STABILITY OF PUBLIC PRIVATE PARTNERSHIP: EFFECT OF GOVERNMENT CONDITIONS ON PRIVATE SECTOR INVESTORS

A CASE STUDY ON NETHERLANDS, CHINA AND NIGERIA

THESIS

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE MASTER DEGREE FROM UNIVERSITY OF GRONINGEN

BY

OLUWAGBEMIGUN OLUWAKAYODE ADEBANJO
S2803232

MASTER DEGREE PROGRAMME

ENVIRONMENTAL AND INFRASTRUCTURE PLANNING

FACULTY OF SPATIAL SCIENCES

UNIVERSITY OF GRONINGEN

2015

STABILITY OF PUBLIC PRIVATE PARTNERSHIP: EFFECT OF GOVERNMENT CONDITIONS ON PRIVATE SECTOR INVESTORS

A CASE STUDY ON NETHERLANDS, CHINA AND NIGERIA

THESIS

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE MASTER DEGREE FROM UNIVERSITY OF GRONINGEN

BY

OLUWAGBEMIGUN OLUWAKAYODE ADEBANJO
S2803232

MASTER DEGREE PROGRAMME
ENVIRONMENTAL AND INFRASTRUCTURE PLANNING
FACULTY OF SPATIAL SCIENCES
UNIVERSITY OF GRONINGEN
2015

APPROVED

SUPERVISORS

DATE: AUGUST, 2015

SUPERVISOR I	SUPERVISOR II
DR FRITS VERHEES	DR FERRY VAN KANN

ABSTRACT

STABILITY OF PUBLIC PRIVATE PARTNERSHIP: EFFECT OF GOVERNMENT CONDITIONS ON PRIVATE SECTOR INVESTORS

A CASE STUDY ON NETHERLANDS, CHINA AND NIGERIA

THESIS

BY

OLUWAGBEMIGUN OLUWAKAYODE ADEBANJO

S2803232

Public-Private Partnership (PPP) is a method used in the provision of infrastructures which involves the collaboration between public sector and private sector. Due to the increasing need of infrastructure in most countries and government initiative of market oriented approach in infrastructure provision, more private investors are investing in infrastructure as a means of diversification of their investment portfolio to earn income. An investor only invest in an investment of low risk and high return, which is determined by government conditions in the case of PPP. This research analyses the effect of government conditions on private investors to create a better stable of PPP by comparing the practice of PPP in three different countries which has different level of stability of PPP and government conditions. Netherlands with a stable government and advanced PPP practice was used as reference country for China and Nigeria to learn the way PPP is been practiced. This research also proposed a framework that the government and private investors could use for PPP modification and investment decision making respectively. However, in order to effective apply government policy and administrative method used in PPP in Netherlands to China and Nigeria, China and Nigeria requires appropriate adjustment in policy and regulation to allow the Dutch PPP Policy to contextually fit into their system of governance.

GUILDLINES FOR USING THESIS

This unpublished master thesis is available in the University of Groningen library with copyright regulation reserved to University of Groningen. Reference to this report can be recorded but summary from the references can only be made by author permission in accordance to academic research regulation for citing references. Also, contacting respondent should only through academic purpose and respondents are not obliged to respond to interviews.

Reproducing and publishing whole or part of this report for academic or non-academic use can be done with the permission of the Coordinator of Master program of the University of Groningen.

ACKNOWLEDGEMENT

I wish to declared my unreserved gratitude to Jesus Christ, the Author and Finisher of my Faith for his faithfulness, grace and mercy; and also to Holy Spirit my instructor.

I would like to specially acknowledge the support from my wife, Alagbe Odunayo Gbemisola and every member of my family for their prayers and support through my master programme. I am also thankful to all the Academic and Non-academic Staff of University of Groningen and Faculty of Spatial planning most especially Dr Christian Zuidema for their special support towards the successful completion of this master programme. A year living in the Netherlands has been a very impressive and eventful experience which was made worthwhile through the amazing, fascinating and captivating Dutch people.

I would also like to express my special gratitude to my first supervisor, Dr Frits Verhees for his painstaking effort for his support, direction, kindness, patience and meeting amidst his busy schedules. Also to my second supervisor, Dr Ferry Van Kann for his incredible discussion, impeccable perusal of the report and his open door policy for questioning. Special thanks also to all respondent from Netherlands, China and Nigeria for their time and explicit explanations during the interviews.

Finally to my friends and Colleague too numerous to mention from Vineyard International Church, the Department of Environment and Infrastructure Planning, 'Gazelle Kitchen' Student house, friends in Nigeria and United Kingdom; thanks for your prayers and support.

DEDICATION

To the three special women in my life; My Mum - Christiana, My sister - Omoladun and My wife – Odunayo.

TABLE OF CONTENT

LIST OF TABLES

TABLES

LIST OF GRAPHS

GRAPHS

LIST OF FIGURES

FIGURES

CHAPTER 1

INTRODUCTION

1.1 BACKGROUND

Improving Public facilities and services is an important part of the development of a Nation. In order to reduce the pressure of infrastructure provision and management on government, Public-Private Partnership and Private Sector Participation are some of the important policy adopted. This policy is used in most countries in Europe and other developing countries around the world within the past 20 years. The system of Public Private Partnership was regarded to cover all kind type of agreement made between the government (Public sector) and private sector to provide public services like infrastructure for public use (Renda & Schrefler, 2006). Public-Private Partnership and Privatisation may be simply described as the process by which private sector is involved in providing public services which are both referred to Private-Sector Participation (PSP).

The origin of private sector involvement in public services can be traced back to the early development stages in Europe which involves the reduction autonomous control of all activities by the Central government to the distribution of power to local authorities (Hall et al, 2003). It was then generally referred to as Privatisation. Privatisation is process by the central government delegates function to private sector to own, use and maintain public facility. Private Sector Participation covers all private sector involvement with the public sector which includes sector contacts and management contacts (Almoud & Edwards, 2012) that is mostly used by World Bank and some other developing countries. Public-Private Partnership can be explained as the contractual relationship between the government and private sector to provide public services which are not on legal bases.

"The United Kingdom undoubtedly may be depicted as pioneer country in the adaption of PPP" (Renda and Schrefler, 2006). The use of PPP-PSP is also on the increase in many countries especially in Europe (UN, 2008) and it has been used in different economic infrastructure projects like roadways, bridges, water projects, railways etc. The United

Kingdom can be regarded as the country with highest number PPP amongst all countries in Europe (UN, 2008). Also from other parts of the World, countries like Australia have also developed their PPP which has been in operation since the early 1980 and it is now used in delivering infrastructure which ranges from roads, rail, airports, schools, hospitals and prison (Jetro, 2010). Several countries depend a lot on the infrastructure development despite several institutional barriers (Tan et. al, 2014). Infrastructure development plays a key role in economic development in most countries. For example, countries like Indonesia which are completely new to the concept of PPP is able to develop a stronger economy since the economic crisis in 1997 by using the idea of PPP in providing infrastructure (Augustina, 2011). Examples of the model in Public Private Partnership includes BOT- Build Operate Transfer, BOO- Build Operate Own, DBFM- Design Build Finance and Manage, Concession etc. All these PPPs varies in arrangement according to type of project and largely dependent on the government condition.

The increasing acceptance of PPP in most countries around the world calls for a need to examine how the concept of PPP can be improved taking into consideration different factors affecting its stability which varies from one country to another. The practice of PPP differs in countries but still generally based on the same concept. This is attributed to the fact the practice of PPP is content specific because it is affected by government structure and conditions.

Private sector investor see Public-Private Partnership as an investment process which involves the relationship making decision based on the level of the risk profile; rate of return against risk. All investment process involves decision making with consideration to profit or loss through risk analysis. Private partners and Investors consider the stability of the contractual agreement before making decision on investing in public projects.

The concept of Public-Private Partnership shows that government structures; policy and law, are important factors to be considered by investors in making decision to invest in a PPP project. In Netherlands, the concept of PPP is well established with the government having a well develop budget in terms of infrastructure provision and maintenance of the existing ones (Rijkswaterstaat, 2012). The government of some countries creates a specific unit for PPP while some countries uses the Ministry of Planning/Environment to control the practice of PPP. These government units understands its function and also accountable for PPP practice in their respective countries.

For example, PPP in Netherlands is controlled by the Ministry, Rijkswaterstaat and Inspectorates. The Ministry of Infrastructure is in charge of PPP policy formulation while Rijkswaterstaat is in-charge implementation of the policy from the Ministry. The Rijkswaterstaat also provide advice to stakeholders, research and constantly examine the way PPP is practiced so as to make it adaptive to uncertainties. The Inspectorates are in charge of the supervision of the PPP projects and they work directly with the private investors.

In a country like Nigeria, the administration of PPP is different from the way it is practiced in the Netherlands. In 2005, the Infrastructure Concession Regulatory Commission was formed in Nigeria whose mandate was to develop and issue guidelines on the processes and procedure of PPP. The commission works in accordance to the MDAs- Millennium Development Agency- to monitor the effectiveness of government policies and advice to the Federal Executive council (National PPP Policy, 2008). This shows that the Infrastructure Concession Regulatory commission does not have the ability to implement PPP policies on their own but in accordance with political agenda. This might be seen both as advantage and as a disadvantage to the PPP practice. There are lesser stakeholder in making decision and project implemented are only in accordance to the Federal Executive Council budget for the year.

In general, the level of civilization and need for infrastructure provision differs in different countries and regions across the world. The world is categorised into six (6) regions: East Asia Pacific (EAP), Europe and Central Asia (ECA), Sub-Sahara Africa (AFR), Middle East and North Africa (MNA), Latin America and Caribbean (LAC) and Southern Asia (SAR) (World Bank and PPIAF, 2013). Countries within the ECA region, EAP region and LAC region are more civilized with a relatively stable government. Most countries within these regions have long term experiences in PPP and these has helped them to constantly improve in their PPP Policies. The countries within the AFR region, SAR region and MNA region are less civilised compared to other regions in the world. Less stable government, inconsistency in law, political instability and natural disaster in past years can be attributed to few of the reasons for the under development in these regions.

This research will be based on the examination of government conditions/structure and its effect on Public-Private Partnership from the perspective of investment decision made by both local and foreign investor. This examination will be made by selecting countries from different regions in the world based on the level of government structure vis-à-vis need for infrastructure with regards to how PPP is practiced in each of these countries. Three different countries who differs in PPP practices and government structure will be selected. One country each from the ECA region, EAP region and AFR region. The first country selected for this case study is the Netherlands. Netherlands will represent countries in the ECA region because the Netherlands has a very good government rating of AAA and PPP has been in operation over years in infrastructure provision across sectors like water & storage, transport, Energy & Housing and Telecoms. The second country for this case study is China. China will represent countries in EAP region because of the recent increasing investment on infrastructure both from public and private sector. The use of PPP in China in transportation and energy has been on the increase and the Chinese government encourage both local and foreign investor to invest in infrastructure provision through PPP. Lastly, the third country for this case study is Nigeria. Nigeria will represent countries in the AFR region due to the increasing need for infrastructure and less stable government.

Netherlands, China and Nigeria will be examined based on their PPP practices and effect of government condition on private investors in these countries. This research will also examine the effect of level of implementation of 'rule of law', law establishing different government agencies in PPP, the level of implementation of tender laws, examine some specific PPP laws and policy and the image of government being reliable in terms of level of corruption. The possibility of transfer of international experience will also be considered during this research and recommendation will be made on the specific areas of improvement needed in PPP practice in each of these three different countries.

1.2 RESEARCH OBJECTIVES

Despite the increasing use of PPP in many countries in infrastructure provision, the PPP practice is not the same in every country which is due government budget constraints. The level of private sector involvement in infrastructure provision also varies between countries which is also determined by the government. This research will allow the countries within the region of selected case study learn from each other with consideration to individual contextual differences. Also from the perspective of private investor, the improvement in procedure will also have effect in the willingness of local and international investors to participate in PPP.

The aim of this research is to understand the technical, financial and other challenges that should be addressed in order to establish a mutual partnership between private sector and public sector in urban development. The research has the following objectives:

1. To provide a comprehensive review of the level of implementation of rule of law on public project as it affects the interest of private investors
2. To develop a public project assessment procedure for private investor in accordance to Public-Private Partnership policy
3. To review the current tender procedure for different types of contractual agreement in Public-Private Partnership
4. To examine the effect of government image on investment decision making by private sector in public projects.

1.3 RESEARCH QUESTIONS

The importance of understanding government conditions in establishment of Public-Private Partnership cannot be over emphasized and it is expedient that an investor has a good understanding of this structure. Government condition differs from one country to another and the ability to understand this condition will help an investor the content of this contractual agreement. The motive behind Public-Private partnership is the ability for private investors to make use of its resources, management knowledge and technology to be effectively combined with the public sector regulatory actions and her motive to protect public interest. This simply means that the successful establishment of a Public-Private Partnership is dependent on regulatory actions of public sector which is part of government condition a private investor needs to understand. In summary, private investor base the assessment of risk profile of investing through PPP by understanding these regulatory actions by public sector (government). More specifically, the following research questions need to be addressed

1. What are the effects of rule of law on the establishment of Public-Private Partnership?
2. What are the different ways of tendering in Public-Private Partnership?
3. What effect does image of government (reliability) have on private investor decision making in Public-Private Partnership?

1.4 RESEARCH METHOLOGY

This research examines the government condition/structure and the practice of Public Private Partnership in 3 different countries from different region in the world. The countries used for this research are Netherlands, China and Nigeria. The Netherlands will be examined as a representation for countries with a well-developed government structure and Public Private Partnership policy around the world. China will also be examined to represent countries relatively stable government structure with a developing Public private partnership government structure while Nigeria will represent the countries that are not well developed in terms of Private investment in public sector facilities and services with a less stable government structure.

The document used for this research was information from past research, government documents, articles, journals, newspaper and internet publications. Other primary information is acquired through interviews with government officials, financial institutions and private firms in Public-Private Partnership. This research was assisted by Ministries, Inspectorates and implementing department like Rijkswaterstaat (Netherland) and Infrastructure Concession Regulatory commission (Nigeria). Likewise, assistance will be required from Hong Kong Institute of surveyor, China Policy Institute, Tsinghua University, Beijing, other researchers at the Spatial Planning Department especially those from China so as to have a better understanding of the China infrastructure planning policy

The primary method for this research will be by acquiring necessary data and information through textbooks, journals and articles on the PPP in general and most specifically on Netherlands, China and Nigeria. Interviews and content analysis will also be used establish facts from data and information acquired. This study will review government structure and culture of each country on Public Private Partnership from the private investor perspective. Conclusion and recommendation will be made based on this review on how countries can learn from each other and the modification of PPP related policies (tender, lease, finance and risk analysis) in the selected countries with reference to completed, on-going and proposed projects.

Main steps in this research are:

a. **General overview on research topic**

This is initial phase of the research. General knowledge on institutional framework, governance, PPP, tender and Risk assessment were examined through a comprehensive literature review. The basic knowledge is on the evolution of Public-Private partnership, types of PPP and procedure of the PPP as it's related to governance and investment from private investor.

b. **Data acquisition**

Based on the comprehensive review, the trend and procedures involved in PPP were examined based on available data on the past and present PPP projects in Netherlands, China and Nigeria. Further analysis was also be done on the tender procedure of completed PPP project by examining if there was a decline or increase on the number of private investors willing to invest in PPP across certain number of years. Data on PPP in Netherlands was acquired from Ministry of Infrastructure and the Environment, Rijkswaterstaat-PPP unit and World Bank. Information on PPP practice was further examined by conducting personal interview with officials at Ministry of Infrastructure and the Environment Rijkswaterstaat, annual report from the Ministry and papers delivered by personnel at the PPP unit of Rijkswaterstaat. Interview with some private investors in PPP in Netherlands was conducted and data was also acquired from publications on PPP in Netherlands from journals and articles.

Data and information on China PPP were acquired from Hong Kong Institute of surveyor, China Policy Institute, research report from Tsinghua University, Beijing, journals and articles. Data and Information on Nigeria PPP were acquired from Infrastructure Concession Regulatory Commission (ICRC), Ministry of Public works, past research, journals, and articles. Due to time constraint and distance, information on PPP practice in China and Nigeria were acquired from published documents on PPP, calls, email and skype interview with private investor. The questions asked during these interviews are open questions which are formulated based on the objectives and the research questions of this study. Open question interview method was used so as to get all necessary information relating to the question raised from respondent. The questions asked during these interviews is stated in the appendix of this report and the answers given are used for the interpretation and analysis of the data acquired.

c. **Data interpretation and Analysis**

Interpretation and analysis drawn from the data and information acquired were used to explain the conceptual model showing the relationship between government structure and stability of PPP. Analytical argument was made on how the government structure and practice affects the stability of PPP in Netherlands, China and Nigeria. Changes in rate of private investment and number of PPP projects initiated were compare based on the rule of law, tender procedure and image of government in Netherland, China and Nigeria.

d. **Recommendation and Conclusion**

Recommendations and conclusions were drawn from the data analysis based on the factors affecting PPP practice and its effect on the willingness of private (local and International) investor to invest in certain countries. Also, recommendations were made on ways by which PPP practice can be improved in Netherlands, China and Nigeria by learning from each other.

1.5 REPORT OUTLINE

This research will be reported in a concise five (5) chapters that is summarised as follows:

Chapter 1- Introduction

This chapter gives a general introduction to the research by giving a background description of the research, the aim and objectives of the research, the proposed research questions which be the answered in its data analysis, recommendation and conclusion, the research methodology and a flow diagram of the report outline.

Chapter 2- Public-Private Partnership in Perspective

This chapter discusses the current knowledge including substantive findings, as well as theoretical and methodological contributions to this research. Literature reviews used are from secondary finding on general concept on governance, PPP, Risk analysis, tender etc.

Chapter 3- PPP practise in Netherland, China and Nigeria

This chapter explains how PPP is practiced in Netherlands, China and Nigeria with focus on the rule of law and Tender procedures for PPP project. This chapter will also explain the institutional barriers against the PPP practices in Netherlands, China and Nigeria and its effect on the willingness of local and foreign investor to invest in these countries.

Chapter 4- Trend of Private sector Investment in PPP Projects

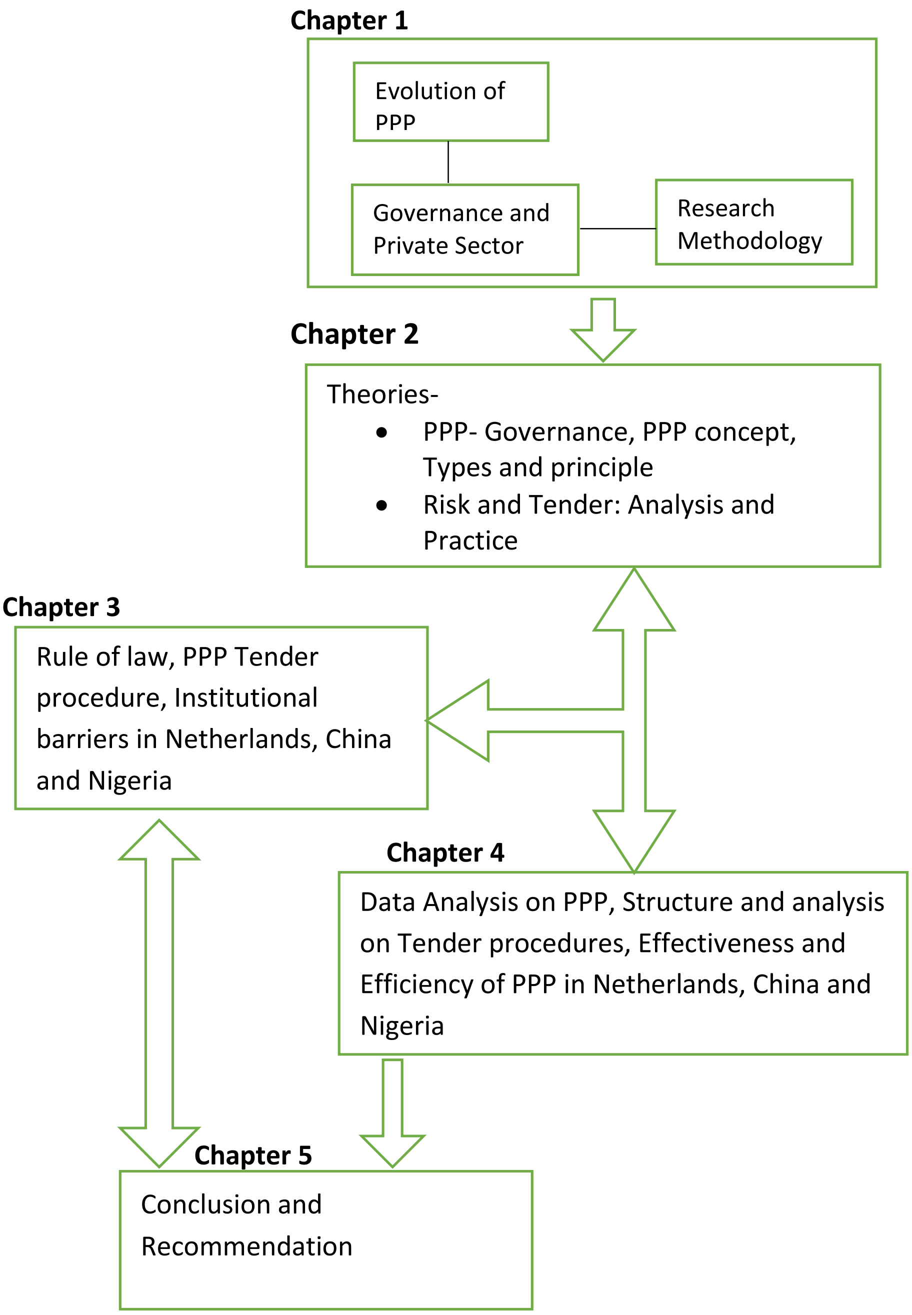
This chapter examines the trend of PPP project and investment in Netherlands, China and Nigeria with regards rule of law, tender procedure and image of government as element to be considered to explain these trends. The endogenous and exogenous barriers will also be examined and their effects on stability of PPP will be explained. This chapter will also analyse the rate of private sector investment and this trend will be analysed based on the government structure across different number of years.

Chapter 5- Conclusion and Recommendation

This chapter will give a conclusion on the effect of government conditions on stability of PPP and also proposes ways by which PPP practice can be stabilised by trying to recommend how countries can learn from each other in PPP practice with consideration to their government structure.

1.6 REPORT FRAMEWORK

CHART 1.1 - REPORT FRAMEWORK



CHAPTER 2

PUBLIC-PRIVATE PARTNERSHIP IN PERSPECTIVE

There are several ways to define Public-Private Partnership. PPP can be defined as "partnering of two or more organizations working together to improve performance through agreeing mutual objectives, devising a way for resolving any disputes and committing themselves to continuous improvement, measuring progress and sharing the gains" (Egan, 1998). PPP also refers "to any contractual arrangement between a public-sector party and a private-sector party for the provision of public services with the following four main characteristics: the bundling of project phases into a single contract, an output specification approach, a high level of risk transfer to the private sector, and a long-term contract duration" (Lossa et. al., 2007). It can also be seen as "a project alliance is where an owner (or owners) and one or more service providers work as an integrated team to deliver a specific project under a contractual framework where their commercial interests are aligned with actual project outcomes" (Ross, 2003).

From the definitions above, PPP involves working together under an agreed mutual objective which public sector and private sector shares gains and losses by aligning of public and commercial interest which has a clear process and phases in which integrated team is form on a long term relationship.

The increase in population in most urban cities has called for rapid need for more infrastructure development. Most fast growing urban cities are adorn with over-used and/or poorly maintained infrastructure. Unequipped hospitals, poor water management, disease outbreak and bad and congested roads has led increase in road accident. All these are some of the reasons for lower life expectancy in urban cities (Egbewole, 2011). In recent years, most governments depend on tax (direct tax or 'user-pays') in providing infrastructure but the recent growth has called for more and better infrastructure through PPPs. Privatisation is sometimes confused with Public-Private Partnership as they both involves the private sector getting involved with public infrastructure but PPP does not mean that public infrastructure sold to a private investor as it is in the case of privatisation. Government decision on the establishment of PPPs delivers value to public at lower cost, reduces risk on the path of the government, alternative source of capital for important and urgent project, timely delivery service with unique innovations and Debt financing (UN, 2008).

Private investors most times do not have any special interest in infrastructure provision except that infrastructure provision seen as an investment opportunity and Private investor critically appraise this investment against other asset classes to know which one has the lowest risk margin. The establishment and implementation of Public-Private Partnership (PPP) depends on governance of a nation. PPP is a long term projection of public service provision by transferring risk to private investor through implementing, design and financing the public sector facilities and services. The United Nation (2008) describes PPP as an innovation that brings the private sector and public together to deliver projects that will benefit the public in terms of economic development and improve the quality of life. The public sector and private sector establishes a long term where the private sector delivers a project through his capital, time and budget while the public sector retains the responsibility of provide these services for quality life. Based on long relationship by contractual agreement, PPP can be inform of a Joint venture and Concession contractual PPP between private and public sector (United Nations, 2008).

PPPs are financed by government through budget allocated to the ministry/contracting authority and in some cases it can be funded by users of such service. Example of user-pays services are Tolls payment by road users and public car parks. Investing in PPPs is an investment that transfer high level of risk to the private sector (Lossa et. al.,2007) but this high risk is shared between government, private investor (e.g. financial institution) and sub-contractors. Also, the involvement of government in PPP practice gives an investor be more assurance on the return on investment, *ceteris paribus*. Financing PPPs is highly dependent on the level of risk and volume of money. Project company borrows funds from lender based on the project cash flow and not on cooperate balance sheet i.e. funds are based on projected future revenue. Independent legal vehicle can also be created to provide fund for projects. Funds are made available back to private financier through the income generated from the project or payment from government.

It is often said that practice makes perfect, this phrase can be likened to the evolutionary stages in PPPs development. Years of practicing PPP in different countries gives a better understanding of the process and allows for modification with respect to the rule of law, policies, establishment of well-structured comprehensive system and trained PPP expertise. Learning is very important is PPP as different countries develop their PPP by learning from other countries on how PPP is been practiced. United Nations Economic Commission for Europe in 2008 classifies the PPP developmental stages countries go through into three stages. These stages shows the trend of activity and sophistication of the PPP practice in different countries. The development along these stages involves the development in the PPP market which is a mix of level of activity and sophistication. Countries develop along a pattern which shows changes in activities at each stage along a curve called the market development curve. Countries at lower stage learn from other countries higher than them along the market development curve and this will be discussed more in the next section.

2.1 DEVELOPMENTAL STAGES IN PPP PRACTICE

Each country tends to go through phases as they try to develop to the advance stage. This development is affected by different institutional barriers which makes it challenging from countries to easily leap frog from one stage to another. Countries practicing PPP often go through same path of development despite the fact that their institutional barriers differs from one another. Countries can be considered to go through three major phases before attained fully operational stage and these phases are described as follows:

2.1.1 STAGE ONE

Developing countries like Nigeria, India, Slovakia, Poland, Russia, Latvia, Bulgaria, China etc. are at the stage one of the PPP developmental Stage (Deloitte and Touche USA LLP in United Nations, 2008). This stage is characterised by a PPP policy framework with a legal viability, development of foundation, concepts and gradual building of marketplace to establish the policy. Infrastructure Concession Regulatory commission (Nigeria) and Foundation for PPP Association (Nigeria), China Centre for Public-Private Partnerships (China) and Hong Kong Efficiency Unit (China), Public-Private Partnership Appraisal Committee (India), Centrum Public-Private Partnership (Poland) are some of the organization established to promote the concept of PPP by countries in the stage developmental stage.

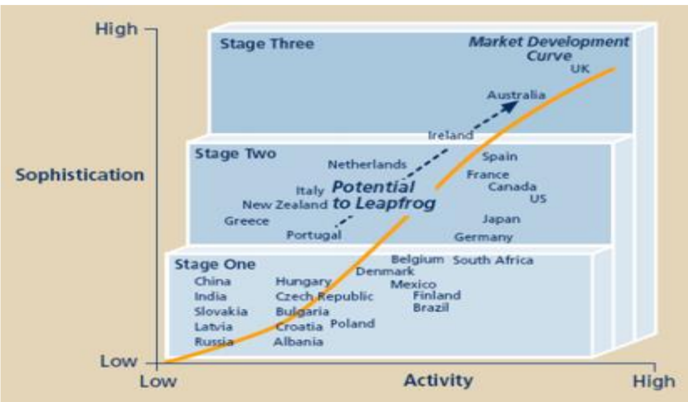
2.1.2 STAGE TWO

Developed countries like Netherlands, Italy, Spain, US, Canada, France etc. are at this stage which is a more advanced stage (Deloitte and Touche USA LLP in United Nations, 2008). Stage two countries have introduced legislative reform and a published PPP policy and practice guidelines. Establishment of dedicated PPP units like The PPP Knowledge Centre (Netherlands), Ministry of Infrastructure and Environmental; Rijkswaterstraat (Netherland), Technical Unit for Project Financing (Italy), National Council for Public-Private Partnerships (USA), Club de Promotion des Contrats de Partenariats Public-Prive (France) and Centre d'Expertise Francais pour l'Observation des Partenariats Public-Privé (France) are some of the agencies used by countries in stage 2 developmental stage. The government continuous fostering marketplace, refine PPP delivery models, expand and extend pipeline of projects to new sectors and make available new sources of fund for private investor.

2.1.3 STAGE THREE

United Kingdom and Australia has the most developed PPP structure (Deloitte and Touche USA LLP in United Nations, 2008) and with comprehensive system. The PPP models are refined and reproduced with all legal impediments removed (United Nations, 2008). The governance is more stable due to long-term political consensus with full range of funding sources for private sector. Due to long year of practice, the civil service officials are well-trained with good understanding of PPP.

FIG 2.1- DEVELOPMENT STAGES IN PPP WITH COUNTRIES



Source- Deloitte and Touche USA LLP in United Nations, 2008

Countries at same developmental stage have similar level of activities and sophistication as shown in table 2.1 but there is no strict restriction to these activities at each stage. This means that countries at developmental stage one learns from countries at developmental stage two, so some activities in stage two can also be practiced in stage one. The level of these activities increases from stage one to stage three. The increase in these activities is the ability for a country to overcome institutional barriers that can hinder a potential leapfrog from one developmental stage to another.

TABLE 2.1- ACTIVITIES AT DEVELOPMENTAL STAGES IN PPP

Stage One	Stage Two	Stage Three
• Define policy framework • Test legal viability • Identify project pipeline • Develop foundation, concepts • Apply lessons from earliest deals to other sectors • Start to build marketplace	• Introduce legislative reform • Publish policy and practice guidelines • Establish dedicated PPP units • Refine PPP delivery models • Continue to foster marketplace • Expand project pipeline and extend to new sectors • Leverage new sources of funds	• Fully defined, comprehensive "system" established • Legal impediments removed • PPP models refined and reproduced • Sophisticated risk allocation • Committed deal flow • Long-term political consensus • Use of full-range of funding sources • Thriving infrastructure • Investment market involving pension funds and private equity funds • Well-trained civil service utilises PPP experiences

Source- Deloitte and Touche USA LLP in United Nations, 2008

Countries do grow through the years of practice of PPP, although it is not automatic. The PPP market developmental curve (Deloitte and Touche USA LLP in United Nation, 2008) shows the level of sophistication of PPP from low to high moving (potential to leap frog stage) from one stage to another. It might be quite challenging to initiate PPP effectively because PPP is always affected by different institutional barriers. Countries at the stage 3 have high sophisticated and high activity in the PPP as shown in table 2.1. The level of activity and sophistication is higher in stage 3 compare to stage 1. As much countries learn from each other across the developmental stages, some elements of preceding advanced stage can be seen in previous stage. This means that some properties of stage 2 can be seen in developing stage 1 countries as they try to learn from countries higher than them in development.

2.2 GOVERNANCE AND PPP

In achieving a more matured level of PPP with good governance; clear, distinct, coherent and comprehensive PPP policy is designed to give direction and leadership so as to allow both public and private sector have a clear understanding of the content of the PPP arrangement (UN, 2008). The policies established in PPP should be not be informal (assumed) to avoid confusion. A well planned policy gives a distinct roadmap for the proposed project. Clear objective and ability to understand inherent challenges makes the proposed project realistic and achievable. Designing policies for PPP is part of responsible of the government and mostly, these policies are not well defined which sometimes leads to confusion in the principle and goals of PPPs.

PPP is also sometimes confused with privatisation and it can only be clarified by government by goals of the PPPs policy which will be formally understood by both public and private sector. In general idea, both Privatisation and PPP involves private investor to investing in public services (Hall et al, 2003) which can be collectively called Private Sector Participation (PSP). The UK government in 1980s used the term 'privatisation' as all forms of involvement of the private sector in public services which includes sales of government industrials and sub-contracting services. This is different from other EU countries as PPP is referred to the arrangement that involves the co-existence of both private and public sector involvement in a particular service cannot be regarded privatisation.

In Central and Eastern European Countries (CEECs), as the former centralised state apparatus was broken up, 'privatisation' was used to refer to any action which removed a function from the control of central government, including the re-allocation of responsibilities, such as water, to local authorities (Hall et al, 2003). The term 'privatisation' often raise political controversy even in the UK due to unclear goals of the policy. This gives rise to the term 'Public-Private Partnership'(PPP) which clearly gives the function of private sector as collaboration and technical contribution and not total transfer of interest(control) to the private sector. This collaboration is a mutual contractual relationship between the private investor and government. A well designed PPP policy gives a clear route decision from strategic planning, implementation, identifying clear objectives and principle (ESC, 2007), feasibility, viability, Environmental Impact Analysis, Public consultation and other challenges to achieving these goals

PPP is also a way of informing other stakeholders of the proposed project. The goal of PPP usually varies depending on the economic and infrastructure developmental need of a country. The goals of high-income countries is mostly to maintain efficient use of infrastructure and provide taxpayers best value for their money and the low-income countries uses PPP to increase efficiency and accessibility of basic amenities to those are socially and economically disadvantaged (ESC, 2007). The government needs to consult these beneficiaries and stakeholders before designing the policy. Conflicts and disagreement between the government, beneficiaries and other stakeholders can pose a major threat in PPP approach. Some projects might be cancelled while some can be placed on hold for a very long period of time due to disagreement amongst concerned parties. In a good governance system in PPP, majority of stakeholder should reach a consensus about a proposed project before its implementation.

Government requires necessary skills and experts to develop PPP which is more commonly found in private sector than public sectors (ESC, 2007). For example in the Netherlands, the government had been able to combine skills from private and public sector by integrating PPP in the Ministry of Transport, Public Works and Water Management by creating a PPP unit who helps in implementing the policy from the ministry and allows the Inspectorates to supervise the PPP projects (Rijkswaterstaat, 2012). The Rijkswaterstaat-PPP unit (the implementing body of the Ministry of Transport, Public Works and Water Management) was able to bring together skills and advices from both internal and external consultant who can advise on financial and legal related issues. This helped PPP practice to be able to stand as a normal standing policy in the Netherlands concerning Infrastructure projects.

This type of integration in most country is to create a defined project pipeline and give support to regional and local authorities in implementing their PPP programmes (ESC, 2007). The establishment of this unit at local and regional level helps the government to get update of developments at the lower regions. Establishment of separate unit also helps the unit to more effective and gives them the ability to handle numbers of projects around the country.

Governance and PPP can also be examined from the perspective of the private investor which is the aim of this research. Return on investment (profit) is very important to any investor and this is not different from the motive of private investor in PPP. Investment appraisal is always done by an investor which makes the investor know if the investment is worthwhile (Reed and Sims, 2015). Remedy like legal framework of PPP policy is also taking into consideration in case of unforeseen circumstances. Most times, legal processes are not sufficient and complex to provide inadequate security and proper incentives to a private investor in PPP. This can also be more complicated for international firms investing in countries with unstable government system and poor legal system (Conover et. al, 2002). It is expedient for the legal framework of a country to take into consideration of the interest of investors and give them the empowerment to be able to participate in the legal processes. Most countries at the stage one of the developmental stage has a weak legal framework. Poor legal framework also affects tender procedure as create doubt in the credibility of the selection process. Tender procedures varies from one country to another which can be inform of competitive, open or negotiated tender (UN, 2008). Simple tender procedure is faster and it is assumed to prone to corruption, less transparency and has low probability of realisation, while advanced tender procedure is assumed to take longer time and it is more structured from the exploration stage, project stage and realisation stage. These comparison will be further examined in due course of this paper by comparing the tender procedures of Netherlands, China and Nigeria as it affects the willingness of investor to invest in these countries.

2.3 MODELS OF PPP

There are four major activities in PPP, which are Construction, Operation, Finance and Ownership (United Nations, 2008). Other agreement in PPP are for outsourcing service like refuse disposal which do not involve any construction or huge financing of capital investment. Based on the contractual agreement and risk sharing, there are different PPP models that are used to for risk sharing between public sector and private investor. These models of partnerships are described below from high to lower degree of private sector involvement and risk.

2.3.1 Concession

This is a collaborative arrangement between government and private developer(s) to design and develop public facilities through combination of participants which will include financiers, contractors and consultants (Oyedele, 2012). The private investor(s) takes over the responsibility of operating all services and charges. It is also known as franchising (Egbewole, 2011). The private investor is also responsible for funding new investment in fixed assets. This model has a very high involvement of private sector(s) and the risk involved is also high because there is the high financial commitment from the private investor(s).

2.3.2 Build Own Operate (BOO)

This type of contractual agreement is when a private sector finances, builds, owns and operates a public service or facility for an endless period of time. In order to avoid it been seen as if public facility is given out in perpetuity to private investor, the public sector serves as a regulatory body on how the facility is used by private sector. This involves high degree of private sector involvement and risk but not as high as the concession because the public facility is owned by the private investor in perpetuity and it allows for more time to adjust to unforeseen situations.

2.3.3 Design Build Finance Operate Maintain (DBFOM)

In this type of arrangement, the private sector designs according to the agreed specification by the public sector, finances, constructs, operate and maintain a facility based on a long lease and it would be transferred back to public sector at the end of lease. The degree of private sector involvement and risk is not as high as in BOO because the private investor have more liberty in operating and in the usage of the public assets.

2.3.4 Design Build finance Operate/ Build Own Operate and Transfer (BOOT)

This type of arrangement involves a private developer to builds, own, finances and operate a service or a facility and charges a user fees (e.g. toll on roads and payment for use of public toilet) on the end users for specified period of time before the ownership is reverted back to the public sector. The contracting authority (Client) is not facility directly but it is for the usage of general end users. Example is the construction of the Murtala Mohammed

Airport II in Nigeria by Bicourtney Aviation Management (Oyedele, 2012). The BOOT has a lesser degree of private sector involvement and risk compare to DBFOM because the private developer can design the facility desired specification and the charges for the use of the facility is solely controlled by the investor.

2.3.5 Design Build Finance Maintain (DBFM)

This type of arrangement involves when one private developer designs, build, finance and maintain a public facility across a given number of years. The number of years for maintenance is determined by the life expectancy of the project. The private developer/investor will be paid by the public sector/contracting authority the cost incurred during the design, realisation stage and the cost of maintaining the project during the maintenance period. The private investor starts getting income on the project during maintenance period. The degree of risk in DBFM is lesser compare to BOOT because there is higher certainty that the government will back the cost incurred during maintenance stage of the project.

2.3.6 Design Build Operate/ Buy Build Operate (DBO)

This is a contract that involves a transfer of public assets (dilapidated) to a private partner for upgrade after paying for the present value (value at the dilapidated state) of the public assets and operated for a specific period of time and it will reverted back for public control after the expiration of operating period as stated in the contract. The investor can easily appraise a DBO proposed investment by getting a track record of the performance of the investment before investing. This will reduce the level of uncertainty of the investment there by reducing the risk.

2.3.7 Lease Develop Operate/ Build lease operate transfer (BLOT)

This involve an element of lease period. It is quite similar to BOOT except the ownership of the public facility is given as a lease and the private investor uses it as against payment of rent. The investor incurs less fund in financing the project because money is not paid to own the public facility. The only money incurred by investor is during development and operation. The investor is sure of getting return when users pays for the use of the public facility during the period of lease.

2.3.8 Build Finance Maintain (BFM)

This type of arrangement is when a private investor build, finance and maintain public facility over a fixed period of time. The investor is paid at every stage of the project as cost is been incurred. The investor starts getting income from the beginning of the project. This arrangement has a very low risk because the investor can terminate the contract if the contracting authority fails to reimbursement cost incurred at stage of the project.

2.3.9 Build Finance (BF)

This type of arrangement is similar to the BFM but it has a shorter span. The investor is not involved in maintenance of the public facility. The investor gets return on investment fast due to the span of the contractual agreement.

2.3.10 Operate and maintenance (OM)

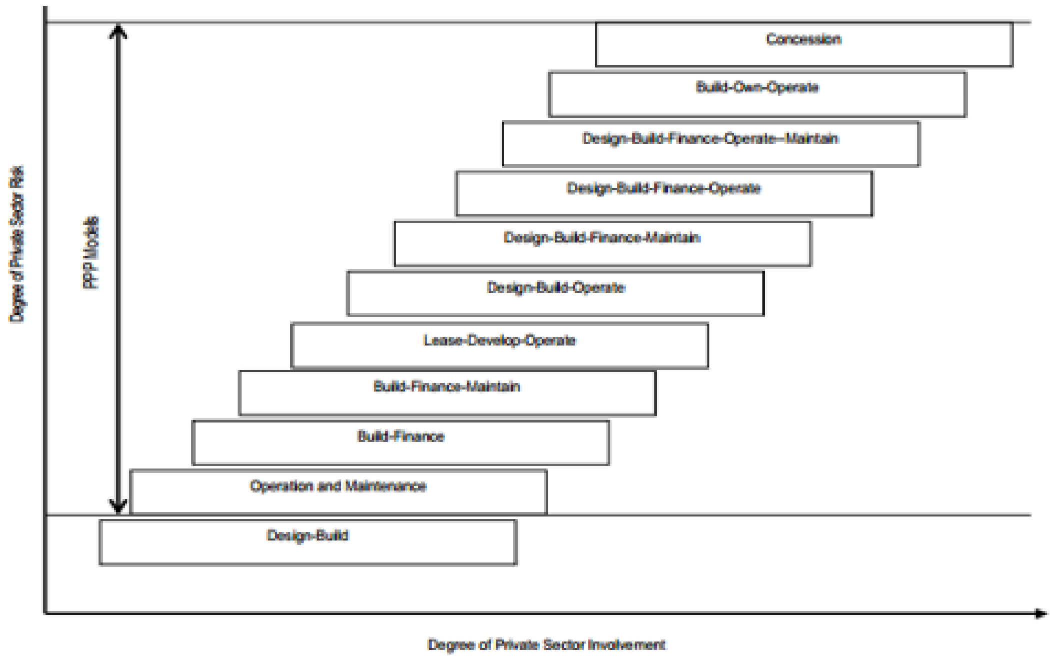
This arrangement involves only management processes. The private investor only operate and maintain a built public facility and the contracting authority pays for the private investor for managing the facility either quarterly or yearly as stated in the agreement. This arrangement has little or no risk for the private investor.

2.3.11 Design-Build (DB)

This arrangement involves a private developer to design and build a public facility at an agreed cost with the contracting authority. The private developer prepares a Bill of quantity (BOQ) stating the amount needed at each stage of the project. The private developer is pays upfront before the start of the project and subsequent payment is made in stages or at the end of the realisation of the project. The private developer does not finance the project but develops the items on the BOQ which the contracting authority pays for. The private developer is not at any risk and due to this, DB is sometimes not referred to as PPP because there is no element of risk sharing between private and public sector

All these types of PPP differs according the level of involvement, risks and rewards associated with the concept. This could be illustrated by the spectrum showing the position of each of these concepts according to level of private sector involvement against risk, Fig 2.2. This spectrum shows the degree of private sector risk against degree of private sector involvement in different models of PPP. The higher the degree of private sector involvement, the higher the risk for the private sector. Concession is most risky model of PPP and due to the high degree of private sector involvement. Operate and Maintenance is least risky model on the spectrum as it involves lower degree of private sector involvement. Design Build has no risk level in this respect, so it will not be considered along the spectrum.

FIG 2.2 – MODEL OF PPP SHOWING LEVEL OF RISK AND LEVEL OF PRIVATE SECTOR INVOLVEMENT



Source: The Canadian Council for Public-Private Partnerships, United Nation (2008)

Despite the high level of risk involved in DBFM, it is still one of the model mostly used in Europe (Rijkswaterstaat, 2012). The DBFM arrangement has ability to integrate risk by using an integral performance approach rather than product oriented approach (Rijkswaterstaat, 2012). DBFM model has its peculiarity due to the mechanism of payment and allocation of responsibility. Payment mechanism of other traditional arrangement involving private sector, funds are been provided to the private investor in stages across the design, realisation and maintenance depending on the clause as stated in the contract. The payment mechanism in DBFM is different from this because payment at the end of realisation (completion of the project) and the payment is spread evenly across the maintenance phase. Figure 2.3 and figure 2.4 shows the difference in payment mechanism in traditional projects and PPP for a

Road construction project. Figure 2.3 shows the payment mechanism for traditional projects which shows that the private developer (contractor) is paid by the contracting authority at every expense made from the design stage to the maintenance stage. The contractor earns income from the beginning of the project. This is different in the payment mechanism for the DBFM contract as shown in figure 2.4. The contractor start earning income from the end of the realization stage of the project and the contracting authority shares the expense made by the contractor evenly across the term of the project.

FIG 2.3- PAYMENT MECHANISM FOR TRADITIONAL PROJECTS

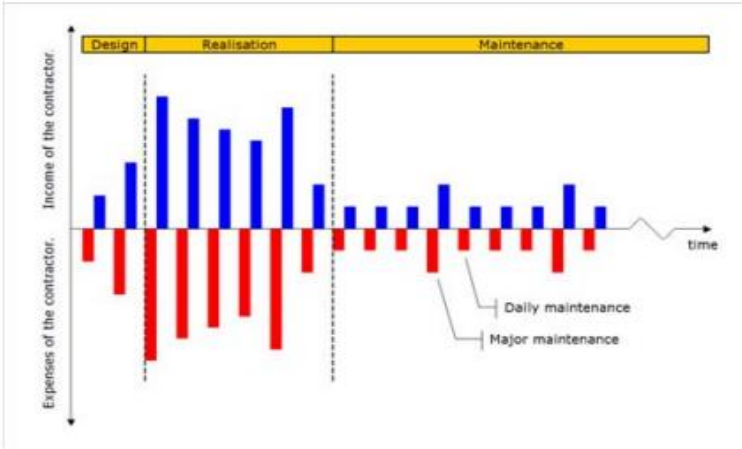
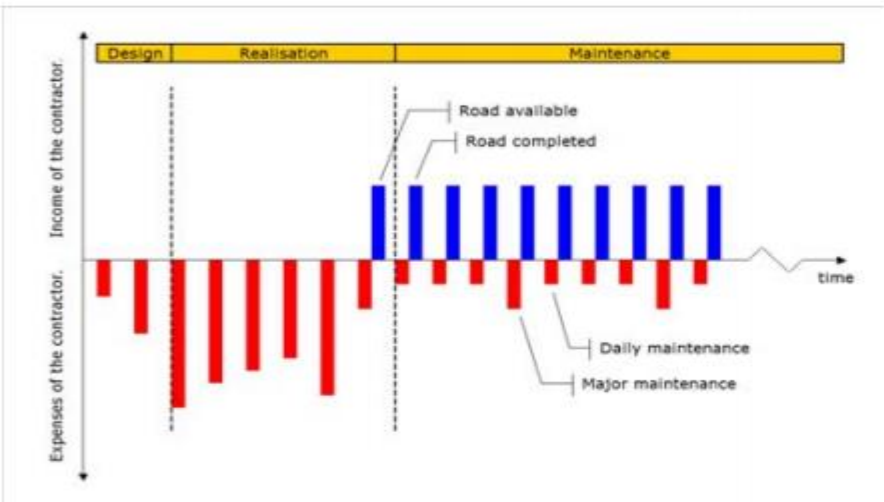


FIG 2.4-PAYMENT MECHANISM FOR PPP (DBFM)



Source- Rijkswaterstaat Seminar Audit, 2002

Allocation of responsibilities also differs in traditional projects and PPP (DFFM) projects. In the traditional projects, the public sector is responsible for most activities except the execution and maintenance of the executed project. The DBFM involves more responsibility allocated to the private sector. Allocation of responsibility on permits and management is dependent on the type of project and the contractual agreement between both parties (Kraak, 2012) as shown in Fig 2.5. This is why DBFM has high degree of private sector involvement and high level of risk (UN, 2008).

FIG 2.5- ALLOCATION OF RESPONSIBILITIES

	TRADITIONAL		DBFM	
	Public	Private	Public	Private
Preparation	x		x	
Design	x			x
Site acquisition	x		x	
Building permits	x		(x)	(x)
Procedures & other permits	x		(x)	x
Execution		x		x
Maintenance (scheduling)	x			x
Maintenance (execution)		x		x
Management (operational)	x		(x)	x
Financing	x			x

Source- Rijkswaterstaat Utrecht (Kraak, 2012).

Generally, PPP is regarded as less risky due to the fact that risk is shared between main investor, sub-contractors, financial Institution (Bank) and due to government involvement. It is necessary for all parties involved in financing the project to agree on the allocation of risk. Generally, it is difficult to predict, allocate or calculate risk on transition economies because the country less stable economically and the economy is unpredictable.

2.4 RISK MANAGEMENT IN PPP PROJECTS

Project financing and ability to handle risk is an important aspect of PPP projects. PPP projects like road construction is one the most difficult project to forecast demand. Systematic risk is a type of risk that is highly correlating and it is dependent on a situation that cannot be controlled (Geurts and Jaffe, 1996). It is sometimes referred “the Act of God” in construction. Example of these situations are flooding, earthquake, wind and falling of tree. Other forms of risks that tends to affect PPP projects are inflation and economic recession are based on uncertainties. These can considerable increase the running cost of the project and sometimes when it is not well managed, it might lead to the project been suspended.

Risk involved in PPP projects can be classified in based on different approaches. These classification can be inform of scope of the project, in relation to nature and economy and also classified based on the risk proposed before the start of the project (Rijkswaterstaat, 2012). According to scope, risks can either be exogenous or endogenous. Exogenous risks are risk that are out of the scope of the project while Endogenous risks are risk that are within the scope of the project. Endogenous risks can also further be classified based its causes. Spread risks are risk due to increase in quantity and prices while pure risks are which is due to unexpected occurrence like “the act of God”. Appointed risks are risks that have been envisage during the exploration stage (risk overview) of the project while Un-appointed risk are risk that are not included in the risk overview.

In practical situation, we will consider a type of contract agreement in a PPP project referred to as Design, Build, Finance and Manage (DBFM). Design, Build, Finance and Manage (DBFM) as the name implies involves a private developer design, build, finance and maintained a facility for a specified period. At the expiration of the specified period, the facility is returned to the Government. The project is solely financed by the private investor till the completion stage (also known as the realisation stage) and government pays back the cost incurred in construction and maintenance over a certain number years after which the project is transferred to the government. Pure / unexpected risk allocation in the DBFM contract in PPP project can be further simplified into; Contractors risks, Compensation event and Delay event (Rijkswaterstaat, 2012). Contractors risk are risk that are not described or expressively stated in the DBFM. This risk is entirely the responsibility of the contractor (private investor) Compensation risk involves the total compensation for financial lost and this entirely the responsibility of the contracting authority. Delay event are considered if there is a critical delay in the project and not caused by either the contractor or the contracting authority. In this situation, risk are often shared between contractor and contracting authority that is the compensation fee does not cover all costs of contractor.

So, risk management is very important in PPP. Private investor needs to consider risks and its effect on the rate of return. Loss of time and money will increase the cost of executing a project and thereby reducing the return on investment.

FIGURE 2.6- SOME UNCLASSIFIED SITUATION THAT MIGHT LEAD TO LOST IN TIME AND MONEY

Source-Rijkswaterstaat Seminar Audit, 2002

2.5 TENDERING IN PPP

Tendering procedure is an important aspect in implementation of PPP project. As much as the government want to give all investors equal opportunity, most investors still feels that is not transparent enough (ESC, 2007 and UN, 2008). The strategic policy-making involves the joint visioning between national and regional authorities in decision-making in accordance with political agenda setting. After this stage is the exploration stage which is a broad, open and guiding analysis structure vision by comparing alternative options. The exploration stage is the procurement of private investor in PPP. The process management is challenging regarding procurement especially at the local levels due to lack of capacity of the government to organise a competitive tender between local and international investors. The public are always suspicious at the non-transparency of PPP contract deals and most especially the exclusion of Small and Medium-sized Enterprises (SME's) for a competitive tender (ESC, 2007). This is more severe in countries which has level of corruption due to the failure of government and this almost makes international private investor become sceptical in bidding for infrastructural projects. A good tender procedure should involve selection of bidders through transparency, neutral ground for local and international investors, non-discrimination to promote competition with the mind of creating balance and ability to reduce the complication of time and cost in acquiring best proposal from bidders.

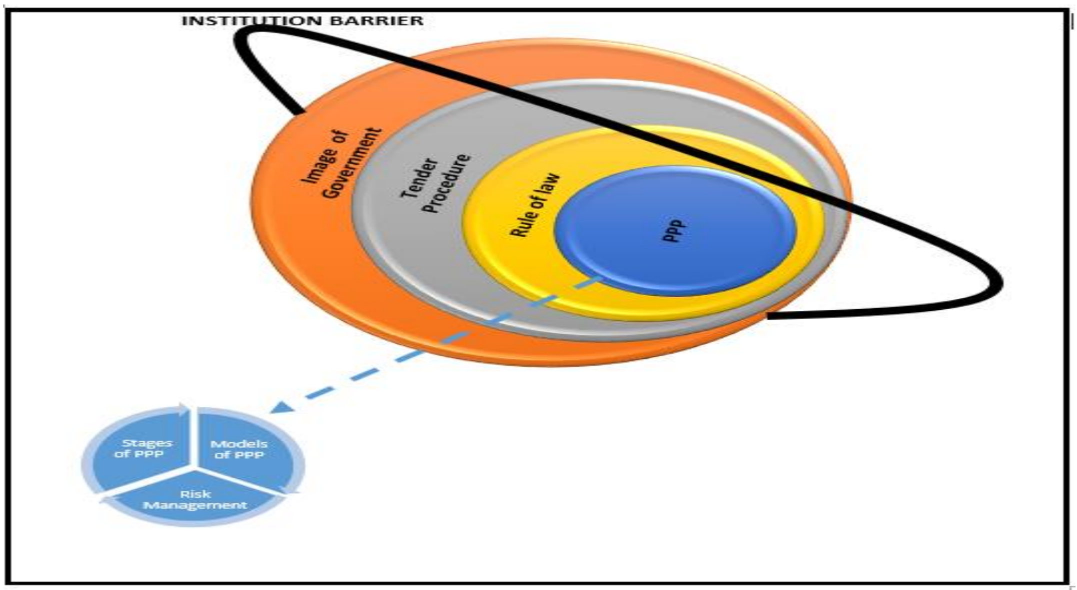
In order to create transparency, some developed countries like Canada employs the service of third independent experts in the selection process to create assurance of transparency between competing bidders (ESC, 2007). These processes are used to create openness in tendering procedure and ability to select best option and it differs in length of time from one country to another which might take months and years before decision is made. This research will try examine the effect of the tendering procedure especially in terms of duration, transaction cost and transparency has on private investors in PPP projects in subsequent chapters.

2.6 A FRAMEWORK FOR ASSESSING THE IMPACT OF GOVERNMENT CONDITION AND STABILITY OF PPP IN PRACTICE

The framework proposed is designed to incorporate the components of PPP described by Deloitte and Touche USA LLP (2008), The Canadian Council for Public-Private Partnership (2008) and Rijkswaterstraat (2002)(2012): the developmental stage of PPP according to activity and sophistication, model of PPP according to degree of Private sector risk and involvement and the general concept of risk management. The focus of this framework is to examine the developmental stages in PPP, model in PPP and risk management as a core of PPP practice and analyse factors related to government condition as its affects private sector investing in PPP. The factors that will be considered will be both endogenous and exogenous factors. The rule of law, tender procedure and image of government will be considered and institutional barriers peculiar to each country will also be analysed as it affects private sector investment in PPP.

This proposed framework is designed as a tool for empirical investigation for stability of PPP which can used by government of a country and private investors. This framework will help government to learn from other countries at higher developmental stage by examining the governance conditions used in the PPP practice and this will help them to formulate a better policy that will improve the stability of PPP. From the investor’s perspective, this framework can be used as an appraisal tool in making investment decision. A private investor can use this proposed framework to determine the stability of PPP based on the government conditions in that country before investing into a PPP project.

FIG 2.7 - CONCEPTUAL MODEL ON GOVERNMENT CONDITIONS AND STABILITY OF PPP



The core practice of PPP is a mix of a country's PPP developmental stage, model of PPP and the risk profile of a country as shown in Figure 2.7. A private investor considers the PPP developmental stage of a country and the model of PPP of the proposed investment to determine the risk profile of investing in such country. The effect of government structure on PPP is through the rule of law of the country, the tender procedure used in selecting bidders and the image of government. The rule of law describes the law establishing PPP in a particular country and the legal framework of the country. This is important to be considered by a private investor and it can be used to determine the risk profile of the investment. With the knowledge of the rule of law of a country, tender procedure can be further used to evaluate the PPP practice in a country. The image of government helps a private investor to determine the level of transparency of the government and process involved in a countries PPP.

Every country have different institutional barriers in the practice of the PPP. An investor also considers all these barriers to be understand the level of risk associated with investing in such country. These institutional barriers affects the government conditions and its effects varies from country to another which determines the stability of the PPP.

So considering the relationship between the core mix of PPP (developmental stage in PPP, Model of PPP and risk management) and the elements of government conditions (rule of law, tender procedure and image of government), the conceptual model in figure 2.7 will be used to analyse the effect on government condition on PPP. The proposed strategic model will consider development stage of PPP of a country, Model of PPP used by a country and the ability to manage risk as the core based on the rule of law of a country. The activities in this core is determined by rule of law a country and it represents the closest condition to the stability of the core. PPP policies are established based on the rule of law and subsequent modification in policy development in the use of PPP is also through the rule of the law. Models of PPP and risk sharing between public and private partners is a contractual agreement and it is binding on both parties. The strategy used for this research is to consider rule of law as the first layer guiding the stability of the PPP core and requires professional skill to evaluate before an investor makes decision on investing in a country.

The second layer in conceptual model is the government conditions associated with tender procedures. The tender procedure is a more flexible activity around the stability of PPP and it does not need much evaluation because it is a market oriented approach through competition between private investors. The tender procedure can also be changed easily depending on the procedure that suit a particular project. This is also considered by an investor and it is an element to be considered before investing in a particular country. The third layer is the government condition associated with the image a government of country. Without the use professional evaluation, the image of the government can be evaluated by an investor. The image of government is government condition considered as an outer layer because the information regarding the image of government readily available to an investor without much appraisal.

All these layers are effected with different institutional barriers which can be inform of regulatory issues, legal issues, funding issues, political issues and cultural issues, and it differs from one country to another. In order to use this conceptual model as approach to examine the effect of government condition on the stability of PPP, the rule of law, tender procedures and image of government of selected countries for this research will be examined. The rule of law and how PPP is practiced, procedures involved in tendering and the institutional barriers peculiar to the Netherlands, Nigeria and China will be examined in the next chapter.

CHAPTER 3

PUBLIC-PRIVATE PARTNERSHIP IN PRACTICE

This chapter will examine how PPP is practiced with focus the rule of law, tender procedures and institutional barriers as an element of government conditions in the stability of PPP in Netherlands, Nigeria and China. The chapter will first examine the different laws, rules and policies guiding the establishment of PPP on the global scale from United Nations, European Union and World Bank. These laws and policies serve a guild to the PPP laws and policies made by government of country within each these organisations.

World Bank group through Public-Private Partnership laws/Concession laws established a legislative assessment for government to enact a PPP law or a concession law. This concession law from World Bank is used as a guidance and as example for countries to operate their PPP which was carefully drafting in accordance to the existing administrative law of the World Bank. The PPP laws/Concession law by World Bank is used to create balance in setting rules that will also encourage transparency. The general international guidelines from United Nations include The United Nations Commission International Trade Law which was adopted in 1985 and it is known as UNCITRAL Model Law. UNCITRAL Model Law is one of the laws that serves as a guidance for PPP/Concession law, European Bank for Reconstruction and Development (EBRD) Core Principles for Modern Concession law and Organisation for Economic Cooperation and Development (OECD) principle for Public governance of Public-Private Partnership.

The practice of PPP in Netherlands, Nigeria and China is guided by the World Bank PPP laws/ Concession laws and each of these countries are guided also by other laws depending on organisations they are affiliated. For example, the practice of PPP in Netherlands is guided by European Union rules on PPP and Directive 2014/23/EU. The European Union rules on PPP includes the rules on setting up a Public-Private entity, procurement procedure and concession as it relates to PPP and 2004 Green paper on how these procurement law is related to the different forms of PPP. The public-private entities paper was established in 2007 under the Commission communication COM (2007)6661 while the public procurement and concession as it relates to PPP was established in Commission communication COM (2005)569 and EU Parliament resolution 2006/2007 (INI). The 2004 Green Paper contains report SEC (2005)629, Green paper COM (2004)327 with contributions from Public Authorities, Associations, Undertakings and Other organisations and individuals (2000/C121/02).

3.1 NETHERLANDS PPP IN PRACTICE

3.1.1 RULE OF LAW OF PPP IN THE NETHERLANDS

The EU describes PPP as 'forms of cooperation between the public and private sectors for the funding, construction, renovation, management or maintenance of an infrastructure or the provision of service'. This mostly a long term relationship between the public sector and private sector which risk allocation been shared between all partners. The private sector has return in investment in different ways depending on the type of PPP arrangement. The ways includes availability payment, external revenue from toll – users pay, residual value at the end of the contract, ownership of infrastructure at the end of the contract and in some cases it might even the combination of all these ways.

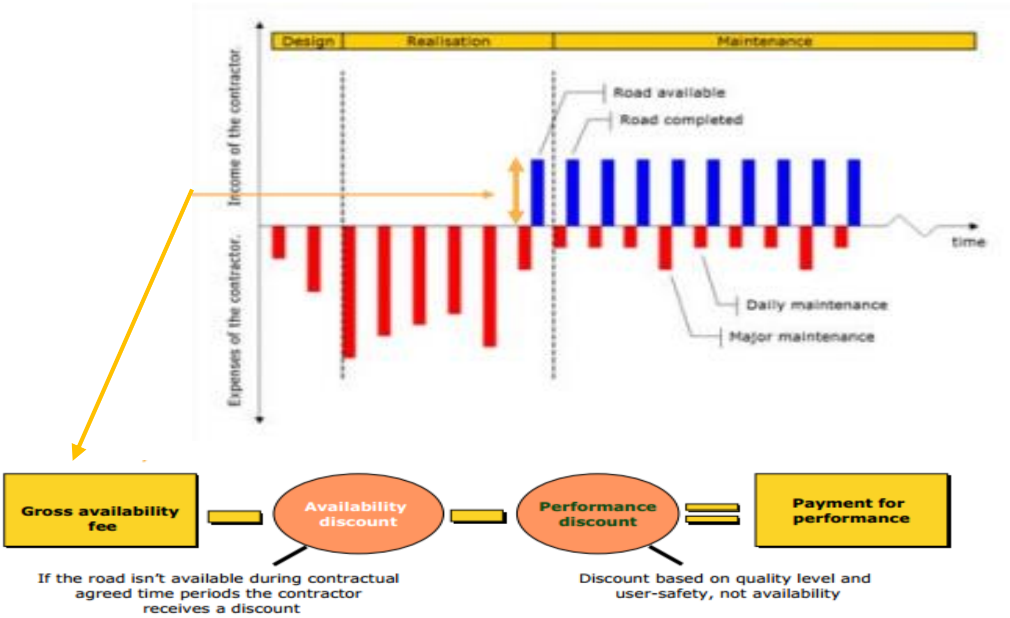
The Dutch government is gives investment security for private investors and avert risk in the economy through cash flow to avoid the economy sliding into instability. The Dutch government is relatively stable with AAA rated status with a transparency level of 98% (Transparency International, 2014). The Dutch development cooperation policy focuses on security for people, a functioning legal order, encouraging a political system of governance in which everybody could participate including conflict reconciliation and democratisation, employment and basic services (Dutch Development Cooperation Policy, 2014).

The Dutch PPP is a government initiation through decentralization by involving the market through market-oriented approach (Lemos & Agrawal, 2006).The Dutch PPP policy was prompted by need for private investment in public services due to scarcity of public sector capital (Schoonhoven, 2012). The reluctance for the public sector to raise funding through increased taxation and the ability for private sector provide a quality service through expertise and innovation is also some of the driving forcing behind the Dutch PPP. The involvement of the market will lead to competition (Bidding) between private sectors to execute a PPP project and this has helped to create more innovation as private sectors compete with concept and idea. The establishment of PPP laws in the Netherlands has made

PPP in Netherlands is at the advanced stage (Stage 2) and it has been used since the early 1990s (Nijhof & Ruiken, 2013).

The Dutch PPP gives a very high priority for professional project management by private sector through proper management specifications and proof of meeting performance criteria through a performance measuring system (Norg, 2012). The contract performance regime principle is aligns to payments mechanism of the DBFM and further incentives. Example of performance is in a road construction which is described as the rate at which the private investor could manage the construction with little or no disruption to traffic flow shows the performance of the private investor which serves as an incentive for the contractor (Leendertse, 2015). As shown in figure 3.1, payment mechanism of DBFM after the realisation stage is based on the performance of the contractor. The available discount which is determined if the project is not available at the agreed time period and the performance discount which is determined on quality of user safety is deducted from the gross available fee. This will give the payment for performance and the payment will be made at the end of the realization stage. This payment for performance will help contractors to pay back their financier. Other payment subsequent during the maintenance stage will be paid in instalment across years as agreed in the contract

FIGURE 3.1- DBFM PAYMENT MECHANISM



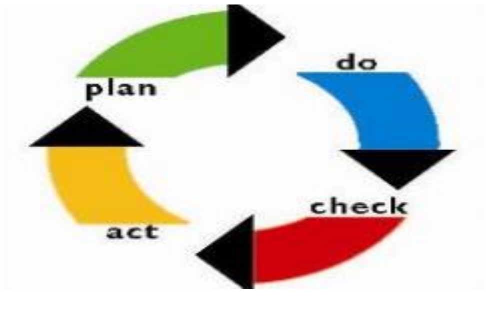
Source- Rijkswaterstraat Seminar Audit, 2002

In order to select a contractor that can give the desired performance, the bidding consortia are evaluated during tendering (Norg, 2012)

3.1.2 TENDER PROCEDURES IN THE NETHERLANDS

According to W. Edwards Deming in the 1950s proposed a way to analyse and measure a business process by identifying the variation peculiar to each customer requirement and it is known as the Deming cycle (Arveson, 1998). The Deming cycle contains four stages which are Plan, Do, Check and Act. The Deming cycle is can be used to explain the processes involved in the Dutch PPP planning process. (Ruiken & Nijhof, 2013). The 'Plan' stage entails the stable political support for the commencement of the PPP and organisation at state level. The 'Do' stage involves the movement from pipeline process to the deal flow. The 'Check' stage involves the private sector consultation and public accountability and the 'Act' stage involves the standardisation of DBFM contract and tender guidelines. The tender procedure is mostly a competitive and the convergence phase is included for some heavy engineering projects like tunnels. The contract and dialogue language is always in Dutch. The contract and tender guidelines are sometimes available in English just to give information but only Dutch documents are legally binding (Norg, 2012). This means that it will necessary for international investors to partner with Dutch indigenous contractor so as to understand the content of the PPP contract. The stages from 'Plan' to 'Check' can take up to 15 years or more. The 'Act' stage which represent the stage at which the private investor gets fully involved can categories into two main stages, the pre-tender and selection. The project preparation (first pre-tender and second pre-tender) takes appropriately 2 to 10 years depending on the complications involved in the project.

FIGURE 3.2- THE DEMING CYCLE



Source- Ruiken & Nijhof, 2013

The project preparation consist of two stages, the first pre-tender and second pre-tender (Ruiken & Nijhof, 2013). Aligning the stakeholders, Public Private Comparator, budgeting processes and zoning& planning processes are done at the first pre-tender while ambitions/ SMART goals, procurement strategy (procedure, criteria, contract, and team), output specifications and availability payment mechanism are some of the issues addressed at the second pre-tender stage.

The selection on bidding consortia is based on their project management experience, technological experience related to the project, project finance experiences, capability for providing sufficient financing all through the project and standard exclusion grounds (Norgs, 2012). As illustrated in chart 3.1, at this stage none of the consortia will be shortlisted. The first phase is known as the Risk management capabilities. The consortium is tested on their capability to manage authority risks and contractor risk. The selected consortium will write a comprehensive adaptive risk management plan based on the goals of the project as described in the call for tender. The 3 top bidding consortium are selected based according to the adaptively and quality of their risk management plan which are moved to the next phase of the tender.

The next phase is a competitive dialogue stage where discussion is made based on the bidder specific technological innovation solution based on the goal of the project. The public sector personnel describes the vision based on their technical project knowledge so that the bidder can have a better understanding of the scope of the project. The draft products and contract documentation will be in-turn discussed. This serves as the final offer for the bidding and validity criteria. The validity criteria is based on planning and financial breakdown, the financial robustness (funding plan and financial model) of consortium, basic management plan, convergence phase (for tunnel projects) and architectural design.

Award criteria for bidding is decided based on quantitative aspect (Price) and qualitative aspects (Risk allocations, Risk management capabilities and limiting traffic congestion). The preferred consortium is selected; contract close and Financial close marks the end of the tender procedure.

CHART 3.1- DUTCH TENDER SELECTION PROCESS AFTER PROJECT PREPARATION

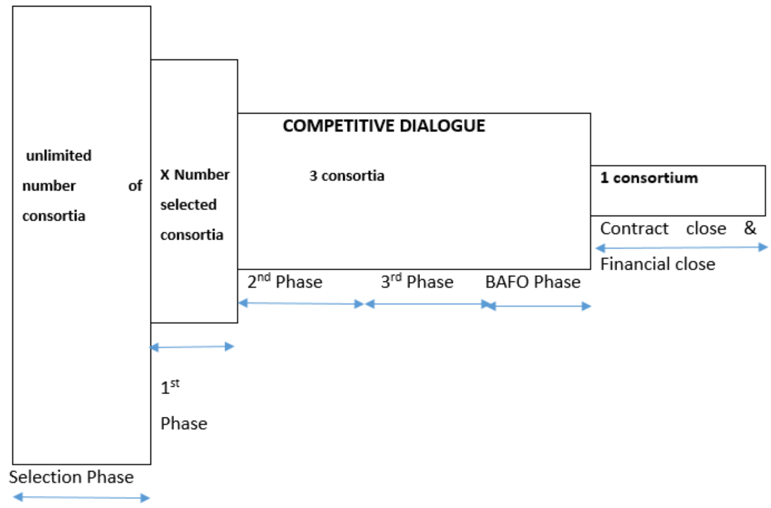
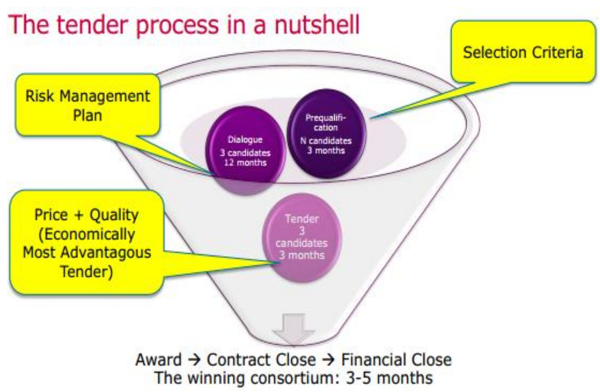


FIGURE 3.3 – THE DUTCH TENDER PROCESS IN A NUTSHELL



Source- Norg (2012) and Ruiken & Nijhof (2013)

3.1.3 INSTITUTIONAL BARRIERS FOR PRIVATE INVESTOR IN DUTCH PPP

In general concept, it is often believed that the reason for private sector in PPP is only for the purpose for return in investment but this might be different in some cases. Some private sectors partner in PPP due to continuity and international exposure to different market with low risk profile (Leendertse, 2015). Examining the Dutch PPP practice, there are institutional barriers affecting the willingness of private investor in PPP. These institutional barriers includes the NIMBY (Not In My Back Yard) problem where the stakeholders are against the realisation of certain projects, lengthy tender procedure and high transaction which leads to loss of time and money and the difficulty for new investor to break into the Dutch PPP market.

STAKEHOLDERS AGAINST A PROJECT

The MIT programme is an infrastructure planning process used by the Dutch and it contain three stages which are explorative study, project study and realisation (Arts, 2010). The MIT was modified to MIRT which allows for more participation for stakeholders to decide on the route of a planning process and Environmental Impact Assessment is also carried out to determine the effect of a process project on the environment (Arts, 2010). Despite the improvement from the MIT to the MIRT which involves the long range infrastructure program, space and transport to integrate spatial and infrastructure planning (Arts, 2010), this is not effective in reality (For more explanations on differences between MIT and MIRT, See IAIA National Conference paper, South Africa (August, 2010) by Jos Arts on Streamlining Infrastructure Planning and Impact Assessment in the Netherlands).

The private investors are still faced with a lot of challenges from stakeholders. Time lost during construction project due to challenges from stakeholders will affect the planned work schedule. This is part of risk that is considered by private investor considering investing in Dutch PPP. This also affects international investors partnering with the Dutch companies on a project because capital is been tied for a longer period than expected and that will not be a welcomed development for the financial institution.

LENGTHY TENDER PROCEDURE AND HIGH TRANSACTION COST

The tender procedure takes up to 2 years from the selection to the contract close and financial close (Norg, 2012). During the period of tender, most private investor incur high transaction cost (money, time and manpower) during these process and its always disappointing and might be discouraging for subsequent bidding. Also, the guidelines for tender is in Dutch and only documents written in Dutch is acceptable. This will also pose a challenge for Non-Dutch investors. Due to this, Non-Dutch Private investors needs to partner with a Dutch company in order to invest in Dutch PPP.

EASE FOR NEW INVESTOR TO INVEST IN THE PPP MARKET

Equity, Trust, Transparency and conformity are the bases of the Dutch PPP policy (Leemdertse, 2015). Creating a level playing ground for both indigenous and international private investor might not be possible due to the guidelines of the PPP policy. Trust is also built after several years or based on past projects, so it might also be difficult for a new investor to be selected during the tender procedure because the policy do not create opportunity for new investment in the Dutch PPP market.

Some of these institutional barriers do not have any significant effect on the willingness of private to invest in PPP as regards the stability of Dutch PPP. These will be further analysed in Chapter 4 of this research.

3.2 NIGERIA PPP IN PRACTICE

3.2.1 RULE OF LAW OF PPP IN NIGERIA

The growth in population of a country is one of the reason for providing new infrastructure due to increased pressure on the existing ones. Infrastructure in Nigeria is as bad as what is experienced in most third world country both in quantity and quality (Oyedele, 2012). Most infrastructure in Nigeria has called for either repair, rehabilitation, replacement and in most cases there is a need for provision of more infrastructure to answer for the demand of the growing population. It is the responsibility of the government to create a habitable environment and the citizen should be able to decide, participate and have a monetary gain from infrastructure provision.

According to Late President Musa Yar'dua Agenda in 2007, infrastructure is seen as part of the pre-condition for meeting the Vision 2020 (National PPP Policy, 2010). This can be assumed as the birth of active PPP practice in Nigeria which allows private sector to be contracted to manage, build and operate some infrastructure.

The Nigeria government has been faced with series of politically instability in recent years but the government is still trying to provide basic infrastructure for the people. In order to create transparency and encourage international investors, the open application system was used to determine the best consortium for a proposed project which is based on cost and quality. The government further inaugurated the Infrastructure Concession Regulatory Commission (ICRC) who is constitutional saddled to develop guidelines, design policies and effectively execute a hitch free procurement process (National PPP Policy, 2010. Ikpefan, 2010). The Federal government of Nigeria designed the ICRC to be used has an instrument of commitment so that the private investor will be sure of return as long as it is accordance with contract with is guided by the ICRC Act. Although, the function and roles of ICRC in practice has been streamlined due to political interference (Egbewole, 2011) but the government main policy objective is still focused on the economic stability, social, environmental and to create value for money. Legal, financial and institutional framework instituted by the government is also used to promote and facilitate the PPP by enhancing transparency, fairness and long-term cooperation (Dahiru, 2013. National PPP Policy, 2010).

The Privatisation and Commercialisation Act 1999, The Infrastructure Concession Regulatory Commission (Establishment) Act 2005, The Fiscal Responsibility Act 2007, The Public Procurement Act 2007 are some of the legislation guiding infrastructure provision in Nigeria (Dahiru, 2013). These legislations ensures that public authorities can have the power to enter into agreements with private companies on implementing privately finance infrastructure project. This also helps to build PPP expertise with the ICRC to issue appropriate guidance for procurement, amending and drafting PPP contract.

Furthermore, the legal framework will ensure that the financial and Institutional framework and other guarantee like partial risk insurance and other financial instrument are in accordance with the Federal Government Fiscal Responsibility Act 2007 and with other legislation enacted the state level (National PPP Policy, 2010). The financial framework used by Nigeria government to strengthen the medium term expenditure framework and also the medium term sector strategies of the Ministries, Department and Agencies (MDAs). This provides guidance to MDAs to develop a national 15 years Investment strategy which is used as a planning instrument for development of infrastructure either finance through public and private funds. The institutional framework is mainly to increase the accountability of MDAs of the Federal Government with assurance that they will access to appropriate guidance to manage projects and public services in an effective and efficient way with consideration to value of money and its affordability on the long run. A supplementary note was issued to support these statements which describes the connection between the MDAs responsibility and the ICRC responsibility (National PPP Policy, 2010). The clear Supplementary note in policy shows the need for consistency, clear cut of responsibility and accountability.

In general, the stakeholders and actors recognised in PPP in Nigeria are ICRC, National Planning Commission (NPC), MDAs, Federal Ministry of Finance, Debt Management Office, Accountant General of the Federation, Bureau of Public Procurement, and Bureau of Public Enterprises. The process of PPP is Nigeria can be classified in Project Development stage, procurement stage, implementation and maturity. The ICRC is involved in all these stages for effective management but this effectiveness can be limited in by political interference (Egbewole, 2011). The project development is guided on the options for appraisal, analysing business cases, value of money and defining the scope of requirement (National PPP Policy, 2010). The project procurement allows for a competitive procurement processes, maintenance of market trust and allowing for diligence by third party investors. The contract management, contractual and financial close and performing monitoring are guided in the project implementation stage. The contract compliance monitoring is a procedure for regular review of contractual obligation as stated in the agreed contract. Tracking the performance of all parties involves in the contract agreement and dispute resolution is also managed through the guidance of ICRC. The closing stage; the project maturity is guided in order to effectively hand-over the necessary public assets, review future needs for such projects and analysis for delivery option.

Despite the effort of ICRC, Ministries and National Planning Commission (NPC) to effectively manage contracting and infrastructure provision in Nigeria, the legal framework in contracting is still weak. The ICRC who ought to develop guidelines, design policies and effectively execute a hitch free procurement process do not have the full capacity to perfectly due to interference from other bodies like the Ministry of Works and Housing, National Planning Commission and Government officials (Egbewole, 2011). This will be considered as a risk to private investor because it is a poor programme management due to poor accountability of the contracting authorities.

3.2.2 TENDER PROCEDURE IN NIGERIA

PPP requires a large of skills, expertise and knowledge which might be acquired due to years of practice. These knowledge are mostly not embedded in a company or a particular sector. Several specialised company tends to bid for a particular project as a contractor and construction specialist. Bidding consortium requires the services of a Planner to analysis the proposed project by considering the content of the project. The project content includes an area based approach through Design analysis, Environmental Impact Analysis, process/project management and stakeholder acceptance (Arts, 2010). The planner form a team of experts from different fields like legal and financial adviser to prepare necessary documents such as financial model, contextual advice on negotiation and other agreement with sub-agency like members of SPV, subcontractors and lenders.

During tendering, source of fund to finance a particular project is most important factor a private investor considers. Financing projects can be through Private equity, Private debt, Public Equity and Public debt (Schrawat and Nachiket, 2006. Tiwari and White, 2010). Private equity is the most common way of financing small projects by forming Joint Venture Company if the project is contractor financed or Special Purpose Vehicle (SPV) if its project financed. In Nigeria, major financing for big projects are from third party investors like Bank and Foreign Direct Investment (FDI) (Ikpefan, 2011). Financial agreement between Banks and investor allows for the project to be financed and paid back with interest charges. Other multilateral agencies like World Bank also provide low cost finance and partial risk guarantee. This partial risk is a way to help against default from the government. Several projects has been cancelled or placed on hold due to default of the government which might be caused by change in government (especially with change in politically ruling parties). This remain one of the major problems associated with PPP in Nigeria. The involvement of multilateral agencies in these project will provide assurance for investors as they are sure that such projects are prevented from political influence.

The stages involves in PPP tender in Nigeria are Prequalification phase, Negotiation and tendering, contract and financial close and project governance (National PPP Policy, 2010). Just like in most countries, Nigeria infrastructure market requires that a company to develop a relationship with other firm to create a consortium which is strong enough to bid for a particular infrastructure project. The strength of this consortium is determined by size and sufficient track record with shows that it can raise the necessary finance needed for the project. In order to avoid price inflation in cases where there is higher demand for infrastructure service, the government do encourage for FDI from contractors to participate in the bidding process but the Nigeria Investment commission will work with the firm to ensure that they get all necessary permits (National PPP Policy, 2010). Project bidding in Nigeria is in most cases an open tender in which best consortium is determined through design and price. After public invitation for bidding, the prequalification process also involves the identification of shareholders, identify the type of consortium formed (Joint venture or SPV), qualification and expertise of sub-contractors based management ability and End of life (Eol) care of the project (Checkers are used on design for civil engineering infrastructural projects) (National PPP Policy, 2010) . The response to prequalification invitation which mostly know as Expression of Interest must be sent back to the Authority in a sealed signed envelope before deadline. The next stage is the Negotiation and tendering stage where the tenderer are shortlisted. The pricing information is gotten from the financing cost provided by the bidders to draw a financial model. This is used to calculate the annual payment which covers all the elements of the service from design phase to the decommissioning phase. The financial model also helps to identify the project cash flows; repayment of debt and return on equity.

Developing a design for an infrastructural PPP project usually take at least three months with further evaluation and clarification also takes another six weeks and the negotiation to invitation of best and final offer might take up to several months or years. The tendering stage is concluded by selecting the preferred bidder which will finalise all subcontracting and financial agreements as reviewed by the Authority. In Nigeria, there is normally opportunity to step in and replace the contractor due to contractor default (National PPP Policy, 2010). This Direct agreement is due signed between the lenders and the Authority. This stage is referred to as the contract and financial close phase. The preferred bidder incurs a bid costs and time frame at this stage cannot be monitored by Authority as bidders spent a lot of time drafting documents and seeking further advice from other advisers from other fields. This stage is extensive long and this can be seen as one of the reasons for lengthy tendering procedure in Nigeria. All contracting document between Authority and SPV are signed which indicates the contract close stage.

After the contract and financial close phase, the post-tendering stage is the project governance stage and involves guiding private company to act according to the relevant legislation and produce annual report and account. All private company are guided under Nigeria law which indicate that are obliged to companies legislation (SERVICOM and Cooperate Affairs Commission) and tax legislation. The government monitoring also encourages good working relationship with the ICRC with a statutory role of monitoring the effectiveness of Government PPP policy.

TABLE 3.1- SUMMARY OF PPP IN NIGERIA; RULE OF LAW AND TENDERING PROCEDURES

1. Development				
Stage	**Task**	**Sub-Task**	**Responsibility (Stakeholder)**	**Approvals**
Project Initiation	Development of Long term Master plan	Recognition of need Review and subsequent approval by NPC Long term projection of 15 years Master Plan	Ministry NPC ICRC	NPC
Project Identification	Identify visible PPP Projects	Cost benefit Analysis and Prioritisation Definition and scope of Requirement Preliminary Project Appraisal Registration in 3 years MTEP	Ministry with PPP Resource Centre support ICRC	NPC MDF
2. Procurement				
Preparation	Competitive Procurement Process	Design Procurement Plan Prepare Finance plan, Risk Matrix and shadow cash flow Prepare Summary IM Commence Preparation of Bid Documents Carry out market testing	Ministry with PPP Resource Centre Support ICRC	
End of life (EoI)	Identify suitable bidders	Prepare EoI evaluation criteria Prepare & Issue invitation to submit EoIs Receive & Evaluate EoIs Prepare Bid Evaluation criteria Finalise Bid documentation	Ministry with PPP Resource Centre Support ICRC	
Bidding	Select & approve preferred Bid	Issue Bid documents to shortlisted Bidders Hold Bidders' conference Evaluate Bids Negotiate and select preferred Bidder Value for money test Finalise PPP contract	Ministry with PPP Resource Centre Support ICRC	
FBC		Prepare FBC	Ministry	FEC

3. Implementation				
Construction	Commission Assets	Appoint technical Advisor Monitor design& Construction Receive & Evaluate progress reports Take part in commissioning tests Confirm construction completion	Ministry ICRC	
Operation & Maintenance	Effect oversight of project	Monitor contract compliance performance Monitor contingent liabilities (Annually)	Ministry/ICRC	

4. Contract Maturity				
Survey	Assess assets & needs	Carry out detailed asset inventory & survey Assess asset condition & remaining life Discus findings with operator Assess future needs	Ministry/ICRC	
Review	Analyse & decide an options	Identify & assess options Select most economically favourable option Implement new procurement process	Ministry/ICRC	
Conclusion	Conclude the PPP	Finalise new arrangement Formally confirm end of PPP contract	Ministry/ICRC Ministry/ICRC	

Source- Modified from National Policy on PPP and Supplementary note of Nigeria, 2010

3.2.3 INSTITUTIONAL BARRIERS FOR PRIVATE INVESTOR IN NIGRIA PPP

Before the partial acceptance of PPP in Nigeria, public services and infrastructure provision are often believed to be best financed and delivered by the public sector. The private industries were solely used for roles of design and construction as stated in the agreed contract. The involvement of private investor in financing and operating made public service and infrastructure more complicated, expensive and risky (Egbewole, 2011). These is due to the following which varies from regulatory issues, legal issues, funding issue, political issues and cultural issues:

INCONSISTENT REGULATIONS

The knowledge of PPP still remains an issue that is not well understood by the public services especially as regards transaction cost. Most people seems to see PPP more as a means to generate revenue for private investors rather than providing services and infrastructure for the public. The inauguration of ICRC in 2005 was a way to provide more understanding of this policy to general public and build the interest of private investor in PPP but it is still largely seen by most stakeholders as commission who monitors and makes policy but without ability to enforce compliance to contract agreement on the government (Egbewole, 2011). Procurement procedure still seems vague and questionable by a lot of investor. Transparency and corruption in the ministry has made most investor loss trust in the government as most investor believe that contract are sometimes awarded to incompetent bidder. Nigeria is rated at a transparency level of 16% (Transparency International, 2014). Inconsistency in PPP policy in Nigeria has made both local and foreign more sceptical in participating in PPP.

Example of this was the experience of the Muritala Mohammed Airport II (MMA II) concession where tax became issue in repayment of the credit facilities granted (See Muritala Muhammed Airport Terminal Phase II Lagos contract awarded to Bi-Courtney consortium in 2003). Frequent changes in Political office holders and Ministers has also increased the fear of private investor. During the MMA II project, 6 different ministers and 5 different Chief Executives of the Federal Airports Authority of Nigeria (FAAN) with each coming on with different policies and changing the perspective on concession Agreement (Egbewole, 2011). Maintaining and managing relationship with political office holders still remains a challenge in maintaining regulations and policy in PPP in Nigeria.

LEGAL ISSUES

Despite the ICRC Act, legal framework in Nigeria still posed a serious challenge in PPP practice in Nigeria (Egbewole, 2011). The Act has not enabled the commission with sufficient power that is needed to enforce compliance and monitor effectively the content of the contract as they are seen more as a policy making. This has also contributed to the reason for other agencies government official (especially Ministers) to interfere in the PPP. In general, the Nigeria legal system has not encourage investors as the justice system takes a very long time to solve project cases. The legal framework is not also strong because some government officials and wealthy individuals seems to be above the law.

FUNDING ISSUES

Funding a PPP project can be very tasking for investors in Nigeria as Banks and shareholders are always sceptical about the success or failure as large credit is usually needed. PPP projects are long term projection/agreement and it will require a long term loan (10 to 15 years). Most Banks in Nigeria will rather prefer to give a short term loan (Ikpefan, 2010) and sources for credit through other facilities may not be adequate because the Nigeria Capital Market is not stable (Egbewole, 2011). Interest rate in Nigeria is also a factor that discourages local investors from acquiring loan. The high interest rate placed on bank loans do not encourage the growth of PPP.

POLITICAL ISSUES

Just as explained in the institutional barriers as regards regulations, frequent change in government is also effect the practice of PPP in Nigeria (Egbewole, 2011). Political rivalry and frequent power tussle between ruling political parties and opposition parties also discourages the participation of private investors in PPP. One political administration might be interested in PPP while the next do not. This might lead to change in Policy which might cause delay and increase in cost, this might not be accepted by new administration and dispute as regards this might lead to cancellation of the project.

On the other hand when political administration gets too interested in PPP, this will lead to increase in stakeholders and decision making becomes more political than been professional. In some cases, this might even lead to most investors losing interest in participating in the PPP as decision making becomes too bureaucratic.

CULTURAL ISSUES

In Nigeria, another setback to PPP is the wrong perception people have on the motive of the policy. Communities, Civil servants and labour unions mostly believe that the involvement of private sector to manage public facilities is a way to their jobs from them (Egbewole, 2011). Private investor in PPP mostly uses their own personnel to carry out their contractual obligation which makes the civil servant loss their job. Often times, private investors still employ some civil servant in some operations (especially in Management) but it is definitely not possible to employ all civil servant working at the establishment before the PPP. Labour unions and civil societies mostly resist the plan and this is a major factor that needed to be considered by the government practicing PPP.

All these institutional barriers affects PPP practice in Nigeria and private investor uses them to rate the risk involved in investing in PPP in Nigeria. An investor considers the rule of law in terms of law establishing PPP in Nigeria, tender procedure and image of Nigeria government in relation to these institution barriers to decide whether to invest in PPP in Nigeria.

3.3 CHINA PPP IN PRACTICE

3.3.1 RULE OF LAW OF PPP IN CHINA

The economy of china has been reformed in the last two decades (OECD, 2005). With enormous investment on infrastructure in past years, there is need for maintenance and provision of new ones due to demand of the growing population. This has called for a market-based system and less of administrative system so as to promote the interest of private sector in public services (Cheng and Wang, 2009); mix of government and private sector initiative. The infrastructure development in China can be considered to have gone through three developmental stages: Initial development, Rapid development and Stable development (Yongjain, 2013). The Initial development was 1982 to 1989 during which most project was carried about by the Chinese Government with total spending on 292.7 billion Chinese Yuan (approx. 42.32 billion US Dollars) in 261 projects (Yongjain, 2013).

The need for infrastructure becomes necessary for economic development as the population grows rapidly during this period. PPP was basically used for public infrastructure by reduces the burden on public finance. The rapid development stage was within 1990 and 2001. Most of the private capital involvement at this stage were foreign capital and first major successful BOT project was the Shenzhen Shajiao B power project with was a partnership with a Hong Kong Company (Cheng and Wang, 2009). The success of this project increased the acceptance of PPP (BOT) which was used across other sectors like water and power sector.

Some of the projects realised during these period are Laibin B power project at Guangxi province, Chengdu water project and also the Changsta power project (Cheng and Wang, 2009). The stable stage started from early 2000's, to be precise 2002 till date (Yongjain, 2009 & 2013) with BOT model of PPP been used on all kinds of projects.

In order to understanding and reduce dispute between the public sector and private sector, legislations and policies where formed to support the practice. The Method of Managing Urban Public Utility Concession (2004) and The Decision on Reforming Investment Scheme (2004) were formed. The Method of Managing Urban Public Utility Concessions (2004) was used to establish specific legal directions for urban infrastructure while The Decision on Reforming Investment Scheme (2004) was used to reduce the private investment's approval procedure. Furthermore, the 2005 Opinion of the state council was the first document and the legal framework on PPP of the central government policy which allows private sector to get involves with power, communications, railways, airlines and petroleum (Cheng and Wang, 2009). This encourages private investors and this prompted more PPP projects which includes Beijing Olympic sports arena, Yizhuang natural gas project, the No 5 underground projects and Beiyuan waste water project in Beijing.

Due to lack of resources and time, tender information for projects from 2010 which establish new regulation on BOT is not available. The new regulation on BOT allows for temporary measure for foreign investment in concession but information on its final approval is not available as at the time of this research.

TABLE 3.2- EVOLUTION OF PPP POLICIES AND LEGAL DOCUMENTS IN CHINA PPP

Date	**Title**	**Content relevant to PPP**
1995	Circular of the Ministry of Foreign Trade and Economic Cooperation concerning adsorption of Foreign Investment by Means of BOT (Ministry of Foreign Trade and Economic Cooperation, 1995)	These are two particular policies to regulate BOT. these two policies form the legislative platform for the first BOT project in China: Laibin B Power project
1995	Circular concerning approval of foreign Investment concession project (Promulgated by Committee of Planning, Ministry of Power, Ministry of Transportation, 1995)	
1995	Circular of state administration of foreign exchange concerning domestic projects seeking finance	

	abroad (promulgated by State Administration of Foreign exchange, 1995)	These two circulars dealt with the issue of foreign exchange in BOT projects
1997	Temporary measures to manage project finance abroad (State Administration of foreign exchange, Committee of Planning, 1997)	
1991	Tendering and Bidding law	This law is applied to all of the tendering and biding activities in P.R. China, excluding Hong Kong and Macau
2001	Circular of Committee of Planning concerning promotion and instruction of private investment (Committee of Planning, 1997)	This policy showed that the domestic private sector is permitted to invest in sectors in which foreign investors have rights to invest
2004	Directory of foreign investment in China industry (National Development and Reform Commission, 2004)	Outlines the list of industries which foreign investors are encouraged, limited or forbidden to invest in. Most of the infrastructure industries are on this list.
2004	The method of managing urban public utility concession (Department of Construction, 2004)	Specified policy for urban public utility. Set up the range of concession, the conditions for bidders, the framework of concession content and the period
2004	Decision on reforming the investment scheme(2004)	Encourage private investment in infrastructure, public facilities and other sectors which are not forbidden by law. Encourage private participate in profitable public infrastructure projects by way of own investment, joint venture and project finance.
2005	The opinion of the State Council regarding encouraging and supporting the development of non-state-owned economy (Privately-owned economy)	First central government policy allowing the entry of the private sector into the areas of power communication, railway, airline and petroleum. Furthermore, the opinion asked for the improvement of legislation to support private sector's investment, construction and operation in public infrastructure
N.A	Temporary measures of foreign investment in Concession (BOT) project (Committee of Planning, uncompleted)	Particular regulation for BOT, but it is still in the approval process

Source: Compiled by Cheng and Wang (2009) based on sources from Bellier and Zhou (2003); Sun Choa and Shen Wei (1997); Cai Yi (2000)

3.3.2 TENDER PROCEDURE IN CHINA

Generally, Tendering processes in PPP are seen to be more costly and complicated than the conventional procurement procedure (Carbonara et al, 2011). Tendering procedure in China can be examined under three different issues: Different phases in tendering, different tender awarding methods and complexity associated with tender procedures based on the evaluation of criteria. In general, there are five different kinds of tender procedures which are open competitive tendering, invited tendering, registered lists, project-specific prequalification and shortlisting and negotiated tendering (Wang and Dai,2010 in Carbonara et al, 2011).

Open competitive tendering procedure is the most common used with the following phases: request for prequalification, prequalification, invitation to tenders, tender evaluation and shortlisting, negotiation with shortlisted tenders and selection of best tender and award (Zhang, 2004a & 2004b in Carbonara et al, 2011). The pre-tendering preparation phase involves the establishment of business need and preparation of an Outline Business Case (OBC) and s reference project. The project team and project board are form at this stage and tactic to be used is determined. There are several methods used in China at Pre-qualification phase and Bidding evaluation (Zhang, (2004a), Wang & Dai (2010) in Carbonara et al, 2011). The significant methods in Pre-qualification phase are binary method, simple scoring and Multi-attribute methods (Zhang, 2004a). The Bid evaluation uses either simple scoring, Net Present Value (NPV), Multi-attribute analysis, two envelope method, NPV and simple scoring, Binary method and NPV, Lowest price, shortest concession period, kepner-tregoe technique (a systemic method to analyse problem by understanding the root cause of the issue instead of making assumptions) and Least Present Value of Revenue (Zhang 2004a, Wang & Dai 2010).

The main procurement phase involves the invitation of bidders to express their interest in the PPP. These bidders go through a prequalification process and preferred bidders are shortlisted. Invitation for negotiation, receipt and bids are evaluated. At this stage, the preferred bidders is selected and final evaluation is done. The last phase is Negotiation and Contract award. After the contract awarded, the tender is brought to a final close and contact management is done.

The law establishing PPP in china and the procedure involved from the pre-qualification phase to final close of the contract are affected with different institutional barriers. The reason for modifications in PPP policies is to adjust the existing PPP policy so as to reduce the effect of these institutional barriers on the practice of PPP

3.3.3 INSTITUTIONAL BARRIERS FOR PRIVATE INVESTOR IN CHINA PPP

Ke, Wang and others in 2011 considered China's PPP project from 1997 to 2007 by using the Delphi technique in selecting research participants and mean score to compute the survey from respondents, certain factors are seen as the key issues affecting PPP in China. These key issues are high government involvement in PPP, issues related to project financing, government unrealistic guarantee and corruption.

GOVERNMENT INVOLVEMENT

Government involvement during construction and management can be set back for PPP in China. This involvement of government in independent management of private partners inform of change in design can lead to loss in construction time and operation efficiency. This involvement is mostly politically driven which can also be attributed to lack of transparency in political decision making in China (Ke et al., 2011). Local government officials also interfere with decision making on an on-going PPP project in order to suit their own personal interest and short term goals. Longer negotiation and transaction cost will also be incurred by the private partner and future change in key government officials, law and policy might lead to inability for the private partner to complete the project. The success of PPP is largely dependent in stable political environment (Lui & Yatamoto, 2009), which is not commonly seen in Asia countries and China is not an exception.

FINANCE

Financing project through debt finance is also an issue to be considered in china's PPP. Compared to other developed countries, the financial market in China is different. "Syndicated loan market is not prevalent as a source of debt finance, the corporate bond market is not sufficiently mature compared with sovereign bonds…." (NSFC/RGC, 2008 in Ke et al, 2011). Getting finance for PPP project got even more difficult after the international financial crises. Private partners has to depend on equity financing and sometimes cooperate with government partners to limit the risk involved (Ke et al, 2011).

GOVERNMENT UNREALISTIC GUARANTEE

Government often try to attract investment from private partner without considering market competition (Ho, 2006). Likewise, local government attracts foreign investment by given them unrealistic guarantee on the project through misinformation of the cost and benefit of the project (Flyvbjerg et al, 2003). This misinformation can be intentional (personal interest) and unintentional (lack of experience and knowledge). Higher transaction cost will be incurred and at the expiration of term of the official, the next government might not be willing to continue with the project and compensation will be difficult (Sachs et al, 2007; Ho, 2006). Also at the Federal level, most foreign investor rely too much Chinese Government promises without making a proper evaluation and feasibility study of the investment (Ho, 2006). Verbal promises between government and investor is always prompted due to the need of money from investor in exchange for the project approval to investor. Most of these projects eventually fail as proper feasibility study was not carried about by the private investor before the commencement of the project.

CORRUPTION

Selection of best consortium for a PPP projects remains the responsibility of government and its representative from national level to local level. Bribing of local government for assistance, cooperation or to facilitate the selection process is always high on the investor (Sachs et al, 2007). Addition money and time is also spend on 'Guanxi (relationship)'- a Chinese culture, on entertaining the government officers (Ke et al, 2011). These has been seen as a norm between private investor and government officials in PPP projects and these will definitely increase the transaction cost which affect the efficiency, management and profit of the investor.

All these institutional barriers are the key issues effecting PPP in China and private investors examines all these barriers to know the level of risk involved investing in China. The central government in China also tries to make frequent modification in the PPP policies to reduce the effect of these institutional barriers. Example of these modifications is the provision on Foreign Investment Orientation and the Catalogue of industries for Foreign Investment (CIFI) which was reviewed six times from 1997 to 2015 so as to foreign investment in the PPP in China.

In conclusion, we have been able to examine the concept of rule of law, tender procedures and image of government in Netherlands, Nigeria and China as a government condition related to PPP and the institutional barriers affecting the stability of PPP in each of these countries as shown in table 4. PPP in Netherlands, Nigeria and China varies in practice and each of them have their own peculiar barriers. In general, all these institutional barriers can be categorised in regulatory issues, legal issues, funding issues, political issues and cultural issues. These barriers are the factors affecting the stability of PPP in each of these countries and also remains a very important factor to be considered by private investor before investing in PPP in any of these countries.

TABLE 3.3- SUMMARY OF PPP PRACTICE IN NETHERLANDS, CHINA AND NIGERIA

	Rule of Law	Tender Procedure	Image of Government	Barriers to PPP
Netherlands	1.Strong Legal Framework 2. Deming Circle- Plan, Do, Check and Act 3. Government Initiated (Market Oriented Approach)	1. Performance than Product 2. Competitive Dialogue	1. Stable Government 2 .98% Transparency Level	1.Stakeholders against project 2.High transaction cost and Tender procedure 3. Difficulty for foreign Investor in PPP Market
China	1 Moderate Legal Framework 2. Central Government Control 3. Government and Investor Initiated	1.Mix of Open Competitive and Negotiated Tendering	1. Partially Stable Government 2. 33% Transparency Level	1. High Government Involvement 2. Lack of PPP Finance 3. Subjective evaluation 4. Corruption
Nigeria	1. Legal Framework 2. High government interference 3. Investor Initiated	1. Open Tendering 2. Tendering supervised and approved by different Stakeholders	1. Political Unstable 2. 16% Transparency Level	1. Poor Regulation, legal framework & project financing 2. Corruption 3. Poor Political Administration and Structure 4. Wrong Perception of motive

CHAPTER 4

TREND OF PRIVATE SECTOR INVESTMENT IN PPP PROJECTS

The institutional barriers explained in the previous chapter affecting Netherlands, China and Nigeria can be categorised into the regulatory issues, legal issues, funding issues, political issues and cultural issues. This chapter will examine the rate of private investment through PPP in infrastructure provision and the corresponding number of PPP projects implemented from 1990 to 2014 in Netherlands, Nigeria and China. The analysis to this trend will based proposed conceptual model by examining the effect of government condition; rule of law, tender procedure, image of government and institutional barriers; has on the rate of investment and number of PPP projects implement across the years. In order to critically analyse these trends, interviews were conducted with respondent who has vast knowledge on PPP practice in Netherlands, Nigeria and China. Question asked were formulated based on the objectives and research questions of this study (see appendix for details on interviews). Through this analysis, we will be able to see how the government condition affects the rate at which investors invest in PPP under a particular government condition and also its effect on the number of PPP projects that were implemented.

In order to give a comprehensive analysis, this chapter will explain how PPPs are initiated in general and will give a summarised review on the global PPP update in terms of rate of investment and types of infrastructure project with more emphases on the ECA region, EAP region and AFR region which contains the countries selected as case study for this research. This review will give more understanding about the PPP regional investment markets and the growing need for a certain type of infrastructure at each region. Nigeria will be first country to be examined, been the country at stage one development phase with more institutional barriers and less stable government. Followed by China also in stage one developmental phase but more stable compared to Nigeria. Netherlands will be the last to be examined so as to be able to analyse how the Dutch were able to develop their PPP to stage two developmental phase despite the effect of government conditions on private investors.

In general, PPP is an arrangement established through governance and it cannot be separated from politic/governance. The establishment of PPP is political influenced through governance and the level of influence varies from one country to another. PPP practice can also be viewed from the perspective of its initiation. PPP can be a government initiative or investor's initiative. These initiatives are also factor to be considered as it gives more insight into the rate at which the government structure can affect the private sector participation in PPP. In most countries with government initiated PPP tends to have more stable arrangement and less interference of politics. The government structure allows for a perfect operational field for PPP and PPP policy are mostly established as a free standing Infrastructural policy. The PPP policies are designed with the government structure so both PPP and government can have the ability to operate mutually without interference and fund are specially allocated to infrastructure provision based on the budget of contracting authority. The Federal government of a country through the contracting authority allows for more market oriented approach and this will allow private investors/contractor to compete based on the innovations.

Due to lack of fund by the government of some countries, the investors initiated PPP is most common. The Federal government in most developing are countries constrained by their budget and do not have enough money to initiate projects but rather wait for investors who are ready to invest into infrastructure provision. The decision on choice of project to implement still depends on the priority of the government and future projection on ability to pay back the investor after realisation. In the investors initiated PPP, the PPP adjust into the government structure and can be regarded as one of the reason for high interference of politics in PPP practice. The Investors initiated PPP is most common in the low and some middle income region of the world. The government has a low experience in PPP because it is an initiative introduced by foreign investor into these regions. The practice of PPP in these regions is largely influenced by government structure and social acceptance is also low. Frequent policy modification, policy restructuring, economic change and political influence (Change of government) are some of the prominent risk associated to investors initiated PPP.

4.1 GLOBAL PPP (PPI) UPDATE

The global trend in PPP in infrastructure provision will be examined from year 2000 to first half (H1) 2014 but more emphases will be made on the recent trend which is 2012 to first half (H1) of 2014. In this analysis, the world is categorised into six (6) regions: East Asia Pacific

(EAP), Europe and Central Asia (ECA), Sub-Sahara Africa (AFR), Middle East and North Africa (MNA), Latin America and Caribbean (LAC) and Southern Asia (SAR). The countries selected as case study for this research also falls within three (3) different regions of these categorisation. The Netherlands is in the ECA region, China in the EAP region while Nigeria is AFR region. This analysis will give more understanding about the PPP regional investment markets and the growing need for a certain type of infrastructure at each region.

According to World Bank and PPIAF: Data Database, there are some noticeable decline and increase in investment in some certain regions. As explained by a respondent from Ministry of Infrastructure, Rijkswaterstaat, the decrease and increase in investment on infrastructure can be intentional or unintentional. Countries like Netherlands and Canada intentionally uses the concept of Value for Money (VfM) and Private Sector Comparator (PSC) to check if the project gives value for money and if the involvement of private sector will be the best alternative to stay within the budget of the ministry. For low income country, unavailability of fund and other government factors (exogenous or endogenous) creates an uninform pattern which is unintentional. In 2013, the total PPI experiences a 24.1% decline on global average from the 2012. This average investment was rated based on the total value of new project initiated and capital expenditure with consideration to capital expansion invests into existing projects. The ECA region has a considerable increase in investment in 2013 compared to 2012 due to growing market in Turkey and the AFR also increased due to increase in foreign investment in transport and energy sector. The table 4.1 shows the number of project per region and the corresponding percentage of total investment on infrastructure at the first half of 2014. The LAC region has the highest investment in H1 2014 with 49 projects and a total of 71% of the global investment and AFR region has the lowest with 2 projects and less than 1% of the global investment.

TABLE 4.1- TOTAL PRIVATE INVESTMENT IN H1 2014 ACROSS REGIONS

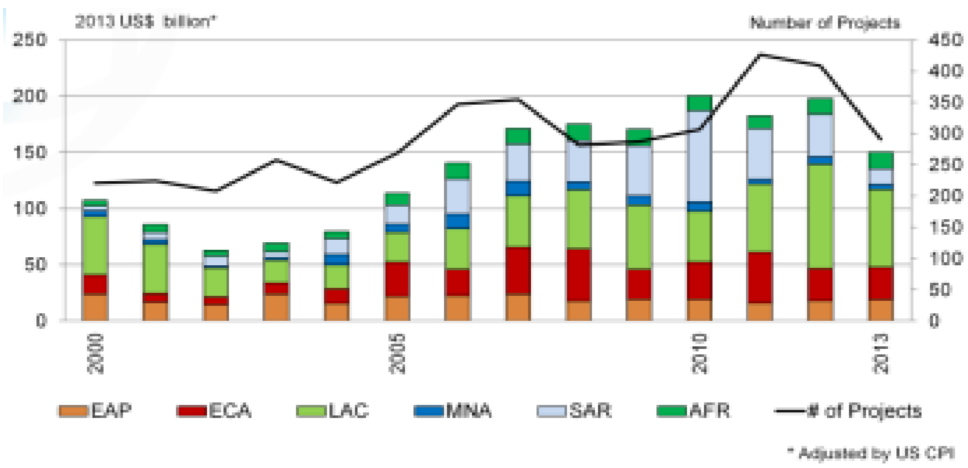
	Number of Projects	Total Investment	% Total Investment
LAC	49	36.1	71%
EAP	22	5.7	11%
ECA	7	4.6	9%
SAR	28	4.2	8%
MNA	2	0.3	<1%
AFR	2	0.3	<1%
Total	**110**	**51.2**	**100%**

Source – World Bank and PPIAF: PPI Database (2015)

In H1 of 2014, primary investment increased compared to H1 2013 and the World Bank attribute this increment to higher investment in gas and renewable in Mexico's natural gas which also spread across EAP and ECA. The total primary investment in H1 2014 is close to the total investment in 2013. This shows that has been an increase in PPP on global review. Investment by private sector in infrastructure in Africa and Middle East was extremely low in H1 2014 which can attributed to political unrest in Africa and geopolitical crises in the Middle East. Also, EAP also attracts relatively lower private partnership in 2013 compared to the size of the economy. The private participation was rated 0.17% of the GDP with China holding the largest private participation in the EAP region.

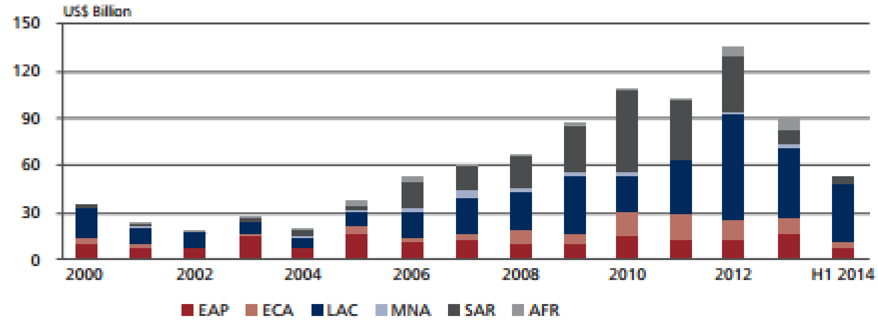
The difference in total investment per region in H1 2014 compared to 2013 shows that more stable region in terms of governance tends to attract more investors and when more investors move into a region, investors try to diversify their investment portfolio to other investment in their field of expertise that could yield returns. This shows that stable government encourages PPP and investment has a whole.

GRAPH 4.1- GLOBAL PRIVATE INVESTMENT COMMITMENTS IN INFRASTRUCTURE IN REGION



Source – World Bank and PPIAF: PPI Database (2015)

GRAPH 4.2- GLOBAL PRIVATE INVESTMENT COMMITMENTS IN ENERGY, TRANSPORT AND WATER BY REGION IN FIRST HALF (H1) 2014

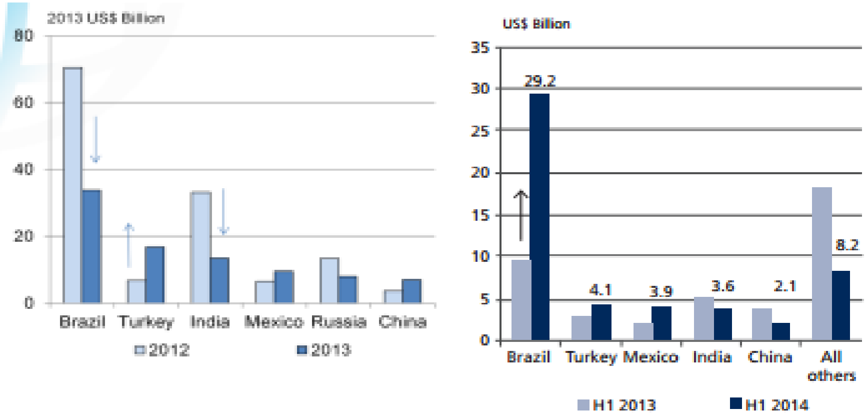


Source – World Bank and PPIAF: PPI Database (2015)

The private sector investment on infrastructure in country within a region can have a high effect on the total investment in that region. On the global scale per region, the major shift in investment of a country within that region will increase the total private investment of the region. It simply means that if there is low investment on global scale in 2013 compare to 2014 in ECA region, does not mean there had been general reduction in investment across all the countries in Europe and Central Asia. This is also same in the case of increment in private investment on global scale per region. Although, the increment in investment in a country have tendency to spread across the region.

In 2012, Brazil and India were the top leaders in private investment but drops in 2013. World Bank describes the fall in Brazil as cyclical and 68% drop in India. Turkey and Mexico as a new market for energy sector experienced more increase in H1 2014. Brazil still continues its lead to H1 2014 due to airport project in Rio de Janeiro, upcoming 2016 Olympics games and lots of road projects. The different pattern noticed in the average investment from global perspective is determined by the performance of member countries and sector. Transport sector has the highest investment across the world with 71% of global investment in H1 2014.

GRAPH 4.3- TOTAL INVESTMENT IN PPI IN TOP COUNTRIES ACROSS 2012 TO H1 2014



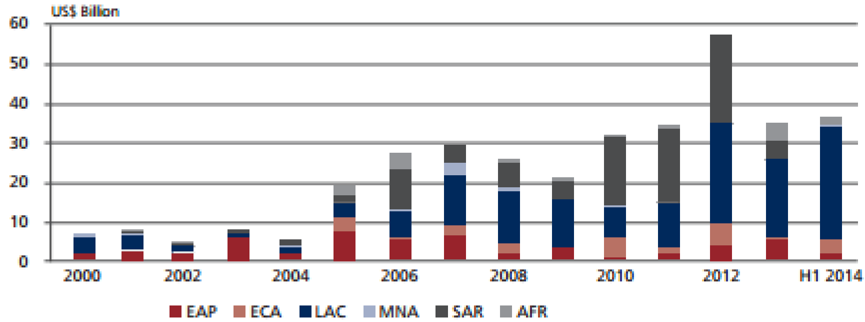
Source – World Bank and PPIAF: PPI Database (2015)

TABLE 4.2- INVESTMENT COMMITTED BY SECTOR

	Average Investment (US$ Million)	Total Investment (US$ Billion)	% Total Investment
Transport	1,200	36.0	71
Energy	191	14.7	29
Water & Sewage	40	0.5	<1
Total	430	51.2	100

Source – World Bank and PPIAF: PPI Database (2015)

GRAPH 4.4- TOTAL INVESTMENT IN TRANSPORT BY REGION



Source – World Bank and PPIAF: PPI Database (2015)

In order to analyse the effect of government condition on private investors and stability of PPP, this research will examine the number of PPP projects and private sector investment on infrastructure in Nigeria, China and Netherlands from 1990 to first half of 2014.

The examination across these years will provide information on the trend of PPP infrastructure development and these trend will be analysed based on the government condition that might have led to the difference in investment and number of project across these years. The energy sector, telecom sector, water and storage sector and transport sector will be the sectors to be considered because these are the sectors that have similar rate of private investment over years in the Nigeria, China and Netherlands. The data is on quantity and amount of private investment on PPP will be analysed based on the effect of government structure through rule of law, tender procedure and image of the government in relation to the specific institution barriers peculiar to each country.

4.2 TREND OF DEVELOPMENT PPP IN NIGERIA

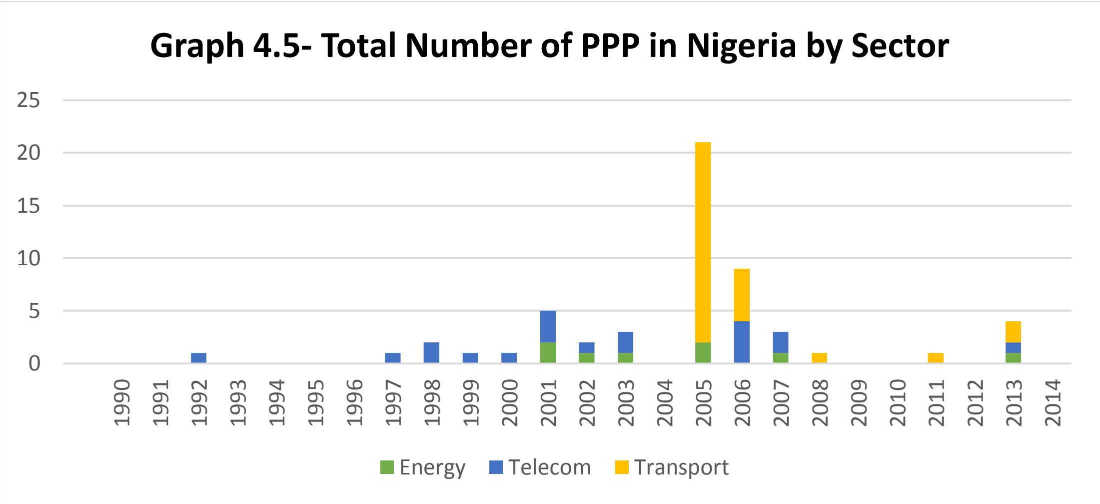
Nigeria is the country with second largest economy in Africa after South Africa. Just as in many region around the world, private investment in PPP in Africa slumps in 2007 but considerable rises back in 2011 due to huge private investment in new project and expansion of existing ones in countries like Nigeria, Ghana and South Africa. In Nigeria, main infrastructural investment was in Energy, telecom and transport which was more of Build-Own-Operate (BOO) contracts. The telecom sector has the largest investment and green field project as the largest share of PPI (World Bank and PPIAF, 2014). Most PPPs in Nigeria are Investor initiated with multilateral support by private investors from Australian, China, Dubai, United State and Germany.

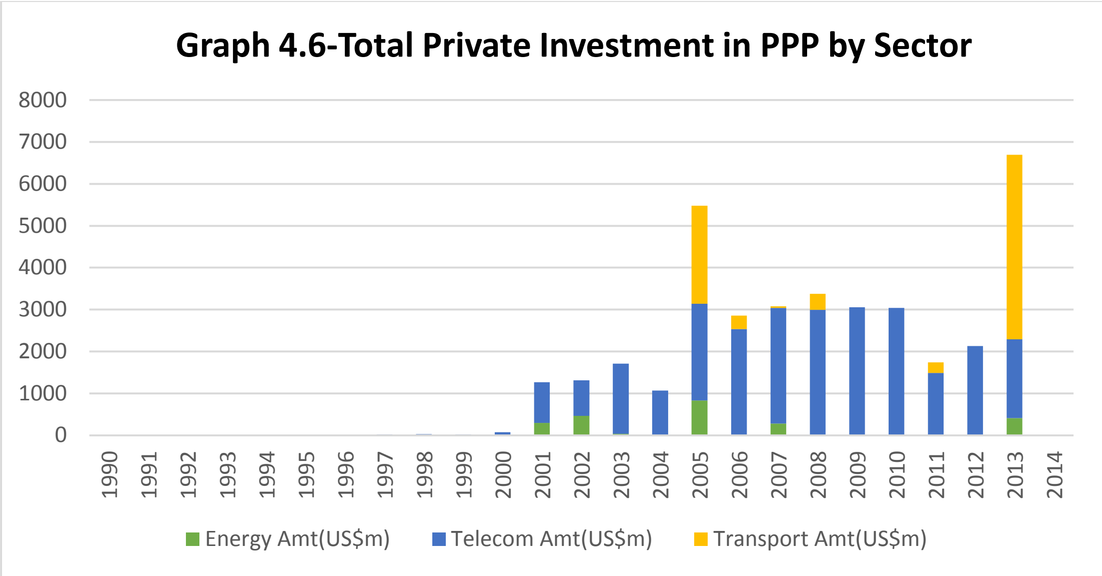
Table 4.3 shows the trend of PPP infrastructural development in Nigeria in terms of quantity and investment cost in US dollars from 1990 to first half of 2014. The analysis will be based on the effect of change in policy, tender procedure, political activities, government support had on the rate of private investment in PPP in Nigeria. The years with high number of project and the total investment are years when the country is relatively political stability. Between 1990 and 1996, there was just 1 PPP projects which was in telecom. This PPP was an Operate and Maintenance model on Nigeria Telecommunication Company (NITEL) which raised a lot of controversy in the country because of the wrong perception of PPP. Few more projects (4 more also in telecom) was implemented between 1997 and 1999. The use of mobile phones (GSM- Global System for Mobile Communication) and satellite TV became more prominent in Nigeria from 1999. Huge sum of investment was made by private investor into telecoms. MTN Telecoms Nigeria, EcoNet Telecoms Nigeria and DSTV Nigeria were some of private sector partner with government in telecoms. One of the major factors for these increase was due to prospect in political stability and good governance. The first democratic elected government was sworn in 1999 and the relatively stable political environment led to the increment in PPP projects across the country in subsequent years. Between 2000 and 2005, 32 more PPP infrastructural projects was implemented; 6 projects in Energy, 7 projects in telecoms and 19 projects in Transport. All the 19 transport infrastructure projects was implemented in 2005 which was when the ICRC was commissioned. From 2005 to 2014, the number of PPP infrastructure projects continued to reduce across all the sectors. This was due to the frequent modification in the PPP policies by Ministry, NPC and ICRC, high bureaucratic decision making, increase in political instability (religious and ethnic crisis) and increase corrupt by public officials.

TABLE 4.3- QUANTITY AND AMOUNT PRIVATE INVESTMENT IN US $ DOLLARS ACROSS SECTORS IN NIGERIA

Financial Closure Year	Energy		Telecom		Transport		Water & Storage		Total	
	Quantity	Amt(US$m)	Quantity	Amt(US$m)	Quantity	Amt(US$m)	Quantity	Amt(US$m)	Quantity	Amt(US$m)
1990-1996	0	0	1	0	0	0	0	0	1	N/A
1997 (ECONET GSM Project)	0	0	1	22	0	0	0	0	1	22
1998	0	0	2	28	0	0	0	0	2	28
1999	0	0	1	19	0	0	0	0	1	19
2000 (MTN GSM Project)	0	0	1	76	0	0	0	0	1	76
2001	2	295	3	970	0	0	0	0	5	1,265
2002	1	462	1	848	0	0	0	0	2	1,310
2003	1	34	2	1,674	0	0	0	0	3	1,708
2004	0	0	0	1,070	0	0	0	0	0	1,070
2005(ICRC commissioned)	2	828	0	2,312	19	2,335	0	0	21	5,495
2006	0	0	4	2,535	5	322	0	0	9	2,857
2007 (Niger Delta Oil crises)	1	280	2	2,761	0	40	0	0	3	3,081
2008	0	0	0	2,995	1	382	0	0	1	3,377
2009 (Boko Haram insurgence)	0	0	0	3,057	0	0	0	0	0	3,057
2010	0	0	0	3,036	0	0	0	0	0	3,036
2011 (Change in government)	0	0	0	1,484	1	259	0	0	1	1,743
2012	0	0	0	2,129	0	0	0	0	0	2,129
2013	1	407	1	1,886	2	4,400	0	0	4	6,694
2014	0	0	0	0	0	0	0	0	0	0
Total	8	2,306	18	26,902	28	7,759	0	0	55	36,967

Source – World Bank and PPIAF: PPI Database (2015)





Comparing number of project and investment from the graphs 4.5 and 4.6, it shows the investment cost in different sector per year is not just limited to that year but also affect subsequent years due to the type and process of the PPP contract. Also, investment cost per year is not synonymous to the quantity of projects as the size of projects varies.

From 1997 to the first half of 2014, 6 implemented projects was cancelled which is 3% of the total investment made on PPP (World Bank and PPIAF, 2014). The World Bank implementation status and results report 2015 rated politics and governance, institutional capacity for implementation and sustainability, fiduciary, environment and social and stakeholders as a substantial risk factor to be considered by private investor. Macroeconomics, sector strategies and policies and technical design of project or program are rated low.

4.3 TREND OF DEVELOPMENT PPP IN CHINA

The regional objectives in East Asia and southern Asia is to integrate and connect all regions through transport, joint electrical transmission and natural gas pipelines and this has led to the increase in rate of investment in PPP and also number of implemented projects in Asia. These objectives are also supported by the Association of South East Asian Nations (ASEAN) which has been launch several initiative like the Master Plan on ASEAN connectivity (MPAC), the ASEAN Infrastructure Financing Mechanism (AIFM) and also the ASEAN Infrastructure Fund (AIF). All these initiates are all based on private sector providing both capital and expertise in developing infrastructural projects. According to a PPP transaction Adviser with vast experience in risk management, debt and equity financing and policy restructuring also describes the initiative of ASEAN has a way for new regulatory framework which opens up PPP markets by incorporating market feedback. Also, international interest has increased in the last two years in ASEAN projects.

Infrastructure development with PPP in East Asia and the pacific has been on the increase from 1995. Although, the rate of investment suffered a major setback in the summer of 1997 due to the Asian financial crises (also called Asia Contagion). This financial crises was first felt in Thailand because of the government decision non local currency to US dollar. The Asian market slum also affected the market in United States, Europe and Russia which called for a quick intervention by World Bank and International Monetary Fund. The market got better by 1999 with private investor investing in major infrastructural project especially in energy and transport.

Countries like the Philippines had 11 PPP projects in 2010 and the number rose to 61 potential PPPs in 2015 with 9 with an investment cost of $3 million has already been awarded. This increase is also prominent in most countries within East Asia and Southern Asia. According to World Bank (2014), PPP in China will continue to grow not just because it is encouraged due to domestic demand but also due to the regional objectives established in the East and Southern Asia. The private investment in infrastructural project in China experienced the highest noticeable increase with 73 projects reached financial or contractual close in 2013 (World Bank and PPIAF, 2014). Water, Sewage and Energy sectors are the fastest growing private investment infrastructural project. China made the largest contribution of 33 percent of an accumulated investment of $154.1 billion in total investment made in the East Asia and Pacific region in 2013 with a forecast of continuous increment in subsequent years.

The table 4.4 shows the trend of PPP infrastructural development in China in terms of quantity and investment cost in US dollars from 1990 to first half of 2014. This trend will considered based on the effect of rule of law, tender procedure and image of government. The rule of law will not just be based on law related to be PPP but also the effect of all other government reforms had on investors. PPP in china is also affected by external reforms within Asia and out of Asia due to the high number of foreign investment in China. China PPP is a mix of government and private sector initiation which implies that PPP in china is not just affected by government structure but also by other exogenous factors like global interest rate which can lead to recession. From 1990 to 1997, there was even growth in the number of private investment in infrastructure. Between 1997 and 2000, there was a sharp decline which can associated the Asian financial crises and end of British rule of Hong Kong in 1997. From 2000 after the creation of euro, countries in Europe tries to diversify portfolio and china was one of the promises market. A lot of investors invested in infrastructure projects in China which helped to increase the number of infrastructure projects till 2005 when ASEAN was formed. Global economic crises in 2007 took its turn on the number of PPP infrastructure projects.

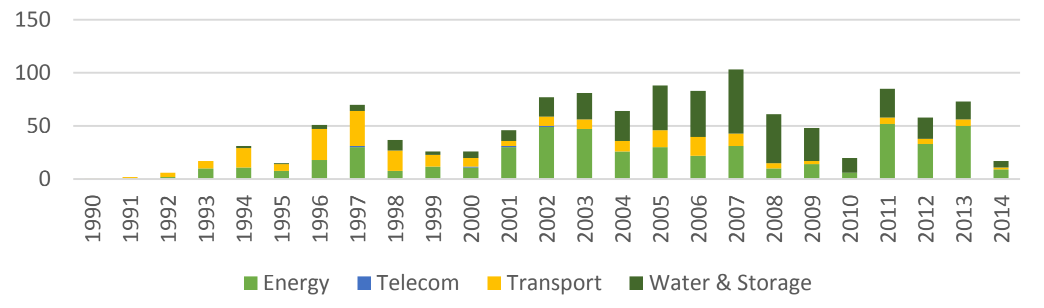
Furthermore, the major policy implemented by central government isInterim Provisions on Foreign Investment Orientation and the Catalog of Industries for Foreign Investment (CIFI) and other laws and regulations relevant. For CIFI, it has different editions on 1997, 2002, 2004, 2007, 2011 and 2015; and for every of these years there is either an increase or decrease on the rate of private investment depending on how the policy suits investors. According to the policy, there are three different industries catalog which will be encouraged, limited and prohibited by Chinese governments, and foreign-capital projects should strictly observe the catalog of industries. While the major transition of this policy is that investments on industries in China will be more and more open to foreign-capital projects since China's economic activities are embodied in global production networks and global markets. Among industries like energy, telecom, transport and water and sewage, Chinese governments put the strictest regulation on telecom sector due to the consideration of national safety. For transport sector, according to the latest policy issued on 10th April, 2015, China's government will encourage foreign capital on construction and operation of intercity rail transit, highway, bridges, port and civil airport, but some of them like national railway and airport should be transferred into Chinese ownership. While foreign capital is limited to set up sole proprietorship enterprise on transport sector to provide railway, road, water and flight transport passenger service, and foreign capital is also prohibited to manage the air traffic control. Both Chinese central and local governments encourage foreign capital to put investments on energy, water and sewage sector.

TABLE 4.4- QUANTITY AND AMOUNT PRIVATE INVESTMENT IN US $ DOLLARS ACROSS SECTORS IN CHINA

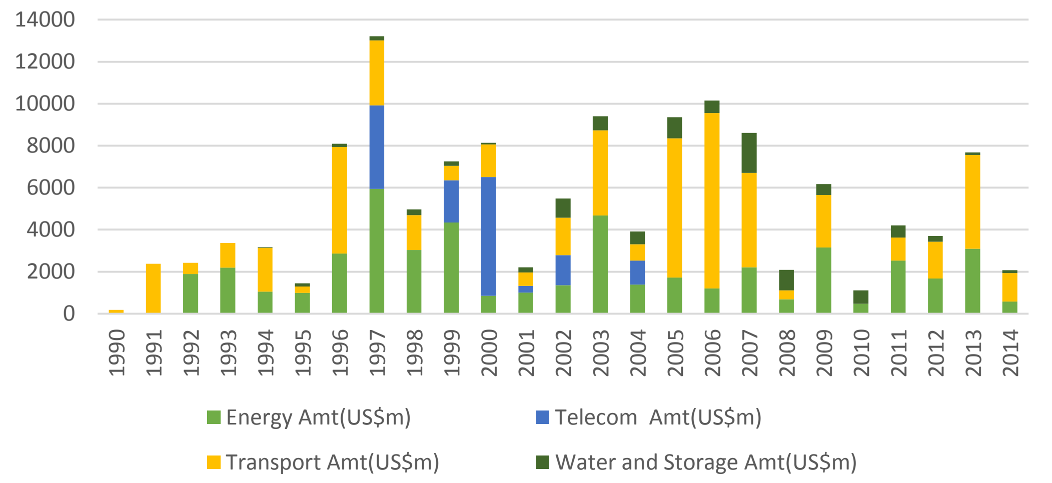
Financial Closure Year	Energy		Telecom		Transport		Water & Storage		Total	
	Quantity	Amt(US$m)	Quantity	Amt(US$m)	Quantity	Amt(US$m)	Quantity	Amt(US$m)	Quantity	Amt(US$m)
1990(3rd developmental period)	0	0	0	0	1	173	0	0	1	173
1991	0	0	0	0	2	2,379	0	0	2	2,379
1992	2	1,881	0	0	4	533	0	0	6	2,414
1993	10	2,197	0	0	7	1,172	0	0	17	3,369
1994	11	1,048	0	0	18	2,086	2	31	31	3,165
1995	8	987	0	0	6	309	1	150	15	1,447
1996	18	2,859	0	0	29	5,084	4	149	51	8,093
1997 (Asia Financial crises, CIFI modification)	30	5,946	1	3,970	33	3,093	6	211	70	13,220
1998	8	3,026	0	0	19	1,671	10	272	37	4,969
1999	12	4,348	0	2,000	11	696	3	203	26	7,247
2000 (Euro formation)	11	847	1	5,653	8	1,559	6	72	26	8,131
2001	30	997	1	325	5	642	10	242	46	2,207
2002 (CIFI modification)	49	1,351	1	1,430	9	1,787	18	918	77	5,486
2003	47	4,679	0	0	9	4,055	25	662	81	9,396
2004(CIFI modification)	26	1,390	0	1,140	10	783	28	603	64	3,916
2005 (ASEAN formed)	30	1,715	0	0	16	6,629	42	1,007	88	9,351
2006	22	1,198	0	0	18	8,351	43	604	83	10,153
2007 (Global financial crises, CIFI modification)	31	2,214	0	0	12	4,494	60	1,902	103	8,610
2008	10	679	0	0	5	437	46	974	61	2,086
2009	14	3,146	0	0	3	2,513	31	512	48	6,172
2010	6	473	0	0	0	0	14	640	20	1,113
2011(CIFI modification)	52	2,524	0	0	6	1,095	27	592	85	4,211
2012	33	1,674	0	0	5	1,753	20	274	58	3,701
2013	50	3,089	0	0	6	4,476	17	117	73	7,681
2014	9	584	0	0	2	1,352	6	129	17	2,065
Total	519	48,853	4	14,518	244	57,120	419	10,265	1,186	130,756

Source – World Bank and PPIAF: PPI Database (2015).

Graph 4.7-Total Number of PPP Project by Sector in China



Graph 4.8-Total Private Investment on PPP by Sector



From graph 4.7 and 4.8, PPP project implemented in 1997 was not as much as 2007 but the rate of private investment in US dollars was considerable higher in 1997. This shows that a lot of money was invested in PPP project during the Asian financial crises through foreign investment to maintain the existing projects but new projects was not implemented due to the crises. These crises even became more severe because it was same year that the British rule in Hong Kong ended. Due to these situations, the government has to encourage private sector investment in the economy so as to stabilise the economy through exchange of cash within the economy. The government also makes sure that the economy is not risky for investment and they try to support investment by reducing interest rate and provide more means of debt financing that can encourage more investment than consumption (Barkham, 2015).

The systematic operations risk-rating tool by World Bank (2015) was used to make risk categorization and rating in China based on private investment and the effect of government condition in Chinese renewable energy. Politic and governance risk, macroeconomics risk, stakeholder risk and environmental and social risk was rated low. This simple means that all these factors are relatively stable and does not much of a risk to consider China PPP. On the other, technical design of project or program and sector strategies and policies are very substantial. Also, institutional capacity for implementation and sustainability and fiduciary is moderate. From the risk rating above, it can be conclusive to say that sector strategies and policies with need for technical design project or design is the highest risk to be considered in investing in the china PPP. This is due to the fact that there are a lot of policy transformation going in China at the moment and growing level of technology has also called for an infrastructure design that flexible and adaptable.

Frequent modification of PPP policy can also discourage foreign investment because investors also need to make frequent adjustment in their investment policies. In order to encourage investors in PPP-style mode, the Chinese governments should set clear steps and procedures for investors and should run over a considerable number of years before adjusted, and also should make an objective evaluation of the potential costs and benefits and reasonable profits distribution rate. For investors, they need to understand China's spatial and institutional contexts at different spatial level.

4.4 TREND OF DEVELOPMENT PPP IN THE NETHERLANDS

With the exception of energy and telecoms, there had been a reduction in private investment in Europe on an average scale from 2005 to 2010 (World Bank and PPIAF). Although, private investment in Netherlands is an exception as there had been an increase in water and storage sector and transport sector. Infrastructure development in the Netherlands is mostly government initiated. Some few firms like Dutch Infrastructure Fund B.V. which is an investment firm with specialization in PPP projects across Europe with special interest in Western Europe, France and United Kingdom, also initiates some few projects but definitely in accordance to Ministry of Transport and Infrastructure plans. The increase in PPP projects in Netherlands can be attributed to the way at which the government through the ministry of Transport and Infrastructure has been able to modify PPP policies so as to partner with existing private investor and encourage new investors. The Dutch PPP over years has been to adjust to reduce the barriers either by restructuring the policies or encourage for less complicated form of PPP. The evolution in Dutch PPP has shown that PPP get better over years of practice. Social acceptance and government structure are still regarded as the driving factor to the success so far. In order to solve some other existing challenging, the Ministry of Transport and Infrastructure continuously find a better way of practicing PPP in the Netherlands. According to one of the respondent from the Ministry of transport and Infrastructure, the Ministry is keen on continuous adjustment of PPP to encourage private investor.

The Ministry has gone far as making emphasis on spelling error in document and a yearly update of ongoing and new possible projects. The increase the participation of contractors and investors with large and medium capital base in Dutch PPP is due the government stability and better policy modification. The Political environment in the Netherlands is rated AAA status. This is less risky environment and an investor will always want to trade in a less risky and higher return environment. The motive of investor investing in PPP project in Netherlands is to have return and not because they just wanted to participate in a government initiated program (Leendertse, 2015). Investing on PPP project in Netherlands has possibility yield higher return compare to risk. With government rating of AAA, the Dutch government has been able attract more investors in PPP and has led to need for the contracting authority to continuously modify the PPP Policy.

The contracting authority, Rijkswaterstaat also reduced the bank requirement from AAA to A- so as ensure broader market for contractors in financing PPP projects. Also, future modification of the competitive tender according to EU guide lines has helped in increasing the effectiveness of Dutch PPP. The competitive tender allows the contractor to communicate the solution they have to offer to the contracting authority. This has also shortened the tendering time frame substantially. According to another respond at the Ministry of Transport and Infrastructure, reimbursements of part of tender cost is another modification the contracting authority in Netherlands is trying to examine. Reimbursement of one-third of tender cost will be a way to reduce the high transaction cost incurred by contractors during tendering.

The rate of investment and number of projects implemented in Nigeria, China and Netherlands as explained above, show the effect government condition on PPP and its corresponding effects on the private investor investment in PPP. Transparency of the government, stability of government, consistency in policy and support the government provides private investor in infrastructure provision in Netherlands are some of the factors which has contributed to the growth of PPP in Netherlands. In same view, these factors are the reason for poor performance of PPP in Nigeria and China. The Netherlands has a relative stable government and that is why PPP is stable in the Netherlands. Also, the trend in China and Nigeria shows that when there is stability in the government, more investment is made by private investor and more PPP projects are implemented. These illustrations shows the importance of government condition to the stability of PPP.

4.5 EVALUATION OF STABILITY OF PPP IN NETHERLANDS, CHINA AND NIGERIA

From the preliminary conclusion drawn from the trend in PPP in Nigeria, China and Netherlands, these trends showed how different conditions affects PPP in each of these countries. In order to analyse these trends based on the proposed conceptual model which indicate the rate at which government condition effects the stability of PPP which is a core mix of the developmental stage of a country, model of PPP and risk management, this model will analyse the specific factors related to rule of law, tender procedure and image of government examined in the trend of PPP in each of these countries.

Using the conceptual model proposed, the effect of government conditions on private investors in terms of rate of investment and number of projects examined in each of these countries will be classified based on the effect it has on the stability of PPP and private investor. The government conditions selected for this evaluation was based on the different conditions affecting PPP noticed in the quantity and rate of private investment in Netherlands, China and Nigeria. Ten (10) of these factors were selected so as to give a cumulating rate of 100%. Some of the shortcomings of this method of evaluation is that it does not have fixed factors to be considered for countries and also the rating of these effects on the stability of PPP in each of these countries is based on the assumption and knowledge the person appraising has on the countries to be evaluated. The rating of these factors for positive, neutral and non-substantial effects could be inform of 'yes, no and neutral' or +1, -1 and 0 respectively. The most important aspect of this rating is that the rating can be cumulated and comparable based on the government conditions considered.

These effects will considered as positive effect (+), negative effect (-) and non-substantial effect (0). The positive effect will be rated at 10 points, non-substantial effect will be rated at 5 points while negative effect will be rated at 2.5 points. All these points will be cumulated for based on the selected government conditions from the proposed model

TABLE 4.5- EVALAUTION OF GOVERNMENT CONDITION AGAINST STABILITY OF PPP IN NETHERLANDS, CHINA AND NIGERIA

GOVERNMENT CONDITIONS	STABILITY OF THE NETHERLANDS PPP	STABILITY OF CHINA PPP	STABILITY OF NIGERIA PPP
Internal Politics	0	-	-
Governance and Policy modification	+	-	-
Institutional Capacity	+	0	-
Stakeholders	+	0	-
Technicality	+	+	0
Corruption	0	-	-
External Politics	0	-	0
Foreign Direct Investment	+	+	0
Image of government	+	0	-
Tender Procedure	+	-	+

CUMULATIVE POINT	80%	47.5%	45%

Note-

- **+ = Positive effect, 10 points. 0 = No substantial effect, 5 points, - = Negative effect**

The effect of government conditions on private investors in the stability of PPP in the Netherlands got 80% rating. This indicates that the government condition does not have a negative effect on private investor and the government conditions has helped in the stability of PPP. This is different in the case of PPP in China and Nigeria with 47.5% and 45% rating respectively. The government conditions has a negative effect on the private investors and also on the stability of PPP.

This model was able analyse each of the three countries; Netherlands, Nigeria and China based on the effect of government conditions on private investor in the stability of PPP. The results from this model also compliments the model used by Deloitte and Touche USA LLP which shows the position of these countries in developmental phases base on the level of activity and sophistication. The conceptual model for this research can be used by the central government of a country in the modification of their PPP practice and country can also learn from each other by using this model as tool for policy transfer. Also, this model can be used as an appraisal tool in public project assessment for private investor to check the effect of government condition and stability of PPP is any country before making an investment decision. . With this model, an investors can rate any country based on the effect government condition on PPP and the cumulative percentage can interpreted as the risk profile of a PPP investment.

CHAPTER 5

CONCLUSION AND RECCOMMENDATION

This last part of the report contain the conclusion and recommendation. The conclusion was drawn from by the examination and analysing the effect of government structure on Private sector investor in Public-Private Partnership in the three different countries which are Netherlands, China and Nigeria. China and Nigeria are two countries at the stage 1 (developing) of their PPP which are negatively influenced by the government structure. Netherlands is at the stage 2 (well-developed) PPP and they are able to create a governing system that positively affect and create less risky investment environment for private investor. This conclusion will also try to connect the institution barriers outlined in third chapter and seek possible solution by recommending how these countries to learn from each other and investors can check for the stability of PPP in a country before investing. All these will be done in a way to answer the research questions outlined at the first chapter of the research.

Recommendation will also be given at the end of this chapter and it will a critical reflection based on some of literatures examined in previous chapters. This recommendation will also make a clear inference from the objectives of the research, practical applications of the research and also call for a need for further study on similar topic that will create more in-depth reasoning related to this research.

5.1 CONCLUSION

The practice of PPP in infrastructure development is affected by elements of governance structure that is government conditions. These elements are the rule of law of the country, the tendering procedure and the image of the government. All these elements are based on the government condition and private investors using these elements as yardstick to measure how stable the government. The level of stability will also show the risk involved in investing in PPP in a country. The conclusion from the discussions in this report will be done by answering the research questions

5.1.1 What are the effects of rule of law on the establishment of Public-Private Partnership?

Through the rule of law, policies are formulated and modified according to change in the economy. The establishment of PPP is through the law and it is constitutional empowered to act in full capacity according to objectives of the policy. The establishment of this policy should be with reference to objectives and capacity of the policy. A well formulated and stable policy helps in the stability of the establishment of PPP. In the examination of governance through the rule of law establishing PPP in a country, this will help investors to appraise the risk profile on a proposed investment.

An investor examines how matured is the law in the country with a view from independence of court and strength of the judicial system in enforcing policies. In Netherlands, investors feel considerable safe to invest as the Dutch law has a clause which states that a signed contract is law to the party that close the contract. This simply means that the no party in the signed contract is above the law including the Dutch government. Breaching of contract can lead to Court Suit in an Independent court. This is different in the case of Nigeria and China whose law systems are not as matured as the Netherlands.

5.1.2 What are the different ways of tendering in Public-Private Partnership?

The complexity of government policy for tender procedure will affect the interest of contractors in PPP due to lengthy procedure and high transaction cost incurred by bidding consortia. Complex and lengthy tender procedure can also discourage contractors in PPP. The concept of Competitive tender and reimbursement of one-third procedure adopted in Netherlands can be transferred to Nigeria and China to reduce the lengthy process of tendering. The use of competitive tender in Nigeria and China will also give the contracting authority a clearer detail of the project. This has been seen as one the major advantage of DBFM over other conventional project contracting

5.1.3 What effect does image of government (reliability) have on private investor decision making in Public-Private Partnership?

The image of government is determined by the political stability of the country. The Stability of PPP is largely dependent on the political situation which will also cause for increase in risk margin and increased cost. The Netherlands was able to create a relatively stable PPP because the government structure is also stable (AAA rating). Investors will rather prefer invest in a more stable political environment even if the return is not high as other locations.

Corrupt politicians and investors engage in shady deals in order to steal money from the government and this gives a wrong impression about the practice of PPP. These are type of cases frequently recorded in developing countries and it gives a wrong perception about the image of the government which will also affect the decision of both indigenous and foreign investors to invest in PPP.

The level of corruption of a country can also be attributed to weakness of the law and this will negatively affect PPP practice. According to Transparency International, Netherlands, China and Nigeria is rated 98%, 33% and 16% respectively on level of transparency of the government. An investor will prefer to invest in a country with higher level of transparency (government with good image) and those investing in lower transparent (government with bad image) country will have an increase in project cost due to high risk margin. This simply means that the lesser the transparency level of a government, the higher the possibility of project cost been intentionally over-priced.

5.2 RECOMMENDATION

Infrastructural planning is very challenging in countries with less stable government because planning process is affected by budget constraint and government interference in planning process. It is very important that a planner understands the government structure and conditions of a country before embarking on infrastructure planning. Direct transfer of policies from one country to another will not possible due to difference in government. So it is very important that planning process should be contextually viewed and an area oriented approach should be encourage because infrastructure development planning is content specific and peculiar to a particular location.

The adoption of some policies used in the Netherlands on PPP should be encourage in Nigeria and China as long as its fits into the governance system. Proper legal framework and less government authority involvement in PPP will reduce the risk margin of investing in PPP in Nigeria and China. Although, it is of no doubt that it will require a lot of changes at every department involved in PPP. Government structure and social acceptance still remains one of the major challenges especially in the case of Nigeria. Lack of institutional capacity, financing, weak governance and unstable regulations will increase the risk margin and thereby increase project cost. In Nigeria due to lack of fund by the government to personally construct infrastructure projects, initiating partnership with foreign and local investor will be very important. It is also necessary to examine also if the Dutch government really needs to partner with private investors in infrastructure projects especially on DBFM because the government has the money the construct these projects and even in a shorter time. This argument out of the scope of this research, but there will be a need for research on the Future PPP (DBFM) in Developed Countries.

The conceptual model used for this research can be used by the central government of a country in the modification of their PPP practice and country can also learn from each other by using this model as tool for policy transfer. Also, this model can be used as an appraisal tool in public project assessment for private investor to check the effect of government condition and stability of PPP is any country before making an investment decision. With this model, an investors can rate any country based on the effect government condition on PPP and the cumulative percentage can interpreted as the risk profile of a PPP investment.

5.3 LIMITATIONS

Online data due remains one of the major challenges to this thesis. Inadequate respondent from private investor from countries that are not in proximity was also a limitation to this research. Most information and data especially on China is based on online sources which is not adequate. In general, these are the limitation encountered during these research

- Data Acquisition: Data needed for these research are not commonly available in published document in the library. Due to this, data used is obtained from internet.

Internet information requires extensive analysis and personal judgement especially when suspecting some discrepancy in figures. For Ethical consideration, data and information used for this research was based view of professional analyst, theoretical and academic writings.

- Data Interpretation and Analysis- Some data obtained especially in the case of China was analysed based on exogenous factor and some endogenous factors due to unavailability of exclusive information from Chinese respondent on china policy formation strategies.

REFERENCES

Almould, R. and Edwards, J. (2012) 'Private Sector Participation in the Water and Sanitation: Alternative Options and Measurement issue', Munich Personal RePEc Archive, No 36437

Averson, P (1998) 'Deming Cycle', *Balanced Scorecard Institute. Strategy Management Group Company*.http://balancedscorecard.org/Resources/Articles-White-Papers/The-Deming-Cycle# accessed 11/07/2015

Babatunde O., Opawale A. and Akinsiku O. (2012) 'Critical Success Factors in Public-Private Partnerships 0(PPP) on Infrastructure Deliver in Nigeria', *Journal of Facilities Management,* Vol 10, Issue 3, pp 212-225

Beh, L. (2010) 'Public-Private Partnership: A Responsive Participation', *Journal of Us-China Public Administration,* Vol 7, No. 8 (Serial No. 58)

Catalogue of Industries For Foreign Investment (CIFI) 1997 Edition: http://www.people.com.cn/9802/23/current/newfiles/l1010.html accessed 01/07/2015 (interpreted by Xiongbin Lin, Ph.D Candidate,School of Urban Planning and Design, Peking University)

Catalogue of Industries For Foreign Investment (CIFI) 2002 Edition http://www.fmprc.gov.cn/ce/cgsf/chn/kj/zyxx/t38777.html accessed 01/07/2015 (interpreted by Xiongbin Lin, Ph.D Candidate,School of Urban Planning and Design, Peking University)

Catalogue of Industries For Foreign Investment (CIFI) 2004 Edition: http://www.china.com.cn/chinese/PI-c/726125.html accessed 01/07/2015 (interpreted by Xiongbin Lin, Ph.D Candidate,School of Urban Planning and Design, Peking University)

Catalogue of Industries For Foreign Investment (CIFI) 2007 Edition: http://www.mofcom.gov.cn/aarticle/b/f/200711/20071105248462.html accessed 01/07/2015 (interpreted by Xiongbin Lin, Ph.D Candidate,School of Urban Planning and Design, Peking University)

Catalogue of Industries For Foreign Investment (CIFI) 2011 Edition: http://www.gov.cn/gongbao/content/2012/content_2144287.html accessed 01/07/2015 (interpreted by Xiongbin Lin, Ph.D Candidate, School of Urban Planning and Design, Peking University)

Catalogue of Industries For Foreign Investment (CIFI) 2011 Edition: http://www.sdpc.gov.cn/zcfb/zcfbl/201503/t20150313_667332.html accessed 01/07/2015 (interpreted by Xiongbin Lin, Ph.D Candidate,School of Urban Planning and Design, Peking University)

Chen, C. (2010) 'The Institutional Challenges for PPP in China and the Role of PPIAF', *Paper for World Bank, Post-doctoral Workshop*

Cheng, C. and Wang, Z. (2009) 'Public-Private Partnership in China: Making Progress in a Weak

Conover, C. Mitchell, H. Swint Friday, and G. Stacy Sirmans. (2002) 'Diversification Benefits from Foreign Real Estate Investments', *Journal of Real Estate Portfolio Management* 8, no. 1 (Winter 2002): 17-25

Economic Data: Southeast Asia, The People's Republic of China and India http://www.adb.org/features/fast-facts-asean-prc-and-india-great-transformation accessed 07/05/2015

Governance Environment', *China Policy Institute, University of Nottingham*, Briefing series-Issue 56

Dahiru, D., Abdul'Azeez, A. and Kabir, B. (2013) 'Study of Measure for Enhancing Public-Private Partnership towards Infrastructural Development in Nigeria', *Sustainable Building Conference,* Coventry University

Egbewole, Q. (2011) 'Examining Public-Private Partnership in Nigeria, Potentials and Challenges', *Faculty of Law, University of Ilorin, Ilorin, Nigeria*

Economic and Social Council, United Nation (2007) 'Economic Commission For Europe – Status Programme Implementation, Promoting Best Practice in Efficient Public-Private Partnerships', Committee on Economic Cooperation, Second session, Geneva. Item 3 (e) of provisional agenda. ECE/CECI/2007/9

Establishing and Reforming Public-Private Partnership Unites, Analysis of EPEC member: Public-Private Partnership and Lesson Learnt

Flyvbjerg, B., Skamris Holm, M. K., & Buhl, S. L. (2003), 'How common and how large are cost overruns in transport infrastructure projects?', *Transport reviews*, vol. 23, no. 1, pp. 71-88 (17pp)

Foundation for Public-Private Partnership in Nigeria http://www.fpppn.org/ accessed 05/12/2015

Guerts, Tom G. and Jaffe, Austin J. (1996) 'Risk and Real Estate Investment: An International Perspective', *Journal of Real Estate Research, Volume 11, Number 2*

Ikpefan, O. (2011) 'Challenges of Public-Private Partnership in Infrastructural Financing in Nigeria', *Department of Banking and Finance, Covenant University, Ogun state, Nigeria*

Infrastructure Concession Regulatory Commission, Project Book, Nigeria

Ke, Y. (2013) 'Changing Environment for Public-Private Partnership in China: Recommendations for International Investor', *Department of Building, University of Singapore.*

Ke, Y., Wang. S, Albert, P.C., Cheung, C.S, (2011) 'Understanding the Risks in China's PPP projects: Ranking of their Probability and Consequence', *Engineering, Construction and Architectural Management*, Vol. 18 Issue 5 pp. 481 - 496

Kraak, P. (2011) 'A12 Utrecht Veenendaal', Rijkswatersraat

Lagos State Public-Private Partnership Projects http://www.lagosstateppp.gov.ng/projects/default.asp accessed 12/12/2014

Liu, Z. and Yamamoto, H. (2009) 'Public-Private Partnership in China: Present condition, Trends and Future Challenges', *Interdisciplinary Information Services*, Vol 15 No 2, pp 223-230

Mgbewelu, P. (2012) 'Privatisation and Public-Private Partnerships in Nigeria', *PPPPR-FBN Capitals Limited Pp 67-72*

Oyedele, O. (2012) 'Public-Private Partnership and Infrastructure Provision in Nigeria'

PPP Conference Materials, China Centre for Public Private Partnership, http://www.ccppp.org/Index.html accessed 05/12/2014 accessed 07/05/2015

Public–Private Partnerships (PPP) in Urbanization workshop held in Beijing on 22–23 August 2013. http://www.adb.org/publications/public-private-partnerships-urbanization-peoples-republic-china-workshop-proceedings accessed 07/05/2015

Ho, P.H.K. (2006) 'Development of Public-Private Partnerships (PPPs) in China', *Surveyors Time, The Hong Kong Institute of Surveyors*, Vol 15, No. 10

Reed, R and Sims, S (2005) 'Property Development'*, 6th Edition, Published by Routledge*

Rijkswatersraat Annual Review (2002 to 2013)

Rijkswaterstraat, Basic Principles of Public-Private Partnership, Seminar for Supreme Audit Institutions, The Hague, Netherlands

Rui, M., De Jong, M. and Heuvelhof, E. (2007) 'Public-Private Partnerships for Expressways in China: An Agency Theory Approach', *Delft University of Technology*

The Federal Republic of Nigeria, National Policy on Public-Private Partnership and its supplementary notes

United Nations Economics Commission for Europe, Guide Book on Promoting Good Governance in Public-Private Partnerships, United Nation, New York and Geneva, 2008

Van Schoonhoven, J. (2008) 'PPP in Netherlands: The Role of Government', Rijkswaterstraat

Van Schoonhoven, J. (2007) 'PPP in Netherlands: Trend and Policy', Rijkswaterstraat

Van Schoonhoven, J. (2011) 'PPP in Netherlands: Upcoming Deadflow', Rijkswaterstraat

Wang D. and Dai D. (2010) 'Research on the Concessionaire Selection for Build-Operate-Transfer Projects', *Proceedings of International Conference on Management and Service Science (MASS), Wuhan (China)*, 24-26 August, 2010

Wang, S.Q., Tiong, R.L.K., Ting, S.K. (2000) 'Evaluation and Management of Political Risks in China's BOT Projects', *Journal of Construction Engineering and Management*, Vol 126, No 3, pp 242 – 250

World Bank and PPIAF, PPI Project Database (2015) Public-Private Infrastructure Advisory Facility, Private Participation in Infrastructure Research Group, Infrastructure Policy Unit http://ppi.worldbank.org/ accessed 26/05/2015

World Bank Implementation Status and Results Report (2015), Nigeria- Public/Private PartnershipProgram(P1153860)http://www.worldbank.org/projects/statusandresultsofoperationsunderexecution.html?lang=en accessed 01/06/2015

World Bank Implementation Status and Results Report (2015), China Renewable Energy Scale-UpProgramPhaseII(P127033)http://www.worldbank.org/projects/statusandresultsofoperationsunderexecution.html?lang=en accessed 25/05/2015

Yongjian, K. (2009) 'Public-Private Partnerships in China's Infrastructure Development: Lesson Learnt', *Department of Construction Management, Tsinghai University Beijing, China*

Zhang X. (2004a) 'Concessionaire Selection: Methods and Criteria', *Journal of Construction Engineering and Management,* Vol. 130, No.2, pp. 235-244

Zhang X. (2004b) 'Improving Concessionaire Selection Protocols in Public-Private Partnered Infrastructure Projects', *Journal of Construction Engineering and Management*, Vol. 130, No.5, pp. 670-679

Zhang X. (2005a) 'Criteria for Selecting the Private-Sector Partner in Public-Private Partnerships', *Journal of Construction Engineering and Management*, Vol. 131, No.6, pp. 631-644

APPENDIX

INTERVIEW SCHEDULE

S/N	Date of Interview	Name of Respondent	Location of Interview	Questions Raised	Remark on Answers
1. ORAL INTERVIEW **A. ONE ON ONE INTERVIEW**					
1.	01/06/2015	Marcelle Van Valkenburg (GPO) Senior Juridisch adviseur	Rijkswaterstaat GPO Inkoopcentrum GWW (ICG) Griffioenlaan 2 3526 LA Utrecht Postbus 24.057 3502 MB Utrecht	1. What effect do government stability have on PPP in Netherlands and other countries? 2. What sector are the main infrastructure sector in which PPP is used in Netherlands and why? 3. What are the effect of tender procedure have on the private developer in PPP in the Netherlands? 4. How can the government create equality during tendering to allow SME's to also bid for PPP projects? 5. What support do private developer get from the government in order to help in sources for fund? 6. What is the reason for growth in PPP in Netherlands compare to other Europeans country despite the reduction in new infrastructural project in Europe?	Relevant to the research
2.	08/06/2015	Marijke Nagelkerke (GPO) Senior Juridisch adviseur	Rijkswaterstaat GPO Inkoopcentrum GWW (ICG) Griffioenlaan 2 3526 LA Utrecht Postbus 24.057 3502 MB Utrecht	1. What effect do government stability have on PPP in Netherlands and other countries? 2. What sector are the main infrastructure sector in which PPP is used in Netherlands and why? 3. What are the effect of tender procedure have on the private developer in PPP in the Netherlands?	Relevant to the research

				4. How can the government create equality during tendering to allow SME's to also bid for PPP projects? 5. What support do private developer get from the government in order to help in sources for fund? 6. What is the reason for growth in PPP in Netherlands compare to other Europeans country despite the reduction in new infrastructural project in Europe?	
3.	12/06/2015	Prof. Wim Leendertse (GPO) Faculty of Spatial Planning and Project Manager, Rijkswaterstaat, Netherlands	Department of Environmental and Infrastructure Planning, Faculty of Spatial Planning, University of Groningen	1. How can the Interest of both public sector and private sector be aligned in PPP? 2. Is there any special reason why private developer are interested in PPP other than earning income despite the high risk? 3. How is the duration of partnership determined in PPP? 4. What advantage to DBFM have over other model of PPP? 5. What are the effects of policy modification in DBFM have on the government and private investor? 6. What effect will the DBFM and DBfM have on government and private investor?	Relevant to the research
B. SKYPE INTERVIEW					
1.	17/04/2015	Omoladun Omole, Private Investor First Bank Nigeria, PLC		1. What are the effects of government condition have on private investor in PPP practice? 2. What are the procedures of making decision on investing in PPP? 3. How often to private developers approach the bank for financing?	Relevant to the research

				4. Which type of infrastructure projects do private developers mostly seek finance for and why? 5. How do the bank handle issues of default by the government?	
2.	07/05/2015	Engr. Folaranmi Esan Private Developer, Nigeria		1. What are the effects of government condition have on private investor in PPP practice? 2. What are major challenges in investing in PPP in Nigeria? 3. What effect do policy modification have on PPP? 4. What are suggested ways PPP can be improved in Nigeria? 5. What effect to do foreign investment from international company have indigenous companies?	Relevant to the research
2. VIA EMAIL					
1.	28/05/2015 to 07/07/2015	Xiaofan Luan	x_f_luan@hotmail.com	Questions were asked on the World Bank PPAIF Data on China PPP which sent as an attached file for examination. 1. Can this pattern be associated to politic in PPP (Political change/instability) in China during some certain period? 2. Was there any policy implemented by government during these periods that can be associated to the trend? 3. What other exogenous factors can be responsible for this trend in PPP? 4. What caused the shift in investment from transport to energy and was this shift intentional by the government or was it due to a particular factor mentioned in (1) and (2)	Relevant to the research

				5. What are the strategies used by the government to check (increase) investment especially in the transport sector? 6. With consideration to these trends, In your own opinion what do you feel the government can do to encourage investors in PPP?	
2.	15/06/2015 to 30/06/2015	Xiongbin Lin Ph.D Candidate School of Urban Planning and Design Peking University	linxiongbin@sz.pku.edu.cn	Questions were asked on the World Bank PPAIF Data on China PPP which sent as an attached file for examination. 1. Can this pattern be associated to politic in PPP (Political change/instability) in China during some certain period? 2. Was there any policy implemented by government during these periods that can be associated to the trend? 3. What other exogenous factors can be responsible for this trend in PPP? 4. What caused the shift in investment from transport to energy and was this shift intentional by the government or was it due to a particular factor mentioned in (1) and (2) 5. What are the strategies used by the government to check (increase) investment especially in the transport sector? 6. With consideration to these trends, in your own opinion what do you feel the government can do to encourage investors in PPP?	Relevant to the research