ABAC Enablers of Infrastructure Investment Checklist

Infrastructure investment is a critical component of meeting the demands of the dynamic Asia-Pacific region and promoting sustained economic growth throughout the APEC economies. With a rapidly growing population and middle class, the APEC region is expected to need about US$8 trillion in infrastructure investment to meet demands in energy, transportation, water and sanitation. Newer, but highly important infrastructure demands to increase connectivity through broadband and information and communication technology solutions makes this need even greater.

Infrastructure investment in the APEC region is not, however, keeping pace with the current demand. To reverse this trend and create a more competitive environment that will foster the needed growth in infrastructure investment, APEC economies – individually and as a region – must work harder to attract investment and to plan, finance and execute large scale investments in long term projects. The private sector can provide funding and expertise, but partnering with investors and utilizing financing mechanisms, including Public-Private Partnerships (PPPs) requires deep institutional capacity, an effective regulatory and judicial system which ensures fair treatment and coordination across government agencies to ensure positive outcomes, adoption of international rules and principles, as well as other key factors.

To help prepare the APEC economies for this multi-disciplinary challenge, the APEC Business Advisory Council (ABAC) has created an "Enablers of Infrastructure Investment Checklist." The Checklist is designed to serve as a self-evaluation tool that governments can use to assess the extent to which existing policies promote the participation of the private sector in infrastructure investment. Governments will be encouraged to conduct a self-assessment to determine the extent to which their own policies promote or hinder participation of the private sector in infrastructure development. Subsequently, they will be encouraged to report their findings back to APEC stakeholders as a means of sharing lessons learned among economies.

In addition to serving to identify and prioritize for economies those policies that impact the environment for infrastructure investment, the Checklist is designed in a manner that requires inter-agency communication in order to complete the self-assessment. Policies affecting infrastructure investment necessarily transcend the jurisdiction of any single government agency. By completing the Checklist, officials from relevant agencies will be able to identify areas where policies (related to infrastructure investment) in one regulatory agency may not be aligned with policies in another agency.

This Checklist is structured under four overarching policy categories identified by ABAC. The policy categories are described below.

1. Augmenting Government Project Planning and Coordination Mechanisms

In deciding where to invest, there are three major factors related to governments' planning and coordination mechanisms that investors consider. First, investors want to be sure that the government has a track record of considering projects with good fundamentals amenable to private investment or involvement. Such projects are economically and financially viable, and form part of an integrated infrastructure plan. Secondly, investors want government agencies to be well coordinated. This includes adopting consistent practices across agencies that make processes (such as enabling legislation, procurement rules, land acquisition and permitting) straightforward and predictable. Finally, investors are interested in projects with strong political support—projects with broad and deep stakeholder support tend to be the most successful.

2. Building a Strong Financial and Financing Environment

Strong and robust financial markets are a key incentive to attract investors in infrastructure. Investors are more likely to invest in markets where there is a relatively stable macroeconomic environment and where they can raise debt and equity to finance infrastructure projects. The development of domestic debt markets and the creation of credit cultures are also important, as is the ability to acquire debt, including potentially through local currency, in sufficiently long tenors and in the amount needed, or through other mechanisms to reduce the investor's exposure to foreign exchange risk. Likewise, investors often seek local equity partners to assume some of the project risk. Private equity providers also seek protection from the government against risk factors.

In addition to being able to secure local financing, investors are more likely to participate in markets where the currency is stable and foreign exchange rates reflect the underlying exchange rate risk in the economy. It is important, therefore, for economies to limit currency controls and capital flow constraints, which make the market more attractive to investors.

3. Developing Robust PPP Mechanisms and Frameworks

Robust PPP mechanisms and frameworks are critical to attracting investment in infrastructure. Governments that maintain a clear pipeline of PPP projects, and a credible timetable for executing them, are more likely to attract investors for their projects. Also, investors prefer partnering with governments that implement PPP structures following project financing norms, and use standard agreements that are recognized internationally. This minimizes project preparation time and demonstrates the government's commitment to both partnering with the most qualified private entity, and implementing high-quality projects based on global best practices. Additionally, governments that adopt clear procurement processes and project evaluation criteria are most likely to attract competitive, high-quality investors.

4. Creating and Maintaining a Strong Investment Environment to Attract Foreign Direct Investment (FDI)

In assessing how strong the investment environment is, investors are most concerned about the legal protections available for foreign investors. Investors want to know that there are laws that protect property rights and contractual obligations, and that these laws are well enforced through fair, neutral and timely judicial systems. Investors also expect that acquiring property, registering businesses, and other similar processes would be straightforward. Complicated land acquisition and registration requirements introduce uncertainty and costs for investors. Investors also need to know that unfounded claims will be expeditiously dismissed and that they can seek legal recourse in the event of a contractual breach. Finally, governments with effective judicial systems that adhere to high-standard international treaties and conventions protecting investments and providing for arbitration create an environment in which investors are confident in the security of their investment.

The Checklist is structured in four sub-sections, which correspond to the policy categories listed above. Each sub-section consists of a series of evaluation criteria, presented as questions; followed by a list of metrics that can be used to assess how governments are performing on the questions posed.

The second part of each sub-section provides a set of Key Performance Indicators (KPIs), which provides useful metrics for assessing the extent to which a government satisfies each checklist question. This includes objective metrics available through public data sources, such as the World Bank's *Doing Business* report and *Investing Across Borders* project, as well as the World Economic Forum's *Global Competitiveness Report.*

I. Augmenting Government Project Planning and Coordination Mechanisms

Assessment Question	Comments
Does the government consistently offer projects that are part of an integrated infrastructure master plan?	
Does the government consistently offer projects with strong political and stakeholder support?	
Does the government consistently offer projects that are economically viable?	
Does the government consistently offer projects that provide value for money?	
Does the government consistently offer projects that are financially viable and creditworthy?	
Is seeking permits and regulatory approvals (for construction, operation, and so on) timely and predictable?	
Is the process for acquiring land timely and predictable?	
Is there a well-defined project preparation and procurement process, and are project evaluation criteria clear?	
Key Performance Indicator	**Comments**
If the largest five infrastructure projects commissioned in the last five years were part of a multi-year integrated infrastructure master plan	
Existence of a process to gather input from the private sector, project beneficiaries and relevant sector agencies, during project selection and implementation	
Existence of a process to evaluate whether projects are economically viable, before the government offers the projects for procurement	
Consistent use of a public sector comparator before a project is approved for PPP implementation	
Percentage of the projects bid out by the government over the last five years that achieved financial closure	
Government's ranking on the *Dealing with Construction Permits* indicator in the World Bank's *Doing Business* Report	
Average number of months it takes to secure land for an infrastructure project, from when funding for the project is secured to when land is fully acquired	
Government's ranking on the *Accessing Industrial Land* indicator in the World Bank's Investing Across Borders Report	
Training for government officials and private companies on anti-corruption codes, such as the APEC Hanoi Principles	
Periodic consultations between government officials and the private sector, at the regional level, through structures like the Asia Pacific Infrastructure Partnership (APIP)	

II. Building a Strong Financial and Financing Environment

Assessment Question	Comments
Is there macroeconomic stability?	
Is the local currency suitable for foreign investment? - Is the local currency stable? - Is the local currency convertible? - Are there capital flow controls or constraints?	
Are there other mechanisms for investors to reduce currency risk?	

II. Building a Strong Financial and Financing Environment (continued)

Assessment Question	Comments
Can investors raise debt to finance infrastructure projects? - Is there a debt market? - Is local currency debt available for long tenors? - Is there a credit culture being developed based on risk	
Are there local equity investors willing and able to invest for long-term returns?	
Key Performance Indicator	
Absence of major shocks in the exchange rate over the past ten years (a major shock could be a change in the value of the currency that is greater than 10 percent, within a seven day period[1])	
Existence of a liquid, local-currency denominated, fixed-rate, medium-term (greater than five years) bond market for debt	
Government's ranking on the *Getting Credit* indicator from the World Bank's Doing Business Report.	
Government's ranking on the *Ease of Access to Loans* indicator in the World Economic Forum's Global Competitiveness Report.	
Government's ranking on the *Financing Through Local Equity Market* indicator in the World Economic Forum's Global Competitiveness Report?	

III. Developing Robust PPP Mechanisms and Frameworks

Assessment Question	Comments
Do PPP structures match project financing norms?	
Are project risks assessed relative to appropriate risk benchmarks for similar projects?	
Do PPP contracting documents follow international best practices?	
Is there a credible plan to fulfill the government's commitment on PPP projects?	
Are there mechanisms to coordinate and gather input from ministries and other stakeholders during project preparation process?	
Do government officials know how to plan and execute PPP projects? For instance, are they competent and skilled in: - Financial modeling - Negotiating contracts - Contract management - Risk management	
Is there a clear pipeline of PPP projects and a timetable for executing them?	
Key Performance Indicator	**Comments**
Percentage of projects bid out by the government over the past five years that secured project finance debt	
Existence of a PPP process manual that explains the transaction preparation process	
Existence of a PPP policy or law that provides guidance for PPP procurement	
If PPP contracts from prior transactions contain sections that state key PPP parameters such as the rights and responsibilities of the parties involved, and the performance metrics against which the project will be evaluated	

1 Based on Bloomberg rates of June 28, 2013, of the countries in the Asia-Pacific region, only two currencies (the Indian Rupee and the Japanese Yen) experienced a change greater than 10 percent over the past 52 weeks

III. Developing Robust PPP Mechanisms and Frameworks (continued)	
Key Performance Indicator	**Comments**
If the government made, in the past, allocations in the budget for required financial support for projects; and honored these commitments	
Existence of an inter-ministerial body that approves PPP projects	
If the government has successfully completed PPP transactions, where government officials conducted financial analysis, negotiated and managed contracts, and analyzed and managed project risks	
Existence of a clear pipeline of PPP projects and a timetable for executing them at the state or national level	

IV. Creating and Maintaining a Strong Investment Environment to Attract Sufficient FDI	
Assessment Question	**Comments**
Are there protections against arbitrary changes in policies or regulations?	
Are there laws, regulations and processes that deter corruption?	
Are taxes fair and consistently applied?	
Are foreign assets and contracts with foreign investors protected through international investment agreements?	
Does the government comply with international treaties and conventions on arbitration?	
Are property rights well-defined and consistently protected?	
Are foreign assets protected from expropriation without fair compensation?	
Are government officials coordinating their activities and approvals for foreign investment projects?	
Are government officials honoring the approvals granted by previous officials?	
Key Performance Indicator	**Comments**
Government's ranking on the *Efficiency of the Legal Framework in Challenging Regulations* indicator in the World Economic Forum's Global Competitiveness Report	
Government's ranking on Transparency International's *Corruptions Perception* Index	
Government's ranking on the *Diversion of Public Funds* and *Irregular Payments and Bribes* indicators in the World Economic Forum's Global Competitiveness Report.	
Government's ranking on *Extent and Effect of Taxation* indicator in the World Economic Forum's *Global Competitiveness Report*	
The number of double taxation treaties in force	
The number of international investment agreements in force	
The number of international investment agreements in force that provide broad protections for investments, including contracts between investors and the host government, all subject to neutral investor arbitration mechanisms	
Signing and implementation of the New York Convention on the Enforcement of Arbitral Awards, or comparable provisions	
Government's ranking on the *Arbitrating Commercial Disputes* indicator in the World Bank's Investing Across Borders Report.	
Government's ranking on the *Enforcing Contracts* indicator in the World Bank's Doing Business Report, and on the *Property Rights and Intellectual Property Protection* indicators in the World Economic Forum's Global Competitiveness Report	
Government's ranking on the *Protecting Investors* indicator in the World Bank's Doing Business Report and *Strength of Investor Protection* indicators in the World Economic Forum's Global Competitiveness Report	