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PPP in ports- case study
Pipavav Port India

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Brief Overview

Brief Overview – Indian Ports-1

- *Indian coast line of 7500 kms. Indian ports handle about 95 % of the country's trade by volume and about 70 % by value.*
- *Significant growth in the last decade owing to growth in foreign trade on account of India's rapid economic growth and business with the rest of the world.*
- *Indian ports are divided into two categories – 12 major ports and about 200 non major (also called minor) ports.*

Brief Overview – Indian Ports-2

- *Major versus non major ports is not on account of the port capacity or traffic but based on the controlling authority. While major ports are administered by the Government of India by the Department of Shipping, the non major ports are governed by the respective provincial/state governments where the ports concerned are located.*
- *Major ports are large ports with dedicated cargo terminals (public and some private) and endowed with good connectivity. Many of the non major ports are relatively new and many of them are private ports or captive jetties.*

Port traffic

- *Total Cargo traffic handled by major and non major ports of India in the fiscal year 2008 (April 2007 to March 2008) was 720 million ton of which 519 million tones (72 %) passed through major ports and the rest (28 %) went through non major ports.*
- *Over the last decade, cargo traffic at major ports has grown at compounded annual growth rate of 8 %, non major ports have grown at 20 % . As a result the share of non major ports in all Indian traffic has increased from 13 % in 1999 to 28 % in 2008*

PPP in Indian ports and case study port

- *Private sector participation has been on an increased trend last two decades and more particularly in the last decade. This has been possible on account of proactive policies of the Government of India and more particularly in the maritime states such as Gujarat, Andhra Pradesh and Orissa..*
- *The Port of Pipavav, the case study port and the first private port of India is located on the west coast of India in Gujarat, a state known for its entrepreneurship, dynamism and business friendly environment and government.*

Ports in Gujarat

- *Of India's coast line of 7500 kms, Gujarat has the longest coast line of 1600 kms.*
- *Within Gujarat there is one major port (federal port of Kandla) and 40 non major ports under the control of the Gujarat Maritime Board, a statutory authority established by the Government of Gujarat.*
- *Traffic at non major ports of Gujarat has grown at 13.5 % per annum over the last 5 years and Gujarat has been able to maintain a market share of 20 % on all India basis and about 70 % of the traffic of non major ports.*

Problem and issues for addressing

Problem 1- Low economic growth - Ports as levers to growth ?

- *In 1980's it was growing at 5.2 % per annum (below the national average of 5.47 %)*
- *In its quest to attract industries to set base in Gujarat, it realized its competitive advantage of long coast line and focused on port led industrial development policy.*
- *In 1982 the state passed its own law to create an autonomous Gujarat Maritime Board While major ports (federal) had the financial support from the relatively cash rich central government, non major ports had to look to the modestly resourceful state governments for support.*

Problem 2-Budget constraint and PPP as an option of creating ports

- *Due to budget constraints and the state's business friendly culture, GMB from its inception engaged in a dialogue with the local businessmen.*
- *The partnership with the private sector led to different degrees of private sector participation ranging from privatization of services (such as pilotage), captive jetties set by industrial units and privately managed jetties within GMB terminals. .*

Problem 3- Potential of Gujarat Ports beyond Gujarat

- *Noticing that most of the investments converged around port location, the Government of Gujarat initiated dialogue with the industries. Industries wanted to import industrial raw materials and wanted access to the international export markets through the competitive sea routes. Also the industries saw potential in using Gujarat ports as the gateway for the landlocked but prosperous states in the northern and central India including Punjab, Delhi, Haryana, Rajasthan, Madhya Pradesh and the like . Economic development in those states had a positive bearing on the potential of Gujarat ports.*

Problem 4- Industries need large new ports

- *With the advent of liberal economic reforms in 90's by the Government of India and the consequent dismantling of industrial licensing policy and increased freedom the business climate of Gujarat attracted many large industries with huge investment plans in the state*
- *The user industries favored the creation of new green field world class port facilities and service levels free from restrictive labour practices. ports to stay competitive in global markets and also in domestic markets (as opposed to road and rail transport) as In contrast, most of the ports of Gujarat were fair weather ports and lacked direct berthing facility. Draft was hardly eight meters and there were inherent limitations in expanding the existing ports to cater to the demands of modern trade. Container handling facilities were non existent.*
- *It was clear that large new ports had to be built with private sector investments and efficiencies to international standards to deliver world class service levels The existing policy of private captive jetties was inadequate.*

Project Objectives

Project Objectives- Pipavav

First of the series of Greenfield private ports by the GMB

- *to cater to bulk and general cargo as a potential location for a world class port with the following objectives:*
- *to support the new port based industrial investments flowing into Gujarat*
- *to cater to the increasing demands of the northern and central India in terms of raw m*
- *to support the industries in the state such as huge cement plants coming up in the Saurashtra region in terms of coal and cement movements and also the oil and industries coming up in Gujarat on account of proximity of Gujarat to the oil reserves and also to the lucrative Middle East*
- *to leverage on efficiency of private sector management and capital and deliver world class service*
- *to promote regional economic development in the less prosperous Saurashtra by port investments*

PPP – why PPP

Why PPP at Pipavav

- *The state government was encouraged by the satisfactory experience of the initial PPP experience in the port sector in Gujarat in terms of rapid increase of private investments in captive jetties and the surge in traffic volume at these captive jetties.*
- *Also it was felt difficult to accommodate the emerging demands for world class port facilities arising in the context of rapid interest shown by investors in investing in Gujarat in the context of economic liberalization in early 1990's by public sector agencies While GMB had experience in operating port facilities, GMB lacked financial and managerial bandwidth for the scale envisaged.*

Mode of PPP

PPP mode at Pipavav-1

- *The key objectives of the new PPP program in port sector were to encourage formation of new large ports with significant degree of private sector management and capital. Given the nascent stage of private port development in India , GMB saw its role as incubator of private ports.*
- *GMB favored joint venture of PPP with the private sector, infusing about equity (26 % with ability to influence major corporate decisions) and facilitate the process of obtaining bureaucratic clearances. . Once the joint venture started operates and makes profits GMB would disinvest and use the proceeds to invest in other ports.*

PPP mode at Pipavav-2

- *While the arrangement of PPP was initially conceived as joint venture, over period of time the process was refined to bestow a fixed life concession on the concessionaire upon divestment. In effect the PPP arrangement was to play an incubator role by GMB as a joint venture partner till the project passes through initial times till commercial operations and then transform the PPP into a regular BOOT concession. Pursuant to the process, a Concession Agreement was entered in September, 1998 with the GMB and the Government of Gujarat under which GPPL has exclusive right to develop and operate the Port and related facilities for 30 years*

Project Deliverables

Project Deliverables at Pipavav-1

Phase 1 (Sep 2005)

- *The key activities in this phase include the following:*
- *Widening and strengthening of existing berth 2 from 26 m to 33 m, to provide a continuous 393 m length (including berth 3 of 187 m) for RMQC operations;*
- *Dredging the channel of 4.5 km from 250 m wide to 300 m wide, to a minimum draft of 11.5 m;*
- *Acquisition and installation of three 2nd hand RMQCs; and*
- *Development of container and rail yard*
- *Phase 1 is expected to be completed to allow GPPL to handle 390,000 TEUs p.a. of container cargo.*

Project Deliverables at Pipavav-2

Phase 2 (Sep 2006)

- *The key activities in this phase include the following:*
- *Modifying/demolishing the existing LPG berth as required so as to have a new container berth 350m long and 57.5m wide to the northeast of berth 3;*
- *Construction of a new coal berth 250m long and 33m wide beyond the new container berth;*
- *Dredging of channel and alongside berth to -14.5 m.*
- *Acquisition and installation of 3 new post-panamax RMQCs, 18 RTGCs and other support equipments;*
- *Provision of desalination plant and power distribution system; and*
- *Expansion of the container and rail yard.*
- *Phase 2 is expected to be completed to allow GPPL to handle 780,000 TEUs p.a. of container cargo.*

Project Deliverables at Pipavav-3

Phase 3 (2009)

- *Widening of berths 2 and 3 handling containers (total of 394 m) to a width of 59 m*
- *Acquisition and installation of 2 new post-panamax RMQCs along with 6 RTGCs and other support equipments; and*
- *Additional utilities provision (water and power) and miscellaneous works*
- *Phase 3 is expected to be completed to allow GPPL to handle 1,040,000 TEUs p.a. of container cargo.*

Framework- Institution, Law and Regulation

Institutional, Legal & Regulatory Framework-1

- *Pipavav being a non major port is governed by the Indian Ports Act, 1908 which defines the port limits, rules for safety of shipping and conservation of ports, movement of vessels within the ports and public health .*
- *Under the Indian Constitution, non major ports are in the Concurrent List (meaning that they can be under the concurrent control of federal and the respective estate government*
- *Traditionally non major ports are governed by the state government concerned. .*

Institutional, Legal & Regulatory Framework-2

- *Gujarat Maritime Board Act, 1981 provides for the constitution of a maritime board for non major ports in Gujarat and vests their administration, management and control in such board.*
- *Port Policy , 1995 of the Government of Gujarat is an integrated approach of the Government of Gujarat covering port development, industrial and infrastructure development and power generation. Under the policy, GMB is the co-coordinating agency for procuring infrastructure and rail/road/power facilities and clearances from the federal or state government.*

Institutional, Legal & Regulatory Framework-3

- *Port Policy 1995 provides that ports under GMB can be subject to different models of PPP including equipment and jetties and outlines possible port locations*
- *The Build, Own, Operate and Transfer (BOOT) policy, 1997 of the Government of Gujarat serves as a framework for involvement of the private sector in the construction and operation of ports as announced in the Port Policy.*

Institutional, Legal & Regulatory Framework-4

- *The BOOT Policy provides for grant of licenses/concessions to private developers for a period of 30 years after which the assets revert to the Government of Gujarat. Ownership of land and waterfront shall always vest with the Government of Gujarat.*
- *GMB would be the licensor and GPPL would be the concessionaire/licensee.*
- *While the BOOT policy spells out the mechanics, the Gujarat Infrastructure development Act, 12999 provides a statutory framework for participations by persons other than state government and government agencies in financing, construction, operation and maintenance of infrastructure projects*

Procurement Process

Procurement Process-1

- *Government of Gujarat The key objectives of the new PPP program in port sector GMB encouraged formation of new large ports and saw its role as incubator of private ports.*
- *GMB favored joint venture of PPP with the private sector, infused equity (26 % with ability to to influence major corporate decisions) and facilitated the process of obtaining bureaucratic clearances. .*
- *Once the joint venture started operations and made profits GMB would disinvest and use the proceeds to invest in other ports.*

Procurement Process-2

- *The port of Pipavav was initiated as a joint venture in 1992 with Sea King Engineers Limited (which late became SKIL Infrastructure Limited to build, construct, operate and maintain the port of Pipavav in the district of Amreli in Gujarat.*
- *In accordance with its policy, GMB divested its stake in favour of SKIL Infrastructure Limited in June 1998 and awarded a 30 year BOOT concession to GPPL in Sep 2008*
- *As the PPP framework (BOOT policy) evolved only in 1997 but the port project was awarded in joint venture in 1992 to Sea King Engineers Limited by GMB .*

Contractual Framework

Contractual framework of PPP-1

- *Concession Agreement is the key project contract.*
- *GPPL shall create all contracted assets.*
- *GPPL entitled to fix and collect fees for all services rendered or performed at the Port and Freedom to structure the tariff and the currency of denomination of its tariff.*
- *GPPL has been granted a concession on the royalty payable to GMB till such time the approved capital cost of the project is set off against the cumulative concession in royalty granted or till the end of the term, whichever is earlier.*
- *GPPL is entitled to sub lease the Leased Premises in accordance with the terms of this Agreement under intimation to GMB.*
- *Disputes between the parties to the extent practicable shall be resolved by discussion or arbitration under the statutory provisions of Arbitration and Conciliation Act, 1996*

Contractual framework of PPP-2

- *The Licensor (GMB) shall apply to the Customs Department for declaration of the Port as a Landing and Shipping Place, & obtain such declaration from the Customs Department.*
- *The GMB/Government of Gujarat shall acquire land for subsequent phases of the project, as identified in the Approved Layout Plan (ALP) and as subsequently detailed in the Approved DPR for that phase within a reasonable period of time, of the demand for the same being made by the Licensee, and the Licensor being satisfied of such demand for the requirement of the same, and shall transfer leasehold interest and vacant possession of such land at the time and the manner required by the Licensee;*
- *In the event the Licensor grants any additional benefits to other licensees/developers in the port sector, the Licensor shall consider in good faith to extend the same to the Licensee on a case to case basis based on site specific considerations and the Confirming Party shall use its best endeavors for the same.*

Contractual framework of PPP-3

- *Protection from competition arising from arbitrary governmental action:*
- *GMB shall, for the period up to 2013, offer a right of first refusal to GPPL for the development of new captive jetties within 150 km. of the Port.*
- *GMB shall not develop any new common user port site other than sites identified in the Ports Policy, 1995 of the Government of Gujarat, till the year 2008. In the event that the sites identified in the Ports Policy, 1995, are found to be unviable, then GMB shall be within its rights to develop other sites that are located not less than 150 km. away from the Port, subject however to the maximum number of sites identified in the Ports Policy, 1995.*

Contractual framework of PPP-4

- *Protection from competition arising from arbitrary governmental action:*
- *The Government of Gujarat will extend any additional concession extended in future to any other entrants in the port sector in good faith.*
- *Transfer of assets at the end of the concession period will be valued based on depreciated replacement value.*
- *GPPL the Licensee shall pay GMB, the Licensor a monthly Waterfront Royalty per ton of cargo handled at the Leased Premises. Such Waterfront Royalty payment shall be based on the actual cargo throughputs achieved, which shall be determined on the basis of customs and other statutory declarations. The Licensee shall submit for verification to the Licensor every month, the cargo-wise throughput achieved in that month.*

Financing arrangements

Financing arrangements

- *During 2009, GPPL would raise INR 19.64 billion towards the project which would be financed by 15 year long term debt to the extent of INR 12 billion and equity and sponsor funds for the rest. Infrastructure Development Finance Company Limited (IDFC) , India being the lead arranger of debt. The funds would be used to expand the project to the extent of INR 14 billion and also retire restructured debt of the past.*

Sponsor Supports

Sponsor Support arrangements-1

- *The key sponsors APMM Terminals have supported the investment of GPPL in rail connectivity namely in Pipavav Railway Corporation Limited (PRCL), the first “Public - Private Railway project” in India*
- *Indian Railways and GPPL are the main promoters of the Company. GPPL has 38% equity stake in the project.*
- *The project conceived to connect Pipavav Port to its hinterland through broad gauge rail connectivity between Pipavav and Surendranagar covering a distance of 287 km. Out of which 269 km. was converted from meter gauge to broad gauge and new line of 18 km. was laid.*
- *The principal traffic for the rail line will be to and from the port in addition to traffic for the Saurashtra Region.*

Sponsor Support arrangements-2

- *PRCL has entered in to an Agreement with the Ministry of Railways (MoR) for operating container trains on the Indian Railway network. PRCL has already paid to MoR, a sum of INR 100 million as license fees for container operations. Currently, the trains are being run by CONCOR. PRCL is planning to commence operations from Pipavav Port in the near future*
- *The sponsors and other existing shareholders have also pumped in additional equity by way of “rights issue” to the extent of INR 4.2 billion. In addition APMM Terminals has provided sponsor loans to the extent of INR 314 million.*

Regulation of performance and tariff

- *Private ports had to compete with federal major port locations which had established rail and road connectivity and also enjoyed demonstrated traffic history GMB recognized the lack of level playing field for the aspiring private investors and conceived of an investor friendly policy which included the tariff freedom. In terms of regulating performance, GMB has put in maintenance standards. In addition GMB has the right to measure performance at the terminals and publish the same. Regulation is by yardstick competition.*

Project – Realized Benefits

Realized Benefits of PPP

- *The volume of container traffic at Pipavav has quadrupled over the last 3 years from about 62000 TEU to over 240000 TEU in 2008. The draft alongside and at the channel are proposed to be deepened to 14.5 meters enabling larger container vessels to call at the port. With the traffic at Mumbai region of India overflowing, the port of Pipavav has begun to serve the interests of burgeoning trade .*

Issues in Implementation

Issues in implementation-1

- *In 1998, The BOOT concession of GMB offered freedom to the lead promoters to develop a DPR of their choice.*
- *While the initial promoter had development credentials, he lacked experience and expertise in port business. The DPR and the subsequent investments in the port focused on bulk and LNG cargo.*
- *But the facilities were not optimally conceived to serve the trade. Also the commercial potential of the cargo was not commensurate resulting in lesser traffic volume and difficulty in raising debt leading to serious problems in servicing debt. The business plan had to be changed to focus on the emerging container business.*

Issues in implementation-2

- *New international port operators were brought in 1998 in the consortium but they did not see merit in proceeding as significant investments had to be made in connectivity. All these led to delays in project implementation*
- *The debt had to be restructured. APM Terminals entered the consortium in 2001 and in 2006 bought over the old promoters and became the majority investors in 2006 with the support of financial investors (IDFC PE) who brought in further equity.*
- *A new concession agreement was signed with the GMB and a new DPR (including development of full fledged 1 million TEU terminal) was prepared and financial closure was achieved with the help of IDFC group. .*
- *Due to the legacy issues and delays in obtaining approvals and failures in project management and inadequate handling of environmental issues the project has been delayed. A new financing plan has been evolved to address these issues with equitable sharing of risks by sponsors. Meanwhile traffic volume of containers has gone up significantly.*

Lessons Learned

Emerging Lessons for the government

- *In selecting private investors in ports, a balance has to be achieved between development and operational credentials. While the early key promoter lacked operational credentials, the later key promoter was more a terminal operator who also took up project management if the concession entails it. Failure to control timelines by GPPL enabled nearby terminals as Mundhra in Gujarat attract a large part of the traffic overflow from Mumbai region as Mundhra could commission the port with better infrastructure earlier. As a result the traffic ramp up at Pipavav has not been as fast as expected.*
- *In specifying project scope, a balance has to be achieved between being too prescriptive and being too flexible. Open ended specification might encourage bidders whose business objective is winning a bid rather than port business..*
- *It is important if bureaucrats and decision makers in government appreciate that concession agreements are in fact commercial and not sovereign .*

Emerging Lessons for the financiers

- *Depth of the capital market,*
- *Maturity and sophistication of the financial investors and lenders is important in arriving at financing packages which are customized, quick and equitable in risk- return allocation between stakeholders .*

Emerging Lessons for the operators/investors

- *While it is prudent to focus on core competence, it is important to form strong equity/co-investor relationship with project developers and engineering contractors while bidding for mega port projects as slippages can be costly not in terms of cost and timelines but also in terms of lost opportunities and lost goodwill as rival operators could home in fast to fill the void.*
- *BOOT should be viewed through a life cycle approach rather than through the narrow perspective of terminal operations. are in fact commercial and not sovereign .*

THANK YOU