



Concept of Public-Private Partnership Development in Ukraine for 2012-2017

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I. DESCRIPTION OF THE PROBLEMS TO BE ADDRESSED BY THE CONCEPT

The progress of the modern economy creates the need to establish a permissible degree of state intervention in the functioning of markets to ensure their competitiveness. In the 21st century, the entrepreneurial sector is acquiring the status of an equal partner of the government in resolving strategic tasks of the country's socio-economic development.

The anti-crisis action plans and plans of post-crisis economic revival implemented in many countries envisage efforts to expand cooperation between the state represented by public executive authorities, the business sector, and civil society, which is only possible on the basis of forming partnership relations known as state-private partnerships and/or public and private partnerships (PPP)¹ intended to become an effective mechanism of infrastructure development and public services. The significant spread of the PPP in the world is connected not only with the desire of the government to attract financial resources of the private sector to address socially important tasks of social and economic development, but also with the need to use complex organizing, management, and production technologies.

The importance of PPP as a mechanism stimulating the social and economic development of a country is attested by numerous conceptual, programmatic, regulatory, and methodological documents at both the national and international levels, specifically: G20² summit declarations aimed at developing anti-crisis response actions; special laws and other legislative acts regarding PPP^{3,4,5,6,7,8} (Bosnia and Herzegovina, Brazil, Greece, Egypt, Zambia, Kyrgyzstan, Latvia, Mexico, Germany, Poland, the Republic of Korea, the Russian Federation, Romania, Slovenia, the USA, the Philippines, Croatia, and so on); PPP development concepts and programs^{9,10,11} (Australia, India, Ireland, Kazakhstan, African countries,

¹ The term "state and private partnership" is used in this document in accordance with Law of Ukraine No. 2404-17 "On State-Private Partnerships," dated July 1, 2010. In the subsequent legislative activities it would be appropriate to use the term "public-private partnership" which to a fuller extent reflects the range of relations within this social phenomenon, taking into account the involvement of local self-government bodies and the public

² World Economic Forum Annual Meeting 2011. - [Electronic resource]. - Available at: http://www3.weforum.org/docs/AM11/WEF_AM11_ExecutiveSummary.pdf

³ PPP in Infrastructure Resource Center. - [Electronic resource]. - Available at: <http://ppp.worldbank.org/public-private-partnership/legislation-regulation/laws/ppp-and-concession-laws#examples>

⁴ Michael E. Pikiel, Lillian Plata A Survey of PPP Legislation Across the United States. - [Electronic resource]. - Available at: http://www.ncppp.org/resources/State%20PPP%20Legislation%20Survey_2008.pdf

⁵ Report on the Public Consultation on the Green Paper on Public-Private Partnerships and Community Law on Public Contracts and Concessions, Commission of the European Communities, Brussels, 2005.

⁶ Law No 80/2011-O3 of the Moscow Oblast "On the Participation of the Moscow Oblast in Public-Private Partnerships," dated June 8, 2011.

⁷ Law of Saint Petersburg "On the Participation of Saint Petersburg in Public-Private Partnerships," dated December 20, 2006.

⁸ Draft federal law "On Public-Private Partnerships." - [Electronic resource]. - Available at: http://www.economy.gov.ru/minec/about/structure/depregulatinginfluence/doc20120622_015

⁹ Program of Public-Private Partnership Development in the Republic of Kazakhstan for 2011 – 2015 - [Electronic resource]. - Available at: <http://www.minplan.kz/economyabout/8011/38376/>

¹⁰ Shendi, Riham "Towards Better Infrastructure: conditions, constraints, and opportunities in financing public-private partnerships", PPIAF, 2011.

Germany, Thailand, and so on); PPP Codes¹² (for local self-government bodies in the Philippines), and PPP project implementation manuals^{13,14,15,16,17,18}.

The post-crisis recovery and the efforts to ensure the competitive socio-economic development of Ukraine call for accelerated modernization of the national economic infrastructure. In the current situation characterized by a shortage of needed state financing to implement new progressive mechanisms of cooperation among the government, local authorities, and businesses, private investments in the traditionally public economic areas are an imperative of time for Ukraine. Public-private partnerships are regarded as a way to resolve the said problems.

The adoption of the Law of Ukraine “On State-Private Partnerships” (hereinafter referred to as the Law) and numerous bylaws is proof of the intention to implement PPP in Ukraine on a large scale.

As of the moment of adoption of the Law in 2010, Ukraine had a legislative basis for contractual relations between the public and the private sector in the areas of concessions, lease, joint venture operations, and so on, but there was no uniform approach to the PPP principles-based interaction between the public and private sectors.

At the same time, Ukraine had some experience attracting business to the development of national economic sectors. According to the World Bank, in the period of 1990–2011, Ukraine implemented 40 infrastructure projects involving the private sector, and investments in those projects totaled USD 12.1 billion, 90.0 percent of which was accounted by the telecommunications sector¹⁹. In other countries with personal income below average, investments in infrastructure projects involving the private sector in 1990–2011 equaled USD 588.5 billion. Taking into account the fact that the aforementioned category of the countries includes primarily African countries, the least developed countries of Southeast Asia and the CIS, the shown level of involvement of the private sector in infrastructure projects in Ukraine should be recognized as unsatisfactory.

For comparison, it is especially worth mentioning among the countries with personal income above average such countries as Brazil (where 27.1 percent of investments in infrastructure projects come from the private sector), the Russian Federation (10.0 percent), China (9.7 percent) and Turkey (6.4 percent)²⁰.

¹¹ Vickram Cuttaree, Cleland Mandri-Perrott “Public-Private Partnerships in Europe and Central Asia”, The World Bank, 2011.

¹² Proposed PPP Code for Local Governments, Philippines, 2012.

¹³ Guidebook on Promoting Good Governance in Public-Private Partnerships. – United Nations Economic Commission for Europe, New York and Geneva, 2008.

¹⁴ The Guide to Guidance “How to Prepare, Procure and Deliver PPP Projects”, European PPP Expertise Centre EPEC, 2011.

¹⁵ Public-Private Partnership Handbook. – Asian Development Bank, Manila, 2008.

¹⁶ Guidelines for Successful Public – Private Partnerships, European Commission, Brussels, February 2003.

¹⁷ Public Private Partnership Handbook, Ministry of Finance of Singapore, October 2004.

¹⁸ Formulation, Appraisal and Approval of Public Private Partnership Projects, The Secretariat for the Committee on Infrastructure, Planning Commission, Government of India, New Delhi.

¹⁹ Private Participation in Infrastructure Database. - [Electronic resource]. – Available at: http://ppi.worldbank.org/explore/ppi_exploreCountry.aspx?countryID=97

²⁰ Private Participation in Infrastructure Database. - [Electronic resource]. – Available at: <http://ppi.worldbank.org/explore/Report.aspx?mode=1>.

Despite some experience of involving business in infrastructure projects in Ukraine, there were some unsuccessful attempts of this kind, especially in the housing and communal sector. The general business difficulties existing in Ukraine and the lack of preconditions for long-term and mutually beneficial cooperation between the government and private partners got in the way of developing civilized forms of interactions between them.

The adoption of the Law of Ukraine “On State-Private Partnership” along with relevant bylaws also contributed to the activation of PPP projects.

The key reasons behind the slow PPP development in Ukraine are:

1. No consistent PPP state policy and no developed PPP promotion management system.

The efforts to implement the national PPP policy have been inconsistent, lacking systematic steps toward forming PPP development conditions, vaguely outlined functions of the public authorities engaged in promoting PPP, and ineffective coordination of work of the relevant public authorities. In fulfillment of the strategic tasks set in the Economic Reforms Program for 2010–2014, the nationwide and local documents concerning the socio-economic development of the country highlight the importance of PPP, but the provided state management mechanisms and instruments in the said area are mutually contradictory and need to be reconciled. Specific forms of cooperation in this area are developed separately by different state and local authorities without sufficient coordination and observance of the requirements of the Law.

According to Decree No 634/2011 of the President of Ukraine, dated May 31, 2011, the authorized central executive body responsible for developing proposals and carrying out measures to form and implement a uniform national PPP policy is appointed the Ministry of Economic Development and Trade of Ukraine whose purview includes: 1) preparation and implementation of PPP development programs; 2) support for the PPP implementation at the central and local levels; and 3) monitoring the PPP performance of state authorities and local self-government bodies.

The state bodies that are authorized to implement specific PPP projects and also have a significant influence on the development of the PPP institutional environment are the Cabinet of Ministers of Ukraine, the Ministry of Regional Development, Construction, Housing and Communal Services of Ukraine, the Ministry of Energy and Coal Industry of Ukraine, the Ministry of Infrastructure of Ukraine, the Ministry of Education and Sciences, Youth and Sports of Ukraine, the Ministry of Health of Ukraine, the State Agency on Investments and Management of National Projects of Ukraine, the State Agency of Motor Roads of Ukraine, the State Property Fund of Ukraine and others. The State Agency on Investments and Management of National Projects of Ukraine has its own powers as regards PPP. Its central tasks are working out a national policy for attracting foreign investments, as well as preparing and implementing “national projects” that can be based on the PPP principles. It is also worth mentioning in this connection the State Property Fund of Ukraine, a state authority responsible for privatization and state property management.

The functions and powers of specific public bodies regarding state property and asset management are based on different legislative and regulatory acts, a factor that in some cases makes it more difficult to select a public partner when starting and carrying out PPP projects.

2. A low level of institutional capacity for state-private partnerships in public authorities and the private sector

The institutional capacity of public authorities and the private sector in Ukraine is characterized by a low level of mutual trust, lack of public trust in public authorities, non-governmental, and political organizations, underdeveloped ideology of partnership in society, underestimation of the potential of PPP projects on the part of specialists working for public and local self-government authorities, low public awareness of the advantages and risks of PPP mechanisms, a shortage of PPP specialists on the staffs of public authorities and local self-government bodies, and insufficient financing of the real sector of economy.

3. The unattractive investment climate and difficult conditions of business under PPP projects

The relations between the government and business in Ukraine are burdened with numerous problems in such areas of public governance as licensing and permit obtaining, land ownership, protection of investors' property rights, and settlement of commercial disputes. The low transparency in budget relations complicates the attraction of domestic and foreign investments to the infrastructure of national economy and public services on the basis of PPP principles.

4. The contradictory and inconsistent legal regulation of the state-private partnership relations

In the situation of the existing ramified legislation on concessions in various areas, property lease, joint venture operations and investment activities, which to a certain extent can be classified as PPP forms, a framework law has been adopted in Ukraine. This document, known as the Law of Ukraine "On State-Private Partnerships," is intended to summarize and systematize the area of state-private partnerships.

According to this Law, a state-private partnership is the cooperation between the government of Ukraine, the Autonomous Republic of Crimea, territorial communities represented by appropriate central and local self-government authorities (public partners) and legal entities, except state and communal enterprises, or individual (private) entrepreneurs (private partners) carried out on a contractual basis under the procedure established by this Law and other legislative acts. The Law provides a long and rich list of PPP application areas, including in particular the area of mineral production, which is rarely regarded as a traditional PPP application area. The Law does not provide clear-cut criteria prioritizing such areas for PPPs, unlike the international experience according to which PPPs cover the market segments connected with infrastructure creation, reconstruction, and modernization, or delivery of public services.

The Law has introduced the PPP principles and approaches, stressed the importance of a feasibility study of PPP projects and competition-based selection of private partners, and envisaged special state support for PPP projects.

The broad definition of the term “state-private partnership” and the variety of contractual relations within the PPP framework provided by the Law make it difficult to work out a common approach to the development of organizational and methodological support to promote PPPs in Ukraine. The issue of correlation of the Law with the special laws concerning PPPs remains is yet to be properly settled, as well. The Law permits the state partner to use its discretion as regards applying this Law to a specific project. According to the Law, any projects that formally bear PPP traits may be implemented without applying the principles, approaches, and procedures provided by this Law, if there is a decision of the state partner to that effect. In such cases, the Law “On Concessions” is directly applied, which does not regulate the application of PPP principles outside its area of regulation in a concession, lease, joint venture operations, etc. The Law has other shortcomings²¹. In particular, it does not clearly outline the circle of persons that have the right to act as public partners in projects of a national level, does not provide for the application of institutional partnership, does not contain a provision allowing two and more public authorities (or municipalities) to act simultaneously as one state partner, and limits the participation of state and communal companies in PPP projects.

In execution of the Law, an array of bylaws have been worked out to regulate the methodological, organizing and management aspects of PPPs, but their effectiveness remains low due to the shortcomings of the Law and some of the said acts.

5. No effective mechanisms of state support for state-private partnerships

International experience proves that domestic legislation does not give a decisive impulse to intensive development of PPP projects. The state support mechanism is a common instrument of drawing private investments to PPP-based infrastructure projects in the world. The main problems plaguing state support for PPPs are the single year budgeting and annual changes in the financing directions and priorities of budget programs, which means there is no guarantee that the budget-financed programs will continue throughout the entire PPP project term; no clearly established methodology of state budget support for PPP projects; the principles and approaches applied in this area are different from international ones; and the limited possibility of obtaining state guarantees for PPP projects at the local level (a paid basis, required counter-guarantees, impossibility of using state budget money to repay a loan).

6. Complicated and inconsistent tariff regulation and economically ungrounded tariffs

The tariff formation mechanism plays an important role in ensuring successful PPP projects, because it directly supports the possibility of repayment of private investments. However, some areas of the national economy are still not based on free market principles and the tariff does not work as an economic regulator. Communal utility tariffs in most regions of Ukraine fail to cover the cost of the provided services and almost every tariff lacks an investment component, which does not

²¹Diagnostic Overview of the Public-Private Partnership Legislation. - Public-Private Partnership Development Program (PPPDP), USAID, October 20, 2011.

encourage enterprises to operate efficiently and save energy. The inability of the private partner in an PPP project to influence the tariffs substantially complicates the repayment of investments. The outlined problems along with the absence of an effective mechanism of reimbursing for the difference in tariffs²² do not make it possible for companies to plan and carry out measures to modernize equipment and networks.

The foregoing proves that the PPP implementation process has generally been launched in Ukraine, and basic principles of effective cooperation between the public and private sectors created, but the specifics of economic and political cycles resulted in the PPP regulation lacking in proper coordination in general and in the part related to anti-crisis regulation of economic processes in particular.

In view of the lack of a developed state PPP ideology in Ukraine and a lack of progress in the area of PPP investment projects implementation at the national and local levels, it appears necessary to work out a public-private partnership development concept for Ukraine for 2012-2017 (hereinafter referred to as the Concept).

The Concept forms the PPP development methodology on the basis of the relevant priority goals of social and economic progress of Ukraine determined by the Economic Reforms Program for 2010-2014 "Prosperous Society, Competitive Economy, Efficient State", National Plan of Action for 2012 regarding the implementation of the Economic Reforms Program for 2010-2014, Annual Address of the President of Ukraine to the Parliament of Ukraine "On the Internal and External Situation for Ukraine in 2012," and other program documents.

The Concept has been developed on the basis of a study of international PPP experience of developed countries, post-socialist countries, and transition economies, taking into account the results obtained within the framework of the Public-Private Partnership Development Program (PPDP) for Ukraine, Ukrainian-Dutch Intergovernmental Project "Ukraine: Studying and Implementing European Experience of Development and Realization of Public Private Partnership Mechanisms in Ukraine" (G2G10/UA/8/4)," ESBS Project "Complementary Technical Assistance to the EU-funded Budget Support to Ukraine's Energy Strategy Implementation (EuropeAid/128260/C/SER/UA)," and the World Bank's Project "Public-Private Partnership Framework Development. Ukraine (2010)."

The obtained results proved the need to form a national PPP model taking into account the institutional specifics and modern condition of investment and innovation development of Ukraine.

²² K. Shugart. PPP and Tariff Regulation in the Water Supply, Drainage, and Heating Supply Sectors. - VIII Ukrainian Municipal Forum, USAID. – Yalta. – 2012.

II. GOAL OF THE CONCEPT AND IMPLEMENTATION TIMEFRAMES

The goal of this Concept is to work out a uniform approach to the formation of an efficient mechanism of interaction among the government, private business entities, civil society institutions, and the expert community on the basis of PPPs to ensure the successful implementation of projects aimed at improving the standard of life for Ukrainian people and the environment, and developing the infrastructure of the national economy and public services.

Concept implementation timeframe – 2012–2017

The tasks of the Concept, in view of its goal and existing PPP development barriers in Ukraine, are:

- working out a uniform approach to the development of the PPP institutional environment, identifying the priority areas for PPP development and spread and the specifics of PPP development in various areas;
- improving the PPP legislative and regulatory framework;
- establishing a clear distribution of powers in the state management of PPP;
- determining directions for improving the mechanisms of state support and guarantees;
- determining directions for improving the interaction between the government and the private sector as regards initiating and implementing PPP projects;
- increasing the institutional capacity of state executive authorities and local self-government bodies as regards the use of modern PPP mechanisms; and
- creating conditions fostering the involvement of non-governmental associations in the efforts to form the necessary institutional environment and implement PPP projects.

The Concept provides general PPP development basics and principles that will form a ground for partnership relations between the public and private sectors in Ukraine. The key provisions of the Concept will be detailed in the Public-Private Partnership Development Strategy for 2012–2017 and the Strategy Implementation Plan, the documents that will describe the measures, mechanisms, stages, resources, and expected results in the institutional, financial, legislative, and information areas.

III. PROBLEM SOLUTION WAYS AND METHODS

The aforementioned problems should be addressed with an orientation to the best European and world practice, considering the current crisis trends by identifying priority areas for PPPs in Ukraine, improving the investment climate and business environment in the context of the efforts to promote state-private partnerships, establishing an authorized state body responsible for the promotion of state-private partnerships in Ukraine, strengthening the functions of local self-government bodies in the PPP area, improving the PPP project financing mechanisms, intensifying the activities of enabling institutions in the PPP management system, eradicating contradictions and faults in the PPP legislative and regulatory base, and improving cooperation between the government (local self-government bodies) and civil society institutions with regard to PPP projects.

1. Identifying priority areas for state-private partnerships in Ukraine

The identification of priority areas in the national economy for implementing PPP mechanisms should be carried out on the basis of the following criteria, taking into account international experience:

- socio-economic potential of the given area;
- social significance of the project (national project), the role of this area in ensuring economic, financial and humanitarian safety of the nation;
- availability of methodological and organizing support for PPPs;
- availability of qualified personnel and experience of attracting the private sector to investment infrastructure projects; and
- implementation transparency and relative simplicity of pilot projects.

Taking into account the said criteria, as well as the importance of the issues that need to be addressed and no good reason for privatizing specific public and communal facilities that require modernization and create the need for resources from the private sector, the priority areas for PPPs in Ukraine are:

1. production infrastructure and high-tech manufacture (transport and transport infrastructure, energy sector, energy saving, machine building, and communications).

2. construction and the housing and communal services sector (development of the market of affordable housing, technical re-equipment, resource and energy efficiency improvements in the housing and communal services sector, water supply, domestic wastes disposal, outdoor improvements).

3. social infrastructure and human development (healthcare, education, culture, tourism and sport, and environment protection).

In its further development stages, PPPs should be populated to:

- R&D and innovations sector;
- information sector;
- agro-industrial complex; and
- forestry.

The spread of PPP should be conducted taking into account the level of development of free market relations in every economic sector and the accumulated project implementation expertise.

2. Improving the investment climate and business environment in the context of the efforts to promote state-private partnerships in Ukraine

The further development of PPPs in Ukraine depends to a great measure on the investment climate and business conditions in the country. An improvement in the business climate and attraction of private investments to PPP projects requires:

- efforts to improve the transparency of the permission system and lower bureaucratic barriers;
- putting in order the inspection and technical regulation procedures (standardization and certification);
- simpler property registration procedures;
- favorable conditions for land use within the PPP framework;
- transparency in the relations between the private partner and the public partner in preparing and implementing PPP projects;

- focusing efforts of the government on implementing PPP projects and ensuring effective feedback in the relations of the government with the private sector.

3. Establishment of an authorized state body responsible for the development of state-private partnerships in Ukraine

The leading state policymaker developing the national economic policy and responsible for PPP promotion in Ukraine, the Ministry of Economic Development and Trade of Ukraine is obligated to ensure:

- the formation of strategic development directions of PPPs in Ukraine, which requires a relevant strategy to be worked out along with legislative, regulatory, and organizing support;

- methodological and consultative project support that envisages keeping a record of PPP agreements at the central and local levels by regions, territories, and types of economic activity, approving PPP feasibility studies for projects implemented by central executive bodies; and PPP project fulfillment monitoring and control;

- a mechanism of clear coordination of work of central executive bodies with regard to the PPP projects implemented at the national level. The management function of the ministry should be reinforced with an administrative mechanism of the ministry's interaction with the said executive bodies as regards PPP project implementation issues, which mechanism is provided in the appropriate regulatory act of the Cabinet of Ministers of Ukraine that will contain a provision establishing the degree of functional subordination or mandatory requirement for central executive bodies to agree their PPP-related decisions with the Ministry of Economic Development and Trade of Ukraine; and

- transparency of its PPP activities, including by creating a public council under the Ministry of Economic Development and Trade of Ukraine as an instrument of coordination of the Ministry's interaction with local self-government bodies and representatives of business and the expert community

Taking into account the global experience of running state PPP promotion centers, the list of the functions assigned to the Ministry of Economic Development and Trade of Ukraine as the authorized body, and the need to raise the coordinating role of the ministry in preparing and implementing PPP projects at the level of central executive bodies, it appears reasonable to increase the staff of the relevant department of the ministry.

The State Agency for Investments and National Projects of Ukraine should gradually evolve within the limits of its purview into a full-fledged enabling institution in the investment field, whose role should be the provision of methodological and organizing support for national projects.

4. Strengthening the functions of local self-government bodies in the area of state-private partnerships

The central task of developing PPP mechanisms at the level of local self-government bodies is to ensure the effective implementation of projects by developing a uniform algorithm of selecting, subjecting to the expert examination,

agreeing, and implementing such projects, engaging specialists with the required qualifications.

The implementation of PPP projects at the local level should involve the use of financial resources from oblast and municipal budgets that are responsible for constructing, operating, and maintaining large infrastructure projects.

The legislative regulation of the relations between local self-government bodies and the authorized state body responsible for PPP development in Ukraine will provide the right granted to the said bodies to be exercised within their respective purviews and applicable law to make independent decisions on the expediency and implementation of PPP projects, and to obtain consultative and methodological assistance from the authorized state body, as well as the obligation to agree their actions with appropriate central executive bodies if PPP projects involve state support.

5. Intensification of the activities of enabling institutions in the state-private partnership management system of Ukraine

To improve the PPP management system, the government should establish relations with international enabling institutions and promote more intensively the formation of national enabling institutions whose activities should be oriented to the priorities of innovation-based modernization of the national economy, using the latest risk management approaches. The establishment of enabling institutions should be carried out observing the financial sustainability, resource diversification, investment risks minimization, administrative pressure and corruption risks elimination requirements.

The role of enabling financial institutions (universal and targeted development banks, export-import banks, state venture and leasing companies, innovation funds, regional development funds and agencies, etc.) will be financial, advisory and information support for PPP projects.

Non-financial enabling institutions (techno parks, industrial parks, business incubators; technical implementation and industrial manufacture, as well as tourism and recreation, special economic zones; research centers, centers of technology transfer, sub-contraction, design development, energy saving, and others) will advance the development of business infrastructure within the PPP framework, improvement in the qualifications of state officials, and integration of PPP problematics into the academic programs for specialists prepared for state authorities and local self-government bodies, and organize PPP training sessions, seminars, and roundtables.

6. Improving the financing mechanisms of state-private partnership projects in Ukraine

The efforts to improve the PPP project financing mechanisms should focus on improving the effectiveness of public budget financing, intensified involvement of enabling institutions in PPP projects, extending the range of instruments of long-term project financing, and so on.

The public budget financing of PPP projects and the participation of the government in PPP projects should be based on the principles of medium- and long-term program and targeted planning, and program and project financing.

The state financial support for PPPs should envisage:

- outright financial support through subsidies; reimbursement for the cost of construction, participation in tender competitions, capital repairs, and investment in authorized capital;
- using taxation leverage to encourage investments, introducing mechanisms of state crediting and insuring imports of investment equipment;
- reimbursing from the state budget for payments for the services provided to consumers;
- providing state guarantees for loans, reimbursing for losses from exchange rate fluctuations, assuming obligations to acquire products.
- using contemporary market financing instruments (securities).

7. Eradicating the contradictions and faults in the legislative and regulatory base of public and private partnerships in Ukraine

When addressing the legislative regulation improvement issue, it is necessary to include in this process as a specific line of activity the efforts to collate and systematize the PPP legislation and harmonize the domestic legislation with the rules provided by the legislation of the European Union.

In view of the available contradictions in the legislative and regulatory base and the actual impossibility of fast implementation and harmonization of the provisions of the Law of Ukraine “On State-Private Partnerships” with other special laws that regulate the business relations between the public and the private sector, it is necessary to develop PPP mechanisms on the basis of this Law, which should serve as a framework law, which requires:

- improving the Law to ensure a clearer outlining of the powers of the authorities that become involved in PPP projects at all stages at both central and local levels; extending the timeframe for PPP relations; more accurate formulation of PPP characteristics as regards delegating the functions and powers of the government related to infrastructure development and provision of public services to the private sector; improving the list of PPP agreement application areas; introducing the possibility of institutional partnership, including the creation of a public-private project joint venture (intended to implement a specific project); and granting the right to state (communal) enterprises to act as a state partner;
- harmonizing the provisions of the Law with the provisions of the special laws that regulate the contractual relations between the state and the private sector in the field of concessions, joint venture operations, lease, product distribution, and so on;
- introducing instruments of methodological support for PPP projects for specific PPP forms; such instruments should be of an advisory nature and developed by the authorized body;
- legal regulation of issues of title to assets created under an PPP project;
- improving the mechanism of settling disputes arising out of any PPP agreement entered with a non-resident or an enterprise with foreign investments,

which mechanism should include the possibility of the dispute to be referred to an international court of commercial arbitration;

- improving the budget and tax legislation (including in the part regarding financial support for the rights and obligations of state and municipal entities acting as parties to PPP agreements) to improve the investment climate and form an effective mechanism of state support for PPPs; and

- further legislative efforts to introduce stimulating tariff regulation.

8. Improving cooperation between state authorities (local self-government bodies) with civil society institutions with regard to PPP projects in Ukraine

The development of PPP relations requires more active involvement of the public in the preparation and implementation of PPP projects at the national and local levels. In this context, it is necessary to promote the development of the mechanisms of state interaction with civil society institutions in the direction of inviting the public to take part on a permanent basis in discussions on PPP projects and their expert examination and implementation.

IV. EXPECTED RESULTS

The adoption and implementation of this Concept is expected to produce the following results:

- a worked-out uniform approach of all stakeholders to developing the PPP legislative and regulatory framework and the institutional environment;
- an improved organizing mechanism of public management of PPP development;
- prepared and implemented PPP projects;
- a more effective mechanism of state support for PPPs and a more efficient use of public resources; and
- an improved level of training and upgraded qualifications of specialists of state executive and local self-government authorities, business entities, and representatives of civil society in issues related to the application of PPP mechanisms.

The expected results of the Concept implementation are presented in the draft Public-Private Partnership Development Strategy for 2012–2017 as quantitative target indicators.

V. RESOURCE SUPPORT FOR THE CONCEPT

PPP development is planned to be financed until 2017 for the account of the state and local budgets within the budget allocations for each specific year and by funds from business entities and international organizations.

The legislative, institutional, informational, scientific, HR, and other support for the implementation of this Concept is planned to be provided within the framework of the day-to-day work of the Ministry of Economic Development and Trade of Ukraine, with the involvement of representatives of the expert and research communities.