



SOEs' PARTICIPATION IN PPPS AND ITS IMPLICATION

2019 APN CONFERENCE

Financing Infrastructure for Sustainable and Inclusive
Development

Session 2 - Diverse entities and structure of PPPs: Recent
Trends in Participation
Module of PPPs

Hans Christiansen
Senior Economist
Corporate Governance and Corporate Finance Division
OECD

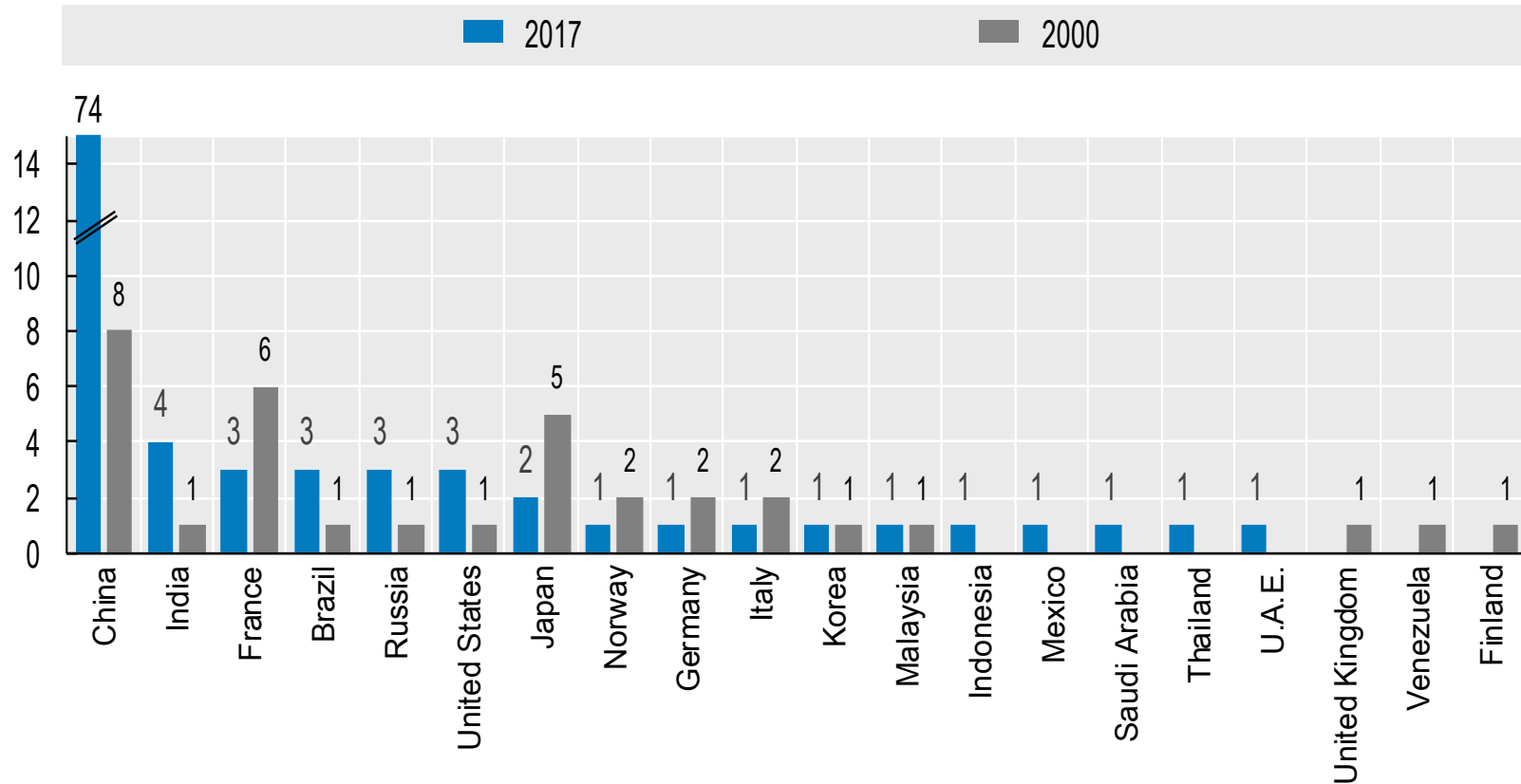


Structure of presentation

1. Growing SOE presence in global economy
2. Policy challenges for levelling the playing field
3. Internationally recommended good practices on SOE participation in public-private partnership : OECD instruments and principles
4. Some potential areas for further research and sharing of good practices



The Global SOE landscape : SOEs among the world's largest 500 enterprises



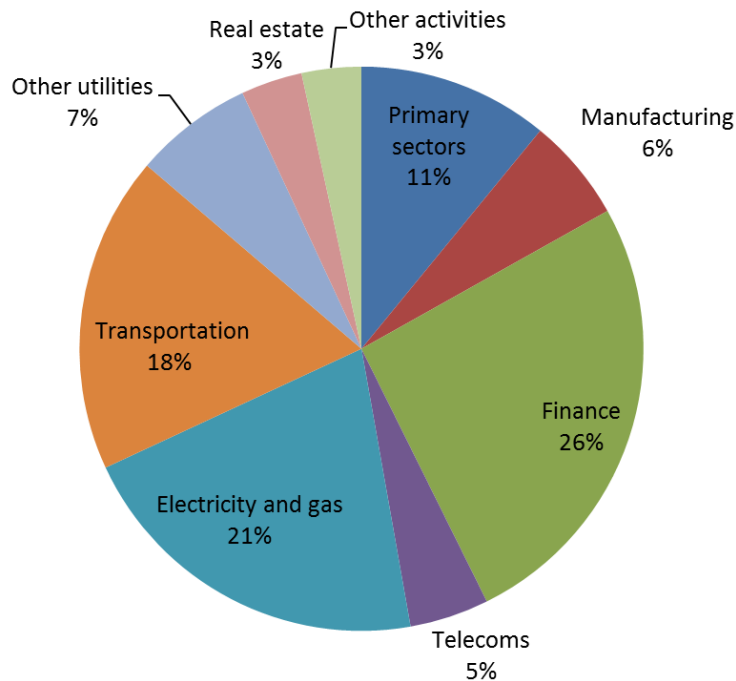
Source: OECD calculations based on Fortune Global 500.



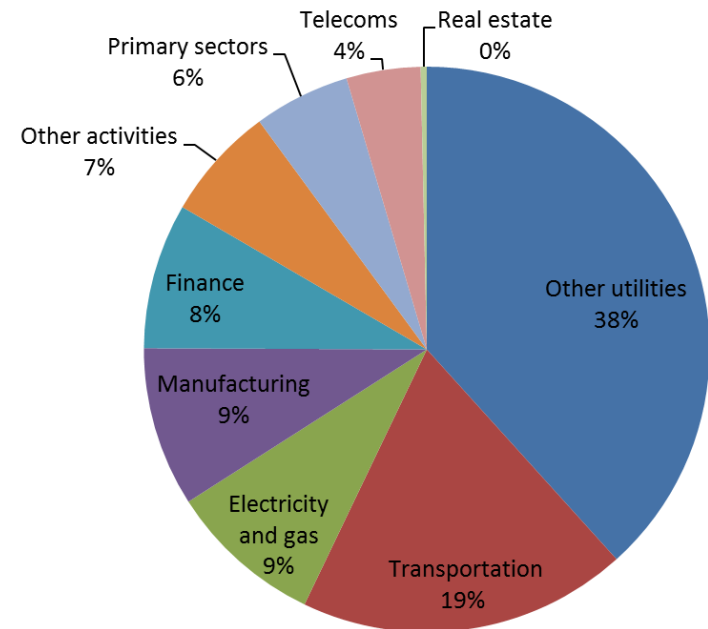
The Global SOE Landscape : SOEs' growing presence in network industries

SOEs are **highly concentrated in the network industries**. Electricity and gas, transportation, telecoms and other utilities sectors account for 51% of all SOEs by value and 70% by employment.

Sectoral distribution of SOEs by value



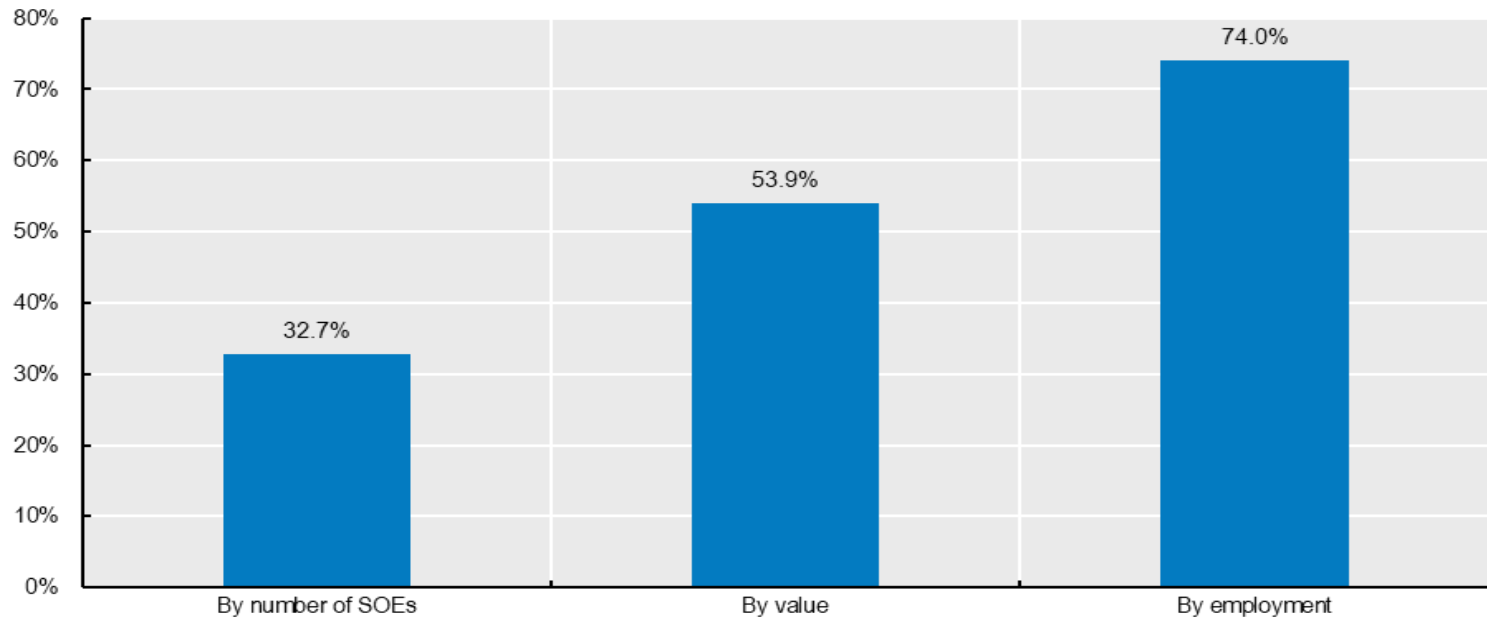
Sectoral distribution of SOEs by employment





SOEs in the infrastructure sector in OECD countries

Percentage share of OECD total SOE portfolio



Note: The figure is based on a definition which includes in the infrastructure sector “transportation”, “energy” and “other utilities”. Notably, this excludes telecommunication.



PPPs as a new approach to infrastructure investment

Public-private partnerships (PPPs) has emerged as one of the new approaches to infrastructure investment.

- More than USD 93 billion worth of PPPs in the infrastructure sector were contracted in 2018.
- Through PPPs important economic gains can be made, if for example the state's access to low-interest financing is combined with the higher operational efficiency of private sector operators.
- Conversely, relying solely on private sector finance is often not an optimal solution and can in some cases be little more than an attempt to shift debt off the public sector balance sheet.



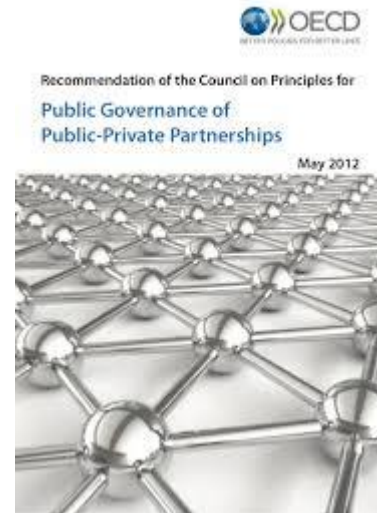
About PPPs: OECD has specific guidance in this field

OECD Principles for Public Governance of PPPs:

- 1) Institutional framework;
- 2) Value for money;
- 3) Budgetary transparency.

OECD Principles for Private Sector Participation in Infrastructure:

“Partnership” means partnership.





Case of Denmark : SOE model Vs. PPP model in Danish transport infrastructure governance

The SOE model combines a professional board and management with financing via state guaranteed-loans and user charges. The SOE model was layered on the existing agency model for public provision of transport infrastructure and became locked-in for new mega-projects.

Combined with a general lack of institutional support for PPPs and a strong national economy the PPP model in Danish transport infrastructure governance was excluded.

Source: Lene Tolstrup Christensen and Carsten Greve (2018), International Public Management Review Vol. 18, Iss. 2, 2018



Trends on SOEs' participation in PPPs

PPPs may involve SOEs in several ways.

First, the state often participates in the partnership via an existent state-owned enterprise, or establishes a new operation company to oversee the PPP.

Secondly, a high proportion of the “private” participants tend to be state controlled – and typically operating outside their domestic jurisdictions.

More than 19% of the infrastructure PPPs launched in 2018 involved public institutions, roughly half of which SOEs and the other half state-controlled institutional investors.



OECD Guidelines on Corporate Governance of State-owned enterprises

- The state should disclose the rationales for state ownership to the general public, who are the ultimate owners of SOEs.
- The state as an owner should be professional, transparent and accountable.
- SOEs should compete on a level playing field with private companies. State ownership and regulatory functions should be separate to avoid conflicting objectives.
- Non-state shareholders should have equitable treatment and equal access to corporate information.
- SOEs should respect stakeholders' rights and implement high standards of responsible business conduct.
- SOEs should be subject to the same high standards of accounting, auditing and disclosure as listed companies.
- SOE boards of directors should have the mandate and autonomy to set enterprise strategy and oversee management.





Policy challenges (part 1)

An uneven playing field between public and private infrastructure operators is a major concern, especially given the growing economic weight of SOEs across the globe.

- According to the recent OECD studies on competitive neutrality practices in OECD countries and partner countries, where commercial disputes arise, claims often refer to undue advantages that incumbents (whether public or private entities) or in-house providers may have in the bidding process. These advantages include:
 - a stronger position to pre-qualify or bid for contracts where a given SOE has already established a track record;
 - information advantages concerning service levels and costs;
 - and lower start-up and transition costs compared with potential entrants – especially where contracts are of limited duration.



Policy challenges (part 2)

An uneven playing field between public and private infrastructure operators is a major concern, especially given the growing economic weight of SOEs across the globe.

- Cases where the general government may also face disadvantages competing alongside the private or third sectors (e.g. more stringent reporting requirements).
- Illicit practices such as corruption, bid rigging, abusive related party transactions and other unethical behaviour by sellers in public procurement.
- Preferential treatment to national champions (often state-owned or former state-owned incumbents)
- Where in-house procurement is concerned competitive tendering may not be required in many jurisdictions. Competitive neutrality challenges can arise where there is ambiguity surrounding acceptable derogations from national public procurement policies for the purposes of in-house procurement. Other jurisdictions have very specific guidance establishing the situations in which in-house procurement is permitted and when such practices may be exempt from competitive tendering.



Compensation of public policy objectives

Good practice dictates that concerned entities are adequately compensated for non-commercial requirements on the basis of the additional cost that these requirements impose.

Compensation may be provided by the public purse (methods range from direct transfers, capital grants, reimbursements and budget appropriations, to state aids/subsidies) or they can be funded entirely through user charges or a combination of both user charges and compensation.

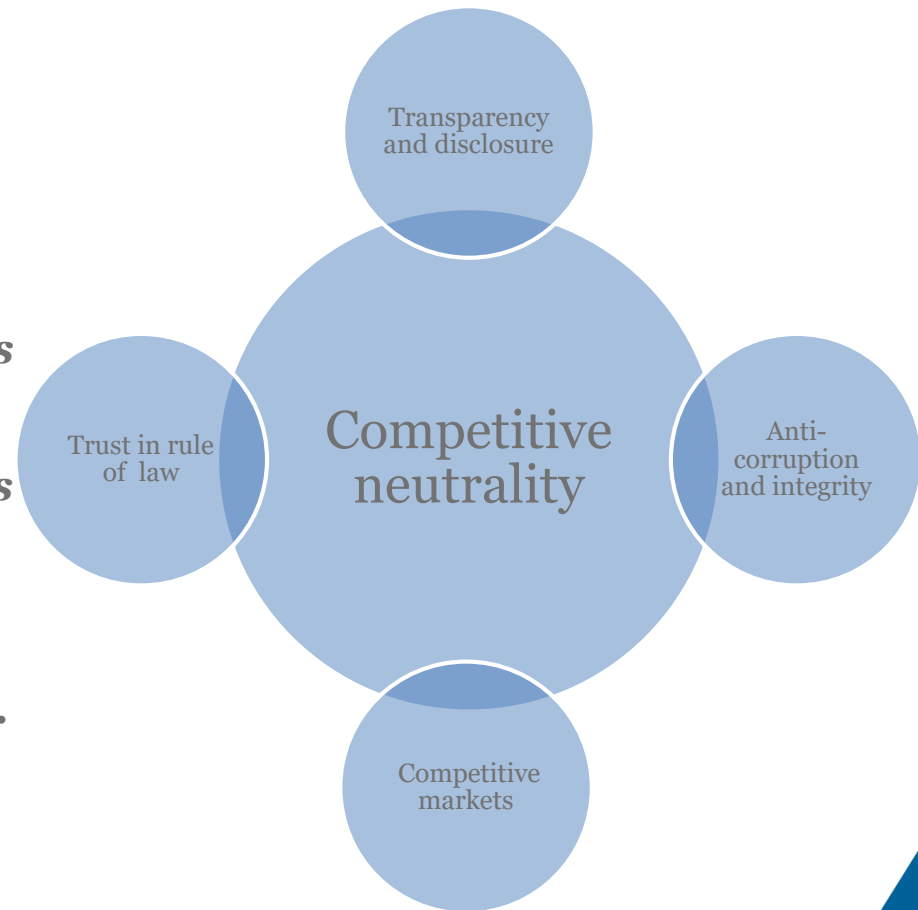
The most precise and transparent mode of compensation is direct payments provided from public sector budgets.



OECD Initiatives to ensure Competitive Neutrality

The OECD is working directly with countries and regions to ensure competitive neutrality and improve the governance of SOEs. The OECD uses comprehensive tools such as

- ***OECD Guidelines on Corporate Governance of State-owned enterprises***
- ***OECD Anti-Corruption and Integrity Guidelines for State-owned Enterprises***
- ***OECD recommendation on public procurement***
- ***OECD Competition Assessment Toolkit.***
- *As well as sector-specific instruments or targeted policy analysis on frameworks for successful Public-Private Partnerships.*





Select provisions relevant to PPP in the Guidelines

Chapter VI. Disclosure and transparency

State-owned enterprises should observe high standards of transparency and be subject to the same high quality accounting, disclosure, compliance and auditing standards as listed companies.

- A. 7. Any financial assistance, including guarantees, received from the state and commitments made on behalf of the SOE, including contractual commitments and liabilities arising from public-private partnerships

Annotations to Chapter IV: Equitable treatment of shareholders and other investors

D. When SOEs engage in co-operative projects such as joint ventures and public-private partnerships, the contracting party should ensure that contractual rights are upheld and that disputes are addressed in a timely and objective manner.



Select Provisions on good practices on PPP in the OECD Guidelines on Corporate Governance of State-owned enterprises

Annotations to Chapter VI: Transparency and disclosure of SOEs

7. [SOEs should disclose] any financial assistance, including guarantees, received from the state and commitments made on behalf of the SOE, including contractual commitments and liabilities arising from public-private partnerships;

To give a fair and complete picture of an SOE's financial situation, it is necessary that mutual obligations, financial assistance or risk sharing mechanisms between the state and SOEs are appropriately disclosed.

....

Public-private partnerships should also be adequately disclosed. Such ventures are often characterised by transfers of risks, resources and rewards between public and private partners for the provision of public services or public infrastructure and may consequently induce new and specific material risks



Main building blocks of the new Anti-Corruption and Integrity Guidelines for SOEs

Integrity of the state

- Apply high standards of conduct to those exercising ownership of SOEs on behalf of the general public.
- Establish ownership arrangements that are conducive to integrity.

Ownership and governance

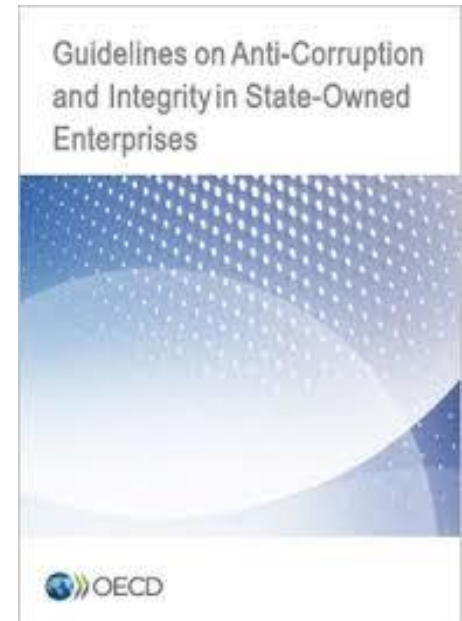
- Ensure clarity in the legal and regulatory framework and in the State's expectations.
- Act as an informed and active owner with regards to integrity in SOEs.

Corruption prevention

- Require adequate mechanisms for addressing risks of corruption.
- Require adoption of high quality integrity mechanisms within SOEs.
- Safeguard the autonomy of SOEs and their decision-making bodies.

Corruption detection and response

- Establish appropriate accountability and review mechanisms for SOEs.
- Taking action and respecting due process for investigations and prosecutions.
- Invite the inputs of civil society, the public, media and the business community.





Resources and contacts

For more information on OECD work on state-owned enterprises, please visit:

<http://www.oecd.org/daf/ca/soemarket.htm>