

CARPA

5th edition of Istanbul PPP week

2nd-5th November 2020

Cameroon case

By **Marcel MBELLA**

Technical Coordinator/CARPA

Outline

Introduction

Legal framework for PPPs

Award procedure

Statistics

Outline

Introduction

Legal framework for PPPs

Award procedure

Statistics

Short presentation of Cameroon

Country's official name : Republic of Cameroon

Capital: Yaounde

Population of main cities: Douala; Yaoundé; Bamenda ; Garoua ; Maroua

Area: 475,440 km²

Type of Climate :

Sahelian in the North while it is tropical and humid in the South, thus a lot of climatic differences depending on the region. Frequent rains in the South (except in December - March and June - August) which are rarer as one travels northwards. January - February is a good period to visit. Take light clothes and something to protect from the rain in the rainy season. It is advised to wear a woolens at high altitude places.

Official Language: French and English

Other Languages Spoken: There are close to 200 african dialects.

Political system : Presidential

The presidential mandate is 7 years without limitation

More than 300 political parties exist in the country



Outline of the PPP concept

“**Public-Private Partnerships**” generically refers to all forms of collaboration between public institutions and the private sector. Its goal is to involve the *private sector in* a number of public service activities aimed ultimately at satisfying a need of general interest.

From a legal standpoint in Cameroon, a **Partnership Contract** commonly referred to as **Public-Private Partnership (PPP)** is a contract whereby the State or one of its sub-divisions confers to a third party (public or private) under a large scope technical and financial project, based on the depreciation period and financing modalities retained, all or part of the following phases of an investment project:

- ✓ **design of public service structures and equipment;**
- ✓ **financing;**
- ✓ **construction;**
- ✓ **maintenance;**
- ✓ **operation.**

Outline of the PPP concept

Three types of partnership contracts (depending on the way the private partner is paid back during the operation period):

- The **Public Service Delegation** (public service concession, leasing, interested self-management) : the private partner is paid by the users of the service through tariffs
- **Public Payment-type Partnership Contracts** : the private partner is paid by the contracting authority (Public Partner, owner of the project)
- **Mix of both** : in case the tariffs and the demand are not sufficient to cover the cost of service

In all the cases, the private partner bears all the **technical risks** around design, construction and maintenance (sometimes the demand risk as well) – The payment is subject to the achievement of **performance objectives**. **At the end of the contract, the assets of the project financed and built by the private partner are transferred to the public partner free of charge.**

Particularity of the Cameroonian PPP system

Some sectors have their specific PPP laws (with no involvement of the PPP unit) :

- Electricity
- Ports
- Mines
- Hydrocarbons
- Telecommunications

All other sectors use the general law of december 2006 (with the involvement of the PPP unit (CARPA) as key actor, as well as the **Ministry of Finance** and the **Prime Minister**) : roads, motorways, bridges, transportation system, health, etc

Outline

Introduction

Legal framework for PPPs

Award procedure

Statistics

General legal framework for partnership contracts

Law no. 2006/012 of 29 December 2006 to lay down the rules and regulations governing partnership contracts

Law no. 2008/009 of 16 July 2008 to lay down the fiscal, financial and accounting regime applicable to partnership contracts

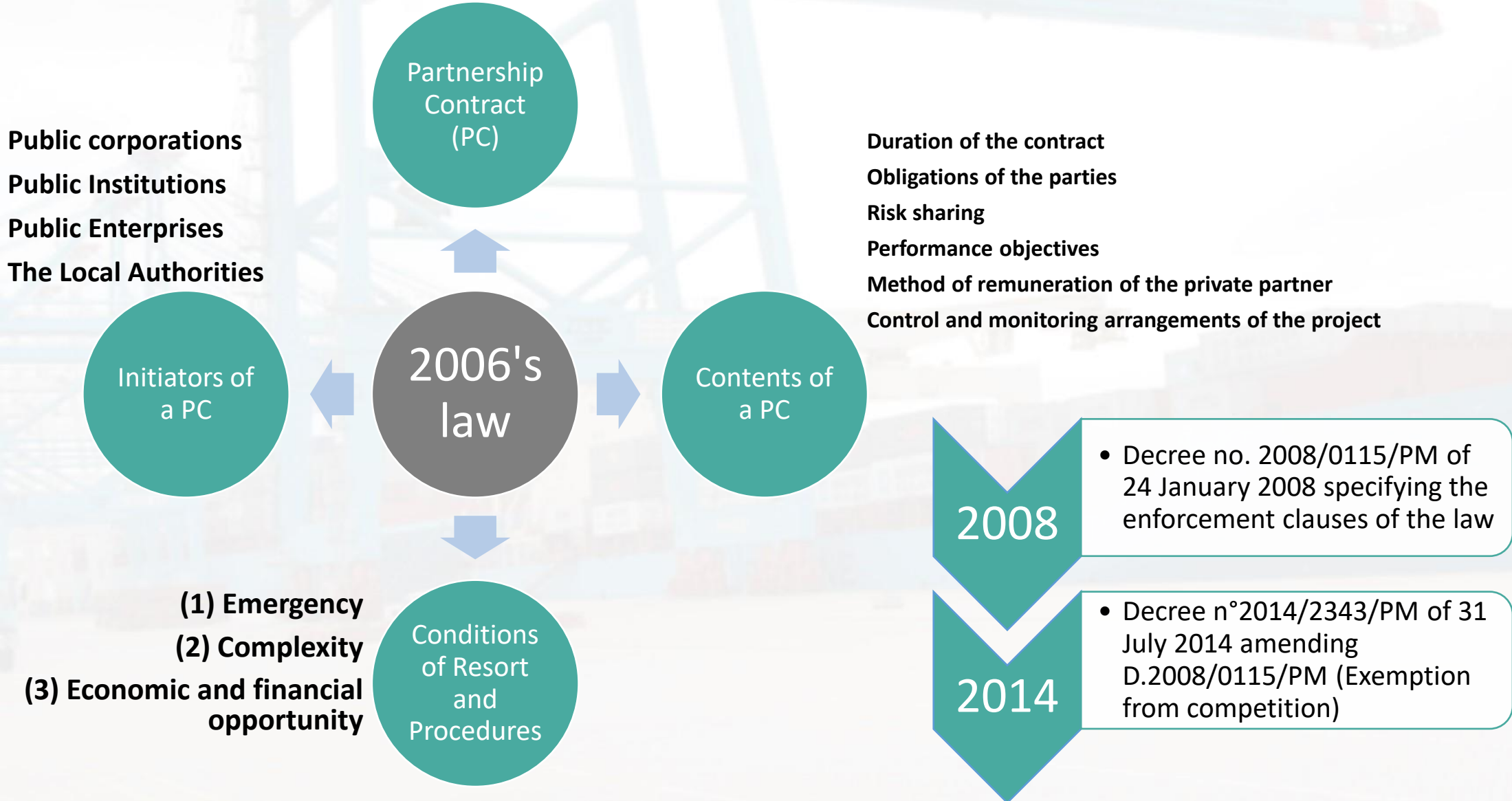
Decree no. 2008/0115/PM of 24 January 2008 precisising the enforcement clauses of Law n° 2006/012 of the 29th December 2006 to lay down the rules and regulations governing partnership Contracts, amended and supplemented by a Prime Minister decree of 31 July 2014.

Decree no. 2008/035 of 23 January 2008 laying down the organization and the functioning of the Support Council for the Realization of Partnership Contracts. (CARPA), amended and supplemented by decree no. 2012/148 of 21 March 2012.

Order No. 186/CAB/PM of 15 November 2011, to fix the rates and conditions for the collection of fees payable for partnership contracts

The main PPP law

Law no. 2006/012 of 29 December 2006 to lay down the rules and regulations governing partnership contracts



The PPP unit in Cameroon

Decree no. 2008/035 of 23 January 2008 on the organisation and operation of the Support Council for the Implementation of Partnership Contracts (CARPA)

- **A Chair**
- **A Steering Committee (12)**
- **A Technical Secretariat**
 - 1 Coordinator
 - 12 Experts
 - 8 administrative staff

Organization

Decree of
2008/035

Missions

- **Drawing up of PPP mechanisms**
- **Preliminary appraisal of PPP projects**
- **Technical support in the procedure**
- **Promotion of PPPs**
- **General Supervisor of Legality**

2012

- Decree no. 2012/148 of 21 March 2012 amending and supplementing certain provisions of the aforementioned decree
- The Ministry of Economy replaces the Prime Minister as the Supervisor of CARPA

The special incentive law for partnership contracts

Law no. 2008/009 of 16 July 2008 to lay down the fiscal, financial and accounting regime applicable to partnership contracts

A set of tax-customs incentives in the design, construction and operation phase

Tax system

Law 2008/009

Financial regime

Accounting system

25% reduction of depreciation rates

Participation of public entities in the financing of a PPP project

The regulatory text for the PPP unit revenues

Order No. 186/CAB/PM of 15 November 2011 to fix the rates and conditions for the collection of fees payable for partnership contracts

Fees for expertise relating to the preparation of projects to be carried out in PPP

Fees payable to Public Entities



Fees payable under CP



Fees payable by the candidates and private partners

- (1) Costs of acquisition of tender documents
- (2) Expertise fees for monitoring of partnership contracts

Outline

Introduction

Legal framework for PPPs

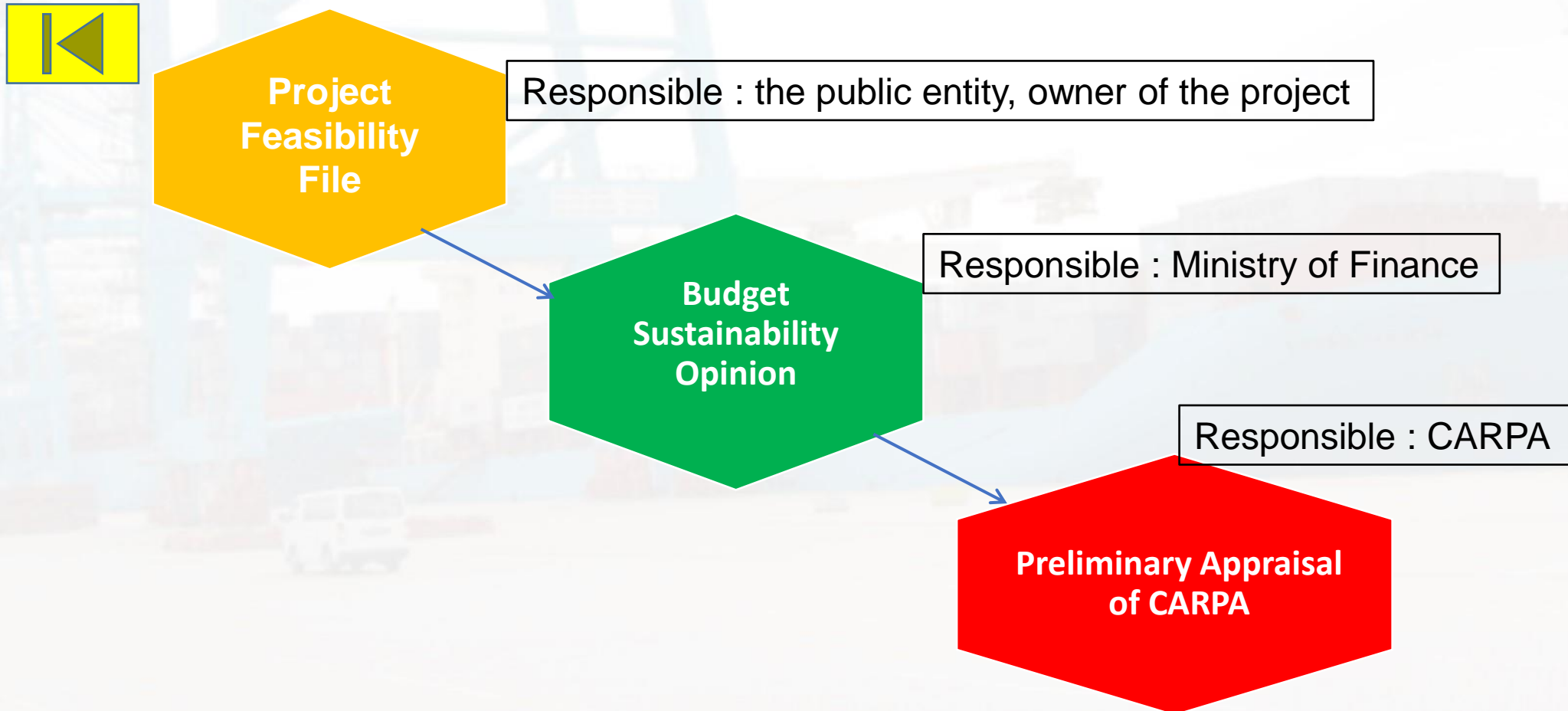
Award procedure

Statistics



Preparation (Formal prerequisite conditions to the award)

The initiation of the procedure for awarding a PPP contract is subject to legal prerequisite conditions.





Eligibility criteria for PPP (1)

CARPA, Expert-Body, carries out the Preliminary Appraisal by examining the conditions of recourse to Partnership Contracts

Preliminary Appraisal of CARPA



- 1. ... pers
- 2. Establish budget sustainability (investments, structure and financing conditions)



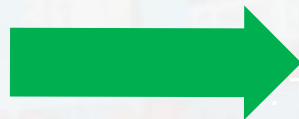
Eligibility criteria for PPP (2)



Preliminary Appraisal of CARPA

CARPA, Expert-Body carries out the **Preliminary Appraisal** by examining the conditions of recourse to the PC

Objective inability of the public person to define himself the means capable of satisfying his needs



Inability of the public person to assess the supply of the market from a technical, legal and financial point of view

COMPLEXITY

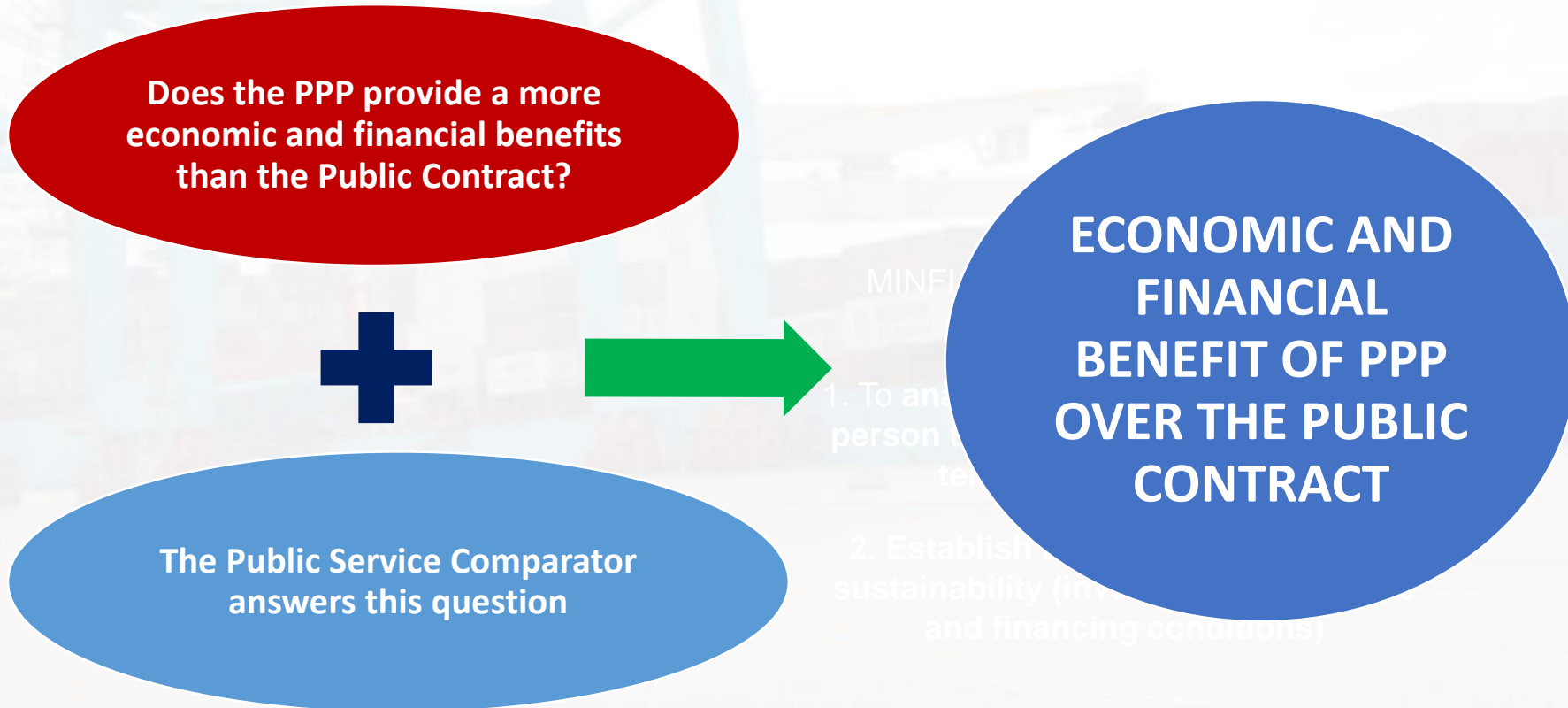


Eligibility criteria for PPP (3)



Preliminary Appraisal of CARPA

The CARPA, Expert-Body carries out the **Preliminary Appraisal** by **examining the conditions of recourse to the PC**





AWARD (TYPES OF PROCEDURE)

Since the signing of the Decree n°2014/2343/PM of 31 July 2014, there are two types of procedure relating to the award of the partnership contract.

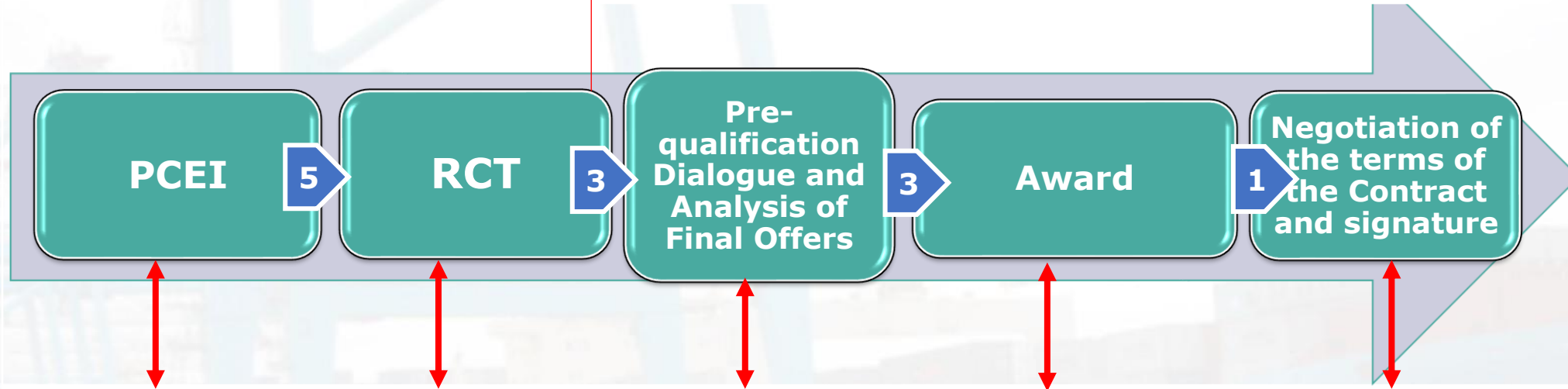
- ❑ **The competitive bidding procedure and** (Normal way for the selection of the private partner);
- ❑ **The exemption to competition procedure** (New Article 13 in the aforementioned decree)

- MINF has 30 days. It shall set up a committee to:
1. To analyse the capacity of the public person to meet its medium- and long-term commitments and,
 2. Establish the conditions of budget sustainability (investments, structure and financing conditions)

AWARD (TYPES OF PROCEDURE)

Competitive bidding

Exemption from competition



Step 1	Step 2	Step 3	Step 4	Step 5
Analysis of technical and financial capabilities of the bidders	Analysis of initial bids of the bidders	Presentation and discussion of technical and financial solutions of pre-qualified candidates	Appointment of the successful bidder by the Prime Minister	Drafting, negotiation and signature of the Contract

ROLE OF CARPA IN THE PROCEDURE

- To provide assistance to the public entity in the preparation of the tender documents : **Public Call for Expressions of Interest (PCEI), Restricted Call for Tender (RCT)**
- To request the public entity to make a wide diffusion and publicity of that file even in the hypothesis of an unsolicited proposal
- To provide assistance to the public entity in the drafting of the PCEI
- To issue the notice of Non Objection or, if not, the reasons of the objection (through an administrative letter) on the tender documents
- To enlighten the members of the Special Committee for Partnership Contracts (SCPC) on the main criteria of allocation through the scoring grid communicated to the candidates
- To provide the Prime Minister with its opinion on the request of exemption to competition after having analysed the capabilities of the proposed candidate
- To provide assistance to the public entity during the prequalification dialogue with the prequalified bidders
- To provide assistance to the public entity in the negotiation of the partnership contract with the successful bidder
- To issue the notice of Non Objection or, if not, the reasons of the objection to the final version of the contract
- To make sure the legal and regulatory provisions of the procedure are well respected (legal advisor in the procedure)

ROLE OF CARPA OUT OF ANY PROCEDURE

- To provide training the public entities' staff on PPP
- To sensitize public entities on the benefits of PPP
- To provide information to the private sector and the public in general about the PPP system in Cameroon
- To promote PPP in Cameroon

Outline

Introduction

Legal framework for PPPs

Award procedure

Statistics

Statistics on PPP projects in Cameroon (not including sectorial PPPs)

Years	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	TOTAL
Number of preliminary appraisals of projects		1	6	0	1	0	12	13	10	10	1	2	56
Number of selection procedures initiated		2	11	18	11	4	3	4	4	0	0	3	58
Number of contracts signed				4	5	3	3	1	4	1	0	2	23

Some PPP projects in Cameroon (not including sectorial PPPs)

No.	Purpose of the project	Public partner	Private partner	Status
1	Construction of six (06) buildings at Okolo -Yaounde	NSIF	BUNS	Preparation for commissioning - 5 years for operation
2	Kribi- Lolabé highway (38,5 km)	MINTP	CHEC	Contract ready to be signed - 30 years of operation
3	Construction of a modern mall in Douala (Congo mall)	Douala city council	NEO CONGO MALL	Under construction. 28 years for operation
4	Construction of 14 toll stations in the main roads of Cameroon	MINTP	FAYAT-RAZEL-EGIS	Contract signed in may 2020 - Funding stage - 20 years for operation
5	Construction of the 2 nd phase of the Yaounde-Douala highway (136 km)	MINTP	Not yet known	Award procedure ongoing
6	Financing, design, construction, operation and maintenance of an information system for Cameroon Customs	MINFI	CAMPASS	The operation has just started (2020) for 12 years
7	Mass transportation system in the city of Yaounde	Ministry of Transport	STECY	Under operation since 2017. 10 years for operation
8	Financing, design, construction, operation and maintenance Multifunction kiosks for the city of Douala	CUY	ACCENT MEDIA	Contract signed in December 2018 - Assets under construction, Operation period : 15 years

Thank you for your attention!

Contact

Marcel Mbella

Marcel.mbella@carpa-cm.com

Facebook page: CARPA Cameroon https://www.facebook.com/carpaonline/?ref=aymt_homepage_panel

www.ppp-cameroun.cm

Tel: +237 690 02 08 58