financial institutions for the PPP power project and domestic State Commercial Banks for the transport projects.

7.4 IDENTIFYING INFLUENCING FACTORS

Based on the observations of the PPP scheme development from the political economy perspective, in order to identify the influencing factors in this period, a hypothesis is developed as follows: ***"the influence of controlling actions of the government, economic***

conditions, market conditions, strategic policies and project outcomes led to the significant decrease of licensed-PPP projects in transitional phase 2 of the PPP scheme development"

To identify the influencing factors, a qualitative analysis of interview data and secondary data was conducted. The influencing factors have been extracted and shown in Table 7.1

Table 7.1 Extraction of influencing factors on the development process of PPP scheme in transitional phase 2

Concepts	Sub-category	Category
- Government's requirements for re-consideration and re-evaluation of the execution of PPP-projects	(1.5) Political actions on PPP scheme	(1) Political environment
- Not clear regulations on the BT model - Not clear regulations on the land pricing - Incomplete regulations on loan security, foreign exchange and dispute resolutions - Having no detail legal framework that provide governmental supports - Having not regulations about government guarantees on loans for the BOO projects.	(2.4) incomplete regulations	(2) Legal framework
- Inconsistency regulations on PPP sub-models	(2.5) Inconsistency regulations on PPP sub-models	
- Having non-transparency on investor's selection procedures/project (investors could be directly appointed without bidding)	(2.6)Nontransparent regulations of investor selection	
- The issuance of "public investment cut off" policies/monetary tightening policies/enhancement of the PPP scheme utilizing in infrastructure delivery policy - The government was wrong in their policies of utilizing the BOT model - MOIT has not issued any specific policy to enhance to utilizing of the PPP scheme - Incentive policies of government guarantee applied to foreign exchange in the past were better than of those in the current stage	(2.7) Strategic policies	
- Small and medium size of private enterprise	(3.1) Capacity of private firms	

- Fears of foreign investors for losing from the Vietnamese PPP market - No one wants to engage in PPP projects if a serious bidding process applied		
- Most SOEs have no budget and much weaker than before	(3.2) Capacity of SOEs	
- Governmental officials do not have much understanding about the PPP scheme - Confusion and embarrassment of ASAs in their execution of the "pilot- PPP" model - ASAs often apply the execution way of public-invested projects to PPP projects - The pressing demand of having a focal agency to assist the PPP scheme - The recruitment with a quota but without concerning professionality - Limited number of PPP-staffs in PPP Office - Out of control on project's quality and implementation process of PPP projects by ASAs - The decentralization of managerial structure in construction industry - Overload of work suffered by PPP governmental officials - Technical capacity of domestic investors is often not able to meet requirement of projects with high technology	(3.4) Managerial capacity of ASAs and technical domestic investors	(3) stakeholders' capacity
- Volatility of the real estate market - The "frozen" real estate market is still taking place - The limitation of "clear" land areas - Existence of many BOT-toll gates within Ho Chi Minh city zone	(4.2) the real estate market	(4) Market conditions
- Bankers tightened their loan supply policies	(4.3) The demand of annual credit growth	
- Stringent budget deficits - High public debts	(5.1) Economic indicators	(5) Economic conditions

- A few successful BOT projects realized in the past - A mountain problems occurred in BT projects during 2007-2010	(7.1) Bad legacy on BOT projects and delays of BT projects	(7) Project outcomes

Six influencing factors have been identified in this period including the (i) political environment, (ii) legal framework, (iii) stakeholders' capacity, (iv) market conditions, (v) economic conditions, and (vi) project outcomes. Each factor as it applies to the current case will be interpreted with observations made in the developmental process, as well as with qualitative data extracted from interviews with PPP practitioners.

7.5 INTERPRETATION OF INFLUENCING FACTORS

7.5.1 POLITICAL ENVIRONMENT

During this period, because of stringent budget deficits and high public debts, the Vietnamese government required construction-involved institutions to re-consider and re-evaluate all construction projects including PPP projects. In the period between 2007-2010, many BT proposals under "*cash repayment*" forms were approved by ASAs, which would contribute to the budgetary deficit and place more fiscal pressure on the government. As a result, most on-going PPP projects, particularly projects under the BT or BOT model with budget subsidies, were forced to delay.

7.5.2 LEGAL FRAMEWORK

7.5.2.1 PPP REGULATIONS

Hammami claims that the quality of a legal framework is one of the determinants of an effective PPP scheme (2006). It has influence on the development of the PPP scheme and differs based on each country. In the case of Vietnam, during this period, the PPP legal framework appeared to be inconsistent and non-transparent. In fact, the promulgation of the PPP-Pilot Decision (*Decision No.71/QD-TTg*) had created confusions for practitioners during the implementation of PPP projects because of inconsistent regulations existing between Decision No.71/2010/QD-TTg and Decree No.108/2009/ND-CP [*refer to Table 4.2, section 4.5.2*]. Evidently, five years after the promulgation of Decision No.71/2010/QD-TTg, there no PPP projects were implemented under this decision. Most infrastructure projects carried out under the PPP scheme *(i.e., including BOT, BT model)* within this stage only complied with Decree No.108/2009/ND-CP. One perspective of this result can be explained through the inconsistent regulations between the two legal documents (such as inconsistent regulation of private equity ratios, and approval procedures), while the other perspective might argue that "PPP" regulations appeared to unrealistic in nature in its new form.

In addition, the legal framework that applied to the PPP scheme during this period did not regulate strictly and transparently the process of investor selection. Therefore, practitioners tried to avoid "*open-bidding*" which was perceived to be too complicated, time-consuming and costly. Instead, a "*direct appointment*" procedure for investor selection was more preferable by practitioners.

Some interviewees expressed:

> *"[…] the application of the 'direct appointment of investor' itself can help reduce the time for bidding, because if we apply open-bidding, it will take more than 500 days, it's time-consuming, meanwhile most PPP projects need to meet pressing demands of societal development. Therefore, it will be wasteful for social welfare if it could not put the projects in use sooner […]"* – Official involved in PPP-[refer to question 15-Appendix 2]
>
> *"[…] actually, it is quite difficult to determine the price for consultant services. There are not regulations and standards for such kind of works, there also did not have Viability Gap Fund (VGF) for such works as well as having no cost norms for them, but actually it is costly for open-bidding-involved works […]"* **-** Evaluating procurement specialist-[refer to question 15-Appendix 2]

On the other hand, with the regulation of equity ratios being 10 to 15% of total investment capital, this regulation was not only considered to be "*easy to enter*" for private investors but was also considered "*an attractive condition*" for private investors with weak financial capacity participating in PPP projects. An explanation came from one interviewee as follows:

> "*[…] Before the promulgation of Decree15 which regulates on the PPP scheme and Decree 30 which regulates on investor selection, the project investors could be appointed without competitive/open bidding. The other aspect of the legal framework is the regulation of the equity ratios is too small meanwhile the profit come from the construction of transport project is very huge (i.e., approximate 20% of total investment capital). Therefore, many investors they do not care about the recoverability of invested capital because they can get benefit from the construction of BOT transport projects. In case of the revenues come from those BOT projects cannot recoup the invested investment the lenders of those BOT projects will suffer such kind of risks […]"*- Investor in industry - [refer to question 14 - Appendix 2]

7.5.2.2 STRATEGIC POLICY

Along with identified influencing factors in previous stages (2007-2010), in this stage "strategic policy" appeared to have influence on the development process of the PPP scheme.

It could be seen that the rapid growth economy had left a gap of appropriate infrastructure system in Vietnam. In 2008, the Prime Minister approved the transport system master plan toward 2020 up to 2030 *(i.e., the Decision 1734/QD-TTg dated in December, 1st 2008 and the Decision No. 1328/QD-TTg dated in August 24th 2009)*. According to these strategic policies, in the period of 2010-2025, the government needs to spend approximately 75 billion USD *(i.e., around 5 billion USD per year appropriated with 90,000 billion VDN per year)* for the development of major transport projects. However, the budget could only satisfy around 20,000 billion VDN per year. By early 2011, under the pressure of stringent budgetary deficits and high public debt, the government released Resolution No.11/NQ-CP[32] with given resolutions to stabilize the national macro-economy including tightening the money supply, slashing public investments, freezing foreign exchanges and gold market. In 2012, Resolution No.13/NQ-TW was released with resolutions to promote the synchronous development of infrastructure systems as well. The resolution indicated demands for delivering several specific transport projects and power projects within specific periods. These policies were considered to have some certain influence on the promotion of the PPP scheme, particularly in the transport sector during 2010-2015.

As some interviewees expressed:

> *"[...] Upon 2011, due to the stringent budgetary deficit and increasing public debt, with the policy of cutting public investment according to the resolution No.11, more than 50% of on-going transport projects had forced to delay, under such circumstances, investment demand was increasing, and the Vietnamese government was forced to call for private investment under a PPP scheme. Therefore, several on-going projects have been changed the investment form from conventional investment form to the BOT model with 100% private investment [...]"* - Deputy General Director of PPP management Department. [Refer to question 13 – Appendix 2]
>
> *"[...] the enhancement of the public private partnership (PPP) scheme is one of strategies of the government to deliver infrastructure projects. It is expressed in the resolutions, particular in the country's development strategy in the period of 2011-2020. In addition, BOT is one of the methods of raising capital for investment under the PPP scheme alongside other methods. [...]"*– Official from MOT- [refer to question 13 – Appendix 2]

Generally, it was found that the legal framework set up for the PPP scheme in this period appeared to have a certain influence on the PPP scheme development in which the non-transparent regulations on investor selection turned out to be one of factors leading to the prevalence of the "*direct appointment"* investors for PPP projects. Moreover, inconsistent regulations within two legal documents and strategic policies have negative

[32] Resolution No.11/NQ-CP dated in February, 24th 2011

influences on the submission of new PPP proposals and the approval processes of proposed PPP proposals.

7.5.3 STAKEHOLDER CAPACITY

Stakeholders in this context consist of PPP-involved officials who are directly responsible for the PPP execution and PPP project sponsors, lenders.

During this period, the officials involved PPP appeared to have weak managerial capacity, particularly those at the local level. With a lack of knowledge and experiences on PPP, they could not make a list of potential PPP projects (Giau, 2012).

Regarding PPP project sponsors, domestic sponsors were still dominant in the Vietnamese PPP market. However, during this period the influence of economic conditions and the frozen of real estate market negatively influenced domestic construction-involved sponsors in their financial accessibility. Therefore, they became reluctant to become engaged in further PPP projects.

Regarding lenders it could be said that since 2011, because of the issuance of resolution No.11/NQ-CP, bankers became stricter on their loans in response to the government strategy of monetary tightening.

Based on above interpretations, it is found that the weak managerial capacity of PPP-involved officials and the financial capacity of sponsors combined with the strict loan policy of bankers induced negative influences on the development of PPP projects within this stage.

7.5.4 MARKET CONDITIONS

The real estate market appeared to have a significant influence on the development of BT models in transitional phase 1 of the PPP scheme. In this period, the real estate market continued to be "*frozen*" hence the BT model had no longer been attractive for investors.

7.5.5 ECONOMIC CONDITIONS

Most concerned indicators of economic conditions in this period included budget deficits and public debts. Since 2011, with the policy of monetary tightening, macro-economic stability[33] was attained through consistent GDP growth and consumer price indixes. However, the budget deficit was stringent and public debts were still high within the period of 2011-2012 (i.e., 54.9% and 50.85% in 2011 and 2012, respectively). These factors drove the government to enhance the utilization of a PPP model for the delivery of infrastructure projects. Although the PPP scheme was applied for years under the BOT/BT and BOO model,

[33] Indicated in Resolution No.11/NQ-CP dated in February, 24th 2011

PPP models were now being promoted under the "*new name*" as "*PPP scheme*". As some interviewees expressed:

> " *[...]Upon to 2011, due to the stringent budget deficits and high public debts, more than 50% of on-going public invested projects had forced to delay, under such a circumstance, the investment demand was increasing, and the Vietnamese Government was forced to call for private investment. Thus, some on-going public invested projects have been shifted the investment form from the public-invested investment to a BOT model with 100% private investment capital [...]"* - Deputy General Director of PPP management Department-[refer to question 13-Appendix 2]
>
> *"[...] during the years of 2010-2015, budget resources allocated for transport infrastructure investment satisfied only 28-30% comparing with practical needs. Meanwhile, Vietnam has become a middle-income country thus donors should reduce ODA for traffic sector and instead, that is commercial loans with a certain preferential interest rate. Therefore, it needs to promote socialization and call for private investment [...]"* - Deputy Minister of Transport ministry- [refer to question 13-Appendix 2]

In fact, the state budgetary deficit and a fiscal pressure were reasons that drove governments to adopt the use of the PPP scheme in other countries such as Indonesia and Malaysia (Malik, 2010; Jong et al, 2010; Triodos Facet 2010). Andreas Wibowo et al. also argue that a stringent budgetary deficit led to the enhancing of a PPP scheme in Indonesia (2010). Thus, it can be argued that the factor enhancing PPP utilization in Vietnam is quite similar to those in some countries worldwide.

7.5.6 PROJECT OUTCOMES

Project outcomes as a factor appeared to have a negative influence on the sponsor's motivation to take part in PPP projects. This may be due to the many delays that occurred within the implementation of BT projects, and the few examples of successful BOT projects realized.

As an interviewee expressed:

> *"[...] actually too many problems happened with BT projects, many of them have delayed, in the period of 2011-2012. In addition to that, the real estate market at that time was still "frozen" and there were very few successful BOT projects in the past, therefore at the point of time, many investors did not want to do investment in PPP projects, [...]"* - [refer to question 14-Appendix 2]

7.5.7 CONCLUSION

Six groups of influencing factors are realized to have influence on the implementation of the PPP scheme within this period including the (i) political environment, (ii) legal framework, (iii) stakeholder capacity, (iv) market conditions (*the real estate market, the annual credit growth* in particular), (v) economic conditions (*stringent budget deficit, high public debt* in particular) and (vi) project outcomes. Namely, (1) the impact of the high public debts and the stringent budgetary deficits drove the government to enhance the utilization of PPP schemes in the delivery of infrastructure projects; (2) the controlling actions of the government and the strategic policies and negative impact on bankers lead to very few PPP proposals granted investment licenses (3 projects). In addition, the regulatory process and lack of PPP knowledge of officials directly involved in the PPP scheme resulted in inconsistent PPP regulations.

7.6 SUMMARY OF THE CHAPTER

This chapter explored the developmental process of the PPP scheme for infrastructure delivery in the period 2011-2012 as follows:

(1) There were three projects granted with investment licenses including one power project, and two transport projects under BOT, BT model carried out by both domestic and foreign investors.

(2) A significant decrease in the number of licensed PPP projects is a salient feature of the PPP scheme in this stage.

(3) Six groups of influencing factors were identified including the (i) political environment, (ii) legal framework, (iii) stakeholders' capacity, (iv) market conditions, (v) economic conditions and (vi) project outcome, of which

- The impact of the high public debts and the stringent budgetary deficits drove the government to enhance strongly the utilization of PPP schemes in infrastructure delivery.
- The controlling actions of the government and the strategic policies and negative impact of strict loan-supply policies of bankers, and the "*exploration*" of the real estate market lead to very few PPP proposals being granted investment licenses.

Chapter 8

EXPLORING PPP SCHEME DEVELOPMENT - TRANSITIONAL PHASE 3 (2013- 2015)

8.1 OBJECTIVE

The period of 2013-2015 witnessed many changes of construction-related laws and regulations. Under such a circumstance, the PPP scheme transformed to take its own trajectory. The objective of this chapter is to clarify the development of the PPP scheme from 2013-2015 (*which is labelled "transitional phase 3"*). This chapter will (1) describe the application and transistional procedures of the PPP scheme in the transport, power, and water sector from 2013 to 2015 and the features of stakeholders; (2) identify the salient features of the PPP scheme in this stage; and (3) identify and interpret influencing factors on the development process of the PPP scheme.

8.2 METHODOLOGY

The research methodology applied here is identical to the previous chapters and is described in Section 5.2, Chapter 5.

8.3 THE DEVELOPMENT PROCESS OF PPP SCHEME IN TRANSITIONAL PHASE 3 (2013-2015)

8.3.1 APPLICATIONS OF PPP SCHEME

8.3.1.1 POWER SECTOR

Two power projects carried out by foreign investors were granted investment licenses under the BOT scheme from 2013 to 2015. Namely (1) the Vinh Tan 1 coal-fired power plant carried out by a Consortium of Phuong Nam electricity network Limited Liability Company and China international electricity Limited Liability and (2) the Duyen Hai 2 thermal power plant carried out Janakuasa Limited Liability Company (Malaysia).

The transitional procedures for project implementation are similar to those in previous phases, which are indicated in Table 5.1

8.3.1.2 TRANSPORT SECTOR

There were 61 projects granted with investment licenses under the BOT and BT models with a total investment of 143,235 billion VND carried out by domestic investors. There

were 56 BOT projects with an investment capital of 124,701billion VND, and five BT projects with an investment capital of 18,534 billion VND. The number of licensed PPP projects within this phase is illustrated in Figure 8.1

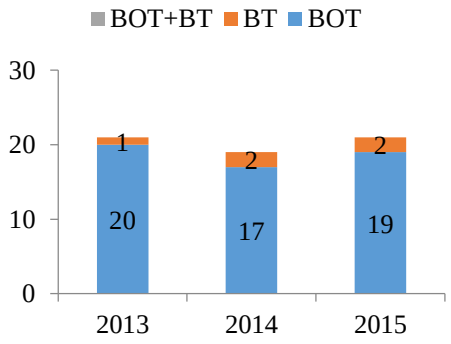

Figure 8.1 The number of licensed PPP transport projects by contractual type in the period 2013-2015

(Source: Compilation based on data from MPI, MOT, MOIT)

There was a significant increase in the number of BOT projects since 2013. Most of them were upgrading and expanding projects and being sub-sections of 1A National Highway. During this period, the majority of PPP projects were solicited proposals.

The transitional procedures for the implementation of PPP transport projects during this period were similar to those in previous periods, as illustrated in Table 5.3 (*applicable for solicited proposals*) and Table 6.1 (*applicable for unsolicited proposals*).

8.3.1.3 WATER SECTOR

There was only one water project granted an investment license under the BT model with an investment of 1,868 billion VND. A private company of domestic investors carried out this project.

8.3.1.4 INVESTOR SELECTION

All investors of PPP projects during this period were selected via direct appointment. Although the Bidding Law *(i.e., Law No.43/2013/QH13)* was revised and put into place in 2013, detailed regulations on investor selection for PPP projects were not issued until March 2015 through the investor selection Decree *(i.e., Decree No.30/2015/ND-CP enacted in March, 17th 2015)*. The process of investor selection during this period is illustrated in Figure 6.2

8.3.1.5 EXCEPTIONAL CASES

Similar to the previous stages, exceptional cases have been identified within this stage regarding the incentive policies that are particular to transport projects. A case study of exceptional cases will provide many kinds of incentive policies that can be provided to PPP project investors.

8.3.1.5.1 Case study BOT Trung Luong – My Thuan Expressway

PROJECT INTRODUCTION

The Trung Luong - My Thuan Expressway Project is a part of the Ho Chi Minh City (HCMC) – Can Tho (CT) Expressway and is prioritized to be completed before 2015 for the development of the region in Southern Vietnam. The expressway is included in the detailed plan of the North-South Expressway (Eastern) approved by the Prime Minister in Decision No.140/QD-TTg dated January 21, 2010. The location of the project is shown in Figure 8.2. The length of the expressway is around 51.2 kilometres and the average width is 32.5 meters. The total investment is 14,678.346 billion VND. The concession period is expected for 19 years.

Figure 8.2 The location map of BOT Trung Luong-My Thuan Expressway project.

(Source: Final report - The Preparatory Survey on Trung Luong – My Thuan Expressway Project in Vietnam)

PROJECT DEVELOPMENT

In February 2005 the pre-feasibility study of the project was developed by MOT. In 2007, the pre-FS was approved by Prime Minister. On October, 31st 2014 the Project feasibility study was approved by MOT. On February, 3rd 2015 a project investor was assigned. Finally, on January, 21 a project investment licensed was granted by MPI. The project kicked off in February, 2015 and construction is slated to be completed in the end of 2018.

PROJECT STAKEHOLDERS

Public sector

The major public stakeholder in this project is the Ministry of Transport (MOT). This State body is authorized to negotiate and sign-up the BOT contract with Project Company (VIDIFI). In addition, Cuu Long Corporation for Investment Development and Project Management of Infrastructure (CIPM) is authorized agent under MOT having the responsibility to executive the project implementation. The other counter-parties of public sector including Prime Minister, Ministry of Planning and Investment (MPI), Ministry of Finance (MOF), Ministry of Construction (MOC), Ministry of Natural Resource and Environment (MONRE), and People's Committee of Tien Giang province.

According the authorization of Vietnamese's government, the role of Vietnam counterparties in Trung Luong-My Thuan Expressway project as follows:

- Prime Minister: Approving the project strategy;
- MOT: Approving FS, signing-up the BOT contract. Coordination with other involved ASAs to determine management fees for the operation of the project. Transferring the right to charge fees of My Thuan toll gate to BEDC (Project Company);
- CIPM: Organizing investor selection; negotiating the BOT contract and having responsibility for the execution of project implementation;
- MPI: Issuing the Investment License, coordination with BIDV to complete the ODA loan procedures, supplying guidance for foreign investors to take part in the project;
- MOF: On behalf of the government, making loan guarantee for BIDV; coordination with other involved ASAs to specify the incentive policies for BEDC on the land-lease fees;
- MONRE: Appraisal and approval of the environment assessment of the project, supplying guidance for the resettlement and site clearance;
- People's Committee of Tien Giang province was responsible for land acquisition and resettlement.

Sponsors

There were six sponsors in this project including Tuan Loc Construction Investment Corporation (30% shares), Yen Khanh commercial production & Service LLC (30% shares), HCMC Infrastructure Investment Corporation (CII) (10% shares), BMT Construction Investment JSC (10% shares), Thang Loi Corporation (10% shares), Hoang An JSC (10% shares). These six sponsors established Project Company named BEDC.

Lenders

Viettin Bank and Joint Stock Commercial Bank for Investment and Development of Vietnam (BIDV) shall provide debts for the project.

The structure of project's stakeholders is shown in Figure 8.3.

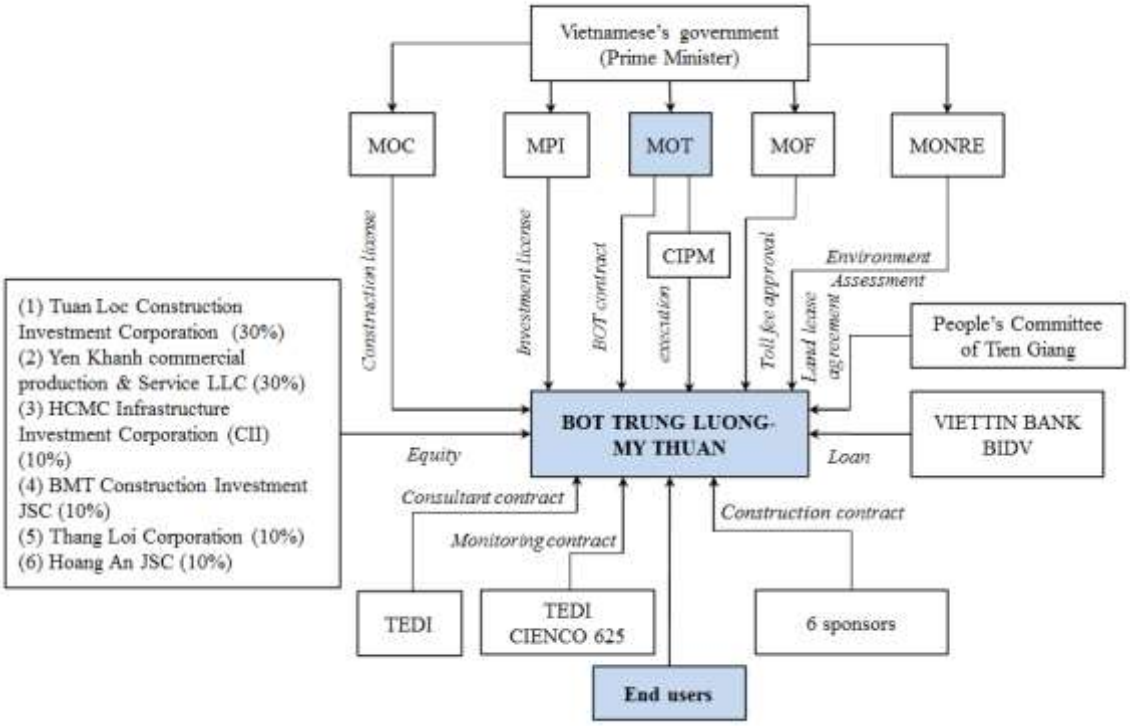

Figure 8.3 The structure of stakeholders in Trung Luong – My Thuan Expressway

(Source: Compilation based on investigation)

INCENTIVE POLICY

(1) Tax

- Having preferential tax for corporation income and import duties
- Exemption of land use fees for areas controlled by the State

(2) Land acquisition

- Provincial governments have obligations for land acquisition
- For land-clearance projects which should be only developed under the form of on-step design

- Contractors could be selected by direct appointment
- Permission of the deployment of land-clearance projects at the same time with the approval time

(3) Loans

- Joint Stock Commercial Bank for Investment and Development of Vietnam (BIDV) has obligation to make loans for BEDC (Project Company)
- Government give guarantee for loans
- Exemption of appraisal for loan profile of BEDC

(4) Recoup invested investment

- Having the right to collect tariffs from My Thuan bridge project to serve the implementation of the project
- Having the right to do business of infrastructure services belonging to the project area and can perform civil transactions for this right
- Having the right to do business exclusively of advertisement activities along the project
- Having investment priority for constructing infrastructure systems of urban zones, industrial zones, service places in Tien Giang Province so that BEDC can recoup invested capital

(5) Other policy

- Exemption of obligations to ensure contract implementation

In this case, the government wanted to push the project forward but because the project size is too large, the revenue come from the project itself would not sufficient to recoup invested investment; therefore the government applied many incentive policies to make the project become potentiality and profitability.

8.3.2 STAKEHOLDERS IN PPP PROJECTS

8.3.2.1 PUBLIC PARTY

8.3.2.2 CAPACITY

Managerial capacity

During this period, managerial organizational structure had not changed in comparison with the previous period. Regarding managerial capacity, practically there were many PPP-training workshops held within the country to improve public capacity in executing PPP projects (*i.e., as of April 2016 there were 15 PPP-workshops held)*. Recently, the managerial capacity of PPP-involved officials had improved. As some interviewees expressed:

> *"Actually, a few years ago, in transport sector project investors they could do everything they wanted to do, officials – they was often in the passive side. One*

aspect because it was really out of their managerial capacity and the other aspect was they also did not pay much attention on such things; they let project investors decide everything as long as they do not break the laws. Moreover, majority of former BOT projects were unsolicited proposals so project investors were always completely in the proactive side. But recently, officials at MOT they changed their management way on PPP projects, they interfere deeply in the project implementation [...]" - Project director in industry – [refer to question 3 – Appendix 2].

"[…] *objectively speaking, the management capacity of officials in BOT and BT projects in recent years improved greatly, they have more experiences in project management as well as contract negotiation [...]*" – Design consultant in BOT project- [refer to question 3 – Appendix 2]

Financial capacity

Commonly, all PPP projects require initial capital for the preparation of project development such as hiring consultants, developing a project proposal, conducting feasibility studies, selecting investors and so on. The capital needs to be granted by the government to ensure feasibility of the PPP scheme's application. By October 2012, MPI suggested the establishment of a Project Development Fund[34] (PDF) with an amount of 20,000 billion VND funded by the state budget for the period of 2013-2015. Alongside with that, in 2013 several international organizations created a PPP Project Development Fund in Vietnam. In accordance with the report of MOT[35], MPI has formed PDF with approximately 30 million USD for the PPP Project Development Fund, of which 8 million EUR was a government-committed loan and 600,000 EUR of un-refundable adi from Agence Francaise & Development (AFD), as well as 20 million USD government-committed loans from the Asia Development Bank (ADB). The remainder of the fund was covered by the state budget.

8.3.2.3 PRIVATE PARTY

8.3.2.3.1 Sponsor

The composition of sponsors in PPP projects in this period is shown in Figure 8.4. This figure shows the prevalence of partly SOEs and private entities within the composition of PPP project sponsors. There were 13 SOEs, 29 partly-SOEs and 22 private enterprises that took part in licensed PPP projects within this period.

[34] According to Report No.283/BC-CP dated in October, 19th 2012 of MPI
[35] According to Report No.13487/BGTVT-DTCT dated in October, 12th 2015

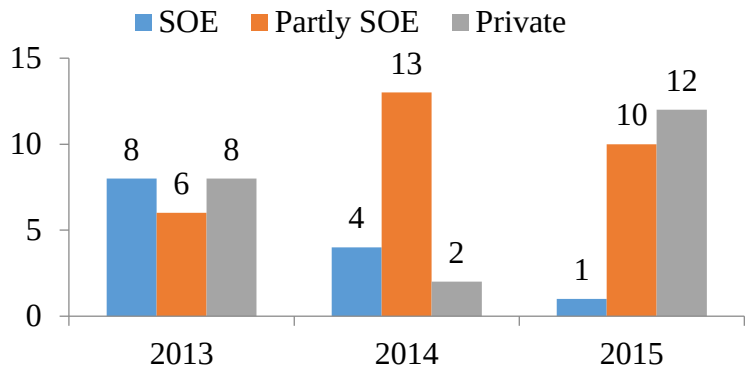

Figure 8.4 The number of licensed PPP- projects by sponsor type from 2013-2015

(Source: Compilation based on data of MPI, MOC, MOIT, and other sources)

8.3.2.3.2 Lender

Exception the case of power projects, most of PPP projects in transport and water sector in this stage were financed by SOCBs.

8.4 THE SALIENT FEATURES OF PPP SCHEME DEVELOPMENT IN TRANSITIONAL PHASE 3

Based on the observations of the development of the PPP scheme in the period of 2013-2015, in comparison with those in the period of 2011-2012 some salient features of the process are as follows:

- A significant increase in the number of PPP transport projects (64 projects) carried out under the BOT model of which many solicited proposals realized;
- A few PPP projects (5 BT projects) carried out under the BT model;
- A changing trend in the composition of sponsors in PPP transport projects in which fewer participations of SOEs (i.e., 13 SOEs, 29 partly-SOEs and 22 private companies) under the role of project investors realized;

8.5 IDENTIFYING INFLUENCING FACTORS

Based on the observations of PPP scheme development from a political economy perspective, a hypothesis was developed to identify the influencing factors as follows: ***"the combination of the political leader's support, a stringent budget deficit and high public debt, the lack of transparency in investor selection, a low private equity ratio requirement, and the demand of annual credit growth led to the significant increase of PPP transport projects in transitional phase 3 of the PPP scheme development"***

To identify the influencing factors, a qualitative analysis of interview data and secondary data was conducted. The influencing factors have been extracted and shown in Table 8.1

Table 8.1 Extraction of influencing factors on the development process of the PPP scheme in transitional phase 3

Concepts	Sub-category	Category
- The problem of political leaders whether they want to enhance the scheme or not - Not willingness of MOIT for BOT power projects - Willingness given by Minister of MOT for the application the PPP scheme in transport sector - Having no realized support actions given by leaders of MOIT or leaders of any municipalities for the enhancement of PPP-power and water projects - Many support actions given by minister of MOT for enhancement of the PPP scheme	(1.5) Political actions on PPP scheme	(1) Political environment
- The regulations of stipulating the participation of private entities to delivery infrastructure projects	(2.1) Encourage private investors participate in PPP	(2) legal framework
- The small regulated equity ratio	(2.2) Equity ratio regulations	
- No clear regulations on land-using rights applied to foreign investors - Having no detail legal framework that provide governmental supports - Not clear regulations on the BT model - Not clear regulations on the land pricing - Incomplete regulations on loan security, foreign exchange and dispute resolutions - Having not regulations about government guarantees on loans for the BOO projects	(2.4) Incomplete regulations	
- Having non-transparency in investor's selection procedures/project (investors could be directly appointed without bidding)	(2.6)Nontransparent regulations of investor selection	
- The government was wrong in their policies of utilizing the BOT model - MOIT has not issued any specific policy to enhance to utilizing of the PPP scheme	(2.7) Strategic policies	

- Incentive policies of government guarantee applied to foreign exchange in the past were better than of those in the current stage		
- Stronger financial capacity of partly-SOEs comparing to of SOEs - The growth of purely private enterprises	(3.1) More matured private firms	(3) Stakeholders' capacity
- More intervention of ASAs into the project implementation recently - Governmental officials at local level do not have much understanding about the PPP scheme - The pressing demand of having a focal agency to assist the development of the PPP scheme - The recruitment with a quota but without concerning professionality - Limited number of PPP-staffs in PPP Office - Overload works suffered by PPP governmental officials - The decentralization of managerial structure in construction industry - ASAs' willingness to assist PPP-transport projects implementation - Governmental officials have been more experienced in the execution of BOT power projects and BOT transport projects - Private investors have more experiences in PPP projects particular in transport projects	(3.4) More experienced ASAs and private investors	
- Increasing of idle capital in domestic banking system - Demands for the annual credit growth	(4.3) The demand of annual credit growth	(4) Market conditions
- Pressing demands for repairing and upgrading the national transport systems - Pressing demands for development new transport projects - Travelling demands increase significantly over time	(4.4) The demand for delivery transport projects	
- Stringent budget deficits - High public debts	(5) Public debt and budget deficit	(5) Economic conditions

- A few BT projects finished and few successful BOT projects realized. - BT projects under "land for infrastructure" faced many problems	(7.1) Bad legacy on BOT projects and delays of BT projects	(7) Project outcomes

Six influencing factors have been identified in this period including (i) political environment, (ii) legal framework, (iii) stakeholders' capacity, (iv) market conditions, (v) economic conditions and (vi) project outcomes. Each factor as it applies to the current case will be interpreted with observations made in the developmental process, as well as with qualitative data extracted from interviews with PPP practitioners.

8.6 INTERPRETATION OF INFLUENCING FACTORS

8.6.1 POLITICAL ENVIRONMENT

Within this section, the political process is analysed to understand the changes of the PPP scheme during transitional phase 3. The political leaders in this context are minsters of infrastructure-involved ministries (including Ministry of Transport, Ministry of Industry and Trade, Ministry of Planning and Investment) and chairmen/chairwomen of municipalities/provinces.

The political environment plays an important role to enable the development of a PPP scheme (Li et al., 2005b; C., Choi, S.O., 2008; Cheung, Chan, & Kajewski, 2010). In the case of Vietnam, the "*political leader's role*" appeared to have influence on the development of its PPP scheme particularly in the transport sector within this stage. Since the initial phases of PPP scheme adoption in infrastructure delivery up to 2012, there was not any support actions given by line ministers or provincial chairmen/chairwomen to promote PPP. During the period of 2013-2015, the minister of MOT gave his willingness for the participation of private enterprises to deliver transport projects under a PPP scheme. This had a positive influence on the development of the PPP scheme in transport sector.

As some interviewees expressed:

> "*[…] mention about MOT, it could say the role of MOT minister is very significant regarding to the promotion of the PPP scheme in this sector. He called for a PPP investment, so any transport project proposed under the BOT model, he would give his willingness for approval. Therefore, it could be said that the role of leader is very important regarding the promoting of the PPP scheme. […] but we cannot deny his role in the promotion of the PPP scheme in transport sector. During his tenure (i.e., 2011-2015) he mobilized various capital resources for transport projects, such actions have never seen by leader of MOIT for power sector or leaders*

of any municipalities/provinces for water sector so far" –Investor in industry [refer to question 14 – Appendix 2]

"[…] during last time, leader of MOT, he gave his best effort to "knock on the door" one by one involved organizations/institutions to get "policies" for the promotion of PPP transport projects. It could say such significant support actions of political leader that have never seen in the past in any sector to promote the participation of private sector in infrastructure delivery" – Official in MPI- [refer to question 14 – Appendix 2]

On the other hand, the political leaders also appeared to have an influence to some extent on the investor selection process of PPP projects. As an interviewee expressed:

"[…] actually, there were regulations of investor selection applied to construction projects. It regulated that if there is only one investor register to invest in a project then "direct appointment" would be applied otherwise "open-bidding" would be applied to select winner bidder but in fact in some cases in order to register to do investment in a PPP project, investor needs to get permission from the political leader. This is not officially regulated in any laws but it actually happened in reality. Therefore that is one of reasons leading to "direct appointment is popularly applied to investor selection of PPP projects […]" -Investor in industry- [refer to question 15 – Appendix 2]

Thus, the political leaders have displayed influence to some extent on the PPP scheme at the program level as well as at the project level during its development process.

8.6.2 LEGAL FRAMEWORK

In comparison with the previous period, the PPP-involved regulations applied to PPP projects (which granted investment license) did not change notably during this period. Therefore, its influence on the application of PPP scheme was identified to be the same as the previous period *(refer to section 7.5.2).*

8.6.3 STAKEHOLDERS' CAPACITY

Regarding PPP-involved officials, the improvement of their managerial capacity was confirmed by other counterparts of PPP projects during project implementation, particular in the transport sector after 2012. With many implemented PPP projects in the past, PPP-involved officials learned lessons and became more experienced in their execution of PPP projects, specifically in contract negotiations and project cost management.

As an interviewee expressed:

"[…] objectively speaking, the management capacity of officials in BOT and BT projects improved greatly in recent years, they have become more experienced in

project management as well as in contract negotiations [...]" - Design consultant in BOT project- [refer to question 3 – Appendix 2]

The fact showed that more experienced PPP-involved officials realized, they could interfere more deeply into the PPP project implementation process sometimes this helps to streamline the process particular in transport PPP projects.

As an interviewee expressed:

> *"[...] as you see recently a series of PPP transport projects have been approved by MOT, one of the influencing factors is officials in charge of PPP have become more experienced, they developed many solicited proposals under the PPP scheme, this has been rarely seen before [...]"* - PPP project Director- [refer to question 3 – Appendix 2]

Regarding PPP project sponsors, domestic sponsors continued to be dominant in the PPP market. In the nascent phase, most domestic-invested PPP project sponsors were SOEs. However, over the PPP development process, the composition of domestic sponsors gradually changed to reveal more partly-SOEs and private enterprises. The financial sources and human resource of SOEs were strongly controlled by the government (ASAs). Therefore, the role of a "private party" in PPP (BOT/BT) projects at that time were not clearly manifested in practice. Evidently, those SOEs became project sponsors/investors by direct appointment of the ASAs. Hence, even under the role of "*private party*" in the "*public-private partnership*", the agreements were in fact closer to "*public-public partnerships*". In transitional phase 1, 2 and 3 of the PPP development, there were more partly-SOEs and purely private enterprises taking part in PPP projects. Although they were also appointed by ASAs to become project investors, the government had fewer rights (for partly SOEs) or no rights (for private investors) to interfere (*e.g. in aspects of finance, human resource, operation process, etc.*). Therefore, the performance of PPP projects carried out by partly-SOEs or private investors was evaluated to be better than of those carried out by SOEs because partly-SOEs or private investors held the rights to decide human resources and fiscal sources when they took charge of PPP project implementation.

As an interviewee expressed:

> *"[...] actually, equitized SOEs (partly-SOEs) as our company the financial sources are effectively managed in comparison with those in SOEs, I believed that the financial capacity of equitized SOEs is often stronger than of SOEs, currently the number of strong SOEs is not so many hence a few SOEs have been realized in PPP projects recently. On the other hand, because equitized SOEs matured*

from SOEs therefore they had much managerial experiences and as a result equitized SOEs would perform PPP projects better than SOEs [...]" - Director of equitized SOEs in industry – [refer to question 6 – Appendix 2]

In addition, during this period, there were many mature investors with experience of construction contractors and transport projects. With experience in project implementation, confidence was enhanced for taking on PPP transport projects.

Regarding lenders, it could be said that since 2013, SOCBs system were strongly encouraged to equitize, to help more private entities become shareholders of SOCBs. Therefore, some changes in the strategy of seeking for potential clients were realized. Namely, in the period before 2013, SOCBs usually had a close relationship with SOEs, they tended to lend to familiar clients (i.e., SOEs) and were reluctant to supply loans for private enterprises that were evaluated to have limited credit history. However, in this stage SOCBs became more willing to allow private enterprises to take on loan contracts. Therefore, the accessibility of private enterprise to credit institutions increased.

As an interviewee expressed:

"[...]currently, we only make loans when we realized that project investor is truly strong capacity including financial and technical capacity, honestly we evaluate private investors and equitized SOEs better than SOEs particular in private investors because they are often more responsible for their business activities. Hence, they often execute project in better way and therefore the ability to return loans would be higher than other enterprise types [...]" – Representative of a SOCB - [refer to question 6 – Appendix 2]

Based on the above interpretations, it is found that the maturation of private enterprises in the construction industry, the increase of credit access for partly-SOEs and private enterprises, along with the enhancement of equitization of SOEs and SOCBs resulted in changes in the composition of PPP projects' sponsors. These factors interweaved with the increased experienced in PPP execution of PPP-involved officials to positively influence the implementation of the PPP scheme during this stage.

8.6.4 MARKET CONDITIONS

8.6.4.1 THE ANNUAL CREDIT GROWTH

Since Resolution No.11/NQ-CP was put in place, it directly influenced business activities of the banking system. Credit growth decreased significantly during the period 2011-2015 (see Figure 8.5). Under the demand of growing credit, bankers tried to seek for potential clients to make loans, and BOT projects thus turned out to be an attractive investment channel.

An interviewee expressed

"[...] during the time of 2010 to 2014, under the influence of the frozen real estate market, the idle capital in the banking system was increasing and the demand for credit growth was thus highly increasing. Therefore, BOT transport projects turned out to be an attractive destination of banks [...]"- Investor in industry – [refer to question 14-Appendix 2]

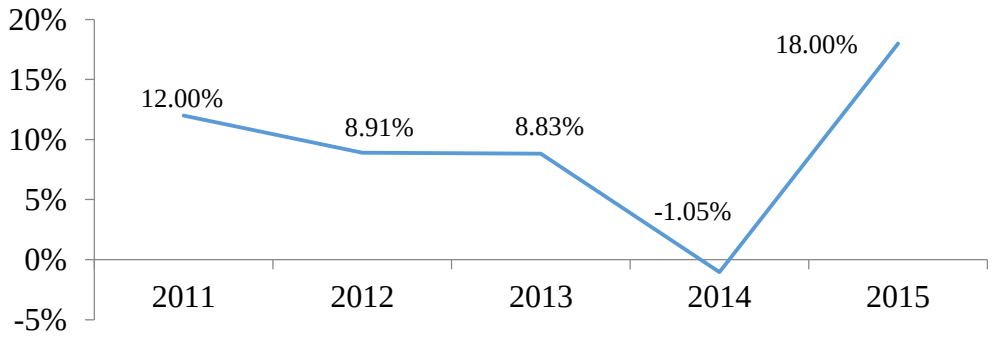

Figure 8.5 The credit growth in 2011-2015

(Source: State Bank of Vietnam[36])

Evidently, the Joint Stock Commercial Bank for Investment and Development of Vietnam (BIDV) (*one of the biggest banks usually supplies debts for PPP projects in Vietnam*) had actively accessed the MOT and formed a credit agreement to supply loans for BOT projects. This created enabling conditions for private investors as they took part in PPP projects particular in PPP transport projects.

8.6.4.2 THE REAL ESTATE MARKET

The real estate market appeared to have a significant influence on the development of the BT model in transitional phases 1 and 2 of the PPP scheme. In this period, the real estate market continued to be "*frozen*" hence the BT model had no longer been attractive for investors. But the "*frozen*" status of the real estate market was also considered to be one of the reasons that drove bankers to seek for PPP projects particularly in the transport sector *[refer to the quote in section 8.6.4.1]*

[36] Cited in "báo cáo tổng quan về tình hình doanh nghiệp và nhiệm vụ phát triển kinh tế xã hội năm 2014-2015". Available at: http://www.business.gov.vn/Portals/0/2014/BCTQ%20tinh%20hinh%20DN%20va%20nhiem%20vu%20KTXH%202014-2015%20V11-ThuyTHCS.pdf, accessed in May 27th, 2016

8.6.5 ECONOMIC CONDITIONS

In comparison with the previous period, high public debts and stringent budget deficits still appeared to have influence on the implementation of PPP projects to some extent *(refer to the section 7.5.5)*.

8.6.6 PROJECT OUTCOMES

In comparison with the previous period, bad legacies of BT and BOT projects also appeared to have a negative influence on the sponsor's motivation to take part in PPP projects.

8.6.7 CONCLUSION

Six groups of influencing factors have been realized to have influence on the implementation of the PPP scheme within this period including (i) political environment (i.e. political leader's role), (ii) legal framework (i.e. a low equity ratio requirement, non-transparent regulations of investor selection, strategic policies), (iii) stakeholders' capacity, (iv) market conditions (i.e., the real estate market, the annual credit growth), (v) economic conditions (i.e. stringent budget deficit, high public debt) and (vi) project outcomes. Namely, (1) the impact of the high public debts and the stringent budgetary deficits drove the government to enhance the utilization of PPP in the delivery of infrastructure projects; (2) government support (by political leaders), changes to regulations of the private equity ratios and investor selection procedures, and the impact of annual credit growth led to significant increases in the application of the PPP particularly in the transport sector; and (3) improvements in stakeholder capacity as well as the change of project sponsor composition had a certain influence on the implementation of PPP projects within this period.

8.7 SUMMARY OF THE CHAPTER

This chapter explored the development process of the PPP scheme for infrastructure delivery in the period 2013-2015 as follows:

(1) There were 64 projects with investment license including two power projects, 61 transport projects and one water project under BOT and BT models. Some exceptional cases regarding incentive policies were identified in the transport sector. Managerial organization structure has changed and managerial capacity of officials has improved gradually. Fewer SOEs (13 SOEs) and many more partly-SOEs (29 partly-SOEs) and private enterprises (22 private enterprises) can be observed in the composition of sponsors in PPP projects.

(2) Significant increases in the number of PPP transport projects carried out under the BOT model is a salient feature of the PPP scheme in this stage.

(3) Six influencing factors were identified including (i) political environment, (ii) legal framework, (iii) stakeholders' capacity, (iv) market conditions, (v) economic conditions, and (vi) project outcomes. Of these factors, government support (by political leaders), regulations on the minimum private equity ratios, non-transparent regulations on investor selection procedures, strategic policies *(policy of public investment cut off and call for private investment, and policy of macro-economy stability* in particular*)*, and annual credit growth appeared to be influencing factors leading to increased applications of the PPP scheme (BOT model) in the transport sector.

Chapter 9

DISCUSSIONS AND IMPLICATIONS FOR FUTURE PPP SCHEME IN VIETNAM

9.1 OBJECTIVE

This chapter aims at discussing the formulation of PPP applications in Vietnam over time, which are shown in Figure 9.1 and Figure 9.2. Political economic theory can be used to explain the significant changes of PPP applications and propose implications for the future of PPP schemes in Vietnam based on its developmental history.

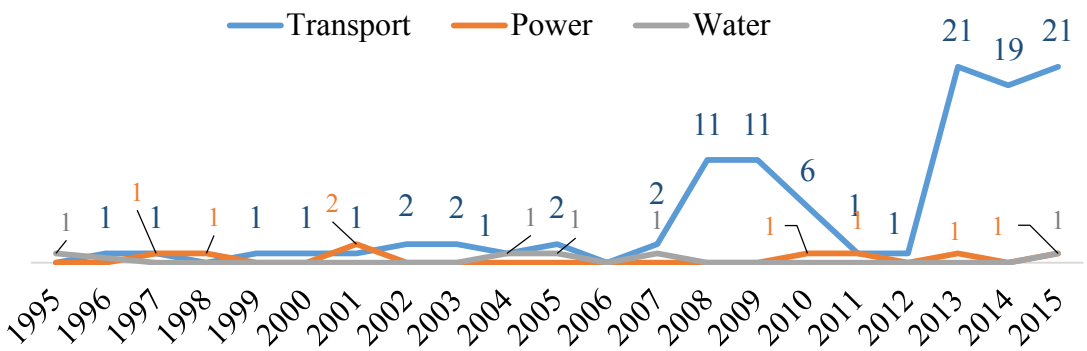

Figure 9.1 The number of PPP applications in Vietnam from 1995 to 2015 by sector

(Source: Compilation based on data from MPI, MOT, MOIT and other sources)

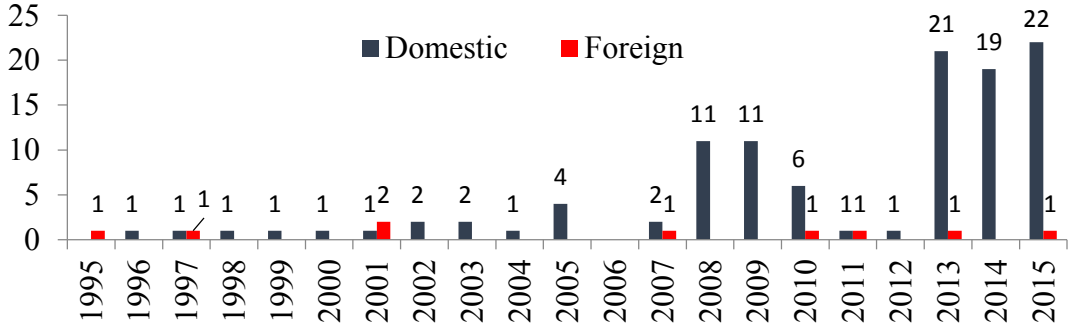

Figure 9.2 The number of PPP applications in Vietnam from 1995 to 2015 by investor type

(Source: Compilation based on data from MPI, MOT, MOIT and other sources)

9.2 DISCUSSION

"A PPP application" can be defined as part of a PPP Project's cycle from project formation to the awarding of a contract. The following steps are included:

(1) Proposal submission (including solicited proposal and unsolicited proposal);

(2) Proposal approval;

(3) Investor register (investor selection);

(4) Negotiation

In each period, the formulation of PPP applications is influenced by various factors including internal factors (interaction of stakeholders: sponsors, politicians, authorized state agencies-ASAs, lenders) and external factors (including economic conditions, political environment, market conditions and legal framework)

From the perspective of political economic theory, based on the investigations, changes to the number of PPP applications in Vietnam can be discussed based on the identified influencing factors - which are summarized in table 9.1.

Table 9.1 Summary of identified influencing factors on the development process of PPP scheme in Vietnam

Sub-category	Category
(1.1) Willing to private engagement in PPP	(1) Political environment
(1.2) Unwilling to raise tariffs for BOT projects	
(1.3) Priorities given for SOEs	
(1.4) Reason of national security	
(1.5) Political actions on PPP scheme	
(2.1) Encourage private investors participate in PPP	(2) Legal framework
(2.2) Equity ratio regulations	
(2.3) Proposal allowance	
(2.4) Incomplete regulations	
(2.5) Inconsistency regulations on PPP sub-models	
(2.6) Nontransparent regulations of investor selection	
(2.7) Strategic policies	
(3.1) Capacity of domestic private company	(3) Stakeholders' capacity
(3.2) Financial and technical capacity SOEs	
(3.3) Capacity of foreign investors	
(3.4) Managerial capacity of ASAs and domestic investors	
(4.1) Larger budget allocated for power and water projects	(4) Market conditions
(4.2) The real estate market	

(4.3) The demand of annual credit growth	
(4.4) The demand for delivery transport projects	
(5.1) GDP and CPI, public debt and budget deficit	(5) Economic conditions
(6.1) Project features/nature	(6) Project features/nature
(7.1) Bad legacy on BOT projects and delays of BT projects	(7) Project outcomes

The nascent phase (1993-2006)

Following the "Doi moi"/renovation policy *(i.e. "Doi moi" policy was known as the policy of national economy restructuring, issued by the Vietnamese Communist Party in 1986)*, the Vietnamese government set up a regulatory PPP framework that applied to foreign investors and attempted to include the engagement of private firms into the PPP scheme. Many foreign investors entered in Vietnamese PPP market and most of their PPP proposals gained approvals from the Vietnamese government *[refer to the section 5.6.1]*. However, with incomplete regulations within the PPP legal framework *[refer to the section 5.6.2]* combined with a lack of executive capacity and decision-making rights for ASAs *(i.e., ASAs often appeared to have a little power to decide PPP-involved issues that they supposed to have)*, foreign investors often did not reach final agreements with the Vietnamese government, who were restrained by politicians unwilling to raise tariffs on BOT. As a result, only four applications were realized. The formation mechanism of the applications proposed by foreign investors is illustrated in Figure 9.3

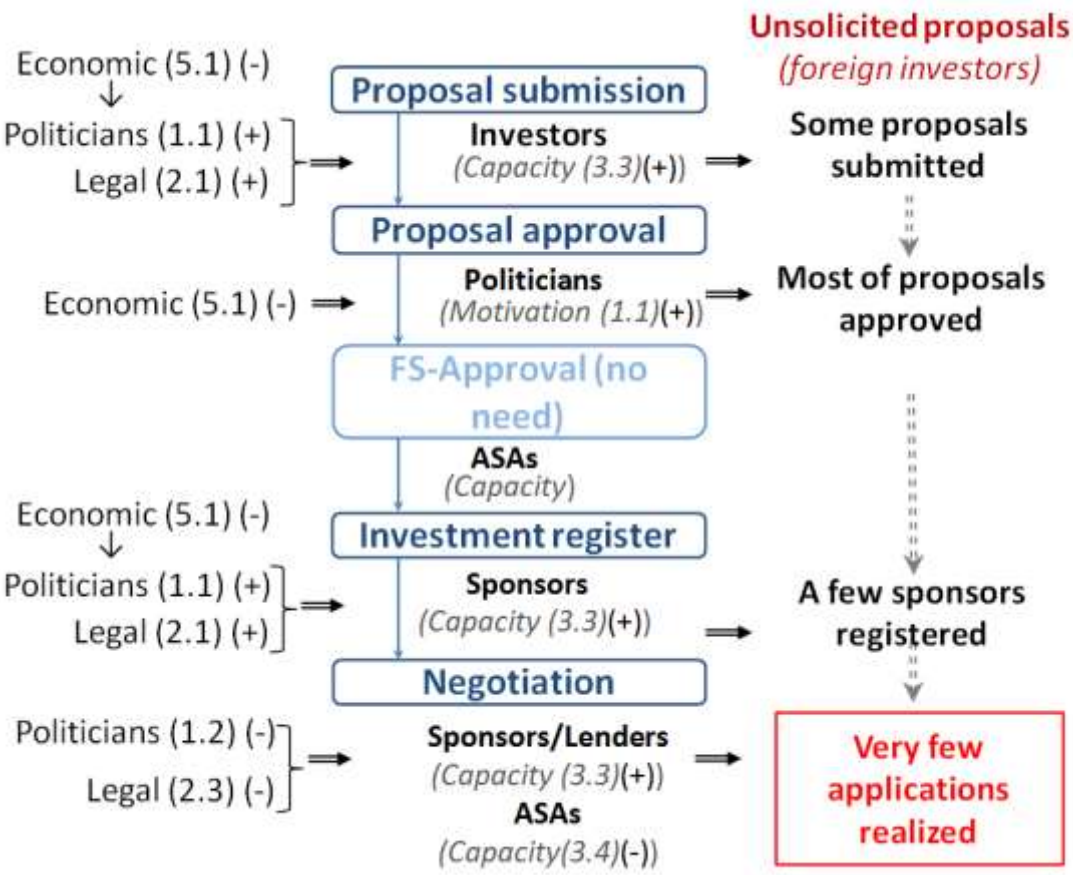

Figure 9.3 The formation mechanism of PPP applications created by investors (foreign investors) in the period of 1993-2006

For the domestic PPP investor-market under fiscal pressure, the Vietnamese government assigned ASAs to develop PPP-proposals in order to stimulate the participation of private entities in infrastructure delivery. However, due to the lack of PPP-executive capacity of ASAs, only 15 proposals were developed. These proposals easily obtained approvals from the government (politicians). In addition, domestic private firms at that time were small in size, but with high "*barriers to entry*" within the legal framework *(i.e., minimum equity ratio must be 30 percent of total project investment)*, they could not afford to become involved in PPP projects. The government thus included the engagement of the private sector through the direct appointment of firms/enterprises (i.e., SOEs) and financers (i.e., SOCBs) to perform projects (transport projects in particular). Nevertheless, with a lack of PPP-experiences in both the private sector and ASAs, and incomplete regulations within the legal framework resulted in disputes during the negotiation process. As a result, only a 15 applications were realized. The formation mechanism of the applications proposed by ASAs is illustrated in Figure 9.4

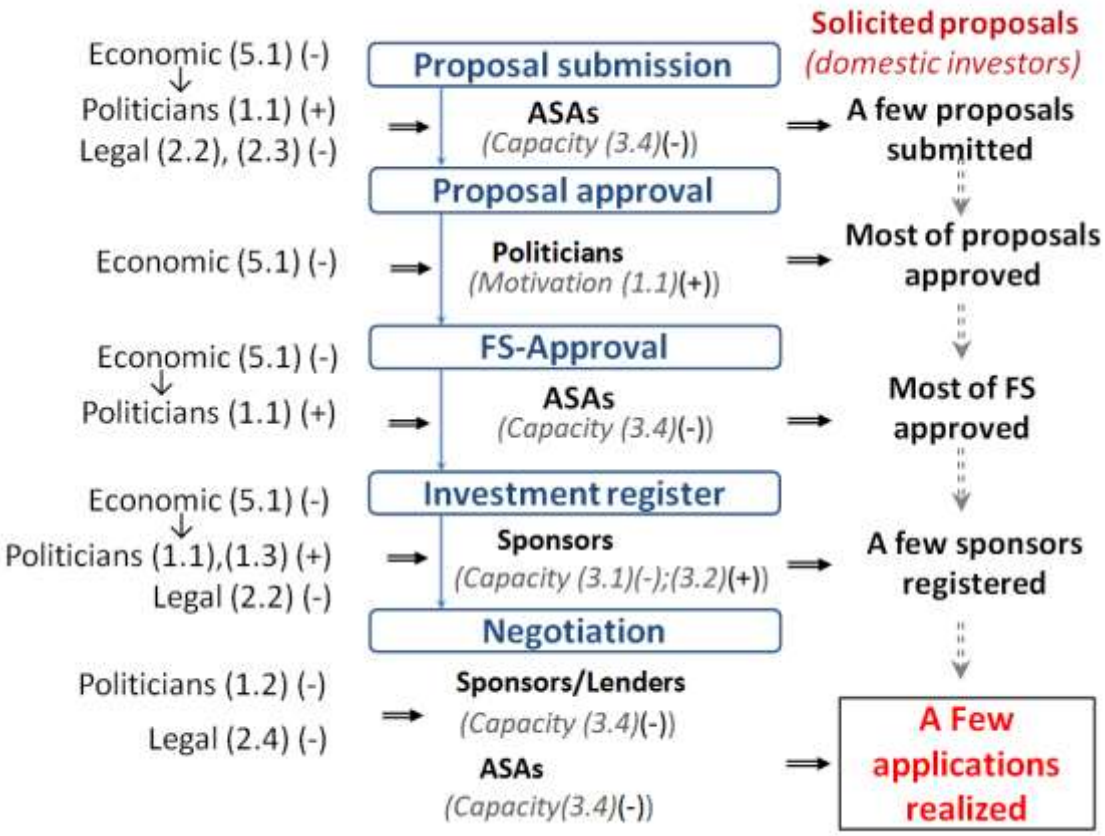

Figure 9.4 The formation mechanism of applications created by ASAs from 1993-2006

During this period, a prevalence of PPP-transport projects carried out by domestic investors was realized. As this period can be considered a post war period, most of the transport networks in Vietnam were destroyed and deteriorated hence needed repair and reconstruction. Furthermore, transport projects often do not require advanced technologies and large investmentments in comparison to power and water projects. Domestic investors with limited capacity were able to afford investing in such projects. In addition, because power and water projects are usually closely involved in national security, the government is often reluctant in allowing the participation of the private sector in such projects. This could be seen through actions by the government to always keep a larger amount of budget allocation for the power and water sectors than for the transport sector. These explain the government's priority towards domestic investors (SOEs in particular) to undertake PPP-transport projects during this stage. The mechanism for the formulation of applications in different sectors can been seen in Figure 9.5

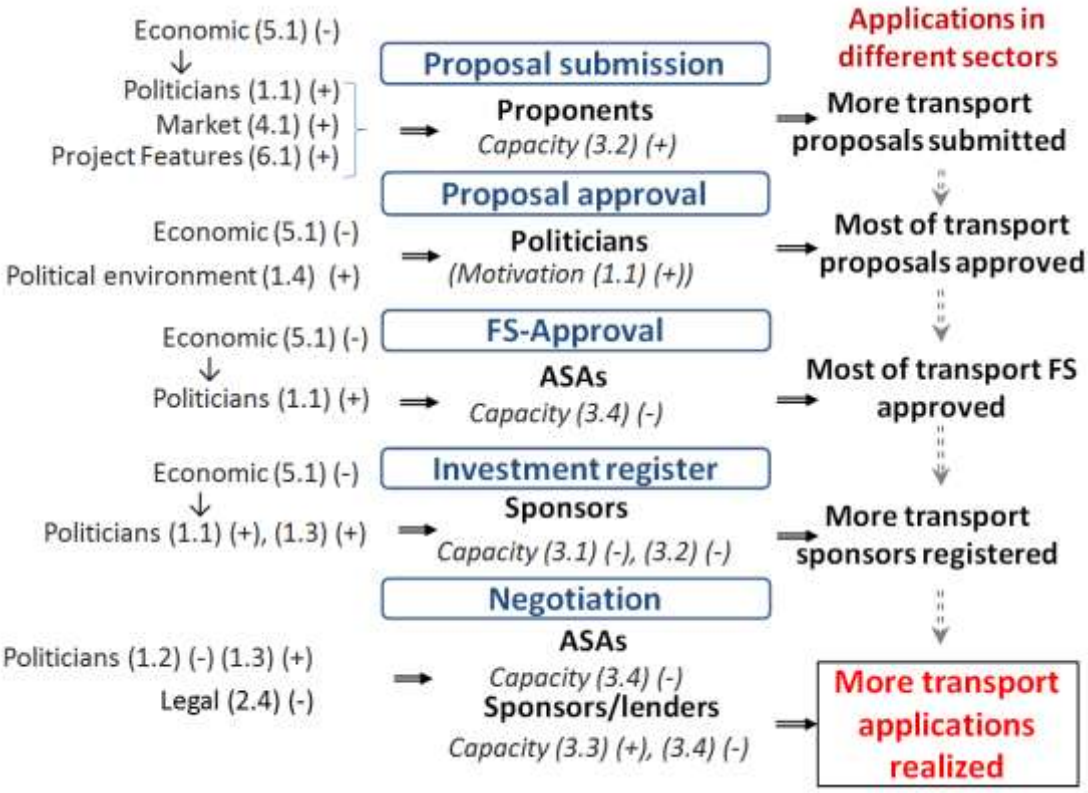

Figure 9.5 The formation mechanism of the applications in different sectors in the period before 2007

Phase 1 (2007-2010)

Accession of Vietnam into the WTO occurred in the end of 2007, and this event could be believed to be a predisposing factor leading to the real estate market the "*bubble*" and an attractive investment environment for private investors. These positive changes to market conditions combined with positive changes within the legal framework *(i.e. lower equity ratio namely 15-30% of the total project investment, allowed domestic investors to develop unsolicited proposals)* promoted private investors to develop a series of PPP (BT/BOT) proposals (*i.e. 100 proposals under BT and BOT models were submitted*[37]). With a positive prospect of market trends, most PPP proposals gained approvals from leading politicians (i.e., Prime Minister, Ministers, and mayors of municipalities). However, with incomplete regulations applied to "*BT-land for infrastructure*" combined with inexperienced PPP-involved officials, subjects claimed that few projects received FS-approval from ASAs. Although the feasibility studies were approved, disputes still occurred

[37] According to "Các chiêu đội giá công trình"
Available at: http://www.tienphong.vn/xa-hoi/cac-chieu-doi-gia-cong-trinh-569627.tpo , accessed in January, 2016

during the negotiation processes of PPP projects because of the lack of PPP regulations (regulations on the BT model in particular). Therefore, until the end of 2010, only 8 applications were realized. The formation mechanism of the applications proposed by private investors is illustrated in Figure 9.6

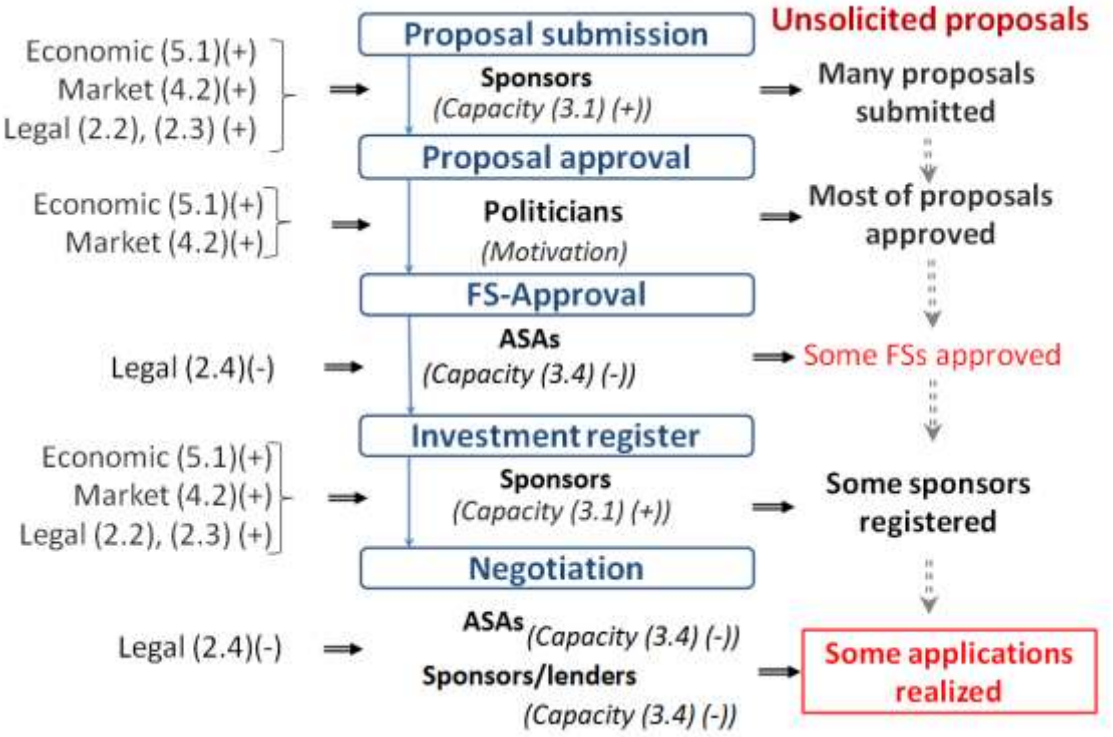

Figure 9.6 The formation mechanism of the applications proposed by investors from 2007-2010

Concerning solicited proposals during this period, since politicians were newly positioned under the new tenure *(the new Prime Minister had his first tenure from 2007 to 2011 and the second from 2011 to 2016)*, a few political controlling actions were realized and mainly given for some large-scale transport projects that could not be financed by private firms alone. Although with optimistic economic prospects and policies in place to enhance the participation of the private sector in the delivery of infrastructure, ASAs lacked experience in PPP execution and under the new PPP regulations and were not ready and motivated to develop PPP-proposals. Therefore, only two solicited proposals were developed and these were large-scale with a lengthy FS-approval process, due again to the lack of technical capacity among the ASAs and incomplete regulations within the legal framework. In these cases, the government assigned the investors of the projects through solicited proposals and negotiation processes usually took place with less disputes. Even so only 2 solicited applications were realized within this period. The formation mechanism of the applications proposed by ASAs is illustrated in Figure 9.7

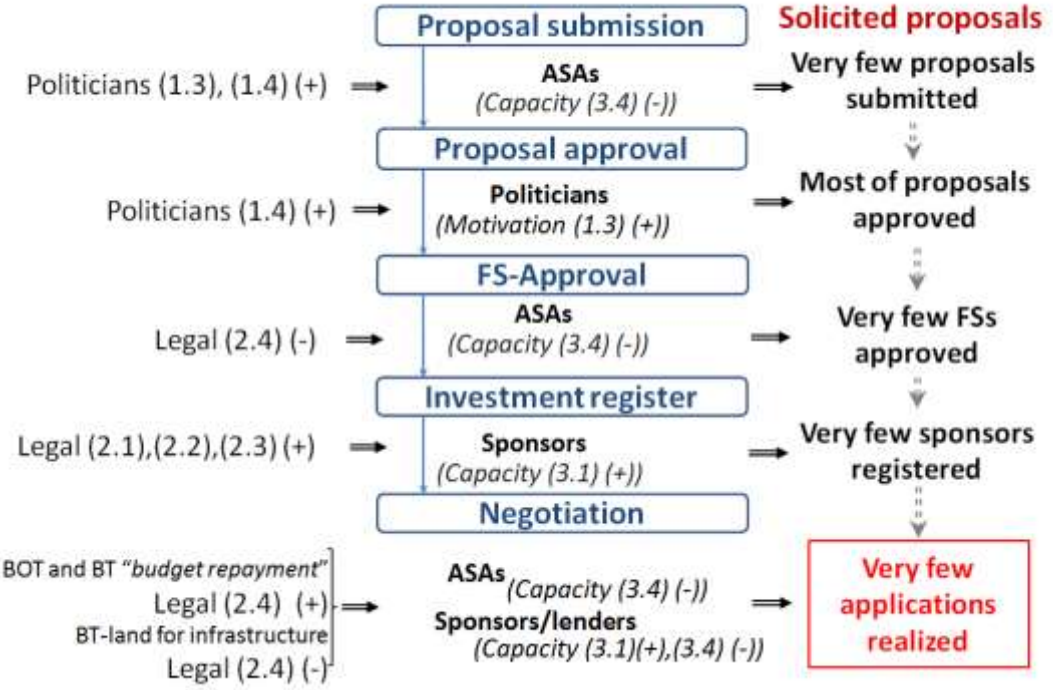

Figure 9.7 The formation mechanism of the applications proposed by ASAs in the period of 2007-2010

Phase 2 (2011-2012)

After the global recession of 2008-2009, Vietnam also felt its effects on the national economy *(i.e., low GDP growth, high public debts and stringent budgetary deficits)*. This event resulted in a "frozen" real estate market, lenders began to tighten their lending policies, and private firms became reluctant to participate in PPP projects. In the end of 2009, although the regulatory framework placed lower "*barriers to enter*" the PPP market for private investors *(i.e. the requirement of minimum equity ratios was 10 to 15% of the total project investment)* with weak capacity, bad legacies of BOT projects *(only around 20% of BOT projects were evaluated as successful BT projects faced delays)*. Under such market conditions, subjects claimed that very few proposals were submitted by private investors during this period. Moreover, under fiscal pressures, only proposals to which budget subsidies had not been provided could be approved. Thereby, proposals under a *BT-land for infrastructure* model and the combination of BOT and *BT-land for infrastructure* models were largely realized in this period. However, for such proposals the FS-approval processes were often time-consuming due to a lack of regulations. In addition, the negotiation process often took time because of a lack of dispute resolutions mechanisms. As a result, government records showed no unsolicited proposals were realized suggesting virtually no involvement by private investors. The formation mechanism of the applications proposed by private investors is illustrated in Figure 9.8

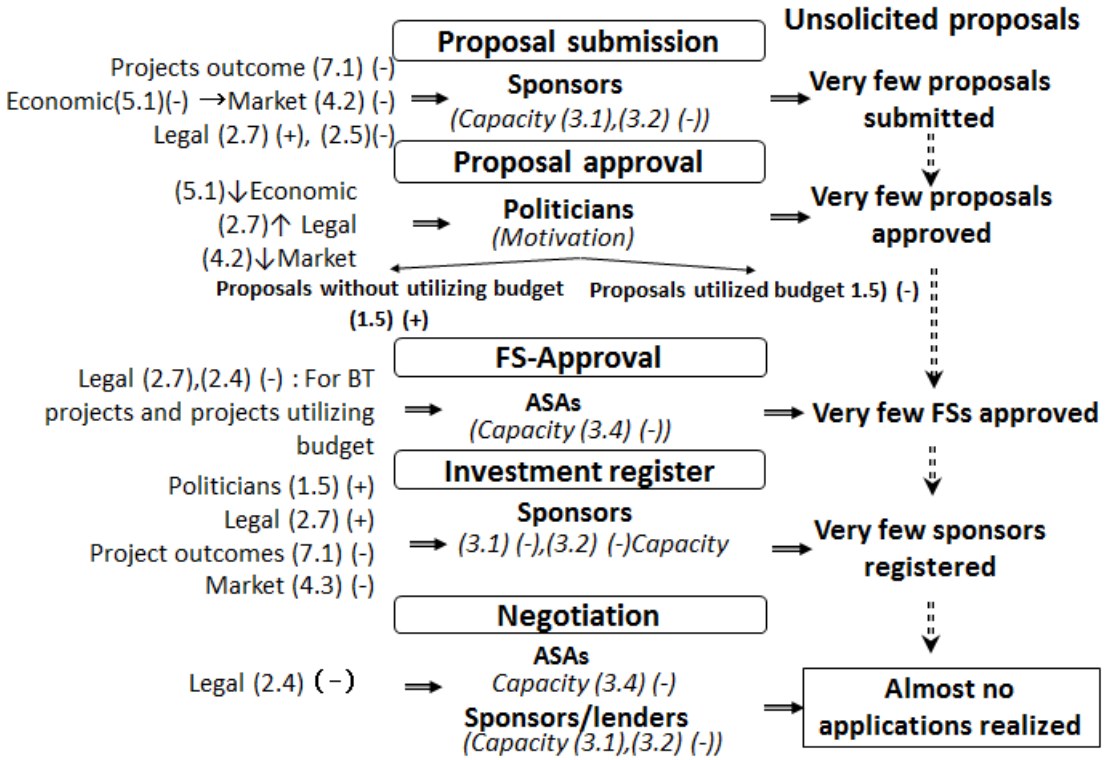

Figure 9.8 The formation mechanism of the applications proposed by investors in the period of 2011-2012

In addition, under the fiscal pressures the government issued a policy of cutting off public investments and attempted to enhance the participation of the private sector in infrastructure delivery via the promulgation of "the Pilot PPP Decision" in the end of 2010. This government required ASAs to develop PPP-proposals to which budget subsidies were restricted. Thereby, many on-going public invested projects were shifted to the PPP scheme (more than 50% of on-going public-invested projects). Nevertheless, this process was time-consuming due to capacity deficiencies of the ASAs, particularly those at local level as well as confusion among ASAs for developing proposals under inconsistent regulations within the legal frameworks *(refer to section 7.6.2.1)*. Therefore, during this stage just 3 proposals submitted by ASAs to which proposals without requirements of budget subsidies *(usually being proposals under the BT-land for infrastructure model and the BOT combined with the BT-land for infrastructure model)* would be approved prior to other proposals. However, under such market conditions *(refer to section 7.6.4.2)* and a bad reputation of past PPP projects, only 6 sponsors took part in PPP projects and most were SOEs and partly-SOEs directly appointed by the government. Negotiation processes were still time-consuming due to the lack of regulations on the *BT-land for infrastructure* model. As a result, only 03 applications proposed by ASAs were realized by the end of 2012. The formation mechanism of the applications proposed by ASAs is illustrated in Figure 9.9

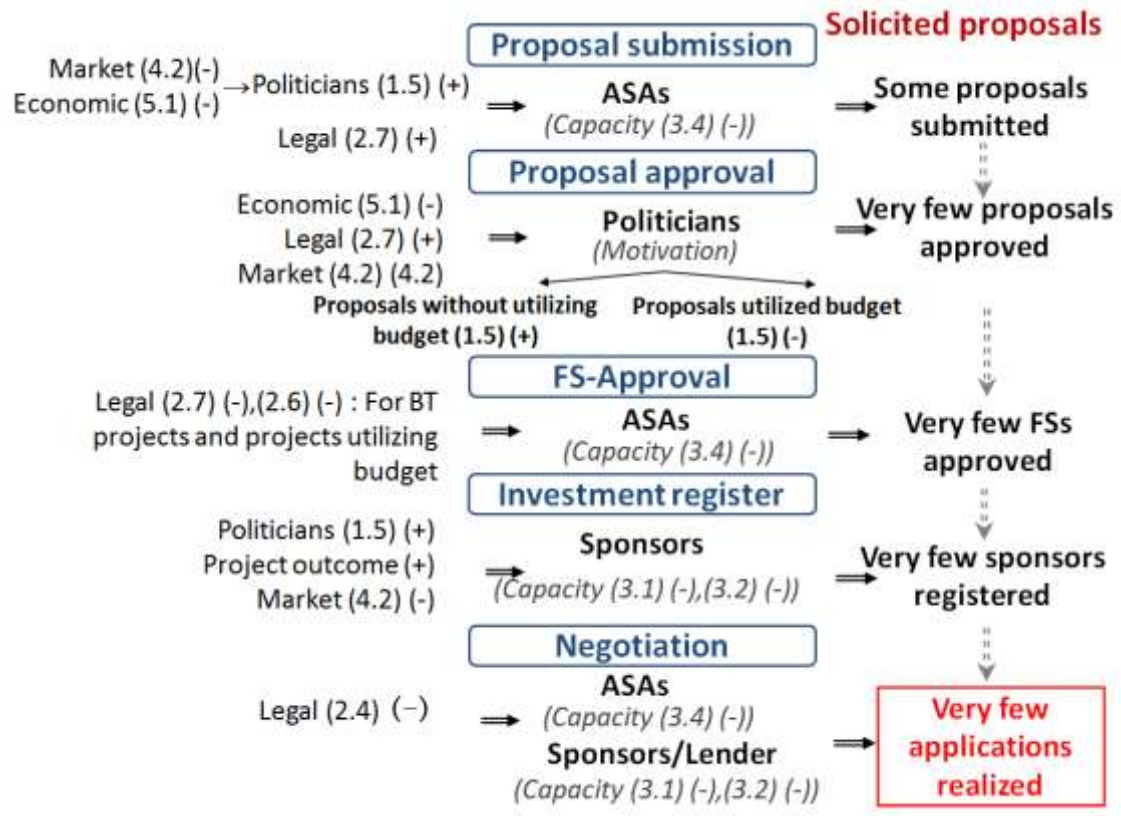

Figure 9.9 The formation mechanism of applications proposed by ASAs from 2011-2012

Phase 3 (2013-2015)

Under fiscal pressure *(in 2013 public debt was 54.2% and the budget deficit was 5.45%)*, the 2013 and 2014 marked significant changes in Vietnamese economic structure to which the role of the private economic sector was pressed forward. Many laws were revised such as the Law on Enterprise, Law on Tendering, Construction Law, and the Public Investment Law, and many policies were issued to stabilize the national economy. The demand for synchronous development of infrastructure systems was also pressed by the government *(shown in the Resolution No.13/NQ-TW dated in January, 16th 2012)* in which, the role of private investments under a PPP scheme was confirmed to be extremely necessary. At that time, construction market conditions appeared to be more attractive than before. Furthermore, private investors became matured with more experience in PPP execution. However, according to interview subjects, the amount of unsolicited proposals developed and submitted by private investors was still limited in reality (only one proposal in power sector). This may have been caused by the bad reputation of past PPP projects *(refer to section 6.6.5)* which discouraged politicians to use unsolicited proposals. Therefore, approvals were given only large-sale proposals and projects requiring high technological abilities (such as power projects) under the condition that they could receive

no budget subsidies. Even so, after receiving approvals from the government (politicians), such proposals needed time for FS-approvals owing to their complex features. In addition, although in this period both ASAs and private investors became more experienced in PPP negotiations, the negotiation processes were usually time-consuming because of a lack of support from the government (politicians) as well as incomplete regulations within the current legal framework. As a result, within this period, only one application proposed (power project) by private investors was realized. The formation mechanism of the applications proposed by private investors is illustrated in Figure 9.10

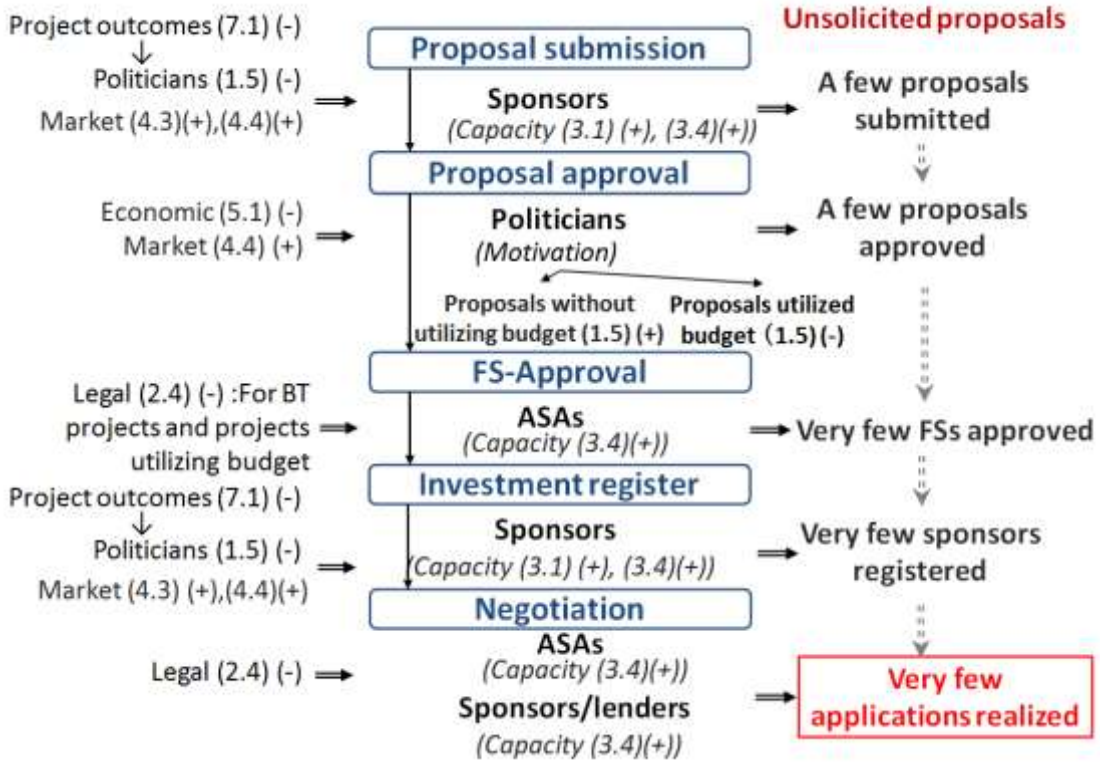

Figure 9.10 The formation mechanism of the applications proposed by investors in the period of 2013-2015

As mentioned earlier, since the policy to cut-off public investments was issued, many on-going public projects shifted to the PPP scheme. The establishment of a PPP Office and PPP divisions at multiple institutions with staff dedicated to PPP had a positive influence on PPP-proposals and execution – tasks that were difficult for ASAs in the past. More than 63 PPP-proposals were submitted by ASAs during this phase. In addition, in order to promote the delivery of infrastructure projects under a PPP scheme, particularly in the transport sector, many support actions were given by the Minister of MOT *(a new minister with his tenure from 2011 to 2015)* for PPP transport projects. Such actions were the first of their kind and unique from the actions of other ministers in the power sector or miniciple mayors *(refer to section 7.6.1)*. With the support of the MOT minister, most

PPP-proposals in the transport sector that did not require budget subsidies gained approval from leading politicians. Sixty-three PPP-proposals during the period between 2013 and 2015 were developed by ASAs and held rights to select consultant services to perform feasibility studies, and FS-approvals were completed relatively quickly as a result. Under the support of leading politicians and the availability of financial packages given by bankers, many private firms were motivated to register to perform PPP projects in this period. After gaining experience from implemented PPP projects, both ASA staff and private investors improved their PPP execution hence and negotiation processes also took less time to complete *(BOT-transport project in particular)*. As a result, 61 applications were realized in the transport sector during this period. The formation mechanism of the applications proposed by ASAs is illustrated in Figure 9.11

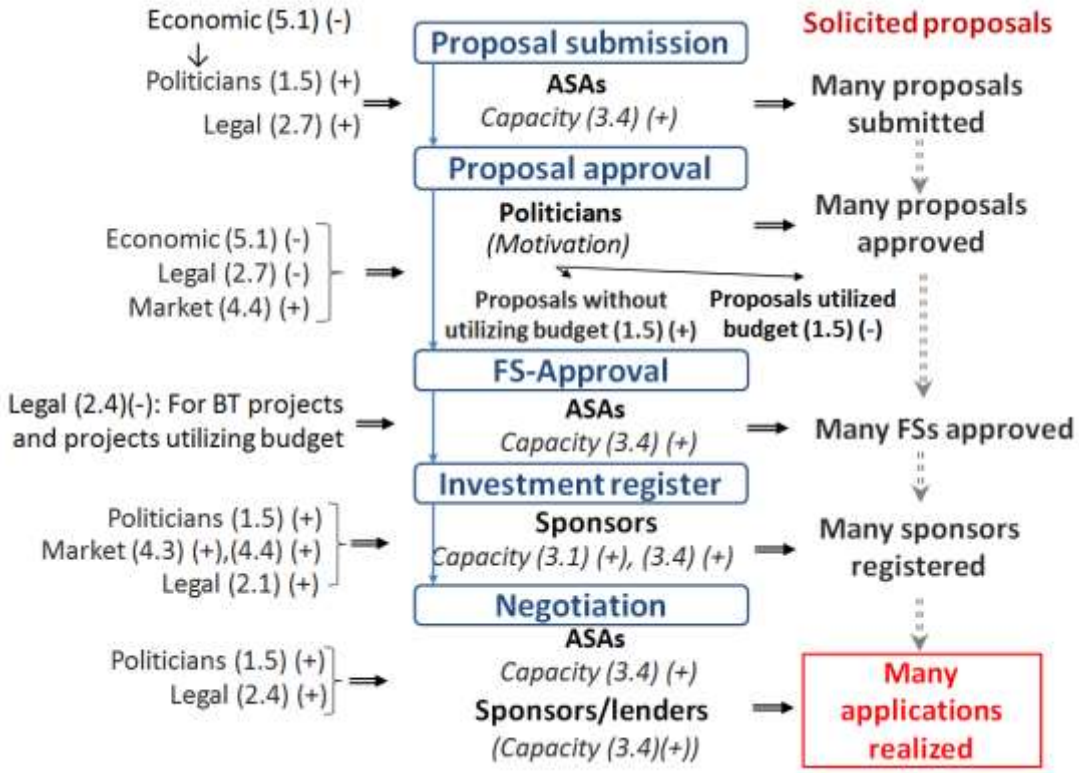

Figure 9.11 The formation mechanism of the applications proposed by ASAs in the period of 2013-2015

Looking at the whole process of PPP scheme development, based on changes to the legal framework as well as significant changes in the number of PPP applications, the entire developmental process can be divided into four periods including the nascent phase, transitional phase 1, transitional phase 2 and transitional phase 3, of which:

From the nascent phase to transitional phase 1

Positive changes of economic, market conditions, and lower legal barriers encouraged investors to propose many PPP-proposals. However, the lack of capacity of ASAs and incomplete regulations may have led to an increasing trend of PPP-application numbers.

From transitional phase 1 to transitional phase 2

Negative changes to economic and market conditions, as well as a bad legacy of PPP projects discouraged private investors to develop PPP-proposals while the government took more control on the PPP scheme, leading to a significant decreasing trend in the number of PPP application.

From transitional phase 2 to transitional phase 3

Positive changes of increased political support, combined with capacity improvements of ASA staff led to the creation of many PPP-proposals. The availability of financial packages and support actions of politicians may have led to a dramatic increas in PPP applications.

9.3 IMPLICATIONS

9.3.1 IMPROVEMENTS TO THE LEGAL FRAMEWORK

(1) The private equity ratio

The regulations on minimum private equity ratios appeared to influence the development process of the PPP scheme over time, particularly for the formulation of PPP applications. The following implications should be considered for the future of the PPP scheme in Vietnam.

- Regulating minimum equity ratios should be reconsidered as it affects the interests of investors (i.e., sponsors and lenders) as well as of the public party. Equity ratios should be determined for specific projects to ensure protection of the diverse interests of appropriate actors by stakeholders (namely, project sponsors, financers, and the government). In practice, the regulation of minimum equity ratios affected stakeholder behaviour, especially for project sponsors. When considering the amount of capital to be invested for private firms, if the equity ratio is small, these firms can participate in PPP projects. In contrast, they cannot take part in PPP projects with high equity ratio requirements with low financial capacity. In fact, for PPP projects, which require large amounts of capital investments, the government had to apply exceptional policies to mobilise enough equity investment

capital (i.e., Hanoi-Haiphong Expressway project – *refer to section 6.3.1.5.1;* Trung Luong – My Thuan Expressway project – *refer to section 8.3.1.5.1*) or in many cases project investors needed to be assigned directly by the government. This usually occurred with SOEs acting under the role of a private company in PPP projects (a "public-public-partnership" in actuality). In these cases, the government is exposed to potential financial risks because private firms may not take financial responsibility for their equity, and it is easy to exit projects in the event that problems occur. In some cases, in order to satisfy the regulation of minimum equity ratios, many sponsors reached a consensus beforehand and complicated the execution of projects after becoming investors. In reality, many sponsors combined together to become project investors but their actual financial capacity was not sufficient to satisfy the financial requirements of a project, often leading to delays in project implementation.

- Where there are no regulations on minimum equity ratios, the ratio would be determined by stakeholders for specific projects. In such cases, diverse interests of the stakeholders may be satisfied via their negotiations within project implementation can increase stakeholder responsibilities and being more exposed to suffer from financial risks.

(2) ***Detailing PPP regulations and improving the stability of PPP legal systems***

An analysis of Vietnamese PPP regulations showed that a lack of detailed guidelines confused practitioners and made it difficult for them to develop and approve PPP proposals. Therefore, even with current PPP regulations (PPP Decree - see Figure 9.12) the language remains generic and needs more details to be added through circulars. However, interview subjects revealed how the PPP regulation promulgation process lacked cooperation between lawmakers, practitioners, academia and PPP-experts *(refer to section 4.6.3)*. This undoubtedly had an influence on the creation of regulations that did not work in reality. Therefore, during the process of compilation and promulgation of PPP regulations and guidelines, close coordination amongst governmental officials who take charge of PPP-regulationsis required with, PPP specialists, experts, academics and practitioners.

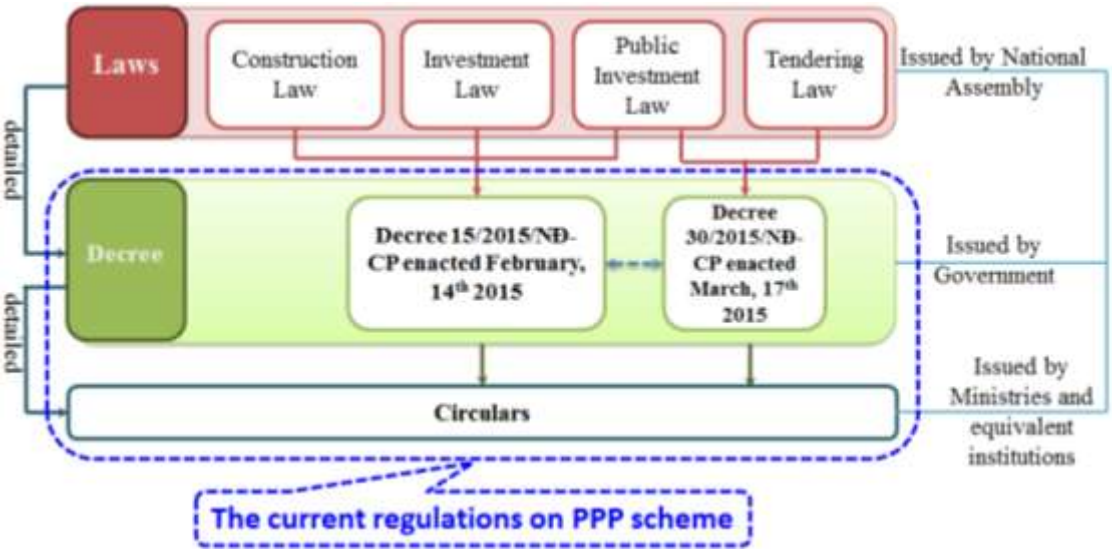

Figure 9.12 The hierarchy of legal framework apply to the PPP scheme

On the other hand, the current PPP regulations are at the Decree level and Circular level, and are thus not as stable as if the regulations were stipulated in "Laws" – a higher level of decree in terms of legal force. In reality, this analysis revealed that changes to PPP-involved decrees led to the changes of PPP regulations and would in turn affect the formulation of PPP applications. Hence, for the long term development of a PPP scheme, a PPP law should be considered. A law would create the stability for a PPP legal framework as well as trust among PPP investors/lenders for a long-term strategy in understanding the government's stance on this scheme. Within the PPP law, critical issues should be stipulated in separate decreres and guided by particular circulars. Figure 9.12 shows the proposed legal framework for a PPP scheme with a long term perspective. Under such a legal structure, the PPP legal framework would become more stable due to the legal force duration of laws being longer than that of decrees. In addition, when PPP regulations are in "law", the possibility of being affected by other laws would be restricted.

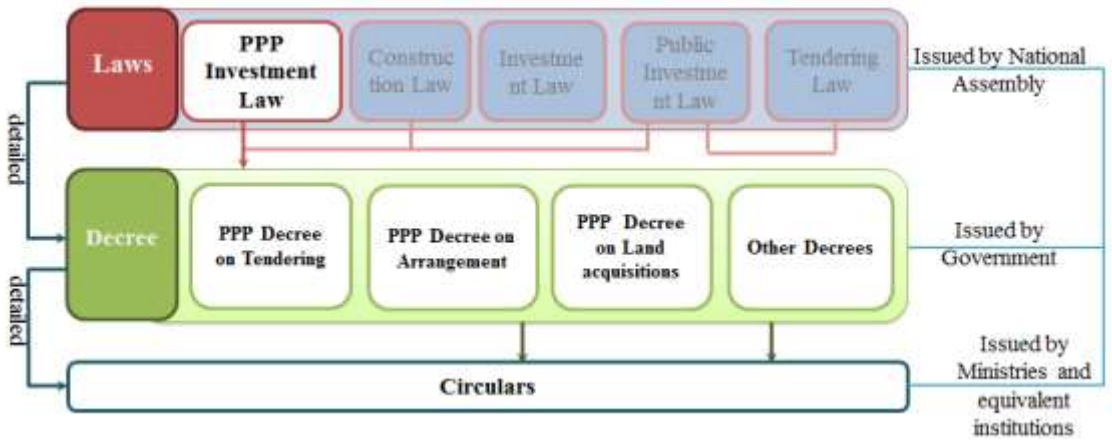

Figure 9.13 The proposed legal framework for the PPP scheme

9.3.2 IMPROVE MANAGERIAL INSTITUTIONS/ORGANISATIONS

Building-up managerial institutions/organisations with strong capacity to solve issues during the execution of PPP projects is essential for the development of an effective PPP scheme. The current study showed that the capacity of ASAs have certain effects on its development. Currently, even with the establishment of PPP Offices/Divisions at multiple levels, the divisions appear to hold weak roles. These might derive from the lack of experience among staff/members in PPP execution. Capable and experienced staff are essential for effective PPP execution. In fact, the current PPP Office which is responsible for supporting the development of the PPP scheme at the national level (i.e., compile incentive policies, manage Project Development Fund, assist consultant services, etc.) belongs to the Department of Procurement Management (DPM) under the Ministry of Planning and Investment (MPI) with limited members (*refer to the section 7.3.2.1*) – due to the hierarchical decentralisation of management in Vietnam – therefore under this status, its roles are somewhat insignificant and they have yet to create any records since its establishment. In fact, its operational activities have to obey the orders of DPM leaders who are under the control of MPI. Staff appeared to be less motivated to improve their effectiveness during PPP execution. In addition, in comparison with other PPP divisions which belong to other Ministries and municipalities (see Figure 7.1), it appeared to have even less power therefore, making it difficult to influence the execution of PPP schemes.

Therefore, a possible structure is proposed in Figure 9.14. With this structure, the PPP Office would be controlled by MPI, and therefore, a higher managerial level; it would have more powers during the execution of PPP programs at the national level. In addition, it would recruit more staff and could be more active within its operational process. This could improve the executive capacities of the PPP Office.

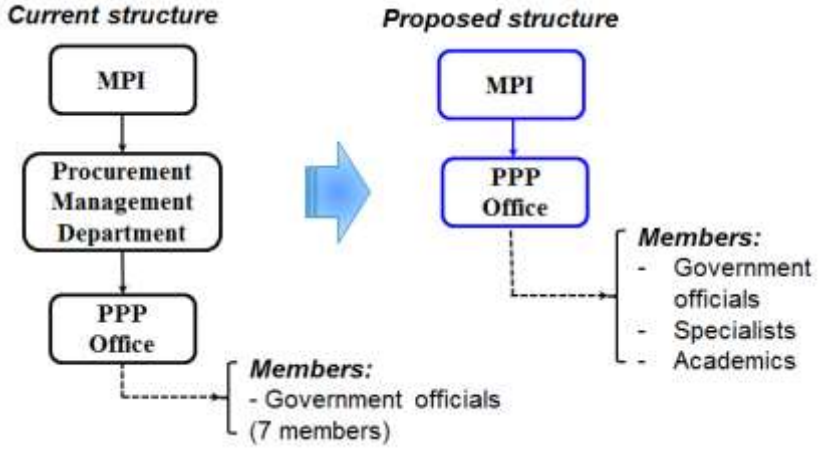

Figure 9.14 The proposed organisational structure apply to PPP Office

Practically, as M.E. Opera (2014) claims, learning from "*how something is done*" is one of the factors that led to the success of PPP transport projects in Alberta. Matos-Castano et al. (2014) also point out that learning from previous PPP projects was a key factor of a successful PPP program in the Netherlands. Practically, many PPP-projects were realized but official documents of lessons-learned reveal significant potential for the PPP industry in Vietnam. Such documents should be officially reported and broadly publicized and taken on by the PPP Office.

Chapter 10
CONCLUSIONS

10.1 SUMMARY OF THE FINDINGS

The objectives of this research were to:

3. Clarify salient features of historical changes to PPP regulations

4. Clarify why significant changes in the number of PPP applications occurred

The objectives were addressed through the findings outlined in chapters 4-9. Based on salient features of the roles and requirement of the government and investors, this study clarified historical changes to the PPP regulatory context by exploring four phases of the legal framework development process.

- The nascent phase (before 2007) is characterized by (1) inconsistent domestic and foreign investor regulations placing higher regulatory restrictions on domestic investors; (2) the government retaining strong control of detailed design and quality examination procedures; and (3) non-transparent bidding procedures put in place. Apart from finance and equity regulations that apply to private investors, all regulations that applied to domestic investors were similar (almost identical) to those that applied to conventional public projects.
- Transitional phase 1 (2007-2010) is characterized by (1) consistent regulations for both domestic and international investors leading to lower investment barriers for domestic investors and more planning regulations for foreign investors; (2) domestic investors enjoying increased control over detailed design procedures, and (3) non-transparent bidding procedures in place remaining the same.
- Transitional phase 2 (2011-2012) is characterized by (1) newly developed PPP regulations creating inconsistencies between PPP models in terms of equity requirements and public capital limits; (2) investor controls over detailed design procedures and quality examination remaining the same; and (3) open-bidding procedures put into place for the newly created label of "PPP" projects (but not for BOT/BT/BTO projects).
- Transitional phase 3 (2013-2015) is characterized by (1) the development of a "PPP scheme" for all models that provides increased managerial control to the government for projects with considerable public capital; (2) weaker investor control over quality examinations as approval is now required by the Government; and (3) all PPP project investors to be selected by international/national open-bidding procedures since the middle of 2015.

Concerning the development process of the PPP scheme in terms of applications, stakeholders *(i.e. capacity, organization)* and its influencing factors, this study has revealed that:

In the nascent phase, 19 PPP projects were granted investment licenses and carried out under BOT/BOO models, the majority of which were PPP transport projects. The prevalence of SOEs and SOCBs under the role of project sponsors and project lenders (respectively) were identified in these PPP transport projects. The partnership amongst main stakeholders in PPP projects appeared to be de facto "*public-public*" partnerships particularly for transport projects. Six groups of influencing factors have been realized to have influence on the developmental process of the PPP scheme in this stage including the (i) political environment, (ii) legal framework, (iii) stakeholder capacity, (iv) market conditions, (v) economic conditions, and (vi) project features. Of which, the submission and approval of PPP-proposals were encouraged by the government through preferential regulations under fiscal pressures, but the unwillingness of politicians to raise tariffs combined with legal barriers and a lack of capacity among ASAs resulted in few PPP applications (19 applications) realized.

In transitional phase 1 (2007-2010), 32 PPP projects were granted investment licenses. A sudden increase and decrease in the number of PPP transport projects as well as the appearance and prevalence of the BT model in this sector were observed. There was an increasing tendency of private enterprises and partly-SOEs in the composition of project sponsors for PPP transport projects. Five groups of influencing have been identified including the political environment, legal framework, stakeholder capacity, market demand, and economic-conditions. Of which, positive changes of economic and market conditions and, lower legal barriers encouraged investors to submit many PPP-proposals (more than 100 proposals). However, lack of capacity among ASAs and incomplete regulations resulted in less than a third of these PPP-applications (32 applications) being realized.

In transitional phase 2 (2011-2012) a significant decrease in PPP-licensed projects can be observed. Namely, only three PPP projects were granted investment licenses. This stage marked an improvement in the managerial organisational structure by the establishment of a PPP Office at the ministerial level, although inconsistencies within the legal framework persisted. Six groups of influencing factors were identified including the (i) political environment, (ii) legal framework, (iii) stakeholder capacity, (iv) market conditions, (v) economic conditions and (vi) project outcomes. Of which, negative changes of economic and market conditions combined with a bad legacy on PPP projects; negative influences of strategic policies; and the influence of controlling actions given by the government led to very few PPP proposals being realized (3 proposals).

In transitional phase 3 (2013-2015), 64 BOT and BT projects were realized. Interviews with practitioners revealed that improvements were made to the managerial organizational structure and managerial skills of PPP-involved officials were perceived. There was a decreasing tendency of SOEs and increasing tendency of partly-SOEs and private enterprises making up the composition of project sponsors. Six groups of influencing factors were identified including the (i) political environment, (ii) legal framework, (iii) stakeholder capacity, (iv) market conditions, (v) macro-economic conditions and (vi) project outcomes. Of which, positive changes of political support, and capacity improvements of the ASA staff led to this significant increase in the submission and approval of PPP proposals. Moreover, with support actions given by politicians and the availability of financial packages, this phase saw the realization of many PPP applications (64 applications).

Combining the observations made of the development of the legal framework and changes in the number of PPP applications, this study has found that historical developments to the PPP scheme in Vietnam are primarily driven by responses to domestic economic conditions and managed through the strong control of private inclusion into the public infrastructure industry with following features.

(1) The PPP legal framework has gradually but slowly improved. After consolidating inconsistent regulations of domestic and foreign investors for a short time, it continued experiencing inconsistent regulations of PPP-sub models (PPP vs BOT/BT), finally consolidating regulations for all models in early 2015. Regulatory changes to the role and requirements for investors and ASAs appear to be reactionary in terms of management responsibilities and investment barriers. Since regulations are at the Decree level, the existing legal framework is not as stable as it would be if regulations were stipulated in "Laws". It has also seem found that changes of economic conditions, lessons learned from the enforcement of issued regulations, different interventions of leading politician/institution who takes charge of PPP regulations promulgation, and changes to related laws may have led to numerous changes to PPP-regulations over time.

(2) The PPP scheme in Vietnam began with foreign investors and foreign lenders and gradually became occupied by SOEs and SOCBs. Project sponsors are gradually becoming more composed of private enterprises and partly-SOEs. Public parties have also gradually enhanced executive skills and managerial institutions with the recent establishment of the PPP Office and PPP Divisions at multiple levels of government.

(3) The number of PPP projects that were invested in has significantly changed since 2007 and the number of applications has also dramatically

increased during the phase of 2013-2015, influenced by the (i) political environment, (ii) legal framework, (iii) stakeholders' capacity, (iv) market conditions, (v) economic conditions, and (vi) project outcomes. Of which, interventions of political actions and changes in market conditions are two factors that appeared to have strong influence on the number of PPP applications in Vietnam.

10.2 RESEARCH CONTRIBUTIONS

Academic contributions

The study has built a deeper understanding of the PPP scheme in the delivery of infrastructure projects in Vietnam by clarifying its developmental process over twenty years of its application. The findings provided a comprehensive image on the institutional history related to the PPP scheme in the power sector, transport sector and water sector including. The study has examined:

- Historical changes of the PPP legal framework during its developmental process
- Significant changes in the number of PPP applications in infrastructure sectors, and the transitional process of organizational management systems.

The findings illustrate how political economic theory can be utilised to explore and explain how the political environment (*political willingness and support of political leader* in particular), macro-economic condition*s (CPI, GDP, public debt, budget deficit* in particular), stakeholder capacity (*capacity of sponsors, government officials* in particular), market conditions (*the real estate market, the annual credit growth* in particular), legal framework, nature/feature of the projects, and project outcomes can influence the development process of the PPP scheme over time.

Practical contributions

Some implications for the future of a PPP scheme development regarding the legal framework, organisational systems, and potential policies are provided including improvement of legal framework (getting rid of fixed equity ratios, providing detailed PPP regulations and improving the stability of the PPP legal system in particular); and the improvement of managerial institutions/organisations.

The current findings will help to take incremental steps on the development of PPP schemes in Vietnam and in other market contexts.

10.3 RESEARCH LIMITATIONS AND SUGGESTIONS FOR FUTURE RESEARCH

There are several limitations to this research, including:

(1) The database was developed based on PPP projects awarded with investment licenses, but it did not reflect the comprehensive image of the PPP scheme in reality.
(2) The study identifies features of the main stakeholders in PPP projects, but is not able to account for the influence of the institutional environment and interactions of all stakeholders on the development of the PPP scheme in each sector.
(3) Regarding the legal framework, this research focuses only on changes in select issues, which relate to the roles and requirements for investors and government actors. However, not all issues are covered within the regulatory system and therefore not all aspects of the legal system are covered.
(4) The discussion is limited to the context of Vietnam.

Therefore, future research should focus on:

Case studies are needed to clarify the role and responsibility of stakeholders and interactions among them influenced by institstutional environment;

- The influence of historical changes of the legal framework on all stakeholder behaviors during the development process of the PPP scheme;
- How to improve the legal framework as a whole to enhance efficiency and effectiveness for each sector;
- Specific differences on the Vietnamese PPP scheme in comparison to other countries.

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APPENDIX 1 – INVESTMENT-LICENSED PPP PROJECTS IN VIETNAM FROM 1995 TO 2015

No.	PROJECT NAME	Investor	Sector	Total investment (VDN$ billion)	Time	Contract Type
1	Nhà máy nước Bình An	Malaysia	water	US$35 million	1995	BOT
2	Đại lộ Nguyễn Văn Linh	Tan Thuan & Central trading and Development (taiwan)	Transport	2100	1996	BOT
3	Nhà máy điện Quảng Ninh	Oxbow Itn. (US) marubeni (Japan)	Power	US$300 million	1997	BOT
4	Cầu Cỏ May	Hai Chau Corporation	Transport	120	1997	BOT
5	Nhà máy điện cần Đôn	Song Da Corp	Power	US$81.6 million	1998	BOT
6	Quốc lộ 15-đường nguyễn Tất Thành	Indico	Transport		1999	BOT
7	Dự án Cầu đường Bình Triệu	Cienco 5	Transport	341.9	2000	BOT
8	Nhà máy điện Phú Mỹ 2-2	EDFI+Sumitomo+TEPCI	Power	US$480 million	2001	BOT
9	Nhà máy điện Phú mỹ 3	BP Holdings BV; Công ty SempCorp Utilities của Singapore và tổ hợp nhà thầu Kyushu Electric Power và Nissho Iwai của Nhật Bản	Power	US$ 412 million	2001	BOT
10	Đường An sương - An Lạc	Cienco 6 + IDICO (SOE)	Transport	831.639	2001	BOT
11	Dự án Hầm đèo ngang	Tập đoàn Sông Đà	Transport	150	2002	BOT
12	Cầu Yên Lệnh	TL+Cienco 4	Transport	312.467	2002	BOT
13	Dự án Quốc lộ 1 đoạn tránh thành phố Vĩnh Tuy	Cienco 4	Transport	378	2003	BOT
14	Dự án sửa chữa nâng cấp quốc lộ 1 K	LD cty 194, CIENCO6, cty Phó Thä	Transport	397	2003	BOT
15	Nhà máy nước Sông Đà	Bitexco	Water	1515	2004	BOO

16	Dự án quốc lộ 2 đoạn Nội Bài Vĩnh Yên	Song da + PV2	Transport	755	2005	BOT
17	Quốc lọ 1 - đoạn tránh thành phố Thanh Hóa	BOT ĐT Thanh Hóa	Transport	897.32	2005	BOT
18	BOT Cầu Phú Mỹ	Phu My Group	Transport	2914	2005	BOT
19	Nhà máy nước B.O.O Thủ Đức	B.O.O. THU DUC JSC	Water	1547	2005	BOO
20	Dự án đầu tư XD mới QL2- đoạn tránh thành phố Vĩnh Yên, Vĩnh Phúc	Công ty CP Thương mại, Xây dựng (Vie-tracimex)	Transport	368.00	2007	BOT
21	Xây dựng đường nối TSN-Bình Lợi-VÀnh đai ngoài	Công ty GS Engineer-ing & Cónstruction	Transport	6,800.00	2007	BT
22	Nhà máy nước BOO Đồng Tâm	CII	water	1,400.00	2007	BOO
23	Dự án cải tạo, nâng cấp QL10 đoạn nối tiếp từ Tân Đệ đến cầu La Uyên	Công ty cổ phần TASCO	Transport	311.00	2008	BOT
24	Dự án đầu tư công trình cầu Đồng Nai mới và tuyến hai đầu cầu	Cienco 1	Transport	1,255.00	2008	BOT
25	Dự án đầu tư nâng cấp QL1A đoạn Hoà Cầm Hoà Phước	Công ty 545	Transport	369.00	2008	BOT
26	Dự án mở rộng QL1A đoạn từ TX Đồng Hới đến TX Quảng Trị	Tập đoàn Trường Thịnh	Transport	483.00	2008	BOT
27	Dự án tuyến tránh QL1A đoạn qua thị trấn Đức Phổ, Quảng Ngãi	Công ty CP Đầu tư - Xây dựng Thiên Tân	Transport	365.00	2008	BOT
28	Dự án đường Đỗ Xá Quan Sơn	IDICO	Transport	705.00	2008	BT
29	Dự án đường trục phía Bắc thành phố Hà Đông	Cienco 5	Transport	736.00	2008	BT
30	Đường dẫn kết nối với cầu Phú Mỹ	Công ty Cổ phần Đầu tư Xây dựng Phú Mỹ (PMC)	Transport	1,440.00	2008	BT
31	Dự án từ thành cổ Sơn Tây tới phía Bắc Đền Và, Hà Tây	Trong nước	Transport	354.00	2008	BT

32	Dự án đường trục phía Nam tỉnh Hà Tây	Cienco 5	Transport	6,076.00	2008	BT
33	Dự án đường dịch phát triển KTXH Bắc Nam tỉnh Hà Tây	cty TNHH Tập đoàn Nam Cường	Transport	7,328.00	2008	BT
34	Dự án sửa chữa và nâng cấp mở rộng một số đoạn qua thị trấn trên QL20	Liên doanh cty 7/5 (Bộ Quốc phòng), Cty TNHH Hùng Phát, Cty TNHH Đại Phát	Transport	282.00	2009	BOT
35	Dự án ĐTXD đường oto cao tốc HN-HP	Tổng công ty phát triển hạ tầng và đầu tư tài chính VN	Transport	24,566.00	2009	BOT
36	Dự án ĐTXD mở rộng tuyến tránh QL1A đoạn tránh TP Phan Rang- Tháp Chàm	LD cty CP đầu tư 577 và CII	Transport	548.00	2009	BOT
37	Dự án ĐTXD cầu đường Bình Triệu 2	CII	Transport	230.00	2009	BOT
38	DA DT XD QL 14 từ Cây Chanh đến Cầu số 38	Cty CP Đức Phú	Transport		2009	BOT
39	Dự án ĐTXD công trình mở rộng QL14 đoạn từ cầu số 38 đến thị xã Đồng Xoài, Bình Phước	Cty CP Đức Thành - Gia Lai	Transport	814.00	2009	BOT
40	Dự án ĐTXD mở rộng QL51 đoạn Km0+900 - Km73+600	Cty CP phát triển đường cao tốc Biên Hòa - VT	Transport	3,313.00	2009	BOT
41	DA XD khai thác tầng ngầm bãi đỗ xe và dịch vụ công cộng Lê Văn Tám	Công ty CP đầu tư phát triển không gian ngầm	Transport	1,748.00	2009	BOT
42	Dự án đầu tư xây dựng tuyến đường từ Lê Đức Thọ đến đường 70	Cty CP Tasco	Transport	1,543.00	2009	BT
43	Dự án DTXD đường Lê Văn Lương kéo dài (đoạn từ Khuất Duy Tiến đến đường 70)	Cty ĐT PT nhà Hn va cty CP DT XD đô thị	Transport	676.00	2009	BT

44	Dự án XD cải tạo nâng cấp TL 295B (QL1A cũ giai đoạn I: đoạn qua TX Từ Sơn (Km153+840-Km156+650)	cty TNHH XD Đường 295B	Transport	264,3	2009	BT
45	Nhà Máy nhiệt điện Mông Dương 2	AES (Hoa Kỳ) - 51%, Posco (Hàn Quốc) - 30% và CIC (Trung Quốc) - 19%	Power	2.147bil-lion USD	2010	BOT
46	Dự án mở rộng xa lộ Hà Nội	CII	Transport	2,288.00	2010	BOT
47	Dự án đầu tư đường 768	CTY CP Sonadezi Châu Đức	Transport	534.00	2010	BOT
48	Dự án công trình xây dựng QL1 đoạn tránh TP Biên Hoà Đồng Nai	Cty CP DT Đồng Thuận	Transport	642.00	2010	BOT
49	Dự án ĐTXD cầu Thanh Mỹ	cty TNHH Sơn Trọng Dương	Transport	8.30	2010	BOT
50	Dự án ĐTXD đường Tuệ Tĩnh kéo dài	Cty CP ĐT Thành Đô	Transport	47.00	2010	BT
51	Dự án ĐTXD tuyến đường bộ nối QL21 đoạn Phủ Lý, Mỹ Lộc	cty CP Tasco	Transport	2,618.00	2010	BT
52	Nhà máy nhiệt điện đốt than BOT Hải Dương	Jaks Resources Bhd (Malaysia)	Power	2.258 bil-lionUSD	2011	BOT
53	DA XD Công trình Cầu Thái Hà Vượt sông Hồng trên đường nối 2 tỉnh Thái Bình - HÀ Nam với đường cao tốc Cầu Giẽ-Ninh Bình	Cienco 1-TNHH 1 TV	Transport	2,040.00	2011	BT

54	Dự án đầu tư đầu tư xây dựng hầm đường bộ qua đèo Cả, quốc lộ 1.	Công ty Cổ phần Đầu tư Đèo Cả (Tổng công ty Xây dựng Hà Nội, Công ty cổ phần tập đoàn Mai Linh Nam Trung bộ và Tây nguyên, Công ty cổ phần Đầu tư Hải Thạch B.O.T, Công ty cổ phần Á Châu)	Transport	15,603.00	2012	BOT, BT
55	Nhà máy nhiệt điện đốt than BOT Vĩnh tân 1	Công ty Trách nhiệm hữu hạn Lưới điện Phương Nam và Công ty Trách nhiệm hữu hạn Điện lực quốc tế Trung Quốc	power	1,755bil-lion USD	2013	BOT
56	Dự án đầu tư nâng cấp, mở rộng đường Hồ Chí Minh (Quốc lộ 14) đoạn Km1738+148 - Km1763+610, qua tỉnh Đắk Lắk	Cty KD Hàng Xuất Khẩu Quang Đức, Cty CP Đông Hưng Gia Lai, CTY CP Thủy điện Sê San 4A	Transport	836.00	2013	BOT
57	DA DT XD CT Mở rộng QL1 đoạn KM 987-Km 1027 thuộc tỉnh Quãng Nam	Cienco 5	Transport	1,609.00	2013	BOT
58	Dự án đầu tư xây dựng công trình mở rộng Quốc lộ 1 đoạn Cần Thơ-Phụng Hiệp	Liên danh Công ty TNHH Sản xuất & xây dựng Thi Sơn và Công ty cổ phần Thương mại và tư vấn đầu tư xây dựng công trình số 9	Transport	1,793.00	2013	BOT

59	DA DĐTXD CT mở rộng QL1A đoạn 1347+525 Km 1392 và Km 1045-Km1425 tỉnh Khánh Hòa	Cty CP ĐT Đèo Cả, CTY TNHH MTV QL quỹ ngân hàng TMCP Công thương VN; Cty CP tập đoàn Hải Thạch	Transport	2,644.00	2013	BOT
60	Dự án đầu tư nâng cấp, mở rộng đường Hồ Chí Minh (Quốc lộ 14) đoạn Pleiku (Km1610) - Cầu 110 (Km1667+570), qua tỉnh Gia Lai	Cty cp tập đoàn Đức Long-Gia Lai	Transport	1,776.00	2013	BOT
61	Dự án đầu tư xây dựng công trình mở rộng QL1 đoạn Km597+549 - Km605+000 và đoạn Km617+000 - Km641+000, qua tỉnh Quảng Bình theo hình thức BOT.	cty CP Tasco	Transport	1,983.00	2013	BOT
62	Dự án ĐTXD công trình mở rộng QL1 đoạn Km987-Km1027, tỉnh Quảng Nam theo hình thức BOT	Tổng công ty Xây dựng công trình giao thông	Transport	1,609.00	2013	BOT
63	Dự án ĐTXD công trình mở rộng QL1 đoạn Km1112+400-Km1265, tỉnh Bình Định và tỉnh Phú Yên, theo hình thức BOT	cty CP ĐT NL Xây dựng TM Hoàng Sơn, Cty CP đầu tư Kiến Hoàng	Transport	2,041.00	2013	BOT
64	QL1A đoạn km 1488-km1525 tỉnh Khánh Hòa	cty CP đầu tư xd 194	Transport	2,699.00	2013	BOT
65	Dự án ĐTXD công trình mở rộng QL1 đoạn Km1125-Km1153, tỉnh Bình Định theo hình thức BOT	Tổng cty Thành An-Cty TNHH MTV, Cty TVDTXD Bắc Ái, CTY CPDTXD Vina-conex PVC, Cty CPDT XD Long Trung Sơn	Transport	1,644.00	2013	BOT

66	Dự án ĐTXD công trình mở rộng QL1 đoạn Km1642-Km1692 qua tỉnh Bình Thuận	Cty BOT QL1A- Bình Thuận	Transport	2,588.00	2013	BOT
67	Dự án ĐTXD công trình mở rộng QL1 đoạn Km672+600-Km704+900 qua tỉnh Quảng Bình	Cty CP Tập đoàn Trường Thịnh	Transport	983.00	2013	BOT
68	Dự án ĐTXD công trình mở rộng QL1 đoạn Km741+170-Km756+705 qua tỉnh Quảng Trị	Cty CP Tập đoàn Trường Thịnh, Tổng Cty XD Trường Sơn	Transport	1,068.00	2013	BOT
69	Dự án Đầu tư xây dựng công trình mở rộng QL1 đoạn Km1063+877÷Km1092+577, qua tỉnh Quảng Ngãi theo hình thức Hợp đồng (BOT)	Công ty TNHH B.O.T Thiên Tân - Thành An	Transport	2,139.00	2013	BOT
70	Dự án: Đầu tư xây dựng công trình mở rộng QL1 đoạn Km1488÷Km1525, qua tỉnh Khánh Hòa theo hình thức Hợp đồng (BOT)	Công ty CP Đầu tư xây dựng 194 làm chủ đầu tư	Transport	2,700.00	2013	BOT
71	Dự án ĐTXDCT cải tạo nền, mặt đường quốc lộ 1 đoạn Phan Thiết – Đồng Nai theo hình thức Hợp đồng BOT	tổng Cty 319	Transport	2,071.00	2013	BOT
72	Dự án đầu tư nâng cấp, mở rộng đường Hồ Chí Minh (Quốc lộ 14) đoạn Km1793+600 (Km734+600 QL14) đến Km1824+00 (Km765+00 QL14), qua tỉnh Đắk Nông theo hình thức Hợp đồng BOT	Cty CP DT & XD Toàn Mỹ 14, CTY TNHH DT & TM Băng Dương	Transport	1,021.00	2013	BOT

73	Dự án thành phần 1: Mở rộng Quốc lộ 1 đoạn Km947 – Km987, tỉnh Quảng Nam theo hình thức Hợp đồng BOT, thuộc Dự án ĐTXDCT mở rộng QL1 đoạn qua tỉnh Quảng Nam	Cienco 5	Transport	1,487.00	2013	BOT
74	DAĐTXD QL1 đoạn Km1374+525 - Km1392 và Km1405 - Km1425	Công ty cổ phần đầu tư BOT Đèo Cả Khánh Hòa	Transport	2,644.00	2013	BOT
75	Hầm đường bộ Phước Tượng và Phú Gia	cty TNHH BOT Hưng Phát, Cty CP XD 699; Cty TNHH & XD Q.K.L, Cty CP DT &XD Việt Thành	Transport	1,742.00	2013	BOT
76	Dự án ĐTXD công trình khôi phục, cải tạo QL20 đoạn Km0+000 – Km123+105 trên địa bàn tỉnh Lâm Đồng và Đồng Nai theo hình thức BT	CTY TNHH DV TM SX-XD Đông Mê Kong; Tổng Công ty DT & PT QL HT GT Cửu Long; Tổng Cty VLXD số 1; Cty CP Việt Ren	Transport	7,439.00	2013	BT
77	Dự án đầu tư cải tạo, nâng cấp QL38 đoạn nối QL1, với QL5 qua địa phận tỉnh Bắc Ninh và Hải Dương	Cty CP DT XD số 2-VINACONEX và cty CP đầu tư khai thác cảng & công ty CP Logico	Transport	1,680.00	2014	BOT
78	Dự án đầu tư xây dựng công trình cải tạo, nâng cấp Quốc lộ 91 đoạn Km14+00 – Km50+889, theo hình thức Hợp đồng BOT	cty CPDTPT Cường Thuận IDICO & Tổng Cty PT Khu Công nghiệp	Transport	1,579.00	2014	BOT

79	Dự án đầu tư công trình cải tạo nâng cấp QL1 đoạn Hà Nội – Bắc Giang	Công ty CP tập đoàn Đại Dương, Tổng công ty CP Vina-conex, Công ty CP đầu tư và thương mại 319 và Công ty CP đầu tư Văn Phú Invest	Transport	4,213.00	2014	BOT
80	Dự án đầu tư cải tạo, nâng cấp QL 19 đoạn qua địa phận tỉnh Bình Định và Gia Lai theo hình thức BOT	Tổng Cty 36	Transport	2,045.00	2014	BOT
81	Dự án đầu tư xây dựng đường Hòa Lạc – Hòa Bình và cải tạo, nâng cấp QL6 đoạn Xuân Mai – Hòa Bình theo hình thức BOT	Tổng cty 36 và Cty CP DT TM Ha noi, Cty CP XL và TM Trường Lộc	Transport	2,942.00	2014	BOT
82	Dự án đầu tư nâng cấp tuyến đường Pháp Vân - Cầu Giẽ, thành phố Hà Nội theo hình thức Hợp đồng BOT.	Liên danh Cienco1 - Minh Phát - Phương Thành	Transport	6,731.00	2014	BOT

83	Dự án đầu tư xây dựng công trình cầu Việt Trì mới dành riêng cho giao thông đường bộ qua sông Lô trên quốc lộ 2 theo hình thức Hợp đồng BOT.	Liên danh Tổng Công ty xây dựng công trình giao thông 1 - CTCP (CIENCO 1) - Công ty TNHH Sản xuất thương mại dịch vụ Yên Khánh (Yên Khánh) - Công ty cổ phần phát triển đầu tư Thái Sơn Bộ Quốc Phòng (Thái Sơn) (Liên danh Cienco1 - Yên Khánh - Thái Sơn)	Transport	1,828.00	2014	BOT
84	Dự án DTXD cầu Đồng Nai mới và tuyến hai đầu cầu từ ngã ba Tân Vạn đến điểm cuối tuyến tránh tp. Biên Hòa, tỉnh Đồng Nai theo hình thức BOT	Công ty Cổ phần Cảng Đồng Nai	Transport	2,202.00	2014	BOT
85	Dự án ĐTXD QL14 đoạn từ cầu 38 đến thị xã Đồng Xoài, tỉnh Bình Phước theo hình thức BOT	Cty CP Đức Thành Gia Lai	Transport	941.00	2014	BOT
86	Dự án ĐTXD công trình QL1A đoạn tránh TP Biên Hòa, tỉnh Đồng Nai theo hình thức BOT	Tổng công ty Đầutư phát triển đô thị và khu công nghiệp Việt Nam (IDICO), Công tyĐồng Tân và Công ty Cường Thuận	Transport	1,254.00	2014	BOT

87	Dự án thành phần 1 – ĐTXD cầu Cổ Chiên, QL60, tỉnh Trà Vinh và tỉnh Bến Tre theo hình thức BOT	Liên danh Tổng công ty Xây dựng công trình giao thông 1 (CIENCO 1), Công ty cổ phần Đầu tư Xây dựng Tuấn Lộc (Tuấn Lộc) và Công ty Cổ phần Đầu tư Năm Bảy Bảy (Năm Bảy Bảy)	Transport	1,211.00	2014	BOT
88	Dự án ĐTXD công trình mở rộng QL1 đoạn Km368+400 (Nghi Sơn)-Km 402+330(Cầu Giát), tỉnh Thanh Hóa và Nghị An theo hình thức BOT	Liên danh Tổng công ty Xây dựng công trình giao thông 4 - CTCP - Tổng công ty 319	Transport	3,463.00	2014	BOT
89	Dự án ĐTXD công trình mở rộng QL1 đoạn tránh thị trấn Cai Lậy và tăng cường mặt đường đoạn Km1987+560-Km2014+000 qua tỉnh Tiền Giang	Liên danh Công ty Cổ phần Phát triển đường cao tốc Biên Hòa - Vũng Tàu (BVEC) và Công ty Cổ phần Đầu tư, thương mại và xây dựng giao thông 1 (TRICO)	Transport	1,398.00	2014	BOT
90	Dự án đầu tư xây dựng công trình mở rộng Quốc lộ 1 đoạn Km1642-Km1692, qua tỉnh Bình Thuận theo hình thức Hợp đồng BOT	Công ty cổ phần BOT Quốc lộ 1A - Bình Thuận	Transport	2,588.00	2014	BOT
91	DAĐTXD QL1 các đoạn Km1525+000-Km1551+400, Km1563+000-Km1567+500, Km1573+350-Km1574+500, Km1581+950-Km1584+550, Km1586+000-Km1588+500	Trong nước	Transport	2,111.00	2014	BOT

92	DAĐTXD QL20 đoạn Km 123+105,17 - Km 268+00	Liên doanh Tổng công ty Đầu tư phát triển và quản lý giao thông Cửu Long, Công ty TNHH Đông Mê Kong, Công ty cổ phần Xây lắp dầu khí 1, Tổng công ty vật liệu xây dựng số 1	Transport	4,108.00	2014	BOT
93	DAĐTXD cầu Mỹ Lợi QL50	Công ty CP Phát triển bất động sản Phát Đạt và Công ty CP Đầu tư và Phát triển hạ tầng 620	Transport	1,313.00	2014	BOT
94	Dự án ĐTXD công trình cầu Đồng Quang, tỉnh Phú Thọ theo hình thức BT	Công ty cổ phần Ao Vua	Transport	511.00	2014	BT
95	DAĐTXD đường Hồ Chí Minh, đoạn La Sơn – Túy Loan	Công ty TNHH Đầu tư Cam Lộ - Túy Loan	Transport	10,370.00	2014	BT
96	Nhà máy điện Duyên Hải 2	Công ty Trách nhiệm hữu hạn Janakuasa (Malaysia)	Power	2.406 tỷ USD	2015	BOT
97	Dự án đầu tư xây dựng tuyến tránh thị xã Ninh Hòa (Km0+00-Km2+897) và cải tạo nâng cấp tuyến Quốc lộ 26 đoạn Km3+411-Km11+504 (tỉnh Khánh Hòa) và đoạn Km91+383-Km98+800 (tỉnh Đắk Lắk)	Công ty CP Đầu tư và Xây dựng 501 (CICO501)	Transport	859.00	2015	BOT
98	Dự án đầu tư xây dựng công trình cải tạo, nâng cấp Quốc lộ 91 đoạn Km14+00 – Km50+889, theo	Tổng Cty phát triển KCN (Sonadezi) và Cty CP Phát triển Cường Thuận Idico	Transport	2,025.00	2015	BOT

	hình thức Hợp đồng BOT					
99	Dự án BOT cầu Rạch Miễu tại tỉnh Tiền Giang và Bến Tre theo hình thức hợp đồng BOT	Cienco 1	Transport	418.00	2015	BOT
100	Dự án đầu tư xây dựng công trình cầu Thái Hà vượt sông Hồng trên đường nối hai tỉnh Thái Bình, Hà Nam với đường cao tốc cầu Giẽ - Ninh Bình, giai đoạn I theo hình thức Hợp đồng BOT.	cty TNHH Tiên Đại Phát, cty CP TV và XD Phú Xuân, cty CP DT và XNK Bình Minh	Transport	1,672.00	2015	BOT
101	Dự án cải tạo, nâng cấp QL18 đoạn Bắc Ninh – Hạ Long, qua tỉnh Bắc Ninh, Hải Dương, Quảng Ninh theo hình thức BOT	Công ty CP Phát triển Đại Dương	Transport	5,705.00	2015	BOT
102	Dự án ĐTXD QL1A đoạn tránh thành phố Hà Tĩnh, tỉnh Hà Tĩnh theo hình thức BOT	Cienco 4	Transport	806.00	2015	BOT
103	Dự án ĐTXD công trình cải tạo QL10 đoạn từ cầu Quán Toan đến cầu Nghìn, tỉnh Hải Dương và TP Hải Phòng, theo hình thức BOT	cty CP Tasco	Transport	2,814.00	2015	BOT
104	Dự án: Đầu tư xây dựng tuyến đường Thái Nguyên – Chợ Mới, Bắc Cạn và nâng cấp mở rộng Quốc lộ 3 đoạn Km75-Km100 theo hợp đồng BOT.	Cienco 4; CTY CP & DT Tuấn Lộc; cty CP DT và XD Trường Lộc	Transport	2,713.00	2015	BOT

105	Dự án đầu tư xây dựng công trình Quốc lộ 1, đoạn tránh thành phố Phủ Lý và tăng cường mặt đường Quốc lộ 1 đoạn Km215+775 – Km235+885, tỉnh Hà Nam theo hình thức Hợp đồng BOT	Fecon, cty CP XD COTEC; CIENCO1	Transport	2,047.00	2015	BOT
106	Dự án đầu tư xây dựng công trình cầu Bạch Đằng, đường dẫn và nút giao cuối tuyến	Tổng Công ty Xây dựng công trình giao thông 1 (Cienco1), Công ty CP Tập đoàn Phúc Lộc, Công ty CP Đầu tư Cái Mép, Công ty CP Tập đoàn xây dựng Cường Thịnh Thi, Công ty CP Đầu tư và xây dựng giao thông Công Thành, Công ty CP Đầu tư và xây dựng giao thông Phương Thành, Công ty CP Đầu tư và xây dựng Trung Nam, Tập đoàn SE (Nhật Bản)	Transport	7,761.00	2015	BOT
107	Dự án đầu tư xây dựng công trình đường HCM đoạn từ QL2 đến Hương Nội và nâng cấp mở rộng QL32, đoạn từ Cổ Tiết đến cầu trung Hà tỉnh phú Thọ	Cty Cp DT Hùng Thắng; Tasco	Transport	1,109.00	2015	BOT

108	Dự án xây dựng cầu Việt Trì - Ba Vì	Công ty cổ phần Tập đoàn Phú Mỹ	Transport	1463	2015	BOT
109	Dự án cải tạo quốc lộ 53 đoạn Long Hồ - Ba Si	Liên danh Công ty CP Xây dựng hạ tầng đô thị và Giao thông - Công ty CP Xây lắp Cửu Long - Công ty CP Tùng Trường Sơn - Công ty CP Đầu tư phát triển và xây dựng Hà An	Transport	1,221	2015	BOT
110	Dự án mở rộng quốc lộ 1 đoạn Km2110+600-Km2127+300 và xây dựng tuyến tránh TP Sóc Trăng	Liên doanh Công ty Cổ phần đầu tư Phương Nam và Công ty Cổ phần đầu tư Pa-cific	Transport	1419	2015	BOT
111	Dự án mở rộng quốc lộ 1 đoạn cửa ngõ phía Bắc TP Bạc Liêu	Trong nước	Transport	633	2015	BOT
112	Dự án nâng cấp mở rộng QL 30 đoạn Km1+200-Km34+230	Liên danh Công ty cổ phần tập đoàn T&T - Công ty TNHH xây dựng hạ tầng Phú Mỹ	Transport	1130	2015	BOT
113	Dự án xây dựng tuyến tránh thị xã Ninh Hòa	Công ty CP 501	Transport	859	2015	BOT
114	Dự án cải tạo nâng cấp Quốc lộ 10	Công ty Cổ phần Tasco	Transport	2815	2015	BOT
115	dự án xây dựng cầu Ngọc Tháp và tuyến nối QL2-QL32	Công ty Cổ phần Đầu tư Hùng Thắng - Công ty Cổ phần Tasco	Transport	1109	2015	BOT

116	DAĐTXD Nâng cấp tuyến luồng kênh Cái Tráp khu vực Hải Phòng	Công ty cổ phần đầu tư khai thác cảng	Transport	90.00	2015	BT
117	DAĐTXD Hệ thống quản lý hành hải tàu biển (VTS) luồng Hải Phòng	Công ty CP Đầu tư phát triển công nghệ điện tử viễn thông (El-com Corp), Công ty CP hạ tầng Đông Á	Transport	124	2015	BT
118	Nhà máy xử lý nước thải Tham Luong-Ben cat	Liên danh Công ty Cổ phần đầu tư Xây dựng – Thương mại Phú Điền, Công ty Cổ phần đầu tư phát triển môi trường SFC Việt Nam và Công ty Cổ phần chứng khoán quốc tế Hoàng Gia	water	1,868	2015	BT

APPENDIX 2 – INTERVIEW RECORDS

(1) What was the PPP Decision (the Decision No71/QD-TTg) developed?
"About the general process, we must comply strictly the current legal regulations namely the Law on Legal document promulgation - Law No. 17/2008/QH12. For the detail, firstly, we just develop the draft of the Decision and then we consult authorized state agencies (e.g. department of planning and investment at provinces) as well as this draft also uploaded, if anyone cares about these regulations, they shall give their comments for edition board which takes charge of developing the regulations. However, there were very few people paid their attentions on such things […]" **-Official in charge of law-making**
(2) Are the opinion of investors (private sector) referred during the process of PPP decree promulgation?
- *"[…] normally, the private sector they do not much care about the promulgation process of PPP decree or PPP guidelines. We just send the draft of PPP Decree to some international consultant organizations and consult them about the content of the draft. We rarely send the draft to domestic private investors. The draft was pulicized, if anyone cares about this; he/she can send his/her opinions via the email address of editor […]"* **-Official in MPI-** - *"[…] to be honest, the law-makers they still consult our opinions, but actually, our opinions are rarely noticed and become manifested in the law, therefore sometimes, we just give comments in very formalistic way […]"* **-Investor in industry-** *[…] in order to issue the Decree No.15/2015/ND-CP, we have consulted many involved organisations and international experts. Actually, we have already conducted consultation with involved institutions seven times before finalizing the draft of Decree […]"* **-Official in MPI-**
(3) What is your evaluation about the managerial capacity of governmental officials in their execution of PPP scheme?
"[…] actually, up to 2007 there were the legal framework that applied to the PPP scheme which was considered to as quite "clear. However, the number of performed PPP projects were not many and most of implemented projects were managed at ministerial level therefore officials who know about PPP were limited even until now this model is still "strange" with many officials involved in construction industry […]" **-Official in MPI-** *"[…] the officials they were usually in the passive side in the public-private partnership because this model is quite new and honestly it is really out of their controlling capacity,*

just recently in transport sector, the officials they learnt experiences from implemented projects therefore they become more professional […]"

-Investor in industry-

"[…] as you see recently a series of PPP transport projects have been approved by MOT, one of the influencing factors is officials in charge of those projects have become more experienced. They proposed many solicited proposals under PPP scheme. This has been rarely seen before […]"

-PPP project Director-

"[…] under the period of Decree 78, because of the BT model was new, most of BT projects were unsolicited proposals therefore project investors (i.e., proponents) they "controlled" most of project-involved issues. On the other hand, at that time, there was no clear regulations applied to this model. Therefore, governmental officers they did not interfere so much into the project implementation, even they wanted to make intervention they were not able to do this, it was out of their capacity. […]"

-Investor in industry-

"[...] Actually, a few years ago, in transport sector project investors they could do everything as if they wanted to do, officials – they was often in passive side. One aspect because it was really out of their managerial capacity and the other aspect was they also did not pay much attention on such things. They let project investors decide everything as long as they do not break the laws. In addition, the majority of former BOT projects were unsolicited proposals so project investors were always completely in proactive side. But recently, officials at MOT they changed their management way on PPP projects, they interfered deeper in the project implementation [...]"

- Project director in industry-

"[…] *objectively speaking, the management capacity of officials in BOT and BT projects in recent years improved greatly, they are more experienced in project management as well as contract negotiation [...]*"

-Design consultant in BOT project-

(4) How different between power sector, transport sector and water sector? Regarding to investment environment and incentive policies?

"[...] first we have to mention about the policy of political leader of each sector for PPP scheme and then about the investment environment and the investment demand of each sector ***Power:*** *MOIT is actually not much willing with BOT model. MOIT is the host agency in charge of power sector of the nation. Due to the national security reason, the distribution of electricity is monopolized by Viet Nam Electricity (EVN). The government usually keeps a certain amount of budget for the development of this sector. The private sector is only able to take part in to construct power plants and produce electricity and then sale their production to EVN. The leader of MOIT has not given any special incentive policy for the promotion*

of PPP in this sector. They just follow the policy given by the central government. Concerning investment environment, undoubtedly, the end user in BOT power project is EVN, this is the only client for all BOT power project investors in Viet Nam. EVN has rights to decide to buy or not to buy electricity from BOT power Companies. In addition, electricity prices are also decided by EVN. Therefore, regarding the environment investment, power sector is not much favorable.

Water sector: *water sector is not managed by any ministry. It is decentralized to local authorizes namely provinces and municipalities. The involved line ministries (Ministry of Science and Technology – MOST, MOC, MONRE) just manage the qualifications of the output (supply water). The most popular model applied to water sector is build-own-operate (BOO). Under this model, the project investors are almost freedom during the implementation of the BOO projects. In addition, the end users (clients) in PPP water projects are more than those in power PPP projects are. Therefore, regarding the investment environment, water sector is more favorable than power sector (because the end users could be SOEs which operate exclusively the water supply network in particular regions/cities/districts).*

Transport sector actually*, the actual demand of transport is always high in comparison with water sector and power sector. Besides that, when the economy grows, the travelling demand will increase, under such circumstances, BOT transport projects are very feasible and easy to accept by private investors in terms of the possibility to recoup invested investment. Another feature of BOT transport projects that most of BOT transport projects are the ones which were built basing on the existing routes. It meant that most of BOT projects are repare and upgrade projects. For example, most of BOT projects belongs to National Road 1A. Therefore, the BOT investors can take advantages of existing routes to minimize total investments for BOT projects. If we build a new transport projects under the BOT scheme that was impossible because the expected revenues earned from the project cannot be sufficient to recoup the invested investment. For completely new BOT projects, each project has its own exceptional incentive policies. Normally, the project investors they just invest in a section/part of the whole BOT project, the rest will be invested by public investment but after finishing the construction of BOT project, the private investors will have the right to charge fee from users for the whole BOT project. For example BOT Trung Luong - My Thuan Expressway, BOT Nam Dinh city Detour project, etc. Or in the case of Hanoi-Hai Phong Expressway, in addition to the right to collect fees of BOT project, the project investor also has the rights to collect fees from users of another road which has not been built by BOT project company that is the national Road No.5 and other given incentives […]".*

-Investor in PPP projects-

(5) Why are there just a few PPP water projects in the past?

It can be explained by Vietnam has been developing basing on the constructed infrastructure; it means there has existed water supply network since many past years which were built by

using budget or by funding from NGOs. Therefore, the actual demands for water supply in urban areas are not too much. For the rural areas, PPP water projects are not usually feasible because the practical demands are usually low (i.e., in Vietnam, residents in rural areas often use wells or water from rivers for their daily activities. Therefore, if the private investors invest in PPP water projects without considering this practice, the project revenues will not be able to recoup invested capital.

-Investor in PPP projects-

(6) What do you think about the capacity of sponsor in PPP projects?

" *[…] I tell you, concerning about official documents, it must be perfect. But actually as you know, in Vietnam the problem is administrational people, for JSC companies execution capacity is much better than limited and liability companies (LLC) with 100% private capital. I do not believe LLCs can run their business activities in good way. They are almost troubles … and, for State Own enterprises, they are almost empty", […], "meanwhile this country needs many projects therefore capacity profiles actually sometimes they are much tolerated and it de facto does not meet required conditions […]*"

-Investor in industry-

"[…] concerning about investor selection, in my view, there are two aspects including financial capacity and technical capacity but for financial capacity the most difficulty is it's difficult to find out investors with real financial capacity. I suppose that it is not too many because all of investors they have their own ways to prove their equity being enough 10 to 15 % of total investment capital. Or they have somehow to borrow money from somewhere and so on, but actually they do not have enough money to ensure their equity in PPP project […]"

-PPP project Consultant-

"[...] *actually, calling for PPP investment is quite difficult however for high feasibility projects there are many investors would pay their concerns in and in order to mitigate the complexity features of PPP project and avoid risks for investors, then they gather and link together and make agreement beforehand. Afterward it should be easier to negotiate with ministry comparing with competitive/open bidding […]*"

-Investor in industry-

"[…] to be honest, for BOT project now, if the investment ratio is 30/70 (equity/loans), then there was no investor who can be able to satisfy that equity ratio […]"; "[...] because currently the proportion of equity is 10 - 15%, the rest of investment capital come from commercial loans, the average profit of equity is 12%, but if with the equity ratio of 30% then there have no investor can be able to meet this amount of money […] due to limitation of financial capacity of enterprises particularly domestic enterprises[…]"

- Director in PPP project -

"[…] now we only supply loans when we realize that project investor is truly strong capacity including financial and technical capacity. Honestly, we evaluate private investors and equitized SOEs better than SOEs particular private investors, they are often more responsible for their business activities hence they often execute project in the better ways and therefore the ability to return loans would be higher than other enterprise types […]"

– Representative of a SOCB -

"[…] in Vietnam, most of construction-investors mature from construction contractors, therefore besides profitable factors, even they could not get expected profits from their equity capital, they still want to invest in PPP projects. In some cases, because they suppose that getting project can create more jobs for their staff and they can get benefits from such kind of works..."

-Investor in industry-

"[…] The company law was issued in 1990, this was the initial basic for the development of private entities to take part in economic elements. But until 2000, the Enterprise law had been improved and then there were many private enterprises were established. During that time the size of enterprises was small therefore they were not able to take part in in PPP projects. At that time, only SOEs participated in BOT projects but if SOEs are the project investors, this model could not be considered as PPP projects. Until 2003, with the policy of promoting equitization of SOEs, the number of joint stock company (JSC) and limited liabilities company (LLC) was significantly increasing. Recently, with the policies of equitization of large SOEs and state owned corporation, the number of strong capacity JSC is gradually increasing. This may have influence the development of PPP model in the future [...]"

-Investor in industry-

"[…] actually, equitized SOEs (partly SOEs) as our company the financial sources are effectively managed in comparison with those in SOEs, I believed that the financial capacity of equitized SOEs is often stronger than of SOEs, currently number of strong SOEs is not so high hence there are few SOEs were realized in PPP projects. On the other hand, because equitized SOEs stemmed from SOEs therefore they had managerial experiences. As a result equitized SOEs would perform PPP projects better than SOEs [...]"

- Director of equitized SOEs in industry

(7) What do you think of the process of PPP implementation in Vietnam until now?

"General speaking, before that, the government did not interfere deeply into the project implementation; many problems happened during the implementation of BOT/BT projects particularly in transport sector, the project investors they were very freedom in terms of the execution of the projects. For instance, the selection of constructor/consultant services, monitoring the project implementation, etc. It led the cost of the projects as well as the quality of projects was out of the control of the Authorized State Agencies (ASAs). But currently, with the new regulations, government can interfere deeper into the project implementation for

example Feasibility Study (FS) and detailed design of the projects have to be checked and approved by ASAs or the process of constructor/consultant services selection have to be approved by ASA. But the most important problem which need to be considered is the legal framework for PPP implementation, the lack of regulations and not clearly regulations about the obligations and rights of involved stakeholders, these would lead to the conflicts happened during the project implementation and made the delay of the project as well as the cost of the project would be much higher than expected cost".

–Official in MOT-

"About the BT projects: it is not completely new in Vietnam. This model has been applied broadly from 2007 to 2010 in Hanoi City. Many BT projects have not yet completed but the BT projects' investors spent all of "repayments" which budgeted by the government (for the BT projects which carried out under the form of "BT-cash repayment"). The problem was ASAs could not control this problem and they were still very embarrassed in their execution of this model. For the "BT-land for infrastructure" form, the most difficult issue was land pricing for exchanged lands.

About BOT projects, the way of a BOT project carried out in Vietnam is totally different from those in other countries. The problem is the Vietnamese government does not understand clearly about what BOT is! In Vietnam, the end users, they do not have any rights to choose for using BOT service or not. They are forced to use BOT roads because there does not any other alternative routes to travel from the departure place to the destination place. For example, all of BOT projects within National Road No.1A (i.e., around 20 sub-BOT projects within the entire 1A national road), before that, the end users can travel along this road without paying fees. When this road has been upgraded and repaired through the application of the PPP model particularly in the BOT model, the end users have to pay fees for using this road. Some cases, the end users have to pay money even though they do not use the BOT service, for example Ha Noi- Hai Phong Express way, there are two ways to travel from Hanoi City to Haiphong City, the first one is using the National Road No.5 and the other one is using BOT Hanoi-Hai Phong Expressway. Even though any route is used, the end users still have to pay fees. Namely, if they travel by national Road No.5 they just pay an amount of money which equals one third in comparison with the fees paid for using BOT Hanoi-HaiPhong Expressway Road. In general, in Vietnam, the public is not questioned to use or not to use BOT services. […]

The problem is the government was wrong in their policies of utilizing BOT model in some cases. […]

Before 2009, ASAs just approved the project FS, after that they could not interfere in detailed design of the PPP projects. Therefore, the PPP project investors they could managed independently all of involved issues within construction phase and operation phase and this status quo led to the "chaotic BOT" during past time.

Recently, with some new regulations on the construction management, the ASAs can interfere deeper during the PPP project implementations, so the problems might be gradually improved.

-Official in MPI-

"[...] I think that in Vietnam, a PPP model is very difficult to develop. We have enough regulations about PPP implementation within the gradually improved legal framework. The important problem here is we could not change the Prime Minister, and we could not change the political regime. If we had changed them, PPP would have developed but that was really impossible" [...] "the development process of the PPP scheme is still the principal of market, the problem is whether we do consent or do not consent to enhance PPP scheme" [...] These problems are quite sensitive because they related to politics and political leaders. About political leaders, it could be said that the father of the BOT model – one of sub-model of the PPP scheme was the Prime Minister Vo Van Kiet, who put the foundation for the first utilization of the BOT model in Vietnam. He was the Prime Minister (PM) of the socialist Republic of Viet Nam in the tenure of 1992 to 1997. He was wisdom and being the person who studied abroad so much, so he wanted to make his government stronger by promoting the participation of private sector in the construction of economic infrastructure system. You can see the first decree on the BOT model that was issued in his office term. However, the person who developed broadly this idea was the Prime Minister Phan Van Khai, he was the Prime Minister from 1997 to 2007. The Decree 77, 62 and Decree 78 on BOT/BT/BTO were issued within the office term of Prime minister Phan Van Khai. The idea of PM Vo Van Kiet was the decentralization of management for localities. Up to the tenure of PM Phan Van Khai, the decentralization of management was strongest particularly in the end of his tenure 2007; it was manifested in the Decree No.78 which was issued in May, 2007. Studying about the government policies you can see at the beginning time of the establishment of the Socialist Republic of Viet Nam, everything that related to the construction of infrastructure system decided by Central government. However, up to the tenure of PM-Vo Van Kiet the decentralization of management was established. The management rights of such kind of works were given to line ministries. Up to the promulgation of the Decree 78, the PPP project investors, they had discretion to decide everything related to PPP projects. At that time, according to the Decree 12/2009/NĐ-CP on the construction management, the government only monitored investments and construction of the national key projects and the master plan. The FS needed to get comments from the government, the rest works would be decided by investors. Up to the tenure of PM Nguyen Tan Dung, the first of his tenure (2007-2011), he still followed the policy of PM Phan Van Khai, it meant the project investors still had many decision-making rights for things related to PPP projects. Nevertheless, from his second tenure (2011-2016), he had changed the policies on PPP, these became tighter than those that issued before, the promulgation of Decree 24 in 2011 the incentive polices for

BOT/BT/BT projects became restrained and when Decree 15 (the newest PPP decree) issued, the incentive policies are much restrained than those before. Namely, mention about the Decree No.77, under the period of Decree 77, the State managed strictly this model, it regulated a very high equity ratio along with strict management on the quality of the project via the regulations on the approval of FS and detailed design by the ASAs. The PPP projects (i.e., BOT projects) were managed under the similar way to public invested projects, project investors they only had rights to decide contractor selection form for PPP projects. Concerning the Decree No.78, under this Decree the project investors had a plenty of rights to decide things that related to PPP projects, the government only managed the planning and monitored the investment process. Concerning the Decree No.108, the project investors still had a lot of decision-making rights but just a bit later when Decree 24 issued, the government officials started monitoring and resolving many arising situations in BOT projects. Mention about the Decree No.15 the government started managing BOT project again. It meant that if the development process of PPP scheme still take place in this direction, the future PPP would be identical to one in the period of Decree 77

-PPP investor-

(8) Why is there very few power projects carried out by private investors under BOT model or other types of PPP model?

"[...] The power sector is monopolized by the State because of the national security reason. The private sector can participate in the construction of power plants and producing electricity. However, the rights for electricity distribution is monopolized by the State. The private sector when they construct a power plant and produce electricity, they can only sale their products to Electricity of Viet Nam (EVN). Besides that, in the past, the government was not willing for the participation of the private sector in power sector, so there were a few BOT power projects were carried out (just 3 projects). Recently, with the promotion of the utilizing of the PPP model in infrastructure sector, there are more projects in this sector have been deployed under the BOT model [...]".

"[...] There is another model of private participation in power sector that is Independent Power Producer (IPP) model, but this model does not belong to thePPP model. In reality, currently, there is only one model of PPP scheme that is applied in power sector being the BOT model [...]".

-Official in MOIT-

"[...] PPP power projects are usually carried out by foreign investors because of huge investment and high advanced technology requirement. Although the power market in Vietnam is considered to be very huge, but with a bad reputation on the negotiation processes came from former PPP power projects which carried out in the end of 1990s, therefore afterward many foreign investors became reluctant with power projects in Vietnam [...]"

-Expert in ADB-

(9) What do think of the development process of BT model in transport sector?

"In my opinion, in the period of 2007-2008, this model was very attractive because of the "heat" of the real estate market. At that time, Ha Tay province was administratively merged to Hanoi city, therefore, there were many attractive planned urban areas that the BT project investors assumed those lands would be attractive exchanged areas for BT projects. Besides that, with the then regulations on the BT model, it was not clear. Some BT investors thought that this model was simple; they would have discretion to decide everything, which related in BT projects. Therefore many BT projects were proposed by proponents. Recently, many problems happened during the implementation of those BT projects and the government had changed its policies that applied to this model. The form of "BT - cash repayment" had been cancelled, with the new regulations, ASAs can interfere deeply into the project implementation and, in additional, the real estate market is still frozen, the "clear" land resources are limited thereby I think this model is not optimistic in the future particular in transport sector"

-PPP investor-

"There did not have any BT project in Hanoi city, all BT transport projects were managed by MOT. When Ha Tay province was merged into Hanoi city in 2008 and due to the "heat" real estate market at that time. Therefore, there were many BT projects under the form of "land for infrastructure" were carried out by real estate-involved investors. However, at that time, because of not clearly regulations on this investment model especially regulations on the problem of land pricing hence, many BT project investors proposed unreasonable amount of exchanged lands for potential BT projects. In addition, the lack of capacity of government officials in terms of the control of BT-involved issues therefore when the real estate became "downturn", many problems within BT transport projects turned out. As a result, many BT projects fell into "deadlock"".

–Official in MPI-

"[…] at that time, we just thought that a BT model meant we have discretion of all BT-involved issues but we misunderstood, and BT-involved officials they also did not know so much about the BT model, but yet there were not clear regulations on it thereby there was a "chaotic" status quo of the BT projects within the period of 2007-2010 […]"

-Investor in industry-

" *[…]in the period of Decree 78, we were totally proactive to develop proposals under the BOT/BT model because under the then Decree that allowing investors to develop unsolicited proposals therefore there were many investors especially investors in the real estate field took part in BOT/BT market. At that time they proposed many projects under the BT model […]* "

-Investor in industry-

(10) Why the BOO model and the BT model cannot be applied in power sector?

'[...] For the BOO model, because it does not have government guarantees on loans therefore project investors often get difficulties in terms of seeking to loans from financial institutions for project investment [...]".

"[..] For the BT model, because the power projects are usually large size, advanced technology and huge investment therefore sponsors are often foreign investors hence I think maybe because of that the BT model is not attractive for them [...]"

-Official in MOIT-

"[...] actually, the regulations on the land-use right that applied to foreign investors were not clear. Therefore, this might be obstacles for them. Besides that, "BT-land for infrastructure" model relates to the volatility of the real estate market, hence investors often pay much attention when they decide to apply this model for their investment. For the "BT-cash repayment" model, this model was almost not applied for power projects [...]"

-Investor in power project-

(11) What circumstance was the Pilot-PPP Decision introduced?

"[...] actually, in the period of 2008-2009, under the difficulties of the national economy that caused by the influence of the global recession combined with the status quo of high public debt, therefore, a leader who was in charge of budget allocation for economic elements he realized the stringent budget deficits and the need to call for private sector to take part in infrastructure investment hence he chaired to develop the Pilot-PPP Decision and until the end of 2010 this decision enacted [...]"

- Official in MPI-

(12) What are the actual roles of PPP Office to the development of PPP projects?

"It is difficult to list all of our works. Because the restriction on number of staff, therefore we are always under the overload status. Our mandates (1) to support legal issues for PPP project implementation but not interfere directly in the PPP project implementation (2) to compile legal documents for PPP implementation (including PPP decree and circulars for PPP implementation) (3) to management of Project Development Fund (PDF)".

-Official in PPP Office-

(13) Why was the PPP scheme applied in Vietnam?

"[...] Because the recession of 2008, the Vietnamese Government wanted to recover and promoted the country economy therefore it released economic stimulus packages. It budgeted for many construction projects. Upon to 2011, due to the stringent budget deficits and high public debts, more than 50% of on-going projects had forced to delay, under such a circumstance, investment demand was increasing, and the Vietnamese Government was forced to call for private investment. Thus, many on-going projects has been changed the investment form from public investment to the BOT model with 100% private investment capital [...]"

-Deputy General Director of PPP management Department-

"[…] The mobilization of public private partnership (PPP) investment is one strategy of the Government and the State. It is expressed in the resolutions, particular in the country's development strategy in the period of 2011-2020. In addition, the BOT model is one of the methods of raising capital for PPP investments alongside other methods.

From the years of 2010-2015, budget resources allocated for transport infrastructure investment can only meet 28-30% comparing with practical needs. Meanwhile, Vietnam has become a middle-income country thus donors should reduce ODA for traffic sector and instead of that that is commercial loans with a certain preferential interest rate. Therefore it needs to promote socialization and call for private investment […]"

- Deputy Minister of Transport ministry-

"[...] For this period, owing to the State budgetary deficit so it leads to the given priorities for BOT projects which could be able to recoup invested investment and create reasonable profits, for the other types of PPP projects whenever Government has budgetary affordability then might be the government will support [...]"

– Government Official-

"[…] because of high public debt as well as high bad debts, the State capital could not meet practical demands, apart from special projects, the rest projects the government has to pay considerations on them […]"

–Government Official-

(14) What reasons do you think of that caused very few PPP projects approved in the period between 2011 and 2012 but so many PPP projects approved since 2013?

"[…] In order to explain this phenomenon, there are four reasons should be considered (1) the budget deficit during this period was very serious, but the demand of repairing and upgrading the national road network was very pressing. (2) Most of BOT transport projects in the period after 2013 are national road projects and managed by MOT. Mention about MOT, the role of MOT minister is very significant regarding the enhencement of the PPP model in this sector. He called for PPP, so any proposed transport project under BOT model he would be willing to give approval for its deployment as long as it meets the required specifications. Therefore, it could be said that the role of leader is very important regarding the promoting of PPP. Here, I do not mention about the politic aspect of the leaders, but we cannot deny his role in the promotion of the PPP scheme in transport sector; this cannot be seen from leader of MOIT for power sector or leaders of any municipalities/provinces for water sector. (3) The problem of legal framework. Before the promulgation of Decree15 which regulates on the PPP scheme and Decree 30 which regulates on investor selection, the project investors could be appointed without competitive bidding. The other aspect of legal framework is the regulation of the equity ratio that was too small meanwhile the profit from the construction of transport project was very huge (i.e., approximate 20% of total investment capital).

Therefore, many investors they do not care about the recoverability of invested capital because they can get benefit from construction of BOT projects. In case of the revenues of those BOT projects cannot recoup the invested investments the lenders of those BOT projects will suffer such kinds of risk. (4) Lenders. Lenders in BOT/BT transport projects are State-Owned Commercial Banks (SOCBs) before that that were State owned banks (SOBs) and because private banks and foreign banks they do not want to invest in this kind of project due to high risky and the time for recouping invested capital is too long. During the time of 2010 to 2014, with influences of the real estate market "bubble", idle capital in banking system was increasing and the demand for credit growth was highly increasing. Therefore, BOT transport projects turned out to be an attractive destination of Banks […]".

-Investor in PPP projects-

"[…] actually too many problems happened with BT projects, many of these have delayed, in the period of 2011-2012. In addition, the real estate market at that time was still "frozen" and there were very few successful BOT projects in the past realized, therefore at that time, many investors did not want to do investment in PPP projects, […]"

-Investor in PPP projects-

"[…] during last time (2013-2015), the leader of MOT, he gave his best efforts to "knock on the door" one by one involved organizations/institutions to get "policies" for the promotion of PPP transport projects. It could say such significant support actions of political leader that have never seen in the past in any sector to promote the participation of the private sector in infrastructure delivery […]"

-Official in MPI-

(15) Why "direct appointment" is popularly applied in PPP projects?

"[…] because of there is only one investor registering to invest in a project, so according to bidding law, direct appointment of investor must be applied […]"

-Procurement Official-

"[…] in Vietnam, this project type is almost new and there is a few investors approached project information hence, although project information has been publicized for long but the number of investors registering investment is still limited. Simultaneously, PPP projects usually require a huge investment capital but due to the limitation of investor's financial capacity therefore they often link together to become a consortium, for example BOT Bach Dang, there are 8 investors […]"

– Director-chairman of construction enterprise-

"[…] actually, open-bidding is really complexity, time for developing bidding invitation document is too long, after finishing bidding invitation then having to evaluate bidding then negotiation and so on. So involved people often try to avoid open-bidding […]"

-Procurement specialist-

"[…]actually, concerning about open-bidding, there are some problems which are bidding procedures, bidding-time and complexity level of open-bidding, etc., and it also could not ensure that open-bidding is better than direct appointment. For direct appointment itself is very fast and it can find out a good investor who is known beforehand, we can take advantages of their FS […]"

-Design Consultant specialist-

"[…] Procurement officials, they are unexperienced on developing bidding documents, evaluating bidders for PPP projects therefore they usually care about this process. For direct appointment of investor, appointed investor must propose a lower 'ceiling-price' that is its advantage, for open-bidding, in order to win bidding, sometimes it needs to keep the project cost confidential and somehow the bidding price could be higher or lower. For example, proposed concession period is 20 years but most tenders suggest 22-23 year-period, under such circumstances maybe the State has to approve the higher bidding price […]"

-Procurement specialist-

"[…]actually, the application of 'direct appointment of investor' itself can help reduce the time for bidding, because if we apply open-bidding, it takes more than 500 days, it's too long. Meanwhile almost PPP projects need to meet pressing demands of social development. Therefore, it will be wasteful for social benefits if it could not put the projects in use sooner […]"

– Official involved in PPP-

"[…] actually, it is quite difficult to determine the price for consultants services, there are not regulations and cost norms for these kind of works, there also did not have VGF (Viability Gap Fund) for these works, as well as there have no cost norms for them, but actually it is high cost for open-bidding involved works […]"

-Evaluating procurement specialist-

"[…] Actually, ASAs prefer cheap price, so with 'direct appointment of investor', they can control the maximum price (ceiling-price), investor must propose lower price or at least equal ceiling-price, so if necessary, I will use some tips like using 'discount letter' to win bidding […]"

-Investor in industry-

"[…] to be honest, the number of toll gates entire Hochiminh City are so many, and the distances between them sometimes do not comply with the current regulations. Meanwhile most PPP the projects which are being called investment, the City government could not determine appropriate repayment mechanism for them, thereby if investors can propose financial mechanism such as they seek to some suitable places by themselves and then they develop that areas to recoup invested investment capital. Under such circumstances, competitive bidding is not able to apply because the City Government could not determine clearly input qualifications for potential PPP project and proponents […]"

– Official of Transport Department-

"[…] actually there were regulations of investor selection applied for construction projects. It shows that if there is only one investor register to invest in specific project, then "direct appointment" would be applied otherwise "open-bidding" would be applied to select winner. Nevertheless, in fact, in some cases, in order to register to do investment, investor needs to get permission from the political leader, this is not officially regulated in laws but it actually happened in reality. Therefore, that is one of reasons leading to "direct appointment is popular applied for investor selection of PPP projects […]"

-Investor in industry-

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