DYNAMIC CONTRACT CONDITIONS FOR BUILT OPERATION TRANSFER (BOT) PROJECTS IN CHINA

Jie LI

School of Civil Engineering, Nanjing Forestry University, Nanjing 210037, China. Tel: 86 25 85427955 E-mail: li_jie220@yahoo.com.cn

Abstract
The Chinese government introduced BOT/PPP (build-operate-transfer/public-private-partnership) procurement strategies in the early 1990s for the development of infrastructure such as highways, power stations etc. However, there are many risks plaguing both the government and private investors in BOT projects. The aim of this paper is to propose dynamic contract conditions which could be used to manage the risks. The paper first summarizes the main risks which resulted in the failure of BOT projects in 1990s in China through cases reviews, then discusses how the risks may be mitigated/managed through a better designed contract which focus on fairness and efficiency. Furthermore, based on analysis of the drawbacks of current contract conditions, dynamic contract conditions are proposed.

Keywords
BOT projects, risk, contract principles, China

INTRODUCTION

BOT, as a project financing method, has been used in infrastructure development for nearly 30 years. Governments, particularly those in developing countries, seek to maximize efficiency, in other words Value for Money. Private investors seek to reap adequate returns in sufficiently stable environments and expand their investment area (Kerf et al, 1998).

According to the World Bank, the total investment in infrastructure projects with private participation in developing countries reached US$1,475 billion in almost 4,100 projects during the period 1990-2007 (World Bank, 2008). Among all forms of private participation, BOT is one of the most frequently used forms that private sectors prefer (World Bank, 2008). Private investment experienced two peaks in the world. One appeared around 1997 but was interrupted mainly by the Asian crisis around that time. The second peak occurred in 2007 10% higher than the previous peak. Refer to Figures 1.

Figure 1  Investment to infrastructure projects with private participation in developing countries, 1990 - 2007