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Public private partnerships in Vietnam

Proposed changes and key issues in the draft PPP Decree
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Pham Ba Linh

Managing Partner

LLB (Hanoi) LLM (Nottingham) FSI Arb

Public private partnerships

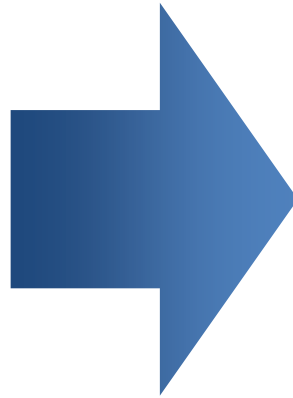
- Decree 15/2015/ND-CP is one of key legal authorities on public-private partnerships in Vietnam infrastructure
- However, various bankability issues remain unaddressed
- a draft PPP Decree was released on 1 August 2017 by the Government
- this draft legislation once finalised and promulgated will be a new PPP Decree to replace Decree 15/2015/ND-CP

Concession agreement

- Legally mandated forms of contract
 - ✓ Build - Operate - Transfer (BOT)
 - ✓ Build - Transfer - Operate (BTO)
 - ✓ Build - Transfer (BT)
 - ✓ Build - Own - Operate (BOO)
 - ✓ Build - Transfer - Lease (BTL)
 - ✓ Build - Lease - Transfer (BLT)
 - ✓ Operate - Manage (O&M)
- NEW: the draft PPP Decree expressly requires relevant authorised State agencies (ASA) in relevant industries to work with MPI to prepare a model form of concession agreement

Concession agreement

ASA and sponsors must publish a project summary upon execution of a concession agreement by the parties (NEW!!!)



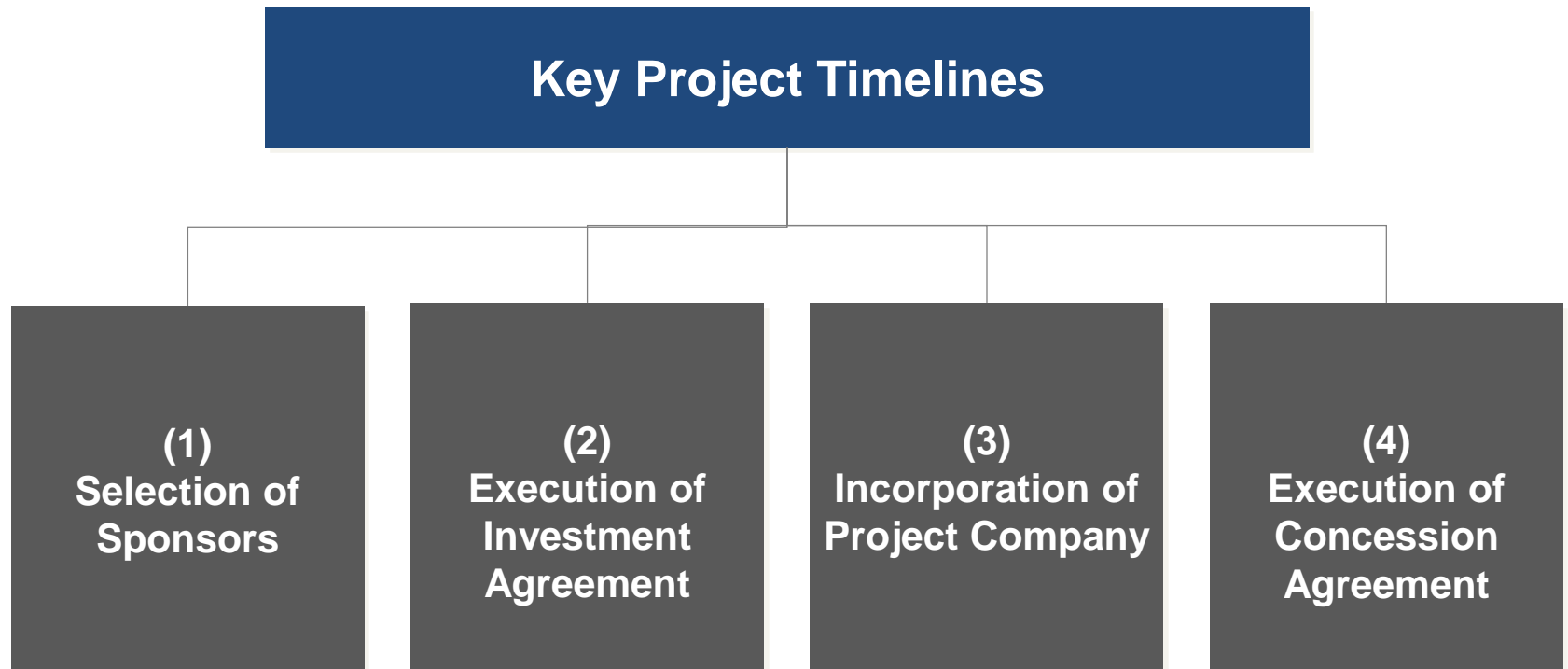
Aim to promote transparency and efficiency on delivery of large-scale infrastructure projects in Vietnam

- Project summary includes (amongst others):
 - ✓ project name, date of execution, particulars of ASA and sponsors, total project investment, Government participation, sponsors' debt and equity finance
 - ✓ project location, land acquisition, type of concession, project term, pricing (?), concession conditions relevant to project revenue

Selection of sponsor

- scope of investment sectors and classification of projects are largely the same
- selection of sponsors for a Vietnam PPP may take one of the following forms
 - ✓ open tender
 - ✓ direct appointment
 - ✓ selection of sponsors in exceptional circumstances in accordance with applicable PPP procurement rules (NEW!!! but lack of substantive guidance on applicable pre-conditions)

Statutory procedural steps



Viability gap funding

- risk appetite and funding availability
- minimum equity of sponsors
 - ✓ 15% of total investment capital for projects of national significance and projects “Group A”
 - ✓ 20% of total investment capital for projects “Group B” and “Group C”
- Government participation (VGF) includes
 - ✓ Government contributions (Capex)
 - ✓ availability payments for BTL and BLT models
 - ✓ land areas, public assets and structures for BT model
 - ✓ Government funds to be used for land clearance, relocation and compensation, construction of ancillary facilities

Other bankability issues

- complex and lengthy master planning processes in multiple industries
- lack of a robust and consistent risk allocation framework to provide greater certainty on certain key risks that should be retained by the Government and the private sector
- limited scope of available sovereign guarantees , including inadequate Government support on foreign currency availability and conversion
- statutory restriction on mortgage of land use rights in favour of international lenders, complex land acquisition process and compensation
- payment ability and creditworthiness of Vietnam project counterparties

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Lexcomm Vietnam LLC is a premier full-service commercial law firm licensed to practice in Vietnam

HO CHI MINH CITY OFFICE

Unit 2106-07, Level 21, Saigon Trade Center
37 Ton Duc Thang Street, District 1, Ho Chi Minh City, Vietnam
Tel: +84 28 3936 5018 - Fax: +84 28 3936 5019

HANOI OFFICE

Unit 1702, Level 17, TNR Tower
115 Tran Hung Dao Street, Hoan Kiem District, Hanoi, Vietnam
Tel: +84 24 3971 0888 - Fax: +84 24 3971 0999

info@lexcommvn.com
www.lexcommvn.com