

Public-Private Partnership as the Basis of Interaction Between the State and Business

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Abstract: Today within the frameworks of the unstable situation in Russia and around the world tending to activation of the relationships between the state and private business in terms of solution of common problems and methods of the crisis recovery is enhanced. At the same time, the functions of the state and the tasks related to privatization of particular spheres of economy within the country and extension of the private sector impact on the world economy in the globalization conditions are changed. In this regard, the mandatory condition of the normal operation of the market economy is the constructive interaction of the business and state institutions. In the modern sense of the term, the partnership of a state and business represents the institutional and organizational alliance between the state and private companies, banks, international financial institutions and other organizations for the purpose of implementation of the worthwhile projects. At the same, time certain dualism is observed: a state can never be free of executing its social functions related to the common national interests and the business in its turn always remains the source of incrementing the social wealth. In contrast to the traditional relations, the developing partnership creates the basic models of funding, ownership relations and management methods. It appears to be possible to use the advantages of both forms of ownership without deep social transformations and shocks within the frameworks of the various forms and methods of the Public-Private Partnership (PPP).

Key words: State, business, market economy, partnership, public-private partnership

INTRODUCTION

The subject of the study is topical and is caused by the increased interest in the public-private partnership in the government authorities and business circles of the Russian Federation and the leading countries of the world. Today, it becomes more and more obvious that ensuring the sustainable and high rates of the country development, achievement of the long-term objectives of the government is not possible without the interested partnership of the municipal and state authorities with representatives of the private business. The strategies and programs aimed at disposal of the budget funds only do not allow the public authorities to implement the large-scale strategic projects forming the basis of the high competitiveness of the country. The PPP is the alternative to such method of funding that is recognized all over the world.

However, although both the state and business lay hopes on the PPP considering, it as the most important mean of enhancement of the national and regional competitiveness the integration of the PPP mechanisms in

the Russian practice proceeds very slowly. A number of methodological issues of transition to partnership relations between the state and business has not been solved yet; there is no necessary experience in such partnership, immaturity of the regulatory and legislative framework at all levels as well as the unstable situation restrain the integration of the public-private partnership in our country.

The state and power are complex and multidimensional phenomena that are represented by different edges and aspects both in the conscious and life of people depending on the role they play. The role of the state was continuously enhanced along with the society complexity, differentiation of the social bonding and appearance of different kinds of the human activity, specialization of functions and differentiation of labor, growth of knowledge and skills, occurrence of differences between the public and individual interests, rights and obligations as well as social disparity and private property (Shamkhalov, 2005).

Property has always been the Stumbling point of relationships within a state. How to distinguish the sphere

of the state functioning and individualism? The power of the state of the power of the owner? What shall the state do and what the private capital? O Non-obviousness of the answer to this question may be illustrated by the famous article by Coase 'The Lighthouse in Economics'. It shows that the sphere taken by many economists for incontestable example of the sphere where the state only may function construction and financing of lighthouses actually was the sphere of operation of the private initiative cooperating with the state, i.e., the sphere of the private-public partnership. Having investigated the structure of funding of the lighthouse service in England and Wales in the 16-18th centuries Coase drew the following conclusion: "The history of the previous periods shows that despite the opinion of many economists the lighthouse services may be provided by private entrepreneurs. At those days, the merchants and ship owners could ask the Crown for permission for a single person to erect a lighthouse and charge a reasonable fee from the watercrafts that would gain profit from the existence thereof. The private owners constructed, controlled, maintained and possessed lighthouses; they could sell or devise them. The role of the government was restricted by establishment of the rights of ownership of lighthouses and support of these rights' (Coase, 1974).

Interpretation of such relations between the public and private sector resulted in the appearance in the second half of the 20th century of the concept of the public-private partnership.

MATERIALS AND METHODS

Procedure: There are different approaches to interpretation of the PPP. According to one of them, the economic one, the public-private partnership is compared to indirect privatization. It is referred to redistribution of authorities between the state and business within the strategic sectors that cannot be privatized for development of which however, the state does not have sufficient funds (housing and utility sector, social sphere, transport, community redevelopment, objects of cultural heritage, etc). At the same time, the important conditions are the degree of the business involvement in the project being implemented and preservation by the state of a significant part of economic activities and certain ownership authorities. Otherwise the implementation of the mechanisms of the public-private partnership may result in the partial or complete privatization of the partnership objects by entrepreneurs. The basis for such understanding of partnership of the state and business was the experience of countries with

the developed economy where the private companies implementing the joint projects with the state where assigned such authorities as possession, operation, construction, funding, etc.

The public-private partnership is also defined as the specific yet quite adequate substitution of privatization programs that allow fulfilling the potential of the private enterprise initiative on the one hand and maintaining the controlling functions of a state in the socially relevant sectors of economy on the other hand. However, along with that the state is not forfeited the rights of the owner and attracts the business resources to solution of a wide range of problems. It shall also be noted that participation of business in the project implementation requires legal confirmation of partnership as a special kind of interaction between the state and business which results in significant institutional changes within the system of relations 'power business' that allow enhancing the participation of entrepreneurs in the fulfillment of some economic, organizational, management and other functions.

According to the second approach relating to the state policy and control the PPP lies at the boundary of relations between the state and business being neither the institution of privatization, nor the institution of nationalization but the form of optimization of fulfillment by the state of its obligations before the society, i.e., the interrupted provision of public benefits to the population (Kubarev, 2008).

In contrast to the above-mentioned concepts one should take as the premise the interpretation of PPP as the constructive interaction between the power and business not only in the economy but in other spheres of the social life as well politics, culture, science, etc. In this case, one may agree with the interpretation of PPP accepted abroad as any forms of partnership between the state and business establishment. At that transfer of authorities of the public authorities is not limited by the rights of ownership only, they also include some functions relating to making decisions during examination, consulting and development of the regulatory acts and target programs.

Having considered the main approaches to interpretation of the PPP as a special mechanism of interaction between the power and business let's turn our attention to the existing definitions of the concepts of the public-private partnership.

Thus, Korovin (2006) defines the PPP as the 'mid-term or long-term cooperation between the public and private sectors within the frameworks of which the political tasks are solved on the basis of combination of experience and expertise of several sectors and sharing financial risks and benefits'.

Another definition of the PPP is provided by the famous researcher Varnavsky (2005a-c). He believes that in the modern sense of the word the public-private partnership is the ‘institutional and organizational alliance between the state and business for the purpose of implementation of the national and international, large-scale and local yet always worthwhile projects within a wide range of the spheres of activity: from development of the strategic industries and RTD to provision of public services’ (Anonymous, 2003).

A number of the PPP definitions is provided by the laws of the Russian Federation demonstrating the specifics of understanding of this phenomenon by the regional public authorities. For example in the law of the Republic of Tatarstan d/d August 1, 2011 N 50-3PT. Concerning the public-private partnership in the Republic of Tatarstan” approved by the State Council of the Republic of Tatarstan on July 7, 2011 on the one hand and the economic entities on the other hand, establishing in regard to development of the innovative potential of the region as well as planning, design, funding, technical re-equipping, construction, reconstruction and operation of infrastructure facilities and social facilities owned by the municipal or regional authorities or subject to creation for solution of the local and regional issues”(Anonymous, 2011).

Another definition is contained in the law of St. Petersburg ‘Concerning participation of St. Petersburg in the public-private partnerships’. It proposes the following interpretation of the PPP: this is the ‘mutually advantageous cooperation of St. Petersburg with a Russian or Foreign legal entity or natural person or an association of legal entities acting without establishing a legal person under simple partnership agreement (cooperation agreement) that is performed by means of execution and fulfillment of agreements including concession ones “(Anonymous, 2006b).

Taking into account the enhanced interpretation of partnership accepted by us and certain limitedness of the above-mentioned definitions by the economic sphere let’s provide the generalized interpretation of the PPP concept.

Public-private partnership represents the mutually advantageous mid-and long-term cooperation between the state and business implemented in different forms (from the performance contracts, corporatization to counseling of the state and business associations) and setting as the goal the solution of the politically and socially relevant tasks at the national, regional and local levels.

Main part: Today the PPP concept is used rather actively. It is primarily used by the state officials. It shall be noted that originally the issue of the public-private partnership appeared in the Russian reality due to the Chairman of the Government and was represented in the plan of activities of the Council on Competitiveness and Entrepreneurship under the Government of the Russian Federation. At that time, the issue of the PPP was raised in a wide form and by different industries: transport infrastructure, technologies and investment activities, etc. At the same time, the integrated and rather systematic approach was used by development of the PPP subject within the applied aspect: the members of the Council on Competitiveness (among which there were ministers, deputies, representatives of business) were assigned specific instructions within the following trends:

- Improvement of the mechanisms of financing the large-scale projects of the national importance in the sphere of the infrastructure development”
- “Preparation of the legislative concepts concerning concessions in the sphere of the transport infrastructure and all branches of the economy in whole including the gas and oil pipeline transportation”
- “Preparation of proposals to the Strategy of development of technologies and innovative activities including PPP”
- “Drafting of the framework law concerning concessions, the concepts of the regulatory acts concerning concessions in different spheres of economy (housing and utility sector, transport, social sphere. etc.), proposals concerning the institutional mechanisms of the concession implementation”

The analysis of statements of the Russian officials concerning the PPP issues allows identifying the interest in this problem, however does not allow identifying the essence of this concept. It is clear that it is referred to some kind of cooperation between the state and business; however such kind of cooperation is possible without introducing any special terms and concepts.

The concept ‘public-private partnership’ appeared in the USA and initially referred to the joint public and private financing of educational programs, later on in the 50’s to financing of community facilities and in the 60’s it was used more often and designated the joint public-private enterprises dealing with the urban modernization and renewal. In the Western Europe, the interest in investments in the form of the public-private partnership aroused much earlier than in the USA. The first ever project of the public-private partnership was

approved in France by the King Henry II within the implementation of which (the concession form) the channel was constructed. The famous Eiffel Tower in Paris is also the result of functioning of the PPP mechanism (Vilisov, 2007).

○ further on the theory of the public-private partnership was worked out in the middle of the 20th century, however, the active realization thereof fell at the 80's of the past century. From then onward the PPP mechanism is used in the increasing number of countries.

From the institutional perspective in the developed countries the government control of the partnership relations with business is organized by large cross industry networks incorporating the groups of interrelated industries.

These complexes may include: fuel and energy complex (electrical power engineering, gas-and oil pipelines), transport (rail and motor roads, sea ports and airports), housing utilities (water and heat supply, housing maintenance and utilities). It shall be noted that no special agent structures are created for regulation of partnership relations and the specific regulatory and controlling functions are performed by the relevant ministries and institutions subject to the specific procedures. In this case the successful development of the public-private partnership to a large extent depends on the efficient distribution of rights, obligations and responsibilities between the private partners and the state. The practice shows that the partnership tasks are solved in the most efficient way when the sphere of the state responsibilities include the issues of general planning and administrative procedures as well as specific actions under the force majeure circumstances. In its turn, the sphere of authorities and responsibilities of the private sector includes the issues of the detailed planning, construction of facilities, financing and operating management of the operation thereof.

By summarizing, the international experience the following essential factors shall be specified that restrict the interest of the private sector in both the concessions and in participation in the management of the communal infrastructure within other forms of PPP:

- Institutional factors (political, legal, judicial institutions and regulatory institutions)
- Economic factors (income of the population)
- Factors increasing the commercial risks (Silvestrov, 2008)

Among all the variety of the forms of cooperation between the state and the private sector partnership holds a special place. The models and structure of PPP itself are

Table 1: Models of investment in the PPP (Sharinger, 2004)

Model	Property	Control/management	Financing
Operator model	Private/public	Private	Private
Cooperation model	Private/public	Private/public	Private/public
Concession model	Public	Private/public	Private/public
Contractual model	Private/public	Private	Private
Lease model	Private	Private/public	Private/public

also quite various, however, they are united by certain distinctive features that allow distinguishing partnership as an independent economic category. Partnership is established as the formalized cooperation of the public and private structures that is created for some or other specific purposes and based on the relevant arrangements of the counterparties.

In the world practice, there are a lot of examples of the effective interaction of the public and private sectors by implementation of the large-scale social-economic tasks. They are primarily distinguished by the scope of obligations undertaken by the parties to the agreement. Accordingly, the functions and authorities a party undertakes the more its participation in the project implementation is the more this model of relationships resembles the privatization or nationalization pattern.

There are such forms of PPP as interaction on the basis of a contract, rental agreement (lease), Production Sharing Agreement (PSA), investment contract, concessions, corporatization, share participation of private funds in state-owned enterprises (joint ventures).

If we consider the types of interaction between business and power in details we may quite conditionally distinguish different models of organization, financing and cooperation. The specified types of PPP are ideal and convenient for theoretical interpretation only as in practice partnerships use the forms incorporating a few models (Deryabina, 2009).

Extensive experience in the project implementation with the use of the PPP mechanisms allows distinguishing the following basic models of partnership accompanied by the specific correlation of the forms of organization, financing and cooperation (Table 1).

Selection of one of these models is performed depending on the spheres within which the agreement is implemented. If we consider the world experience in implementation of the partner projects we will be able to state that particular models feature maximum efficiency within specific industries.

The operator model became a frequent practice in the waste recycling. It is characterized by exact division of responsibilities between the private partner and the state against reservation of the controlling functions by the state.

The cooperation model is used when the specific services are not clearly defined and it is difficult to make them to be the taxation and depreciation items. In this case, partnership is implemented through the joint project company of a state and private investor.

The concession model functions in the sectors with the long term of the project implementation as well as in cases, when transfer of the rights of ownership from the state to a private partner is excluded for political or legal reasons.

The contractual model is used in the power engineering where the investments are primarily aimed at reducing the operational costs. At the same time, funds saved due reduction of the operational costs often exceed the investment expenditures.

The lease model is the most appropriate for construction of public facilities. Across the world there was accumulated quite representative experience of the lease forms of partnership of the local government authorities with the private business (Mahortov, 2008).

Depending on the scope of the rights of ownership transferred to the private partner, investments obligations of the parties, principles of the risk sharing between the partners, liability for performance of different kinds of works including construction, operation, management, etc., the following partnership patterns are distinguished.

The first of them BOT (Build, Operate, Transfer). This pattern is used in concessions primarily. The infrastructural object is constructed at the cost of a concessionaire (private partner) that upon completion of construction is granted the right of operating the erected object within the term sufficient for return on investment. Upon expiration of the term the object is returned to the state. The concessionaire is granted the authority to use but not to own the object the owner of which the state is.

The second pattern BOOT (Build, Own, Operate, Transfer). In this case, the private partner is granted not the authority of use only but to own the object within the duration of the agreement upon expiration of which it is transferred to the public power.

There is also the inverse BOOT when the power finances and erects the infrastructural object and then places it into trust of the private partner along with the right of successive purchase of the ownership thereof.

The pattern BTO (Build, Transfer, Operate) suggests the transfer of the object to the public power immediately upon completion of construction. After acceptance by the state it passes into disposal of the private partner without transfer of the right of ownership.

By implementation of the pattern BOO (Build, Own and Operate) upon expiration of the agreement duration the constructed object is not transferred to the government but remains at the investor's disposal.

By application of the pattern BOMT (Build, Operate, Maintain, Transfer) special emphasis is put on the liability of a private partner for maintenance and running repair of infrastructural objects constructed by him.

DBOOT (Design, Build, Own, Operate, Transfer). The Peculiar feature of agreements of this type consists in the liability of the private partner not for construction of the infrastructure object only but for design thereof as well.

In case of DBFO agreements (Design, Build, Finance, Operate) along with the liability of the private partner for design his liability for financing the construction of infrastructural objects is stipulated for (Osadchaya, 2006).

Such form of partnership between the government and business as their constructive cooperation within the political sphere remains almost beyond the attention with few exceptions. It is primarily referred to institutionalized forms of lobbyism featuring certain positive potential. They promote to establishment and development of the pluralism model of democracy and market relations in the societies of the transient period. Institutional establishment of lobbyism makes significant contribution to ensuring the effective interaction of the government and the society when that the dynamics of the political process is affected by the increasing number of the social groups. Besides, the civilized lobbyism is aimed at enhancing the administrative, distributing and other functions of the government institutions. At that it shall be taken into account that the important prerequisite for demonstration of the positive features of lobbyism is the political, economic and spiritual stability in the country.

The PPP forms in the political sphere are: counseling the representatives of the power and business within the association of entrepreneurs, independent examination of the drafts of regulatory acts of the executive authorities of different levels in the sphere of economy and other spheres; preparation and making suggestions concerning implementation of some or other trends of the state policy, protection of the internal market, governmental support of exporters, information support of interaction between the government and associations, unions of entrepreneurs branch associations of manufacturers.

By characterizing the state of affairs in the sphere of the public-private partnership in Russia one shall note the ambiguity of the situation being established. On the one hand, the government and executive authorities

proceeded to creation of the special economic zones that will become 'incubators' for technical innovations and inventions; the concession agreements are being designed that are crucial for attraction of the long-term investments to the country (Gaskarov, 2008).

On the other hand, such form of interaction between the state and business requires huge legislative work (it is necessary to clearly specify the aspects of contracts executed between the parties). Thus for example, the Law of the Russian Federation concerning concessions that was adopted in 2006 is an important step towards fulfillment of the PPP potential in our country. However, it is not free of shortcomings the main of which consists in the fact that the natural resources including the areas of subsurface use have been excluded from the subjects of concession agreements. There are still a lot of unsettled issues concerning the major pipeline transport by construction of which the private capital may be used (the necessity and possibility of such participation have been already acknowledged). The production sharing agreements that are widely used in the world practice became the special form of PPP in the oil business. Such form of partnership is especially relevant to Russia by transition to development of the new areas of oil production, especially within the Arctic Shelf. Unfortunately, the existing procedures of reaching such agreements are top-heavy. According to the Ministry of Natural Resources today from the beginning of implementation of any production sharing agreement one shall pass through 28 stages of preparation and approval and this procedure extends to 2-3 years.

Summary: Therefore, the experts note that implementation of the public-private partnership in Russia faces a number of issues of the legal (absence of the necessary regulatory framework for PPP operation), economic (immaturity of market relations) and administrative (poor acquaintance of the state bureaucracy with the PPP principles and lack of the professional legal competence in most of officials for design of the corresponding contracts in this area) nature. In this regard, the question arises whether there are political conditions for implementation of partnership relations between the government and business in our country and to which extent they predispose to it.

It shall be noted that PPP is the tool of the economic and by extension, the state policy of the developed countries of the world, the appearance of which was the result of the lasting evolution of relationships of the state on the one part and the civil society, its separate corporations on the other part. The Western countries managed to establish more or less parity relations

between the power and business to regulate this parity by means of the law and institutionalize them in the form of the social and political standards of cooperation.

The political regime within the framework of which the partnership of the power and business is implemented may be not only democratic but autocratic as well. In the latter case, the constructive relations between the government and companies arise within the corporatism system promoting to balance of interests between the state and the groups constituting the political system. However, it is the developed forms of democracy, legal statehood that provide the possibility to establish these relations based on the principles of equality of participants, voluntary assumption of obligations and liability for fulfillment thereof, observance of the statutory regulations, freedom of the discussing the issues of mutual interest, respecting the partners' positions, etc.

In the West, the state and business have already become mature partners that do not infringe the autonomous life spheres of each other and maintain certain degree of independence from each other. All of this, however does not cancel the fact that also in the developed countries the state acts as the primary and leading partner within cooperation with business (Kabashkin *et al.*, 2009).

In Russia, there is no such experience in the historically sustainable partnership between the power and business although PP in the form of concessions, corporatization, etc. was widely used during the period of autocracy for renewal of the housing and utility infrastructure of cities, construction and operation of railroads, development of metallurgy industry, etc. Concessions existed also in the Soviet Russia during the NEP period; however, they did not make significant contribution to the economy development and further on were discontinued.

The possibility of use of the PPP is also significantly affected by the Russian political traditions, the keynote of deployment of political process in our country in the form of the state participation in its social-economic and political modernization. The Russian State often intervenes in the autonomous spheres of the society life in particular in the business competence without obligatory legal substantiation of its actions. The following main features of the PPP may be distinguished:

- Certain and in a number of cases rather long term of duration of the partnership agreements (from 10-15-20 and more years in case of concessions up to 50 years). The time limits are strictly observed: the projects are usually designed for a specific object (port, road, social infrastructure facility, etc.) that shall be completed by the specific term

- Specific forms of the project financing: by means of private investments supplemented by the public financial resources (often significant) or joint investment of a few participants
- Performance of the partnership agreements in the conditions of competitive environment when there is a competition between several potential participants for each contract
- Specific forms of division of responsibility between partners: the state sets the project targets from the perspective of the society's interests and determined the cost and quality parameters, performs monitoring of the project implementation and the private partner undertakes the operating activities at different stages of the project design, financing, construction and operation, sales of services its customers
- Sharing risks between the counterparts on the basis of the relevant arrangements (Deryabina, 2009; Anonymous, 2006a)

At the same time, each of the partners makes its contribution to the common project. Thus, on the part of the business such contribution is: financial resources, professional experience, effective management, flexibility and rapid decision-making, ability for innovativeness, etc.

On the part of state within the projects of the designed and implemented PPP the authorities of the owner, possibility of the tax and other benefits, warranties as well as certain scope of financial resources. An important aspect is that the state as the governing subject and main regulator may redistribute the resources (if necessary) from the purely production programs to social purposes (education, health care, science, culture) and this in many cases does not promote to improvement of the social-economic environment, increases the investment rating of the region and country in whole but also affects the partnership projects. Moreover, within the frameworks of PPP the state gains additional capabilities for performance of its fundamental functions control, regulation, observance of public interests (Varnavsky, 2005a-c).

Thus, the state reserves the main control levers. They include: the tariff policy (it is always and in all countries still with the state), control of the safety and observance of the environmental conditions of production, control of the quality of servicing the end users. Due to maintenance of these controlling functions the state may withdraw from direct supervision of the economic sphere to provide the economic activity to the private business having retained the levers for controlling the activity of its partners within the project.

The specifics of relations between the state and private business within the PPP consists in the fact that the partnership relations are implemented by means of re-assignment of the ownership authorities. On the basis of this methodological approach to analysis of partnership category it is possible to avoid the two common extremes in interpretation thereof. There is a trend to identify the PPP with privatization and interpret it as a special form indirect privatization. The ground for such interpretation was the width of participation of the private companies in exercise of the ownership authorities assigned to them by the state within implementation of the projects financing, design, construction, ownership and operation of the state-own enterprises. However, upon such approach partnership acts as a formal one and skips the essence of relations (Osadchaya and Osadchiy, 2007).

According to another approach, partnership lies at the boundary of the public and private sectors not being either the privatized or nationalized institutions. This is kind of the 'third way' by means of which the governments find the political forms of improvement of provision of public services to the population. It seems that more constructive is the approach to PPP as to a special form of the public investment policy that allows in a number of cases to substitute the privatization programs and efficiently fulfill the potential of the private entrepreneurship initiative, on the one part and maintain the controlling functions of the state in the socially relevant sectors of the economy on the other part.

The issue of the role of the state in the economy remains to be always topical. The world experience and the unique history of our country prove that the issue of the state participation in the public life features the supra-national and supra-class character the satisfactory solution thereof is possible only based on the understanding of the fundamental pre-requisites of the human activity. Accordingly, the necessity and potential trends of development of the national economy, the issues of interaction between the state and business during the process of its operation shall be considered from the same perspective.

CONCLUSION

Thus, the essence of PPP consists, on the one hand, in the natural interest of the state in strengthening of its budget and increase in the tax revenues on the other hand, the business is highly interested in the development of the production and social infrastructure, creation of favorable conditions for its, increase in profitability and sustainability of development. In this regard, PPP may be considered as the special form of agreement between the state and business concerning the 'rules of the game' according to the principle 'the

business wins if the state wins', i.e. in the PPP schemes the business is granted benefits and privileges, thus, opportunities for growth of income in return for participation in the development of the state-owned production and social infrastructure facilities.

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