



Regulatory Frameworks for PPPs and Public Services “Jordan Experience”

The Executive Privatization
Commission

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Paris 25 April, 2006



General Outlook

- During the last two decades The Government of Jordan has launched a series of reforms geared at achieving higher rates of growth, enhancing the long-term competitiveness of the Jordanian economy and reducing fiscal deficit.
- In this context Jordan undertook a number of legal and economic measures aiming at liberalizing the economy and paving the way for the private sector active participation in production activities
- The Government of Jordan adopted Privatization, as a key component of Economic Reform Programs, in the second half of 1996.



Legal and Regulatory Reforms

- National Economy Protection Law (3/1992)
- Telecommunications Law (13/1995)
- Investment Promotion Law (16/1995)
- Income Taxation Law (57/1995)
- Companies Law (22/1997)
- Stock Exchange Law (23/1997)
- Customs Law (20/1998)
- General Electricity Law (13/1999), (64/2002)
- Privatization Law (25/2000)
- Royal Jordanian Law (31/2000)
- JRTV Corporation Law (35/2000)
- Postal Services Law (5/2002)
- Intellectual Property Rights Laws : some of the existing laws, under this law, were amended and others introduced in 1999 and 2000
- Competition Law (49/2002)



Public-private partnership: PPP

Public-private partnerships (PPPs) refer to an arrangements between the government and a private enterprise, where the private enterprise supplies infrastructure assets and services that traditionally have been provided by the government



Basic Features of PPPs

- The term PPP is sometimes used to describe a wider range of arrangements.
- A typical PPP takes the form of a design-build-finance-operate (DBFO) scheme.
- The government is in many cases is the main purchaser of services provided under a PPP.
- The private sector can raise financing for PPP investment in a variety of ways.
- Where a government has a claim on future project revenue, it can contribute to the financing of a PPP by securitizing that claim.



PPPs modalities

Build-own-operate (BOO)
Build-develop-operate (BDO)
Design-construct-manage-finance
(DCMF)

The private sector designs, builds, owns, develops, operates and manages an asset with no obligation to transfer ownership to the government

Buy-build-operate (BBO)
Lease-develop-operate (LDO)
Wrap-around addition (WAA)

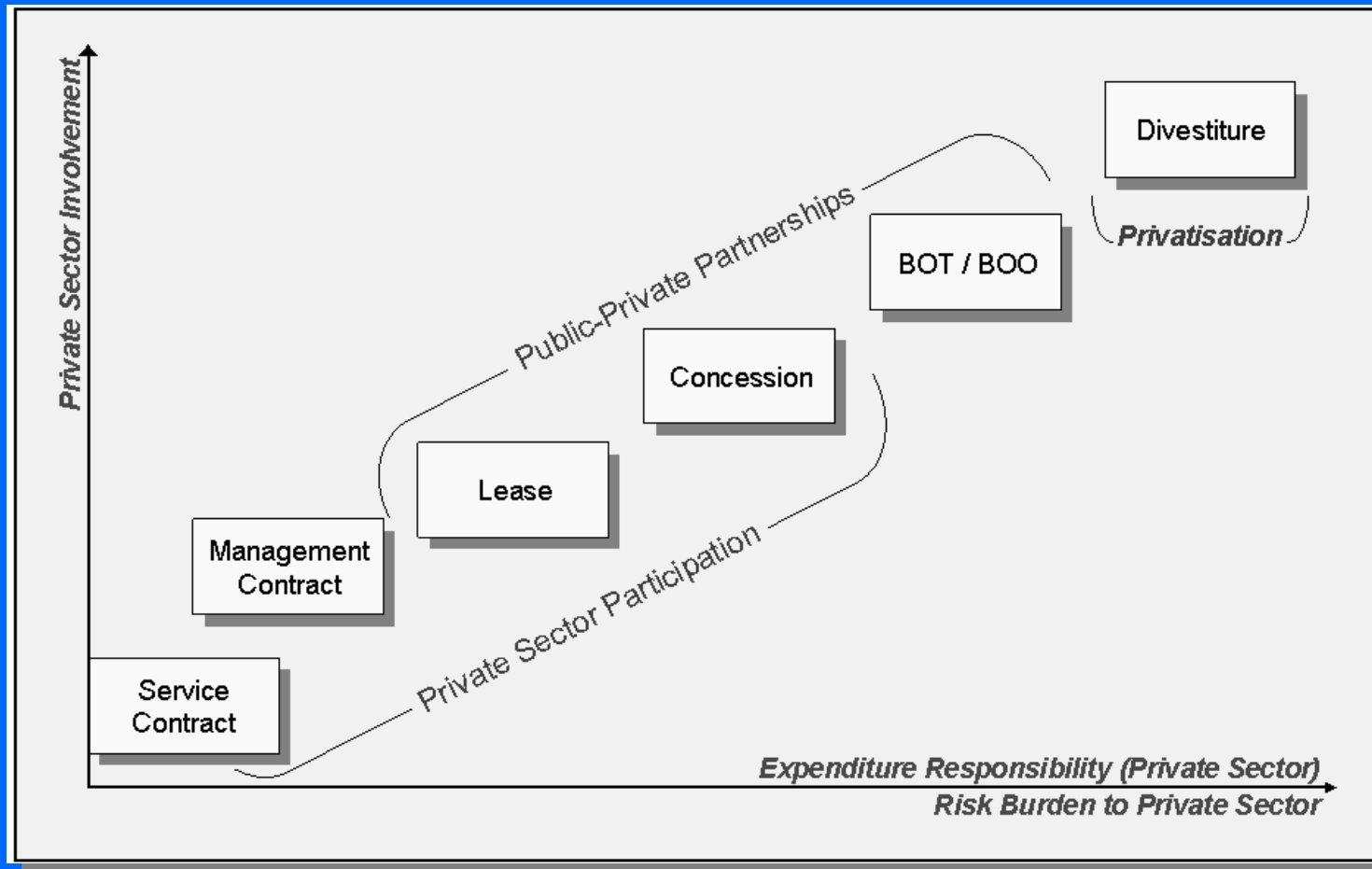
The private sector buys or leases an existing asset from the government, renovates, modernizes, and/or expands it, and then operates the asset, again with no obligation to transfer ownership back to the government

Build-operate-transfer (BOT)
Build-own-operate-transfer (BOOT)
Build-rent-own-transfer (BROT)
Build-lease-operate-transfer (BLOT)
Build-transfer-operate (BTO)

The private sector designs and builds an asset, operates it, and then transfers it to the government when the operating contract ends. The private partner may subsequently rent or lease the asset from the government



PSP and PPP



Pohl Consulting & Associates: PRIVATE-PRIVATE PARTNERSHIP IN THE TOURISM SECTOR
, Phase 1: Situation analysis and potential project selection



Prerequisites for PPP

- A stable macroeconomic environment.
- Political commitment and good governance.
- A legal framework for concessions, contract enforcement, bankruptcy and lender remedies.
- A stable regulatory framework that recognizes the lifecycle needs of the project.
- A domestic debt market.
- Development of expertise in the government.
- Adequate risk transfer from the government to the private sector



The need of PPPs in Jordan:

Jordan Infrastructure Needs 2006-2015

Sector	Projects	Indicative Required Financing
Energy	Amman East, Aqaba-Amman Power Transmission, Wind Power	\$2-3 Billion
Telecommunications		\$0.2-0.3 Billion
Transport	Queen Alia International Airport, Aqaba Port, Zarqa Light Rail,	\$1-1.5 Billion
Water	Disi Water Conveyor	\$1-2 Billion
Other Municipal Projects	Solid Waste	\$0.5 -1 Billion
Totals		\$4.7 -7.8 Billion

Source: World Bank; The Hashemite Kingdom of Jordan, Strategy for Public Private Partnerships, November 17, 2005);



Overview of the Regulatory System of Jordan

- As part the reforms, the Government of Jordan has acknowledged the need to improve the regulations of infrastructure sectors with a view to open these sectors to competition and private participation.
- Jordan was the first Arab country to establish a semi-autonomous Telecommunications Regulatory Commission (TRC) in 1996.



Regulatory Bodies in Jordan in infrastructure sector

1. Telecommunications Regulatory Commission (TRC), established in 1996
2. Electricity Regulatory Commission (ERC), started its operations in the summer 2001.
3. Jordan Civil Aviation Authority (CAA) is to be reformed with a view to separate operational and regulatory functions. It is expected that, in the future, the CAA will concentrate on regulatory functions, leaving operational activities to other (privatized) bodies



Regulatory Bodies in Jordan in infrastructure sector (cont'd)

4. Public Transport Regulatory Commission (PTRC), established in 2001.
5. Jordan Atomic Energy Commission (JAEC)- operational
6. Jordan Maritime Authority (JMA), - Operational
7. Project Management Unit (PMU)- Water Authority of Jordan (WAJ) may become part of a Regulatory Authority – established in 1998.



Regulatory Bodies in Jordan in the Financial sector

1. The Jordan Securities Commission (JSC) – operational
2. The Insurance Commission Regulatory (IRC) – operational
3. The Central Bank (CB) – Operational



Regulatory Bodies in Jordan

Regulators	TRC	ERC	PTRC	CAA	PMU
Established	1996	1999/ 2000	2001	2003	1998
Based on Law	Telecommunications Law	Electricity Law	Public Transportation Law	Civil Aviation Law	Water sector Law
Type of regulator	Industry specific				

source: Extract from the 'Berenschot' Regulatory Integration



Regulatory Bodies in Jordan (cont'd)

Regulators	TRC	ERC	PTRC	CAA	PMU
Board	Council of Commissioners		Board of PTRC	Ministry of Transport	Ministry of Water and Irrigation (WAJ)
Chairman	Head of Commissioners		Minister of Transport		



Regulatory Bodies in Jordan (cont'd)

Regulators	TRC	ERC	PTRC	CAA	PMU
Budget	Mainly based on license fees		Mainly based on franchise and license fees of operators	Ministry Budget	



PPPs in Water Sector

Water and Sanitation

- Jordan is one of the most water deficient countries in the world.
- The efficiency of the water and sanitation systems is poor.
- Cost recovery of operations and maintenance is good in larger urban systems such as in Amman, where there is a private sector operator and Aqaba, but is lesser in rural areas.
- The water and sanitation sector is subsidized.



PPP Experience in the WSS Sector

Assamra Water Treatment Plant/ BOT:

- The objective is to improve the wastewater treatment services in Greater Amman Area;
- Assamra Project is a 25 year concession, was awarded to an American-French consortium of Suez-Ordeco on July 28th 2002.
- The Government, through the Ministry of Water and Irrigation (MWI) provided the site.
- MWI committed to pay treatment charges monthly throughout the Operating Period.
- USAID provided US\$75 million during the construction.



PPP Experience in the WSS Sector in Jordan (cont'd)

Disi-Mudawarra to Amman Water Conveyance Scheme (2002-till now)

- The Disi-Mudawarra to Amman Water Conveyance Scheme is a 40 year concession on BOT basis.
- In March 2002 the Government, through (MWI), issued RFP
- In April 2004, the preferred bidder Saudi Oger group was confirmed.
- In October 2004, MWI confirmed that it had decided to terminate the procurement process due to the breakdown of discussions with Saudi Oger group.



PPP Experience in the WSS Sector in Jordan (cont'd)

Disi-Mudawarra to Amman Water Conveyance Scheme (2002-till now)

- In February 2005, the Government of Jordan announced that the project would be developed by the Development and Investments Projects Fund of the Jordan Armed Forces, a public sector body, but the selected companies failed to secure the funding.
- In 2005-2006 the MWI started a new process, on BOT basis. And RFP was issued.



PPP Experience in the WSS Sector in Jordan (cont'd)

Water Authority of Jordan (WAJ)

- Performance-based management contract in Amman Area signed in April 1999 with France's Suez Lyonnaise des Eaux and Jordan's Montgomery Watson-Arabtech Jardenesh consortium called LEMA
- This contract is linked to a \$ 55 million World Bank loan utilized in improving the sector.
- Performance has improved tremendously in all areas, Unaccounted For Water (UFW) was reduced from 54% in 1999 to 47% in 2000.



PPP Experience in the WSS Sector in Jordan (cont'd)

Water Authority of Jordan (WAJ)

- The project was coordinated by the EPC.
- The contract has been renewed till 2006, but it is uncertain if the contract will be renewed any further or if it will be re-bid.
- A strong view in the Ministry of Water and Irrigation to create a new public enterprise that in theory will work as a private company, and transfer all operations to it.



Water Regulator (PMU)

Assamra Water Treatment Plant/ BOT

- The PMU was represented in the technical committee to this project.
- The PMU is monitoring the construction phase.

Disi-Mudawarra to Amman Water Conveyance

- The PMU was/is represented in the technical committee to this project.

Water Authority of Jordan (WAJ)- LEMA

- The PMU is monitoring and regulating LEMA according to the performance indicators (PIs) in the contract.



PPPs in Energy Sector

Energy

- Jordan relies primarily on imported hydrocarbons for its various energy needs.
- Jordan has modest reserves of natural gas.
- The rest of the gas needs are imported from Egypt under a 30 year agreement.
- There are no gas distribution networks for commercial and residential customers – most buy gas tanks for consumption.
- Once sufficient reliable supplies are secured, private participation in distribution may be considered.



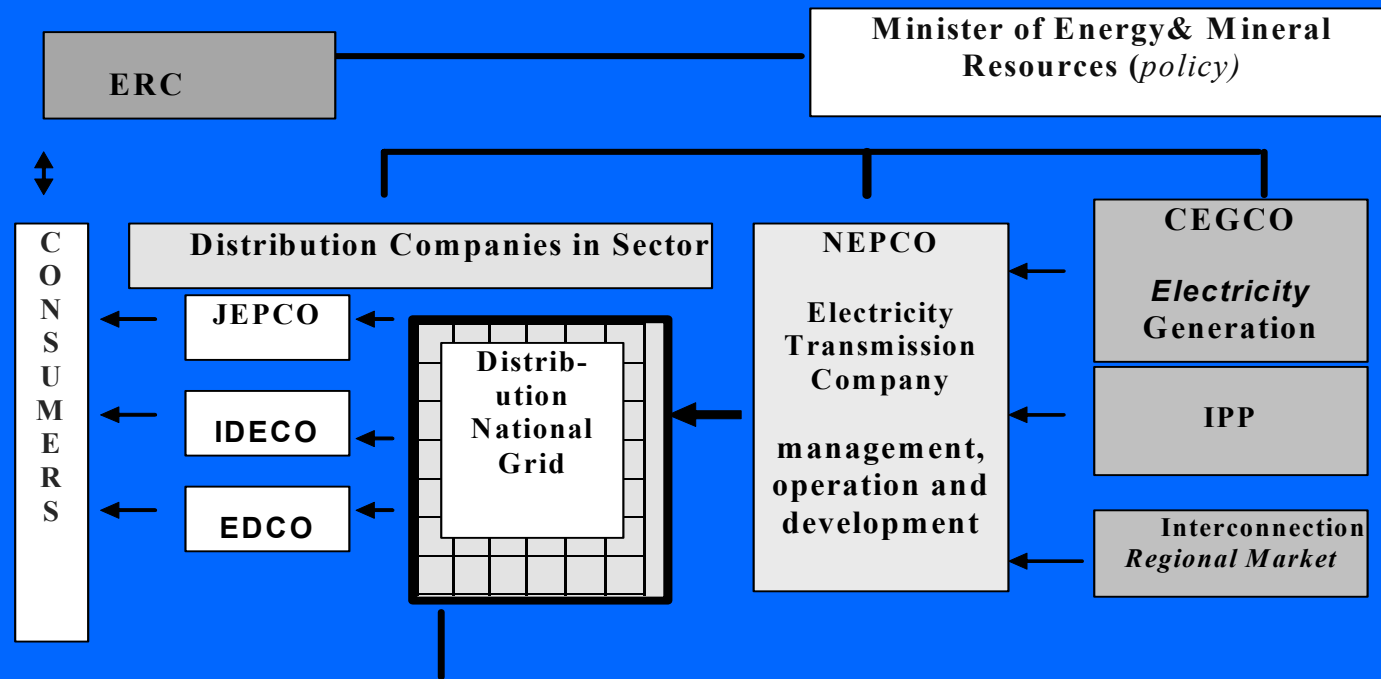
PPPs in Energy Sector

Electricity:

- NEPCO has been unbundled into three operating companies for generation (CEGCO), Transmission (NEPCO) and Distribution (EDCO);
- The Privatization transaction includes the sale of up to 51% of CEGCO (generation), 100% of EDCO, and the GoJ's shares (55.4%) of Irbid District Electricity Company (IDECO);



PPPs in Energy Sector



source: Extract from the 'Berenschot' Regulatory Integration



PPPs in Energy Sector

Zarqa Refinery - JPRC

- Jordan has one refinery at Zarqa, operating under a 50 year concession that expires in 2008.
- JPRC is a private company listed on the Amman Stock Exchange.
- The facility was designed to produce a product mix skewed toward heavy fuel oil, but the local market is now in need of additional gasoline and diesel.
- Fourth expansion is conducted by the JPRC to attract a strategic partner in the refining activities.



PPPs in Energy Sector

Zarqa Refinery - JPRC

- The GoJ is in the process of hiring (4) companies for distribution and marketing
- The GoJ is going to establish a private company to be responsible for the storage activities.



PPPs in Energy Sector

Samra Power Project (1998-now)

- The Samra Power Project was a 28 year concession, on BOO basis.
- The Government of Jordan, through the Ministry of Energy and Mineral Resources considered two options: (i) a combined cycle gas turbine or (ii) steam power using heavy fuel oil.
- MEMR undertook to provide the site for the new plant and committed to pay Capacity and Energy Charges throughout the Operating Period.



PPPs in Energy Sector

Samra Power Project (1998-now)

- in August 1998, eleven groups were pre-qualified.
- in December 1999 confirmation of the preferred bidder (Tractebel) took place.
- In December 2002, Tractebel withdrew from the Project.
- CEGCO, took over this project and finished the first phase.
- The GoJ established a company owned by it in 2004 to run this project.



PPPs in Energy Sector

Jordan Gas Transmission Pipeline (2001-2004)

- The Jordan Gas Transmission Pipeline from Aqaba to Amman is a 30 year concession on BOO basis.
- The Pipeline will provide natural gas for Jordan's power generation plants and other industrial users, as well as transit gas for users in Syria and Lebanon.
- The Project Company will have exclusive right to market gas for 18 years.
- The project costs of US\$300 million were financed through equity from the project sponsors and other sources of US\$124 million and a 12 year structured loan of US\$160 million.
- The project was awarded to Egyptian parastatal.



PPPs in Energy Sector

Almanakher Power Project

- To establish an electricity generation in Eastern Amman on BOO basis.
- Negotiation started with the consortium of Aes+Mitsue.
- Expected to start operations in 2008-2009.



Electricity Regulator (ERC)

JEPSCO

- Is 100% private owned, with concession ends in 2012.
- Regulated through PIs, in a by-law.
- Doesn't pay license fees.

NEPCO, CEGCO, EDECO

- Is licensed, and working to enhance there situations to cope with the PIs in the contracts.



Electricity Regulator (ERC)

Samra Power Project

- Assist GoJ in establishing the company.

Jordan Gas Transmission Pipeline

- Is regulated by the Ministry of Energy



PPPs in the Transport Sector

Public Transport Corporation PTRC

- Contracts signed with 3 local operators in November 1998.
- 10-year concessions to operate 4 route packages in Greater Amman area.
- The number of daily users increased from 50.000 to 120.000 over the past year and the number of new job opportunities exceeded 400.
- Following the privatization of the PTRC, buses ran more frequently in Greater Amman area, and the Government no longer had to subsidize the losses of as much as US\$2.1 million a year.



PPPs in the Transport Sector

Aqaba Container Port

- Aqaba Development Corporation (ADC) has signed a 2-year Terminal Management Contract with APM Terminals. Under the contract, APM Terminals Jordan is operating, managing and marketing the Aqaba Container Terminal (ACT), as well as implementing a number of upgrades to the facility.
- ADC and APM Terminals have signed an MOU which will lead to the development of a Strategic Partnership following the two years Management Contract.



PPPs in the Transport Sector

Amman-Zarqa Light Rail System LRS (2004-Present)

- The LRS is a concession to develop a 26 km light railway between Amman and the industrial city of Zarqa.
- In November 2004 the Public Transport Regulatory Commission announced a short-list of seven consortia
- Initial studies had indicated that a public sector grant or subsidy would be required to make project viable. It is not clear however, if funding for such a grant has been identified yet.



Public Transport Regulator (PTRC)

Public Transport Corporation PTRC

- Regulated by PIs and contract, and by-laws.

Aqaba Container Terminal

- Regulated by ASEZA through ADC.

Amman-Zarqa Light Rail System LRS

- Participating in the technical committee.



How Can PPPs Be More Effective and Sustainable

Clear policy for PPP

- A clear policy advocating the use of PPPs, as well as the rationale for their use.
- It can provide political commitment and support for the program,

A Legal Framework

Although The Privatization Law allows for PPP, the EPC should work on by-laws on the peculiarities of PPP type transactions, such as project finance structures, risk analysis, financial engineering, and complicated legal agreements.



How Can PPPs Be Made More Effective and Sustainable

Planning and Fiscal Issues

- PPP programs need to be closely integrated with Governments' investment budgeting.
- Capacities to prioritize possible investment projects, in which PPP route gives better value-for-money, and where any public expenditure or support to the PPPs can be afforded by the government.



How to Regulate PPPs?

The scope for competition in the activities undertaken by PPPs is more limited, because market is inherently monopolistic,

Social infrastructure is undervalued and economic infrastructure involves large sunk costs.

The regulators should but the proper regulation to increase output, holds down prices, and limits monopoly profit while preserving the incentive for private firms to be more efficient and reduce costs.



Forms of Regulation,

- **rate of return regulation:** suffers from the problems in establishing appropriate cost benchmarks in a monopolistic situation.
- **price regulation,** caps price increases, however, the caps are often adjusted to reflect rate of return considerations means that rate of return and price.



Government objectives of PPPs and PSPs ?

- Leveraging Funding
- Accelerating Project Implementation
- Improving Service Levels
- Improving Service Coverage
- Efficiency Gains
- Ease of Implementation



Legal Framework

- National legislation
- Project contractual terms
- regulations



Monitoring of Performance Indicators

- Maintaining Competition and Competitive Pressure
- Breach of Laws and/or Contracts
- Maintenance of Ongoing PPP



Key Factors

- Renegotiating the contract.
- Maintaining competitive environment
- Drawing a line between regulating and interfering



Maintaining competitive environment

- Allowing direct competition where it is possible
- Using international benchmarks
- Choosing prices/tariffs that enforce the private company to maximize efficiency gains (performance indicators)



Dispute Resolutions

- National courts of law
- Arbitration



Challenges Facing Regulators

- PPPs are still new.
- Need for PPP guidelines.
- Experience exchange between regulators.
- Lack in experience in PPPs.
- ERC mandate is limited to electricity.
- Hard regulating the Concessions granted before establishing regulators.
- Lack of independence; sector ministers interference in regulators jurisdiction.



Challenges Facing Regulators

- information asymmetry when determining what the appropriate allowed rate of return, or discount rate, should be when reviewing contracts, establishing price limits at a price review or arbitrating conflicts.
- Contracts are often more complex for utilities and regulatory decisions are more pressing than for utilities,
- In Concession contract, is important that the right level of required rate of return/cost of capital be assessed by the regulators. As it will be influenced by the risk level.



Thank you