

# **FINANCING ROAD INVESTMENTS THROUGH COMPREHENSIVE LONG-TERM CONTRACTS**

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## **INTRODUCTORY REPORT**

Road investments financing can be granted through comprehensive long-term contracts. In this respect it is particularly important that all the stakeholders involved have an appreciation of the risks and understand how changes can be managed during the contract period.

As a matter of fact, comprehensive long-term contracts are characterized by the presence of an important degree of risk related to the unforeseeable events likely to call into question the engagements assumed by the signatories. Whatever their denomination, they are marked by a certain degree of partnership, which raises the question of the balance between co-operation and competition. In addition, if it is illusory to seek to fix a rigid contractual framework for the duration of the contract, on the other hand the recourse to technical and financial indicators in order to verify contracts performance can call for significant adjustment in the long term.

Finally, it is worth of noting that the allocation of certain risks to the private sector is quite impossible (in particular in case of risks considered “out of the market”) or not economically efficient (for the risk premium is too high).

These characteristics make that it is observed a strong proportion of renegotiation of the global long-term contracts and often under difficult conditions. This is why the global long-term contracts can integrate specific precautionary measures, in particular by the means of clauses of adjustment aiming at adapting the framework of reference to the new conditions.

By and large, prevention and risk management related to the global long-term contracts should intervene at two stages:

- At the moment of the negotiation of the contract (upstream prevention), in particular through thorough risks evaluations in order to improve the contract drafting;
- At the moment of the implementation (downstream prevention), either by systems of periodic renegotiation of the terms of the contract (a main contract allies together with multiannual contracts, for example), or by the means of mechanisms of regulation, or through procedures of crises management envisaged expressly by the contract.

The special session on the financing will have to approach the following topics:

- The analysis of the risks and their allocation;
- The impact of the legal system (common law/civil law) on the formulation of the global long-term contracts;
- The renegotiation and adjustment mechanisms;
- The mechanisms of regulation (contractual, administrative, by independent or legal authority regulation).

It will consist of two parts:

Part 1: How to set up a comprehensive long-term contract

(the awarding process, partnership and competition, negotiation and contract formulation, the legal system influence, risks evaluation and allocation)

Part 2: How to implement a comprehensive long-term contract

(the adjustment mechanisms, the contract renegotiation process, mechanisms of regulation).