



SINGAPORE CONVENTION ON MEDIATION
BREAKOUT SESSION REPORT

Title of Breakout Session: Infrastructure Projects: Ecosystems and Frameworks
Date/Time: 7 August 2019, 1.50pm
Venue: Hibiscus Room III, Shangri-La Hotel, Singapore

Speakers:

- Mr Peter HYLAND, Regional Director, Cistri Pte Ltd (“**Mr Hyland**”)
- Mr Chidi IZUWAH, Director-General, Infrastructure Concession Regulatory Commission, Federal Republic of Nigeria (“**Mr Izuwah**”)
- Mr Wei SUN, Partner, Zhong Lun Law Firm (“**Mr Sun**”)

Moderator:

- Associate Professor Ruby LEE, Faculty of Law, National University of Singapore (“**Prof Lee**”)

Report on Breakout Session

Main Themes

The main themes discussed were:

Theme 1: The role of infrastructure and connectivity in promoting economic growth

Theme 2: The importance of non-physical connectivity and social infrastructure

Theme 3: The roles that various institutions can play in promoting infrastructure development

Arguments

Theme 1: The role of infrastructure and connectivity in promoting economic growth

- A country’s ability to efficiently move goods, services and the factors of production is critical to achieving economic prosperity. (Mr Izuwah)

Theme 2: The importance of non-physical connectivity and social infrastructure

- Connectivity can be either physical (transport, roads etc.) or non-physical (telecommunications, including phone lines and the internet). Both are needed to maximise economic growth. Furthermore, in addition to physical infrastructure, it is important for countries to have a strong focus on social infrastructure such as education, employment and health. To the credit of international funds, there has been a strong focus on social infrastructure. (Mr Hyland)
- In modern day, being online is a pre-requisite to participation in the economy. The availability of internet broadband has led to significant increases in productivity. (Mr Izuwah)



- Social connectivity is also a mentality. A lack of social connectivity can lead countries to isolation within the global market. (Mr Sun)

Theme 3: The roles that various institutions can play in promoting infrastructure

- Successful infrastructure development requires governments to have well-coordinated long term planning. Singapore has good urban planning because infrastructure planning is done on a long-term basis and tied to land-use and transport planning. (Mr Hyland)
- Infrastructure projects must be rigorously researched and thought through. Private and international funders should consider whether plans are realistic and forecasts are sensible. The risks involved in infrastructure projects must be well understood by all parties involved. Adequate and high quality advisory services must be used. (Mr Hyland and Mr Izuwah)
- Investors should not engage in “vulture investing” by taking advantage of an information asymmetry between themselves and developing states. Projects resulting from vulture investing are prone to fail. Deadlocks may arise as investors cannot compel sovereign nations to comply. (Mr Izuwah)
- International organisations such as multilateral development banks have an important role to play in developing ecosystems that promote development and create confidence in investors and developing countries. (Mr Izuwah)
- Financial institutions have an important role in investing in and providing for infrastructure development. This is particularly as the funding required is beyond what governments can provide. (Mr Sun and Mr Hyland)
- Infrastructure development can be promoted through the use of dispute resolution mechanisms that facilitate the curing of disputes at an early stage, such as mediation, avoidance or adjudication. The Singapore Convention on Mediation is a positive development, but must be implemented. Financial institutions, in particular, are in a position to promote the use of mediation. (Mr Sun)
- The effectiveness of a mediation clause in an agreement depends on the applicable law in different jurisdictions. In certain jurisdictions, if parties do not first attempt mediation as agreed, they may not be able to resort to the civil courts. (Mr Sun)

Conclusions

Theme 1: The role of infrastructure and connectivity in promoting economic growth

- Countries need to develop infrastructure and connectivity in order to be productive and competitive.



Theme 2: The importance of non-physical connectivity and social infrastructure

- In addition to physical connectivity and infrastructure, non-physical connectivity and social infrastructure are also needed in order for countries to have a full range of economic development.

Theme 3: The roles that various institutions can play in promoting infrastructure

- Governments, investors (whether private or international), international organisations such as multilateral development banks and financial institutions have key roles to play.

Recommendations

Theme 1: The role of infrastructure and connectivity in promoting economic growth

- Have long term integrated infrastructure plans and implement accordingly.

Theme 2: The importance of non-physical connectivity and social infrastructure

- Integrate physical and social plans for inclusiveness and maximum growth. Ensure pro poor factors are considered to ensure inclusiveness.

Theme 3: The roles that various institutions can play in promoting infrastructure

- Governments at national and sub-national levels should have an integrated infrastructure master plan. (Mr Hyland and Mr Izuwah)
- Governments and investors must use sufficient advisory services to ensure that projects are well thought through, and they should not prioritise closing deals over sufficient project planning (Mr Hyland and Mr Izuwah). They should also engage effective project managers, who have a key role to play in identifying and solving disputes at an early stage. (Mr Sun)
- International organisations such as multilateral development banks must effectively match investors to opportunities in developing countries. Even if they are not able to solve all problems, they can identify the key pressure points in infrastructure development. They should also promote the development of sound legal frameworks. (Mr Izuwah)
- Financial institutions can promote mediation by requiring parties who are using their credit facilities to incorporate mediation into their dispute resolution clauses. When issues arise, financial institutions can also play a role in facilitating the negotiation and re-structuring of a project to ensure completion to the satisfaction of all parties. (Mr Sun)



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- Dispute resolution boards can be used together with mediation to manage disputes. (Audience member Mr Anil Changaroth, and Mr Izuwah)

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