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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: Kazakhstan

Overview:

- Since 1919 made significant progress toward creating a market economy and has achieved considerable results in its efforts to attract foreign investment.
- January 1, 2019, the stock of foreign direct investment in Kazakhstan totalled USD 160.4 billion (U.S. Department of State, 2019).
- In just 28 years (1991-2010), the country attracted over \$320 billion of foreign direct investment (FDI) (Sartbayev, 2020).
- July 2018- Government of Kazakhstan officially opened the Astana International Financial Center (AIFC). Offers tax holidays, flexible labour rules, Common Law-based legal system, separate court and arbitration center, and flexibility to carry out transactions in any currency.

Example of Business Friendly Environment: Kazakhstan

Why Choose Kazakhstan:

1. Twelve Special Economic Zones have been established offering tax incentives.
2. KAZAKH INVEST supports investment projects as a one-stop shop.
3. The Astana International Financial Centre (AIFC) has introduced English common law principles to the Central Asian region.
4. The Government continuously works to improve the investment climate. This primarily includes judicial reforms, digitalization, optimization of public services and the permit system, among other initiatives.
5. Modernisation of the current legislation. For instance, the Government has recently approved a draft amendment to the AIFC Constitutional Law, which enables AIFC bodies to adopt acts regulating labour relations and procurement procedures.

Example of Business Friendly Environment: Moldova

Overview

- FDI inflows to Moldova amounted to USD 308 million in 2018
- FDI inflows to Moldova amounted to USD 589 million in 2019
- Total stock of FDI was estimated at USD 4,8 billion in 2019

Example of Business Friendly Environment: Moldova

Why Choose Moldova:

- Moldova has signed comprehensive double taxation agreements with 50 countries, of which 48 are in force. The Double Tax Treaties may provide for more favourable tax regimes than those provided by the local legislation.
- Investment climate - Foreign and domestic investors are treated equally under the Moldovan legislation and the legal framework is the same for foreign investments.
- According to the Moldovan Constitution, the state must ensure the inviolability of foreign investments. The Government is keen to establish coordinated policies and well-balanced legislation in order to stimulate both domestic and foreign investments.
- The legal framework for the protection of foreign investments consists of the Law on investments in entrepreneurial activity and international bilateral treaties for the facilitation and mutual protection of investments. These ensure that investor interests are protected.

Example of Business Friendly Environment: Moldova

Why Choose Moldova:

- The law prohibits discrimination against investments based on citizenship, domicile, residence, place of registration, place of activity, state of origin or any other grounds. The law provides for equitable and level-field conditions for all investors. It rules out discriminatory measures hindering the management, operation, maintenance, utilization, acquisition, extension or disposal of investment.
- Investment promotions: The country has many promotion opportunities for foreign investors. The European Union in connection with the European Bank for Reconstruction and Development (EBRD) is promoting such investment opportunities through Moldovan banks.
- The country has seven Free Economic Zones where local and foreign investors may carry out entrepreneurial activities under a preferential regime, i.e. benefiting from special guarantees and facilities (tax, customs, regulatory, immigration, etc.).