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**Developing Bankable Transport
Infrastructure Projects: Case
Studies, Experiences and Learning
Materials for LLDCs and Transit
Countries**

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Creating Business Friendly Environment

Creating Enabling Environments

Introduction:

- Efficient transport connectivity and resilient transport infrastructure are important means through which LLDCs can build up their productive capacity, attract investment including foreign direct investment, compete in international markets, and support social development and climate action.
- However, the lack of an enabling environment for investment in infrastructure from a policy, legal, and regulatory framework perspective is noted as one of the significant challenges in implementing efficient transport projects.

Policies for Enabling Environments

Overview:

- Good transport policies are transparent and consultative. Nearly all transport policies, plans, and systems impinge upon a wide range of users and community groups therefore consultation with key stakeholders and the general public is not only desirable but essential to gaining all the information and perspectives needed for good policymaking.
- Financers want to know about the policies of a country because policies affect decisions concerning the allocation of resources, the management and regulation of existing transportation activities, and the structure of the transport system (for example is there a deliberate policy to incentivize/involve the private sector in transport development).

Policies for Enabling Environments

To promote investment in transport infrastructure, governments should consider policies which do the following:

- Define public and private sector roles in transport delivery;
- Improve the performance of state-owned enterprises;
- Encourage private sector participation;
- Preserve the value of public assets;
- Set standardized transport prices;
- Foster competition and strengthen regulation;
- Make transport more inclusive;
- Promote transport safety;
- Develop a sustainable transport system that is friendly to the environment;

Policies for Enabling Environments

- Fight corruption;
- Improve governance of the transport sector, including:
 - Transport planning,
 - Transport management and operation,
 - Transport data and monitoring, and
 - Transport funding;
- Improve regional and continental connectivity, which is particularly important for LLDCs.

Policies for Enabling Environments

Tenets of Good Transport Policies:

- Transparency
- Non-Discrimination
- Policy Harmony
- A Consistent Policy Orientation
- Focus on Financial Sustainability
- Focus on Environmental Sustainability
- Encourage Private Sector Participation

Legal & Regulatory Framework for Enabling Environments

An enabling legal and regulatory environment is one which provides but is not limited to:

- Promotion of peace and stability;
- The rule of law;
- Good governance with accountability and transparency;
- Property protection;
- The absence of corruption;
- Non-discrimination;
- Availability of justice or recourse;
- Fair arbitration;
- Efficient policing; and
- Enforceable contracts.

Legal & Regulatory Framework for Enabling Environments

A good legal and regulatory framework should include the following aspects:

- An independent and fair judiciary
- Legislation against informal payments.
- Enforceability of contracts.
- Clear laws on land ownership / property rights.
- Clear laws / regulations on resettlement and compensation.
- Effective policing and law enforcement capacity.
- Trade facilitation regulations.
- Economic regulation that deters anti-competitive practices.
- Autonomous regulatory agencies with independent funding and professional staff.

Legal & Regulatory Framework for Enabling Environments

- Harmonisation of policies, standards and guidelines within the country and internationally (e.g. harmonisation of policies / regulations at border crossings between countries).
- Facilitate private sector participation.
- Speed up project development.
- Increase transparency in infrastructure investments.
- Comply with international conventions.

Legal & Regulatory Framework for Enabling Environments

Developing String Institutions:

- Institutional strength in transport development and implementation is vital to attract financiers. Governance capacity and human capital within institutions, organisational experience and co-ordination among ministries is critically examined by financiers.
- Several institutions are involved in the transport sector development as follows: ministries of transport/infrastructure development; PPP units; financial institutions; procurement regulatory authorities; ministries of finance and economic development; project sponsors/developers; community groups; and many others.
- The lack of technical skills, transport sector management skills, and good governance can also be a significant challenge in institutions within the transport sector particularly in developing countries.

Legal & Regulatory Framework for Enabling Environments

- Financers want to know that there is human resource capacity and skills within ministries / departments in order to build / implement a project; and due to the multi-sectoral nature of infrastructure development, they also want to see a collaborative effort to successfully implement a project. In addition, financers are looking for the availability and implementation of transparent procurement rules and procedures, and procurement authorities or departments with a clean track record.
- To improve institutional performance, LLDCs should improve the transfer of knowledge and experience among themselves on institutional, economic and social aspects and build capacity.

Example of Business Friendly Environment: Botswana

- **Overview:** Botswana has received international recognition in being politically stable, governed through the rule of law and participatory democracy, accountable, and one of the least corrupt countries in Africa according to Transparency International (2019). The country continues to be awarded high ratings by Transparency International through its Corruption Perception Index, Ibrahim Index of African Governance, and the World Justice Project. These attributes are critical for the promotion of economic growth and quality of life and provide a suitable basis for investment.

Investors and lenders are also attracted to the country because of the following investor friendly policies / regulations / laws:

- Botswana is among the most stable and transparent countries in Africa.
- Foreign exchange controls were abolished in 1999 which guarantees free repatriation of profits, dividends and capital.

Example of Business Friendly Environment: Botswana

- Access to Southern African Development Community (SADC) market of over 292 million people, Europe and the USA through various instruments:
 - The country is a member of SADC and the organisation's headquarters is located in Gaborone, Botswana.
 - The country is a member of the Southern African Customs Union (SACU), which allows movement of goods amongst South Africa, Swaziland, Lesotho, Namibia and Botswana free of customs duty.
 - The country has duty free and quota-free access to Europe.
 - The African Growth Opportunities Act enables Botswana to export to the USA on a liberal basis.

Example of Business Friendly Environment: Botswana

- Investors have access to double taxation avoidance agreements with South Africa, United Kingdom, Sweden, France, Mauritius, Namibia, Zimbabwe, and Russia.
- Protection of foreign investment through the Constitution which prohibits nationalisation of private companies.
- Botswana is also a Signatory to the World Bank's Multilateral Investment Guarantee Agency (MIGA) and to bilateral investment treaty in 1997 with the Overseas Private Investment Corporation (OPIC), which provides guarantees for US private investors.