

The Choice of the Public-Private Partnership Model to Address Social and Economic Development of the State in the Context of a Competitive Environment with Uncertainty and Risks

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SUMMARY

This article discusses the growing importance of public-private partnership due to modern economic conditions and extensive privatization activity. The institute of public-private partnership provides mechanisms for redistribution of risk among the subjects of new market relations. This cooperation appeared as a result of the complex development process during the last two decades. Today it plays a significant role in problem solving concerning public infrastructure development.

Keywords: public-private partnership, the partnership model, partnership schemes, market relations, public-private partnership, risks.

Journal of Economic Literature (JEL) codes: L32

INTRODUCTION

The privatization process has dramatically changed the structure of the national economy of Ukraine. As a result, a strong private sector has been created in the last 20 years. This has significantly affected both the internal and international economy. The private sector includes the largest machine-building, metallurgical, steel and chemical plants, fuel and energy complexes, transport and educational settings. Business owners have formed the new influential class. The functions of the state have been fundamentally changed. Constantly increasing tax burdens, unreasonable fiscal policy and illegal activity of representatives of the Prosecutor's office, investigative bodies, tax administrations and other state officials caused conflict between business and government. The budget deficit led to serious difficulty in industrial and social sphere. However, some representatives of small, medium and large businesses have achieved good results. They successfully participate in solving important national issues on mutually beneficial terms.

This cooperation is particularly important in case of discussing re-engineering issues based on innovation of the entire industrial sector. It goes without saying that it would be problematic to achieve strategic development

objectives without constructive interaction and partnership of the private business and government institutions. If programs are focused only on the use of budgetary funds, they would not allow the authorities to perform large-scale projects aimed at improving the domestic manufacturing competitiveness.

PUBLIC-PRIVATE PARTNERSHIPS

The public-private partnership (PPP) is an internationally recognized cooperation which aims to solve such kinds of problems. Nowadays public-private partnerships (PPP) are growing in popularity all over the world. They allow the state government and municipal authorities to establish cooperation with the private sector in the matter of modernization and development of required infrastructure. Indeed, the Ukrainian government is interested in expanding public-private cooperation. However, many countries still face difficulties in conducting negotiations, planning and formation of PPP. A good thing about countries with economies in transition is that they are trying to find the best ways and methods of overcoming their difficulties. Fortunately, the European Bank for Reconstruction and Development

(EBRD) is at the forefront of those who assist them in these issues.

The works of Bhavnani K. (2009), Cokins G. (2009), Zapatrina & Lebeda (2011), Pavlyuk K. (2010), Pylytay (2011), Sharinger L. (2004), Tarash & Petrova (2012), Varnavsky V. (2011), Vilisov M. (2006), Cherevikov E. (2009) Wirick D. (2009), Zapatrina I. (2011) and other authors are devoted to development problems in different aspects of public-private partnerships. This form of relationship between the state and private sector is widely used in various activities of enterprises all over the world. Therefore, the importance of more profound study of this issue is constantly growing. The term “public private partnership” appeared in the early 1990s. It is associated with the British model of PPP. In 1992, the government of John Major announced the Private Finance Initiative (PFI) which represented a modernized State Property Management concept. The essence of the PFI is to provide the private sector with the opportunity to finance objects owned by the state (social-cultural and industrial infrastructure) according to public-private partnership agreements. This radical change in the UK state management system led to a significant transformation in the institutional environment as well as in the relationship between the state apparatus and private business.

Various PPP forms have become a typical feature of the modern mixed economy. They can be intensively used in different branches of production worldwide. The mixed economy combines the elements of market and team management. It tends to be an alternative form of management. In fact, a 100% market economy has never existed, although, England in the nineteenth century was close to such a kind of system. Nowadays in the USA the majority of decisions are made by the market; however, the role of government is not reduced. The government plays an important role in market conditions. The state authorities are responsible for decrees and regulations governing economic environment, health services, education, law enforcement, business and environmental pollution (Zudin A.Yu. 1999).

In modern understanding, partnership between the state and business is considered to be the crucial direction in the innovation of world economy development. It provides constructive relations between the state and business that are based on the set of advantages of the market and state regulatory mechanisms and management. The main task of the state is to ensure the public interest, not only to support business. The partnership between the state and business is important for solving social issues as well as for implementing socially-significant tasks and programs. The partnership is especially relevant in times of crisis, when the state becomes an organizer, regulator and customer of innovative transformations in accordance with economic and socio-political demands of the society.

Public-private partnership in the context of innovation environment should be focused on the formation of the necessary level of innovation activity. Besides, it has to

ensure the balance of interests between participants of innovation and investment processes. The nature of these relations, methods and concrete forms can vary significantly depending on the level and peculiarities of national market development. Along with this, the state should never be free from the social features related to national interests. In its turn, business is always the source of the social wealth increment.

Numerous studies indicate the trend towards intensification of relations between the state and private business within modern economic globalization, when the money goes into the sphere of state property.

The institutional environment, which implies the partnership, tends to be one of the newest stages of partnership development. It appears in the period of liberalization and plays an important role in improving market structures and the economy in general. Unlike traditional relations, developing a partnership creates its base models of financing, ownership and management methods. The efficient use of traditionally consecutive principles of state governance is an essential factor in ensuring the effectiveness of innovation processes. In turn, private enterprise features quick response to market signals, the propensity for innovation, efficiency, and the ability to take risks.

As global practice shows, using the advantages of both forms of property is possible within various forms of public-private partnership. A rage of these forms makes it possible to keep the most important national objects in state ownership and devolve a part of the ownership rights on the private sector. In this case, the partnership of the state and business attracts additional capital (including foreign capital) to the public sector. Apart from that, the state reduces budget problems and shares the majority of the risks with the business sector. In turn, business gets the volume of work, certain state guarantees and support. The system combines the resources and potentials. This form is based on decreasing the direct state influence on economy, devolving functional competences on the private sector and improving the regulatory process. The state can be compared with an agency which realizes socially significant goods and services. The state can partly produce these goods by itself and at the same time attract the capacity and ability of the private sector. To put it briefly, business is invited to participate in state assets management in order to improve the quality of state projects implementation. “Public-private partnership is a specific, multidimensional form of interaction between the state and private sector in the economic sphere. Its basic feature is the balance of interests, rights and obligations of participants during its implementation.” (Deryabina M. 2009, p. 122).

The Ukrainian energy market is a good example of PPP. It includes representatives of both the public and private sector. However, the relationship between participants of the energy market seems to be rather difficult today, especially if the issue concerns the

balance of interests for different forms of ownership. Taking the characteristics of the energy system into consideration, the use of a contractual partnership model would be the most appropriate. Within the framework of the program of the energy market liberalization the conclusion of bilateral agreements is provided to all participants of the energy market in order to reduce uncertainty and risks. Over the last years constant work on establishing the conditions and rules is being conducted. This can help to reduce the risks since the first stage of the new energy market, particularly during the conclusion of bilateral agreements, for both state ownership and other participants of private property market.

Nowadays the most active partnership of state and business is carried out in branches of production infrastructure: power engineering, railway transport, ports, airports, main gas transportation, communal services and other branches associated with the support of the economy and society. Besides, much work related to redistribution of property rights between the state and private business in public services sector is being conducted. This branch is historically connected with the dominant role of the state in a range of key powers. The concept of risk sharing is an efficient mechanism which helps to solve conflicts between participants. According to this concept, certain types of risks should be taken by the party which is the most adapted for their objective assessment, control and management.

The organizational and legal basis of interaction between public partners and private partners as well as the main principles of state-private partnership in Ukraine are carried out according to the Law of Ukraine "On state private partnership" on a contractual basis. Public-private partnership in Ukraine is a system of relations between public and private partners. The resources of both partners are combined with an appropriate distribution of risks, liability and remuneration (claims) between them. This implies mutually beneficial long-term cooperation in the creation (restoration) of new facilities and/or modernization (reconstruction) of existing facilities requiring the attraction of investments, and use (operation) of objects. The law "On public-private partnership" in Ukraine provides for the implementation of projects only in the form of the contract, whereas some European countries have no such limitation. In most cases, a special structure is created in the form of a legal entity with the participation of the public and private partners. Sometimes financial institutions can also take part in the process. The agreements are concluded within this association. This allows the achievement of maximum transaction transparency. The law defines legal, economic and organizational principles of public-private partnership in Ukraine. Besides, it regulates the relations connected with the preparation, execution and termination of contracts concluded within public-private partnership. The law guarantees the observance of rights and legitimate interests of the participants (The Law of

Ukraine "On Public-Private Partnership" 2010). At the legislative level, some aspects of regulating the use of PPP in practice are covered in laws (Law of Ukraine "On the lease of state and communal property" 1992; Law of Ukraine "On the financial leasing" 1997; Law of Ukraine "On the lease of earth" 1998) but there are still a number of unresolved problems in this area.

Projects implemented within the public-private partnership have a strategic character for development of the state economy as well as for separate regions.

The basic principles of public-private partnership include:

- > Equality of public and private partners before the law;
- > Prohibition of discrimination human rights of public and private partners;
- > Coordination of interests of public and private partners for mutual benefit;
- > Fair distribution of risks associated with the implementation of the agreements concluded within public-private partnership;
- > The choice of private partner on a competitive basis, except as required by law.

Public-private partnership is widely used in mechanical engineering and in other spheres.

Implementation of public-private partnership in certain areas provides the execution of one or more of the following functions: designing, financing, construction, rehabilitation (reconstruction, modernization); exploitation, search, services, and other functions associated with the execution of the agreements concluded within public-private partnership.

Objects are subject to return to the public partner after the termination of the agreement concluded within public-private partnership. Ownership of the objects which were built, rebuilt, or reconstructed within a public-private partnership belongs to the public partner. The state guarantees compliance with the legislation of Ukraine requirements for activities of private partners associated with the implementation of the agreements concluded within public-private partnership, and protection of the rights and lawful interests of private partners.

If we consider the situation in Russia, then it is necessary to notice that at present intensive work is being conducted there on creation of a normative legal base for the development of a State Private Partnership with regards to the original national experience of Russia, world political and economic tendencies, possibility of borrowing foreign mechanisms, instruments and technologies and their adaptation in the Russian terms.

For decisions on many socially meaningful problems special-purpose programs are widely used in Russia. These are accepted to attribute to the forms of SPP on the grounds that initiative of statement of a problem for decision with a programmatic method can belong to not only any imperious organ (to public authority of the Russian Federation, subjects of the Russian Federation or

organ of local self-government) but also to other participants – to physical and/or legal persons.

At present in Russia four basic forms of SPP are commonly distinguished:

- concession (long-term agreements that a private partner builds and carries out exploitation of an object, and the property of an object is in the hands of the state; for indemnification of the charges a private company gets payment from a population and/or state);
- projects financed by the Investment fund of Russia, which is used by the federal government as a channel of financing;
- special economic zones, which are territories where tax treatment is in force and other privileges for businesses operating in accordance with the Russian legislation;
- other forms (Yemelyanov Yu. S. 2012).

The practice of state-private partnerships is widely distributed in the European countries and this fact presents undoubted interest. Only for the period 2001-2009 they signed 750 SPP-projects for the sum of 100 billion pounds. In the United Kingdom alone there are 526 projects with a volume of 61 billion pounds. In countries EC specific gravity of investments on principles of SPP makes: railways - 46%, motorways - 35%, energy - 7%, airports - 6%. The largest project on a concession basis is the Eurotunnel (the general volume of investments is 15 billion dollars). For 20 years EC plans to attract approximately 400 billion Euros in trans-European transport, telecommunication networks and power infrastructure by means of SPP (U Di 2009).

A considerable role in the stimulation of development shallow firms in the United Kingdom belongs to the fiscal policy of the government. They refer establishment for the shallow firms of the lowered rate of tax behaves from corporations to the measures of general character. The record of income and expenses is conducted only de-facto, regardless of what period they behave to.

Programs for providing financial help:

- "Chart of grants",
- "Agencies of help to the enterprises of local value" that carry out sponsorship of shallow firms at regional level have enormous value in the development of small business in Great Britain
- "Chart of assistance in creation of enterprises" envisages financial help to unemployed people who intend to begin their own business. Special programs provide financial help to young people for the creation or expansion of their business, preparation of businessmen in the field of shallow business; help to municipal authorities on business of creation of new and development of existing shallow business in cities. Professional preparation of shallow businessmen is carried out by special councils of preparation of specialists.

The practice of grants to small and medium-sized businesses of risk capital will be realized in some countries (Belgium, France, the Netherlands and others). In particular, the governments of these countries guarantee indemnification of possible losses of venture funds.

The economy of a number of developed and lately developing countries widely applies the new special form of cooperation of the state and private business. This special form of partnership is designated usually by the term Public Private Partnership (PPP). This form is based on weakening of direct influence of the state in economy, delegation of functional powers to the private sector both simultaneous maintenance and strengthening of adjusting. The state is an agency for the realization of socially meaningful benefits and services. It can produce some parts of these benefits independently, and others by bringing in possibilities and capabilities of the private sector. Business is invited to join in the management of state assets for the improvement and quality realization of state projects.

Today direct state support of innovative activity in the form of SPP is one of the major instruments of development the sphere of research and development in the developed western countries. So, for example, in France in 2002 78% of the direct financing of R&D was through PPP projects as compared to 37% in 1998. The government of the Netherlands reserved 805 million Euros in the 2003-2010 period for financing SPP in strategically important spheres.

In the USA assistance in the development of small business is in the competence of a special state organization - the Administration in Matters of Small Business (AMB), created by the Congress of the USA in 1953. Its duty is to render a financial and consultative help to the shallow businessmen, to assist in the receipt of governmental orders and contracting with major concerns.

The typical experience of the USA is that the state actively takes under its guardianship the accumulated potential of fundamental science with the purpose of converting it into a market commodity and increasing on this basis the competitiveness of national economy (Abdulov A.N. 2005). This policy is complemented by such important elements as innovative strategy; this is the basis for commercialization of most technological novelties.

In accordance with the federal programs of support, small businesses get direct and assured loans. Another measure for the encouragement of private initiative is tax and depreciation deductions.

The federal authorities pay special attention to stimulation of development of innovative small businesses both by the selection of grants (subsidies) and by means of contracting for development of new products and technologies.

In Japan they practice the selection of subsidies and loans - direct credits (the Japanese bank of development

offers them to small enterprises functioning in industries with the best prospects) and assured loans (due to introduction of tax deductions, commercial banks gladly offer credit to small business), also granting long-term (5-20 years) loans to the association of small enterprises from facilities.

Thus, given the experience of the world of PPP application, as well as features and patterns of development of the Ukrainian market, it is possible to

highlight the advantages and disadvantages of the practical use of partnerships between business entities that are presented in Fig. 1.

Factors that distinguish the types of partnerships include the volume of the competences of property, investment obligations of parties passed to the private partner, principles of division of risks between partners, to responsibility for realization of different types of works, including building, exploitation, management, etc.

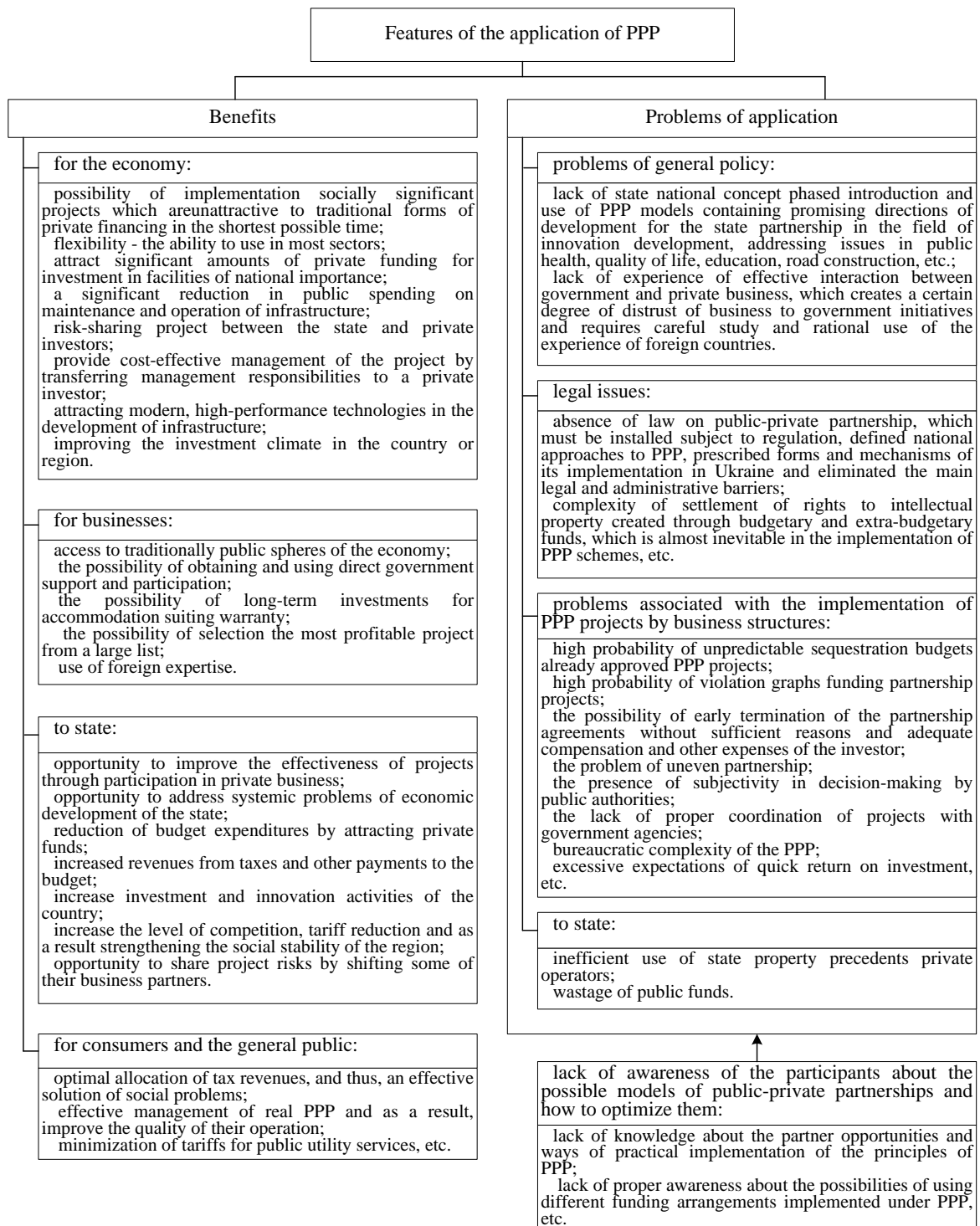


Figure 1 Analysis of the use of public-private partnerships

First chart of them is BOT (Build, Operate, and Transfer – building, exploitation/management, and transmission). This chart is used mainly in concessions. An infrastructural object is created due to a concessionaire that after completion of building takes the title exploitation of the erected object during a term sufficient for recoument of the inlaid facilities. After expiration of this term the object returns to the state. A concessionaire gets the competence of the use, but does not possess the object, whose owner is the state.

The second chart is BOOT (Build, Own, Operate, Transfer – building, possession, exploitation/management, transmission). In this case a private partner gets not only the competence of the use but also possesses an object during the term of agreement, after expiration of the agreement the object is passed to the public power.

Reverse BOOT also exists, where power finances and erects an infrastructural object, and then passes it in a confidence management to the private partner with a right for the private partner to gradually buy back the property.

The chart of BTO (Build, Transfer, and Operate – building, transmission, exploitation/management) supposes the transmission of object to the public power at once after completion of building. After its reception by the state it is passed to the use of the private partner, but without the transmission of rights for possession.

During realization of chart of BOO (Build, Own, Operate – building, possession, exploitation/management) the created object is not passed to public ownership after expiration of the term of agreement, and remains at the disposal of the investor.

In the use of chart of BOMT (Build, Operate, Maintain, Transfer – building, exploitation/ management, service, transmission) the special focus is on responsibility of the private partner for maintenance and permanent repair of the infrastructural objects that it has erected.

DBOOT (Design, Build, Own, Operate, Transfer – planning, building, possession, exploitation/management, transmission). The feature of agreements of this type consists of the responsibility of the private partner not only for building infrastructural objects but also for their planning.

In case of agreements of the type DBFO (Design, Build, Finance, Operate – planning, building, financing, exploitation/management) besides the responsibility of the private partner for planning, there is a special provision that it is also responsible for financing the building of infrastructural objects (Deryabina M. 2009).

Global experience of the realization of partner projects testifies to flexibility in the choice of model of the partnership. The choice of one of these models is produced depending on in what spheres an agreement will be realized (Makhortov E.A. 2008).

CONCLUSIONS

1. The model of operator is characterized by the clear division of responsibility between a private partner and the state for the maintenance of supervisory functions after the state.
2. The model of co-operation is used wherein certain services are not clearly enough distinguished and certain, and that is why it is difficult to make them the separate objects of taxation and depreciation decrees. At that rate partnership will be realized through a joint project company of the state and private investor.
3. The model of concession operates in industries with a protracted term of realization of projects, and also in those cases when assignment of ownership rights from the state to a private partner is eliminated for political or legal reasons. For Ukraine it is attractive during realization of projects for re-engineering of machine-building enterprises having a strategic value.
4. A contractual model is used in the energy industry in which investments are first of all allotted to lowering current expenses. Thus the economy gained from the decline of current expenses quite often exceeds investment expenses. Application of the contractual model to the participants of the modern power market within the framework of its reformation is especially urgent.
5. A leasing model is most suitable for building public buildings.

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