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First Interim Report

El Salvador Investment Climate Project

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ACRONYMS

ACOPASCA	Asociación Cooperativa de Producción Agropecuaria San Carlos
AmCham	Cámara Americana de Comercio de El Salvador
ANDA	Administración Nacional de Acueductos y Alcantarillados
ANEP	Asociación Nacional de la Empresa Privada
API	Apuesta por InversionES
APANC	Asociación de Productos Agropecuarios Nueva Concepción
CEPA	Autonomous Executive Port Commission
CIFACIL	Comisión Intergremial para la Facilitación del Comercio
CP^3P	Certified Public-Private Partnership Professional
CNR	Centro Nacional de Registros
DfID	Department for International Development
DGA	Dirección General de Aduanas
DIGESTYC	Dirección General de Estadística y Censos (El Salvador)
ERR	Economic rate of return
ESIC	El Salvador Investment Challenge
ESICP	El Salvador Investment Climate Project
FMLN	The Farabundo Martí National Liberation Front
FOMILENIO II	Fondo del Milenio II
FUSADES	Fundación Salvadoreña para el Desarrollo Económico y Social
GDP	Gross domestic product
GoES	Government of El Salvador
ISSS	Instituto Salvadoreño del Seguro Social (Salvadoran Social Security Institute)
LAC	Latin America and Caribbean
LACTOLAC	Lácteos del Corral S.A. de C.V.
MARN	Ministerio de Medio Ambiente y Recursos Naturales
MCA	Millennium Challenge Account
MCC	Millennium Challenge Corporation
MINEC	Ministry of Economy (El Salvador)
Minfin	Ministry of Finance (*Ministerio de Hacienda*)
MOP	Ministerio de Obras Públicas (El Salvador)
MTPS	Ministerio de Trabajo y Previsión Social

OECD	Organization of Economic Co-operation and Development
OFAPP	Organismo Fiscalizador de Asocios Públicos-Privados
OMR	Organismo de Mejora Regulatoria
OPAMSS	Oficina de Planificación del Área Metropolitana de San Salvador
PDA	Partnership Development Activity
PPP	Public-private partnership
PROESA	Export and Investment Promotion Agency of El Salvador
RIA	Regulatory Improvement Activity
RNT	Registro Nacional de Trámites
SETEPLAN	Technical and Planning Secretariat (El Salvador)
SMR	Sistema de Mejora Regulatoria
USAID	United States Agency for International Development

EXECUTIVE SUMMARY

A. Introduction

One of three large-scale projects in the MCC-El Salvador investment compact, the El Salvador Investment Climate Project is designed to boost the productivity of the tradeable sector through increased private investment. The Project includes the Regulatory Improvement Activity (RIA), which designates $6 million in funding toward cutting bureaucratic red tape and improving the quality of regulations that affect investment and business in El Salvador. The Investment Climate Project also includes two sub-activities, the El Salvador Investment Challenge (ESIC) Sub-Activity and the Public-Private Partnership (PPP) Sub-Activity. The ESIC Sub-Activity features $75 million in funding for public goods capable of leveraging private investment, and the PPP Sub-Activity provides $7 million in funding to build the capacity of Salvadoran authorities to develop and assess PPPs, and to help steward two PPPs in the transportation sector toward financial close. The Fondo del Milenio II (FOMILENIO II) oversees all compact investments and activities in El Salvador.

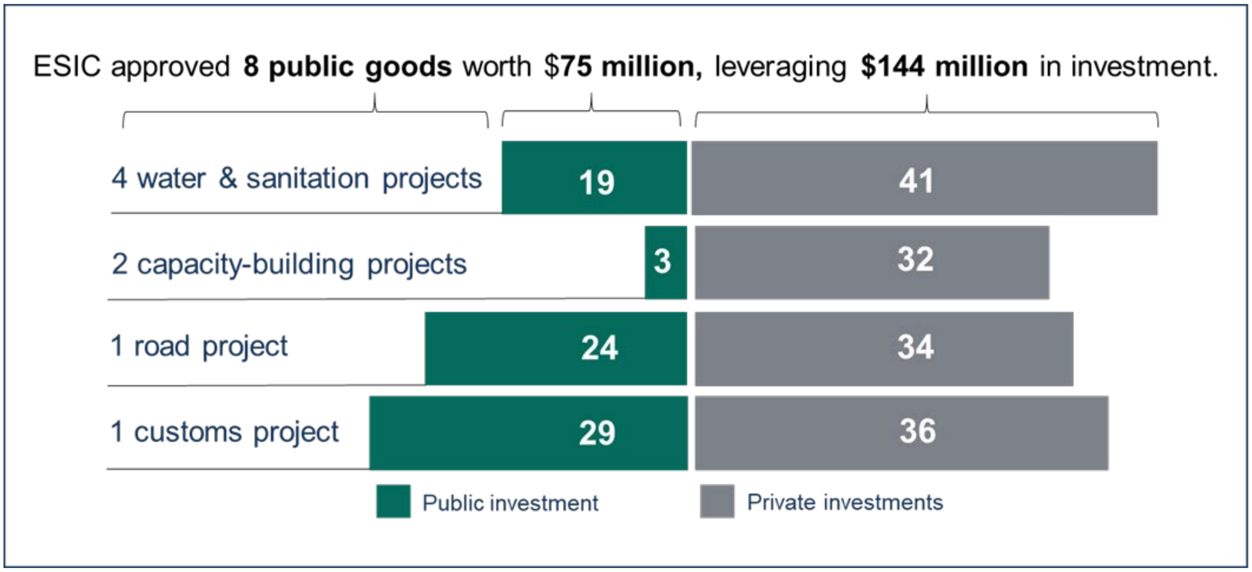
MCC contracted with Mathematica to conduct performance evaluations of the RIA and the ESIC and PPP sub-activities. All three evaluations use a mix of qualitative and quantitative data sources to answer questions about the programs' implementation, results, and ultimate sustainably. These data sources range from key informant interviews and focus group discussions to administrative data and third-party surveys and indices. Because RIA, ESIC, and PPP investments are ongoing and will not end until late 2020, this report focuses primarily on documenting the implementation of these activities as of mid-2019, as well as providing some insights into early results.

B. Findings on the ESIC Sub-Activity

Design. ESIC was envisioned as a large investment fund for public goods that leverage private investment in the tradeable sector, thus creating jobs and strengthening Salvadoran exports. The theory of change of the ESIC Sub-Activity posited that establishing and endowing this investment fund, building a capable investment team, and developing objective selection processes and criteria would result in the approval and construction of well-crafted public goods that would increase social welfare while simultaneously generating more private investment in the country's tradable sector. The end-result would be an improved business environment, increased employment, and a more efficient use of public funds. FOMILENIO II and its partners would select public goods for funding using three core selection criteria: (1) a rate of return of over 12.5 percent for the public good, (2) minimal gender and socio-environmental impacts for the public good and the private investments, and (3) private investment exceeding the total cost of the public good.

Implementation. Officially launched in late 2012, the ESIC fund experienced initial difficulties identifying eligible public goods given a general lack of understanding among potential awardees with respect to its goals and investments. FOMILENIO II's enhanced outreach efforts and simplified application process starting in 2016 led to a healthy pipeline of eligible projects. By 2019, the fund had allocated its entire budget of $75 million in eight public goods focused on infrastructure, including roads, customs office improvements, and water and sanitation projects (Figure ES.1). As a counterpart to these public goods, 13 private firms in the food and beverage, aeronautic, and agroindustry sectors, among others, invested or pledged to invest over $144 million by early 2019.

Figure ES.1. ESIC private and public investment



Initial results. ESIC awardees reported that they would have made a portion of their counterpart investments even in the absence of ESIC. However, they reported investing more than they had initially planned as a direct result of ESIC—in some cases along a more compressed timeframe than originally planned. In this sense, the sub-activity met its goal of leveraging private investment, although only a portion of the $144 million invested by awardees is likely purely attributable to ESIC's public goods. Another large (and somewhat unanticipated) benefit of ESIC was FOMILENIO II staff's efficacy in spurring meaningful public-private collaboration and facilitating permitting processes and other official approvals for public goods and private investments—essentially helping cut the bureaucratic red tape for ESIC awardees that the RIA was designed to address at a systemic level.

Insights and implications. Although it is unclear how much additional investment ESIC has leveraged, it is notably innovative in that it has reframed public investment decision making toward generating shared benefits for communities and companies, as well as leveraging private investment through public infrastructure. ESIC also introduced a rigorous cost-benefit assessment to prioritizing and approving public goods, which is not commonly used among Salvadoran public authorities.

C. Findings on the PPP Sub-Activity

Design. The $7 million PPP Sub-Activity offers support to build GoES capacity to identify, assess, and develop PPPs, primarily within the country's PPP authority (PROESA) and fiscal authority (Ministry of Finance or Minfin). This support takes the form of three pillars: (1) foundational training in PPP principles, (2) day-to-day coaching for public officials, as well as temporary salaries for PROESA staff hired to develop PPPs, and (3) funding for technical studies and transaction advisor services for a small number of prioritized PPPs. These capacity building efforts and technical services are designed to facilitate one or two approved PPPs during the compact period, more private investment and higher employment in years following the compact period, and a more competitive tradeable sector in the long term.

Implementation. By March 2019, 65 public officials had participated in at least one training by FOMILENIO II, and 28 of these training participants obtained an official PPP professional credential by passing an independent exam. Coaches worked with PROESA and Minfin from 2017 onward to establish basic PPP development and analysis protocols, as well as to build capacity on the institutions' core PPP functions. Although the sub-activity's primary goal is the approval of two prioritized PPPs in the compact period, FOMILENIO II had financed studies, transaction advisor services, and technical assistance for five PPPs in PROESA's portfolio by early 2019. Stakeholders considered each of the three pillars of support as critical to meeting their immediate PPP development and assessment needs (Figure ES.2).

Figure ES.2. Implementation of the three-pillar approach

Component	Training	Coaching or technical assistance	Specific project support
Participants' perceptions	• Training was well-structured and comprehensive • Trainees praised instructors' international experience and teaching style	• Coaches assigned to PROESA provided high quality assistance covering a variety of tasks • Minfin was satisfied with its first coach's help establishing PPP assessment procedures, but felt his approach was not sufficiently proactive and future-oriented	• Stakeholders were largely satisfied with the quality of feasibility studies and transaction advisor services, despite the fact that consultants had limited local presence
Suggestions for future support efforts	• Better alignment with PPP certification processes, including an exam and credential as part of the course	• More due diligence on the personality fit and soft skills of potential coaches	• A strong local presence could be given greater weight in contracting consultants

Initial results. PROESA staff—and, to a lesser extent, Minfin staff—have leveraged FOMILENIO II-financed training, coaching, and salaried specialists to quickly build in-house capacity to structure and assess PPPs in development. A general lack of political commitment from the executive branch, apathy from the designated contracting institution, and union opposition stalled one PPP, the airport cargo terminal expansion project, as of early 2019. However, less controversial PPPs, including a highway safety project and border crossing improvements, were progressing toward a public offering as of early 2019. Potentially these two projects could win legislative approval by compact close-out, thereby fulfilling the sub-activity's primary goal.

Insights and implications. In future PPP activities in El Salvador or elsewhere, a fourth pillar of strategic communications and lobbying could be added to the core set of PPP supports. If done strategically, these communications and lobbying efforts could help steward MCC-supported PPPs through the politically charged legislative process.

D. Findings on RIA

Design. With $6 million in funding, RIA helped establish and finance the work of the Regulatory Improvement Organization (OMR for its Spanish initials), which is charged with improving the quality of El Salvador's regulatory and administrative processes. Also under the activity, FOMILENIO II and OMR advocated for foundational laws in regulatory improvement, trained partner institutions to assess administrative burden, and began to establish a public registry of administrative requirements for Salvadoran firms, called the *Registro Nacional de Tramites* or RNT. By eliminating obsolete or contradictory laws and regulations, promoting more transparent regulations, and reducing the administrative costs of compliance for firms, OMR and partner institutions would work toward RIA's primary goal of reducing the cost of doing business in El Salvador. In the medium term, this reduced cost of doing business will increase private investment, thus generating a more competitive export sector in the long term.

Implementation. OMR's work is marked by two distinct approaches to regulatory reform. During Phase I—which extended from 2015 to late 2017—OMR pursued reforms in the areas of customs, business registration, and construction permits. Prominent private sector interests had identified reforms in these areas as critical and particularly time-sensitive. During Phase II—which lasted from late 2017 to mid-2019—OMR worked with ministries in the executive branch to take inventory of all administrative procedures and prioritize reforms from the bottom up, based purely on procedures' administrative burden. Interviewed partner institutions gave largely positive reviews of OMR's assistance to date, citing its outside perspective, useful methodology in addressing administrative burden, and ability to serve as a credible third-party mediator between public and private actors.

Initial results. OMR scored early wins with Phase I legal reforms in customs related to weight discrepancies and product samples in customs, but made limited progress on legal reforms in the areas of business registration and construction permitting due to a lack of executive support and various bureaucratic hurdles. However, partner institutions adopted almost all OMR-recommended (non-legal) administrative changes in business registration and construction permits (Figure ES.3). In interviews and focus groups, firms noted marked efficiencies in registering businesses online as a result of OMR assistance, but noted mixed results with respect to benefits from streamlined customs procedures. These mixed results likely point to variation in the adoption of improvements across customs offices and officials. In Phase II, OMR collaborated with partner institutions to successfully complete a full inventory of their administrative procedures, determine areas of highest administrative burden, and prioritize reforms in annual regulatory improvement plans. During the compact period, stakeholders also achieved key legislative milestones toward the permanent institutionalization of the regulatory improvement system.

Figure ES.3. Adoption of OMR-proposed regulatory improvements

	Area	Legal reforms: Recommended reforms	Legal reforms: Status of reforms	Administrative changes: Recommended changes	Administrative changes: Number and status of changes
Commerce	**Business registration**	Alter the Commercial Code to reduce and simplify registration requirements		Standardize accounting systems across authorities	7
Customs	**Fines due to weight discrepancies**	Alter the Special Law on Customs Infractions to extend the weight discrepancy tolerance and facilitate fine payments		Streamline procedures for issuing/paying fines	2 1
Customs	**Import and export of samples with no commercial value**	Alter the Law on Industrial and Commercial-Free Zones to enable a single declaration for multiple samples		Simplify the procedure for express delivery	1 4
Construction	**Permits for new construction**	Alter the Law to Streamline Procedures for Construction Projects to reduce requirements and expedite reviews		Simplify interim steps for construction permits	13 1

Source: Regulatory impact assessment reports and the report to the Regulatory Improvement Council.

Note: Green denotes reforms that were approved or administrative changes that were adopted as of mid-2019. Grey indicates reforms that were not approved or administrative changes that were not adopted as of mid-2019.

Insights and implications. Driven in part by multiple leadership changes, OMR is still consolidating its identity and focus in the realm of regulatory improvement. Over three years after OMR's creation, it is still too early to assess the agency's progress toward its short-term goals of increased transparency, consistent regulations, and reduced costs to businesses, given limited implemented reforms to date.

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I. INTRODUCTION

El Salvador's uncertain business environment and onerous business regulations limit growth, particularly in the country's tradeable sector. For example, in its *Starting a Business* rankings, the World Bank placed El Salvador 140th out of 190 countries based on the procedures, time frames, and costs associated with registering a new business in the country (World Bank 2018). To improve the business environment and unlock other constraints to growth in the tradeable sector, MCC and the Government of El Salvador (GoES) signed a five-year investment compact in September 2014. The compact, which entered into force in September 2015 and will end in September 2020, is financing $277 million[1] in large-scale improvements in human capital, the investment climate, and logistical infrastructure.

One of three large-scale projects in the compact, the El Salvador Investment Climate Project is investing $92.4 million to boost the productivity of the tradeable sector by improving the regulatory and business environment and enabling the GoES to make targeted investments in public goods to stimulate private-sector investment. The Investment Climate Project comprises two activities, the Regulatory Improvement Activity (RIA) and the Partnership Development Activity (PDA); in turn, PDA consists of two sub-activities, the El Salvador Investment Challenge (ESIC, or *Apuesta por InversionES* [API] for its name in Spanish) and the Public-Private Partnership (PPP) Sub-Activity.

MCC contracted with Mathematica to conduct performance evaluations of the RIA and the ESIC and PPP sub-activities. All three evaluations will use a mix of qualitative and quantitative data sources to answer questions about the programs' implementation, results, and ultimate sustainably. These data sources range from key informant interviews and focus group discussions to administrative data and third-party surveys.

This report is the first in a series of three in an evaluation contract that may extend to 2023. Because RIA, ESIC, and PPP are ongoing, this report focuses primarily on documenting the implementation to date of these activities, as well as providing some insights into early results. The report is organized as follows. Chapter II provides a summary of the literature review that was presented in the design report for these evaluations (Blair et al. 2018) and Chapter III provides a summary of the evaluation design. Chapter IV provides information to date on the implementation and progress of the ESIC Sub-Activity, Chapter V reports on the PPP Sub-Activity, and Chapter VI covers the RIA. We conclude the report with a summary of the lessons to date. The appendices provide additional findings and information on the activities and sub-activities.

[1] Unless otherwise noted, all monetary amounts in this report are expressed in U.S. dollars.

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II. LITERATURE REVIEW

In this chapter, we summarize the existing evidence on the impacts of investment challenge programs, PPPs, and regulatory reforms on outcomes in the ESIC, PPP, and RIA program logic, respectively. A more extensive review of the literature can be found in the evaluation design report finalized in January 2019 (Blair et al. 2019).

A. Investment challenge programs

Investment challenge funds such as ESIC are generally conceived as flexible and competitive mechanisms to channel public funds to projects with high expected social impact and financial returns. The United Kingdom Department for International Development (DfID), Consultative Group to Assist the Poor (CGAP), Australian Agency for International Development (AusAID), Canadian International Development Agency (CIDA), and the U.S. Agency for International Development rely on these types of funds to engage the private sector as a partner to pursue economic development and poverty reduction (Pompa 2013).

Despite their recent growth in size and relevance in the development space, evidence on the overall impact of these funds is sparse and in some cases anecdotal (Heinrich 2013). Nevertheless, a few studies have found positive effects of such funds on grantee behavior, including adherence to best practices and transparent financial management. One evaluation of DfID's African Enterprise Challenge Fund found that 9 out of 29 projects supported by the challenge fund achieved high social impact and financial returns, with an initial $22 million fund leveraging an additional $105 million from the private sector and benefiting more than half a million rural households (Pompa 2013).

B. PPPs

A public-private partnership (PPP) is a contract between a private party and a government entity for providing a public asset or service, in which the private party bears significant financial, technical, or operational risks and management responsibility in exchange for compensation. The private party, called the concessionaire, often receives a contract to design, build, finance, operate and maintain (DBFOM) public infrastructure, whereas the government entity, often called the contracting institution, manages the concessionaire's work and tracks their performance.

PPPs are an attractive investment vehicle to governments because they can provide public goods and services without adding to fiscal deficits. To be of most benefit to governments, however, PPPs should meet a series of conditions. Most importantly, they should maximize benefits to society—in terms of the availability, quality, and cost of the good or service in question—as well as value for money, defined as the cost-savings, efficiency gains, and other benefits of involving the private sector (as opposed to the public sector) in construction, maintenance, and operation. To reach the stage of contract signing and construction, PPPs must also be bankable—that is, feasible in commercial terms—to generate at least a minimum number of viable offers from potential concessionaires. Because social benefit and value for money can be at odds with bankability, the ideal trade-off between the two from MCC's perspective is maximizing value for money while maintaining a minimum level of bankability.

PPPs that maximize social welfare and value for money but also ensure bankability from design to implementation can only exist in countries that have a strong legal and institutional framework. This framework includes a law or series of laws that outline the processes involved in developing, approving, and implementing PPPs, as well as the core functions of all involved actors. It also includes a strong institutional framework composed of a well-trained and experienced PPP authority whose role is to identify, vet, and promote a pipeline of PPPs, as well as a finance ministry that can capably evaluate each PPP's fiscal risk and de-prioritize any project that may pose too large a fiscal risk to the national budget. In this sense, the Ministry of Finance (Minfin) must serve as a capable counterbalance, or decelerating force, to the PPP authority, which largely promotes PPPs. Successful PPPs also require capable contracting institutions to help develop projects and, perhaps more importantly, to manage private-sector consortia that administer PPPs once they are operational. A strong regulatory authority is also critical, as all PPPs require oversight to ensure no malfeasance between contracting institutions and consortia with respect to PPP profits and payments.

As of 2016, the Latin America and Caribbean (LAC) region had the most active private-sector participation in infrastructure investment worldwide. Attracting $32.2 billion in 2016, projects in the region represented 47 percent of global investment in infrastructure projects with private participation (Ruiz Nuñez et al. 2016). PPPs are now used throughout Latin America and the Caribbean, with some shifting in the types of projects and sectors concerned. Although many LAC countries still focus on more traditional sectors such as transport, energy, and water, many are adding new sectors such as government offices, health care, sports, and justice (Economist Intelligence Unit 2019). Seventeen of 33 countries in the LAC region have fully functional PPP units; as of early 2017, PPPs accounted for around 40 percent of the region's yearly infrastructure commitments (Economist Intelligence Unit 2017).

There is little rigorous evidence on the overall economic impact of PPPs, in part due to an inability to compare the results of the PPP to the common counterfactuals of public provision or the absence of an investment project (Ruiz Nuñez et al. 2016). However, case studies and evidence reviews have shown that efficiency gains from transportation infrastructure PPPs are common (Ruiz Nuñez et al. 2016) though not guaranteed (Estache and Saussier 2014). There is no conclusive evidence that transportation infrastructure PPPs lead to increases in direct or indirect employment. Notably, Estache and Garsous (2012) found that transportation PPPs have mixed results with respect to employment in the medium term, and that the likelihood of detecting positive impacts on employment is often highly dependent upon the analysis period and discount rate.

C. Business and regulatory reforms

Regulations are a key determinant of a country's investment climate. When regulations are poorly designed, applied badly, or outdated, they can restrict private firms' capacity for innovation and competitiveness (OECD 2001). In the last two decades in Latin America, countries have taken important steps toward the creation and implementation of better regulatory frameworks to promote more transparency and better investment climates. In the case of Mexico, such efforts involved the creation of the Federal Commission on Regulatory Improvement (COFEMER[2]) in 2000, a government agency charged with improving the efficiency and transparency of federal regulations. Other countries, like Colombia, Chile, and Peru, have made significant improvements in developing a comprehensive regulatory policy, including making regulations and their requirements more accessible, setting strategies for administrative simplification, and eliminating unnecessary requirements that burden businesses and citizens (OECD 2013, 2016a, 2016b).

Some rigorous and non-rigorous evidence supports a positive connection between regulatory reforms and economic outcomes, ranging from economic growth at the country level (Djankov et al. 2006; Haidar 2012; Messaoud and Teheni 2014) to productivity at the firm level (Branstetter et al. 2014; Barsghyan 2008). A recent review by the World Bank (2015) found evidence that interventions designed to improve the functioning of markets and reduce transaction costs and risks can improve the conditions for doing business and increase private investment in general. However, the impact of regulatory reforms on employment or overall investment levels is not necessarily sustainable. Some research suggests that reforms must be stable over multiple years—or even decades—to have a tangible effect on these outcomes (Ayyagari et al. 2006).

[2] In May of 2018 COFEMER officially changed its name to CONAMER, the National Commission on National Improvement.

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III. SUMMARY OF EVALUATION DESIGN

MCC has posed questions on program implementation, results, and sustainability of the RIA and the ESIC and PPP sub-activities. To answer these questions, Mathematica is conducting mixed-methods performance evaluations of these large investments. This report presents a primarily qualitative analysis of each investment's implementation during the compact period. When feasible, we also assess stakeholder perceptions of early results of the RIA and the ESIC and PPP sub-activities. We used thematic coding and triangulation techniques to document and assess program implementation and early results (see Blair et al. [2018] for more information on the evaluation methodology).

Table III.1 summarizes our evaluation approaches and indicates whether the findings are included in this first report. We anticipate submitting the second report in late 2020. The third and final evaluation report, in 2023, will primarily focus on long-term results, ex post costs and benefits, and sustainability.

Table III.1. Overview of evaluation approaches

Activity	Approaches	Key outcomes and themes	Data sources	Reports
ESIC Sub-Activity	**Performance evaluation**			
	Implementation analysis	Effectiveness and duration of the ESIC development/approval process Internal rate of return and public-to-private investment ratio	Interviews with awardees/non-awardees Administrative and financial data from FOMILENIO II and awardees	First & second reports
	Outcome analysis (longitudinal trends)	Changes in awardees' investment, employment, and profit Awardee-reported reasons for changes in investment, employment, and profit	Follow-up interviews with awardees Applicant- and awardee-reported data; FOMILENIO II administrative data	Second & third reports
El Salvador PPP Sub-Activity	**Performance evaluation**			
	Implementation analysis (with political economy lens)	Adherence to PPP laws, regulations, and best practices Key implementation facilitators/obstacles	Key informant interviews; narrative reports	First & second reports
	Outcome analysis (longitudinal trends)	Government capacity to develop and manage PPPs Value of private investment in PPPs	Key informant interviews and focus groups Infrascope PPP country indicators Finalized business cases and studies	Second & third reports
RIA	**In-depth case study**			
	Implementation analysis (with political economy lens)	Implementation facilitators and obstacles Number/completeness of implemented reforms	Key informant interviews and focus groups OMR analyses and administrative data	First & second reports
	Outcome analysis (longitudinal trends)	Decreases in wait times and administrative costs Key mechanisms through which reforms did or did not generate effects	Key informant interviews and focus groups World Bank and FUSADES surveys of firms; administrative data from participating ministries	Second & third reports
	Sustainability analysis	Sustainability of SMR (system level) Sustainability of OMR (institutional level)	Key informant interviews and focus groups Budget outlays	Third report
All activities	**Cost-benefit analysis**			
		Updated ERR assumptions/parameters	Administrative data and quantitative findings	Third report

RIA = Regulatory Improvement Activity; ESIC = El Salvador Investment Challenge; PPP = public-private partnership; SMR = Sistema de Mejora Regulatoria; OMR = Organismo de Mejora Regulatoria; FUSADES = Fundación Salvadoreña para el Desarrollo Económico y Social.

Overall, data collection and analysis in late 2018 and early 2019 for this first report focused on assessing program implementation during the first three and a half years of assistance and early results of the activity (The full set of interviewees and focus group participants is provided in Table III.2). In the report, we used thematic coding and triangulation techniques to document and assess program implementation, with a focus on identifying common and divergent themes across different stakeholder types. We also used a political economy lens to assess implementation and early results—meaning that we characterized the enabling environment for PPPs and regulatory reform and assessed implementation and early results in terms of the power dynamics and incentives facing key players (see Blair et al. [2018] for more information on the evaluation methodology). To the extent possible, we also compared and contrasted program implementation and early results of MCC-funded PPP supports in Guatemala and El Salvador.

Table III.2. Data sources for this analysis

Data source	Data collection method	Sample size	Key topics discussed
ESIC			
ESIC awardees	Interviews	5 firms	• Reflections on the ESIC outreach and application process • Effects of ESIC on private investment
Other firms that expressed interest	Interviews	3 firms	• Reflections on the ESIC outreach and application process
FOMILENIO ESIC team	Interviews	4 individuals	• Efficiency and effectiveness of the selection and development process • Effects of ESIC on private investment
PPP Sub-Activity			
PPP training and coaching recipients	Focus group	10 individuals representing 4 institutions	• Effects of training and coaching in terms of institutional capacity • Initial reflections on the three-pillar approach • Effects of training and coaching in terms of institutional capacity
FOMILENIO II PPP staff and MCC Finance, Investment and Trade (FIT) team	Interviews	4 individuals	• Initial reflections on the three-pillar approach • Key implementation obstacles and success factors
PROESA PPP Unit and Minfin leadership	Interviews	8 individuals	• PPP enabling environment • Initial reflections on the three-pillar approach • Effects of training and coaching in terms of institutional capacity
RIA			
OMR staff	Interviews	5 individuals	• Political economy of regulatory reform • Initial reflections on regulatory and non-regulatory improvement efforts • Experience with SIMPLIFICA and SMR legislation
MCC technical staff	Interviews	1 individual	• Initial reflections on RIA activities • Key RIA implementation obstacles and success factors
Partner institutions	Interviews	6 institutions	• Experience working with OMR and improvement tools • Perceptions of recent reforms and their potential impacts
Legal experts	Interviews	2 individuals	• Political economy of regulatory reform • Assessment of SMR legislation
Firms affected by reforms/improvements	Interviews	5 firms	• Perceptions of recent reforms and their potential impacts
Professionals affected by regulatory and non-regulatory improvements	Focus groups	8 individuals	• Perceptions of recent reforms and their potential impacts

IV. EL SALVADOR INVESTMENT CLIMATE (ESIC)

In this chapter, we present initial findings on the first several years of implementation of the ESIC Sub-Activity, from late 2012 to April 2019. High-level findings are presented below in Figure IV.1, followed by a detailed discussion of implementation and initial results.

Figure IV.1 High-level findings

Summary of ESIC Sub-Activity findings

Design

- ESIC was envisioned as a large investment fund for public goods that would leverage private investment in the tradeable sector, thus creating jobs and strengthening Salvadoran exports.
- Beginning as early as 2012, multiple GoES stakeholders helped design ESIC with support from MCC before the second El Salvador Compact.
- Stakeholders would approve and fund public goods based on three criteria: (1) a rate of return of over 12.5 percent for the public good, (2) minimal gender and socio-environmental impacts for the public good and the private investments, and (3) private investment exceeding the total cost of the public good.

Implementation findings

- ESIC had a fairly slow start due to its complex application process and a general lack of understanding among potential awardees with respect to its goals and investments.
- FOMILENIO II's enhanced outreach and recruitment efforts starting in 2016 led to a healthy pipeline of eligible projects; by 2019, ESIC had allocated nearly its entire budget of $75 million in public goods.
- As a counterpart to ESIC's investment in public goods, private firms had invested or pledged to invest over $144 million by early 2019.

Initial results

- According to awardees, ESIC did not necessarily influence a binary decision to invest (or not) in existing or new businesses, but it did influence awardees to invest more than they had initially planned in a designated timeframe. In this sense, the sub-activity fulfilled its goal of leveraging private investment.
- Besides benefiting from new public goods, ESIC applicants benefited substantively from FOMILENIO's support in cutting red tape related to proposed public goods and awardees' investments.

Insights and implications

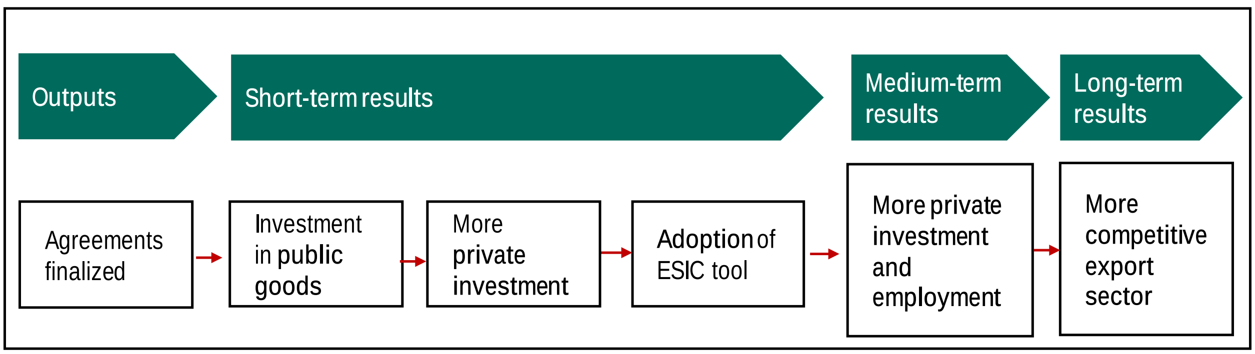
- Although it is unclear how much additional investment ESIC has leveraged, it is notably innovative in that it has reframed public investment decision making toward generating shared benefits for communities and private firms, as well as leveraging private investment.
- Public and private actors alike are hopeful that ESIC will continue beyond the life of the compact. However, as of early 2019, there were no concrete plans to institutionalize the model. This potential lack of institutionalization poses the largest obstacle to fulfillment of its medium-term outcomes in the ESIC logic model—including creating jobs and strengthening Salvadoran exports.

A. Background on the ESIC Sub-Activity

1. Design of the ESIC Sub-Activity

In response to El Salvador's acute need to facilitate private-sector growth, the ESIC Sub-Activity funds an investment fund to identify important private investment potential and efficiently allocate limited government resources to public goods and services needed to support private investment. These public goods and services can be in any tradeable sector, such as manufacturing, tourism, textiles, or agribusiness. The investment fund has an endowment of $75 million in funding—$50 million from GoES and $25 million from FOMILENIO II. The basic logic of the ESIC Sub-Activity is that establishing and endowing this investment fund, building a capable investment team, and developing objective selection processes and criteria will result in the approval and construction of targeted public goods that increase social welfare. These public goods will effectively leverage private investment projects during the compact period, thus improving the business environment while ensuring a more efficient use of public funds. Once adopted by the GoES, the ESIC model will generate increased private-sector investments in the post-compact period, thus increasing employment in El Salvador and ultimately leading to a more competitive tradeable sector in the long term (Figure IV.2).

Figure IV.2. ESIC program logic



According to its initial design, the investment fund envisioned a competitive process by which the most promising business ideas are selected to receive a "match" in the form of a public good, which could range from new transportation or sanitation infrastructure to specialized training. Unlike traditional grants or loans, ESIC is nonrefundable and invested directly in public goods identified by the private sector as critical to unlocking future private investment. Ideally, the public good is a precondition for one or more private investments—essentially, the missing element that, once supplied, will trigger one or more businesses' investment decisions. Public goods funded under ESIC would have to comply with three core criteria: (1) a rate of return of over 12.5 percent, (2) minimal gender and socio-environmental impacts, and (3) private investment exceeding

ESIC eligibility criteria

- A public project with an internal rate of return exceeding 12.5 percent
- Private investment exceeding the cost of the public investment requested
- Minimal gender and socio-environmental impacts from both public and private investments

the cost of the public good. Through the ESIC investment fund, both the private sector and the public sector make sizable investments, leading to increased return on investment for the private sector in tandem with increased social benefit from the public good among surrounding communities.

Since its rollout in 2015, ESIC has completed three calls for applications from companies around El Salvador. As of March 2019, eight agreements had been signed. Although recruitment and selection processes have evolved over the compact period, as of early 2019, the core eligibility criteria for ESIC funding remain largely the same.

2. Key actors

As early as 2012, several experts from MCC as well as entities throughout the GoES, such as the Organization Promoting Exports and Investments in El Salvador (*Organismo Promotor de Exportaciones e Inversiones de El Salvador*; PROESA), the Development Bank of El Salvador (*Banco de Desarrollo de El Salvador*; BANDESAL), and the Technical and Planning Secretariat (*Secretaría Técnica y de Planificación*; SETEPLAN) started to collaborate to design ESIC.[3] The GoES engaged with a local university to help define the program and all related processes, eligibility, and evaluation criteria. Stakeholders compiled this information in a comprehensive operations manual.

Once the El Salvador II compact was signed and the Investment Climate Project was launched, a multidisciplinary team at FOMILENIO II implemented the sub-activity in collaboration with private-sector partners, who proposed public goods and pledged private investment, and public sector partners, who assessed proposed public goods. Importantly, an investment committee composed of public and private actors guided the investment fund’s major investment decisions. MCC representatives envisioned this investment committee as a critical ingredient for ESIC’s sustainability post-compact. Table IV.1 provides an overview of the key stakeholders involved in implementing the sub-activity’s investment fund, along with their key roles.

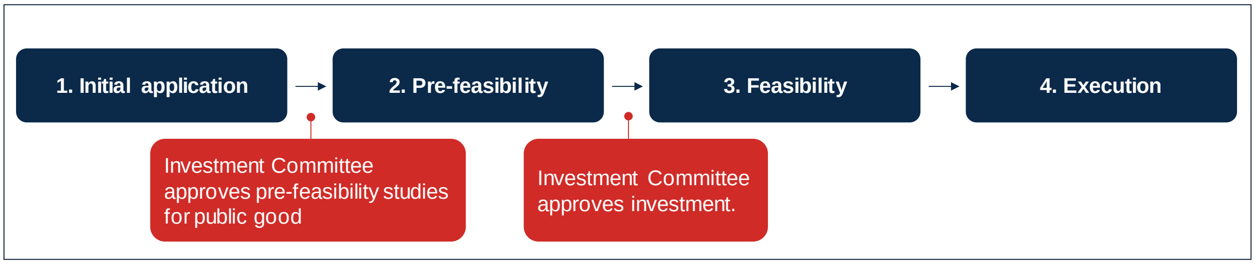
[3] SETEPLAN was dissolved in 2019 by the incoming president. However, before 2019, the agency served a central role in public policy planning and budgeting.

Table IV.I. Key ESIC Sub-Activity actors

Actor	Members	Role in the implementation
Private sector	Firms, for-profit organizations, cooperatives, and a combination of these entities or private entity alliances across a variety of El Salvador's tradeable sectors	• Submit proposals for a (private) investment project that needs public investment for its viability • Commit to investing in the private good • Report on progress to FOMILENIO II
Public sector	Federal government institutions such as PROESA and the Ministry of Environment and Natural Resources (*Ministerio de Ambiente y Recursos Naturales*; MARN) Entities from local governments such as municipalities and state governments	• Support the pre-feasibility study of the public good requested • Grant permits and development plans to execute public and private investment • Disseminate benefit of public investment to local communities • Execute the (public) investment • If applicable, commit to maintaining the public investment post-compact
Investment Committee	The committee consists of representatives from the Ministry of Economy, PROESA, the Development Bank of El Salvador (*Banco de Desarrollo de El Salvador*; BANDESAL), the office of the vice-president, and the Technical and Planning Secretariat (*Secretaría Técnica y de Planificación*; SETEPLAN, as well as representatives of the business and academic sectors.	• Approve the proposals submitted to the ESIC fund at two stages: (1) to advance to the pre-feasibility stage and (2) to approve the agreement that sets the plans for the feasibility and implementation phases • Ensure that that public and private investments comply with ESIC selection criteria
FOMILENIO II	FOMILENIO II has a multidisciplinary team composed of private-sector specialists, economists, lawyers, and gender and environment specialists. Since the start of FOMILENIO II, the team has almost doubled in size.	• Work with private and public sector actors to define the public and/or private investment • Evaluate ESIC proposals • Complete (or oversee, if conducted by consultants) a pre-feasibility study of the public sector investment • Assess socioeconomic and environmental risks as well as gender considerations of the public investment • Provide support and technical assistance during the application process • Monitor the implementation of the public and private investments

Together, FOMILENIO II, the Investment Committee, and other public authorities would help ESIC applicants navigate the fund's four-step application process, which centered upon a series of feasibility analyses focused on verifying the technical aspects and social value of the proposed public good, as well as verifying a private investment counterpart and minimal gender and socio-environmental impacts from both public and private investments (Figure IV.3; see Figure A.1 in the appendix for more detail).

Figure IV.3. ESIC application process



B. Implementation of the ESIC Sub-Activity

In this section, we provide information on the evolution of ESIC since its initial inception in 2012. We do not include information on target outcomes—including actual levels of private and public investment and jobs created—since almost all the agreements are still being implemented and the public investments have not been finalized. We will include a more detailed assessment of ESIC investment outcomes in subsequent reports.

How was the sub-activity implemented? Did implementation evolve over time?

ESIC implementation can be divided into three phases, each marked by a distinct call for proposals. Although the ESIC fund's objectives and core selection criteria remained the same throughout implementation, the sub-activity's recruitment, selection, and project design processes evolved over time in response to various challenges. Notably, FOMILENIO II simplified its guidance for applicants and began recruiting more actively for the fund in late 2016 (Phase III) than it had in previous phases, due to difficulties identifying eligible applicants in prior phases. Table IV.2 summarizes the main activities, key decisions, and results in each phase.

Table IV.2. Summary of ESIC implementation, by phase

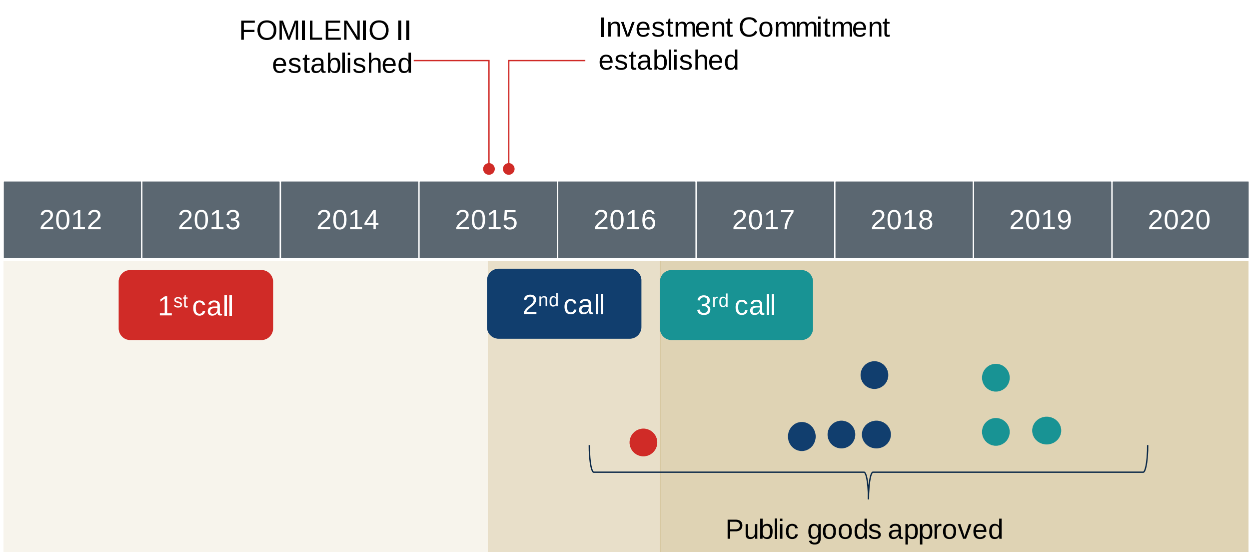
Project phase	Key activities	Key players	Major decisions	Results
Phase I: Pilot (2012–2015)	• First operations manual created • 1st call for proposals in October 2012	BANDESAL, *Secretaría Técnica*, PROESA, MCC	Stakeholders initiated a pilot during the compact development phase to establish a pipeline of projects	1 selected awardee among 72 applicants
Phase II: Early implementation (2015–2016)	• FOMILENIO II created • ESIC Investment Committee established • 2nd call for proposals launched	FOMILENIO II, ESIC Investment Committee, and applicants	FOMILENIO II decided to overhaul the manual for the next phase of implementation (Phase III), given applicants' difficulties following its instructions	4 awardees among more than 200 applicants

Table IV.2 *(continued)*

Project phase	Key activities	Key players	Major decisions	Results
Phase III: Mature implementation (2016–2019)	• The 3rd call for proposal launched • FOMILENIO II and PROESA conducted a campaign to try to obtain more eligible applicants	FOMILENIO II, Investment Committee, and applicants	FOMILENIO II engaged in more active recruitment and messaging efforts, and promoted "clusters" of firms to apply for large-scale public investments	4 awardees; 8 pre-feasibility studies completed resulting in 8 agreements; 1 final agreement pending

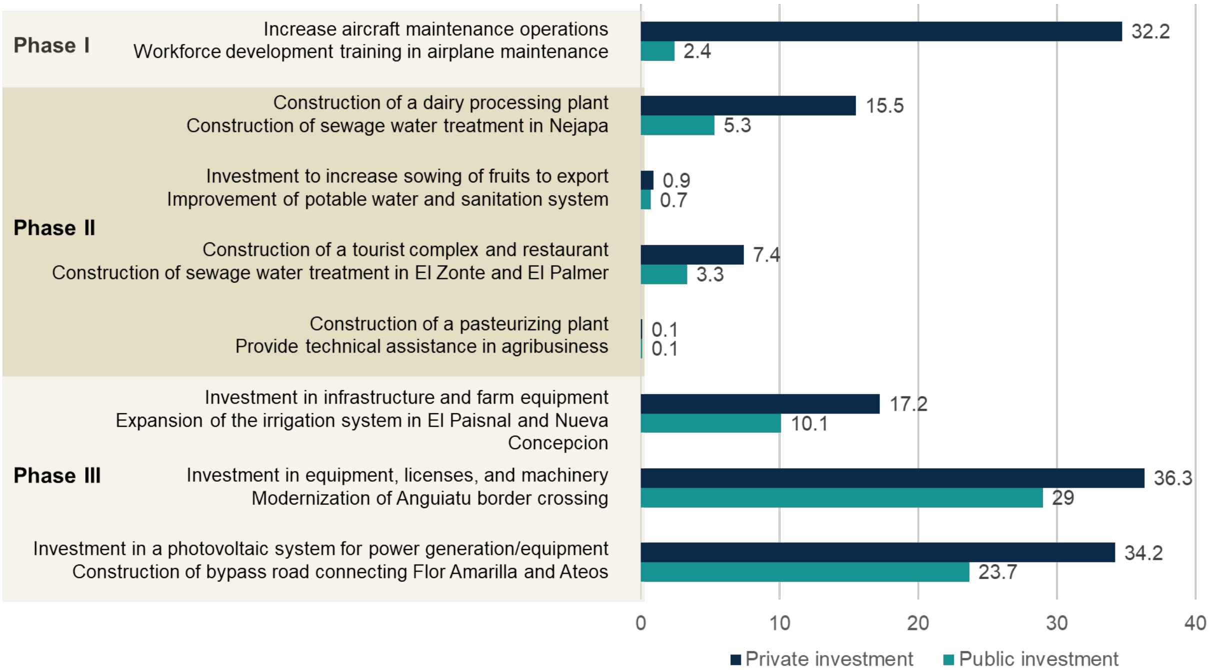
ESIC funded a small fraction of total applications. Across all three calls, FOMILENIO II received over 300 proposals, resulting in 13 private agreements spanning eight public goods (worth nearly $75 million), meaning fewer than 3 percent of the proposals became formalized ESIC projects. As discussed in more depth below, this very low portion of proposals that became projects reflected applicants' initial misunderstanding of the fund's purpose, private firms' difficulties conceptualizing public investments, and the general poor quality of the vast majority of ESIC applications. Due in part to the lengthy process to carry out pre-feasibility studies of each of the agreements, most agreements were not signed until late 2017 onward (Phase III), even as applications were submitted in response to earlier calls for proposals (Figure IV.4).

Figure IV.4. Timeline of the implementation of the ESIC Sub-Activity



As of January 2019, ESIC had nearly met its target of investing $75 million in public goods, accompanied by a private counterpart of $144 million. The value of the awardees in the first and second call for proposals was low compared with the value of the awardees from the third round. In the second call, $50 million was set aside to fund public goods, but ultimately there were only four awards, totaling $9.3 million of public investment. In contrast, approximately 84 percent of total ESIC funding was awarded to three proposals submitted in the third round—with investments in border crossing infrastructure and a new bypass exceeding $34 million apiece (Figure IV.5).

Figure IV.5. Amount of public and private investment for projects awarded in each phase



Below is a summary of ESIC implementation in each of its three phases.

Phase I: Pilot (October 2012 to August 2015)

A pilot phase preceded compact entry-into-force. As part of the design of the second compact, the GoES (primarily BANDESAL, *Secretaría Técnica*, and PROESA) and MCC piloted the ESIC activity. The GoES developed an operations manual (the first manual), including the eligibility criteria and application requirements, with the support of a local university, and officially launched the first call for proposals on October 16, 2012. The goal of the pilot was to start the second MCC compact with a portfolio of potential projects that would be funded upon compact entry-into-force.

> ***The operations manual had too many pages and information compared to what we ended up focusing on to complete the application process.***
>
> ***—Private sector representative***

Applicants found the first operations manual overwhelming and difficult to understand. Applicants stated that they used the operations manual in the application process but found it difficult to follow because it requested too much information. Many applicants also described this first manual as “academic” in its long list of requirements and explanations, and not grounded in the reality of the business community. One of the criticisms of the manual was that it required applicants to conceptualize the public good in question and estimate its benefits to third parties—something business owners and operational staff found they were not equipped to do. FOMILENIO II staff also noted this shortcoming of early versions of the manual, and made adjustments in the manual and application process to produce more of a co-creation model in later rounds, in which applicants propose some initial ideas for public goods, but then work with FOMILENIO II and public authorities to select and refine the best public good for their business and surrounding communities.

Due to initial misunderstandings about the fund, the pilot phase yielded 72 applicants but only one awardee. As GoES representatives reviewed the first round of applications, it became clear that most ESIC applicants failed to grasp the fund's objectives, often believing it was a loan fund (like a FOMILENIO I program for agro-industrial and tourism firms). As such, most first-round applicants did not comply with the eligibility criteria. However, in April 2016, the first ESIC investment agreement was signed between FOMILENIO II and an aeronautics company focused on maintaining and repairing airplanes, called Aeroman S.A de C.V. In this agreement, the implementation of the public investment consisted of providing workforce development training in airplane maintenance as a counterpart to Aeroman's investment in advanced aircraft maintenance operations (see Table A.1 for a full list of awardees and public goods).

A ceremony celebrating FOMILENIO II's and Aeroman's investments through ESIC, 2016. Photo courtesy of FOMILENIO II.

Phase II: Early compact implementation (September 2015 to May 2016)

Early implementation was marked by continued misunderstanding of the fund, few eligible applications, and missed opportunities for investment. Upon entry-into-force in September 2015, FOMILENIO II started implementing the Investment Climate Project, which included the ESIC Sub-Activity. A month later, FOMILENIO II established the ESIC Investment Committee. As part of its first activities, the Investment Committee reviewed applications from the second call for proposals. During the review, it became clear that most ESIC applicants still failed to grasp the fund's objectives, often requesting credit (as in the pilot phase) or failing to identify desired public goods. Out of the 210 proposals received during the second call, only 23 proposals complied with basic eligibility criteria related to rate of return, counterpart investment, and socio-environmental impact. FOMILENIO II representatives could not explain why these misunderstandings of the fund continued into Phase II, particularly given their enhanced efforts to explain ESIC more clearly. However, FOMILENIO II staff reasoned that premise of the fund was entirely novel in El Salvador, such that firms simply failed to grasp the concept even after one-on-one meetings. Another common misperception in the private sector was that

> ***We found out about ESIC through press reports, but we originally heard that it was only for investments along the coast.***
>
> ***—Private sector representative***

the ESIC Sub-Activity focused on the coastal-marine zone, largely due to some initial speculation that FOMILENIO II investments would be limited to that geographic area. As a result, potential investors from other regions did not initially apply, likely resulting in missed opportunities for investment.

The second phase yielded four awardees and public investments in training and sanitation infrastructure. In December 2017, the second investment agreement was signed between *Asociación de Productos Agropecuarios Nueva Concepción* (APANC) and FOMILENIO II, in which APANC would invest in a milk processing and pasteurization plant and ESIC would make a public investment in the form of providing technical assistance and capacity building to APANC staff and members of their cooperative. In March 2018, FOMILENIO II signed additional investment agreements with Alianza El Zonte and ACOPASCA (Asociación Cooperativa de Producción Agropecuaria San Carlos) involving public investments in sanitation infrastructure to leverage private investment in tourism and agriculture, respectively. In April 2018, the fifth ESIC investment agreement was signed between the company Lácteos del Corral (LACTOLAC), FOMILENIO II, and the municipality of Nejapa, consisting of public investment in a wastewater treatment system to leverage private investment in a dairy processing plant.

Starting in Phase II, the public sector became more engaged in defining public goods and facilitating their approval. The Investment Committee, which included members from PROESA, the Ministry of Economy, SETEPLAN, and BANDESAL, served as a unique platform to obtain public sector feedback and guidance. However, public sector collaboration began to expand beyond the Investment Committee as FOMILENIO II staff and committee members involved public ministries such as the Ministry of Public Works [Ministerio de Obras Públicas (MOP)] and the National Water Authority (Administración Nacional de Acueductos y Alcantarillados [ANDA]) to help design and assess the proposed public goods, since these ministries would eventually build and run the public investments. This design support was critical, given applicants' lack of experience conceptualizing public goods noted above. The Ministry of Environment and Natural Resources (*Ministerio de Ambiente y Recursos Naturales*; MARN) was also involved in assessing the environmental compliance of proposals and providing permits where needed. In addition, local governments in which the public investments would occur were tasked with providing buy-in, support, and oversight to the public investments occurring within their municipality.

> ***The Investment Committee has been helpful in ensuring that the public investment benefits society as a whole and not just the private investor…the committee also ensures that a public sector entity has been identified to oversee the future of the public investment to ensure its sustainability.***
>
> ***—Public sector representative***

Support for ESIC grew stronger as FOMILENIO II guided applicants through the process. Starting in Phase II, FOMILENIO II staff began giving private-sector applicants more support as they followed each of the ESIC requirements. In particular, FOMILENIO II staff helped firms conceptualize the public investment they requested, served as intermediaries between the private firms and public authorities to obtain permits, and completed pre-feasibility studies of public goods in collaboration with public sector stakeholders. Through this work, FOMILENIO II staff made critical contributions to all steps in the application process and gained the trust of both public and private sectors, allowing the team to effectively bridge the gap between these sectors. In interviews, firm representatives and public authorities alike praised the flexibility, responsiveness, and competence of several FOMILENIO II members, highlighting the strong reputation the FOMILENIO II team had built through its hard work.

Featured Phase II awardee: *Alianza El Zonte's bet on tourism*

El Zonte is a large beach in El Salvador known for its excellent surfing conditions. In 2015, three firms—Roberto Océano, Surfing Pacifica, and Palo Verde—developed a strong interest in investing in El Zonte's tourism infrastructure. Backed by U.S.-based investors, these firms were looking to expand tourism offerings in the area by constructing a hotel. In January 2016, the firms approached FOMILENIO II about participating in ESIC. Together, they developed a group of potential investors they called "Alianza El Zonte," and applied under the second call for proposals.

FOMILENIO II began assessing options for the best public investment out of a preliminary list that had been suggested by Alianza El Zonte, which was largely related to improved transportation infrastructure. However, in looking at the public investment options, stakeholders realized that one of the greatest challenges to growth in the area was the poor condition of the area's beaches and water. The beach was notoriously filthy due to high concentrations of sewage in the water. Surfers often became ill after bathing in the water, and the foul smell drove people to pick other beaches. FOMILENIO II therefore suggested that a better option for a public good was a wastewater treatment plant, and the Alianza partners agreed. Once partners had a basic plan in place, FOMILENIO II reached out to the local municipality to enlist its support. Together, the municipality, FOMILENIO II and the Alianza partners refined plans for a wastewater treatment plant. As of late 2018, the Alianza partners were proceeding with plans to construct a hotel and train residents in the service industry.

Surfers at El Zonte. Photo courtesy of Surf-forecast.com

Phase III—Mature implementation (June 2016 to present)

Aided by firms, FOMILENIO II heightened its messaging and recruitment efforts for the third call. The third call opened in July 2016. Before the third round, FOMILENIO II and PROESA met with private-sector representatives to obtain feedback on the processes to date and to better communicate the objective of the ESIC tool. Through these conversations and the experiences of Phase II, the FOMILENIO II team realized that in order to get a strong pipeline of projects, they could not rely solely on receiving and assessing applications; they would have to actively recruit firms. For this reason, they began holding outreach meetings with groups of firms and advertising the fund more widely in the media. Aiding FOMILENIO II's efforts, firms that had participated in the second round also began sharing their experiences with other firms, thereby raising the profile—and understanding of—ESIC and attracting more interest.

FOMILENIO overhauled manuals and provided more streamlined guidance in Phase III. Ahead of the third call, FOMILENIO II launched two simplified manuals based on feedback from the previous version: (1) the manual for investors, outlining ESIC application requirements, and (2) the project evaluation manual, focused on the internal processes to evaluate applications. Given that several previous selection criteria had been difficult to verify (such as anticipated net employment increases and technical capacity to implement private investment), and thus had little utility for selection, FOMILENIO II cut these criteria from the manual for investors (see Table A.1 in the appendix). FOMILENIO II staff also developed a third manual—for socioeconomic evaluation of projects—as an internal guide to assess the economic rate of return (ERR) of the public investment of each of the agreements. From the applicants' perspective, the manual for investors was more concrete and had specific, clear, and relevant information about the proposal requirements; the types of activities eligible to be supported; the eligibility criteria; and the phases of the evaluation process. All firms Mathematica interviewed who used the manual for investors indicated that it was specific and easy to use. The FOMILENIO II staff interviewed also indicated that if they could start ESIC all over again, they would start with the current version of the manuals.

FOMILENIO actively promoted clusters of investors in Phase III, which helped reach its funding target. In Phase III, FOMILENIO II and interested firms also began recruiting firms in the same municipalities and localities to form investment clusters—groups of firms that might benefit from the same public good due to their geographic proximity (see text box below). Due to these largely successful efforts, FOMILENIO II closed the call in June 2017 because, at that point, the pipeline of approved public goods and projects in development was potentially larger than the $75 million in funding available.

The third phase resulted in three awardees, with a fourth agreement in the pre-feasibility phase as of early 2019. In January 2019, investment agreements were signed for three public goods. All three public goods included clusters of firms—multiple firms requesting a single public good. This clustering strategy facilitated larger public goods, as the cost of the public good could be matched by the aggregate value of several firms' private investment. In the first agreement, FOMILENIO II and GoES authorities committed to building a bypass road to leverage counterpart contributions from a cluster of six firms (Confecciones del Valle, EXPORTSALVA, INDUFOAM, LIVSMART, Diana, and Textiles San Andrés) (see text box above). The second agreement was signed between two companies (Techno Screen and

LIVSMART) and FOMILENIO II; the companies were investing in their operations as a private counterpart to the modernization of the Anguiatú border crossing, which included infrastructure and systems upgrades. The third agreement was signed between Ingenio la Cabaña and Diana, FOMILENIO II, and the municipality of Paisnal. The public investment will fund the expansion of an irrigation system. As a counterpart, the companies committed to investing in infrastructure and farm equipment.

Innovation in Phase III: Clustering firms to obtain higher value public investments

In 2016, a textile company called Confecciones del Valle approached FOMILENIO II about participating in ESIC. They also reached out to a juice processing firm that has licenses to produce Gatorade and Pepsi for Central America. In order to get their goods to market, both firms requested a bypass road connecting Santa Ana and Sonsonate to significantly reduce transportation times. Both firms were planning on expanding their operations and investing in their plants, but without a reduction in transportation times, increasing production would not be profitable.

During the pre-feasibility stage, which began in mid-2017, FOMILENIO II determined that the cost of the bypass exceeded the two companies' potential counterpart investment, thereby not meeting the necessary 1:1 ratio. Throughout 2017 and 2018, a FOMILENIO II staff member began to network with firms in the area to identify additional private investment to match the large public investment in the bypass. As new firms were recruited, they called on their networks to continue "clustering" their investments with additional partners. Due to the combined efforts of FOMILENIO II and business leaders, they attracted a total of $34 million in private investment across seven different firms, exceeding the cost of the bypass by about $7 million. The feasibility stage was approved in late 2018 and the agreement was formalized in January 2019.

Site of the future Santa Ana - Sonsonante bypass, 2019. Photo courtesy of FOMILENIO II.

Despite a clear manual, many firms relied on the expertise of the FOMILENIO II team to guide them through the process. Although all private-sector applicants interviewed indicated that the manual was clear and easy to use, many also confirmed that they relied more on the guidance and expertise of FOMILENIO II staff throughout the process than they did on the manual, indicating a deep level of trust for FOMILENIO II staff. FOMILENIO II staff noted that, given time constraints, they often resorted to completing several aspects of applications themselves rather than coaching applicants through the process. However, these staff noted that the assessment of the public good was conducted by a different FOMILENIO II employee than the person who helped complete the application to avoid a potential conflict of interest. Although FOMILENIO II's strong hands-on support throughout the process was favorably viewed by applicants, it does raise some concerns about the extent to which the ESIC model could be transferred to another entity or team without an extended learning curve.

C. Initial results

Are the guidelines and processes outlined in the grant manual appropriate to achieve GoES objectives? Could they have been improved?

ESIC activities and processes outlined in the revised manual are not fully in line with the fund's revised objectives. The objectives of ESIC evolved over time, eventually including the three goals of (1) increasing private investment, (2) promoting the institutionalization of cost-benefit analysis for public investment, and (3) strengthening collaboration between public and private actors. This represented a slight modification from the fund's initial goals of (1) leveraging private investment and (2) developing ESIC as a tool to attract investment, as stated in previous versions of the manual (see Table A.1 for a summary of how objectives evolved). Formal ESIC activities and selection criteria outlined in the revised manual seem largely focused on meeting the sub-activity's first stated objective: that is, increasing private investment. Namely, no official ESIC documentation developed between 2012 and early 2019 explicitly states how FOMILENIO II would promote the institutionalization of cost-benefit analyses of public investments, particularly outside of FOMILENIO II's ESIC activities. Likewise, the manual did not define public-private collaboration or outline explicit activities designed to help promote interactions and agreement across public and private-sector actors.

ESIC made significant progress toward all three of its revised objectives. Although the revised manual did not mention any activities explicitly designed to institutionalize the use of cost-benefit analysis, FOMILENIO II staff institutionalized and refined its use of cost-benefit analysis from 2015 to early 2019—at least within the confines of the ESIC Sub-Activity—such that a finalized ESIC cost-benefit analysis template could feasibly be transferred to a GoES authority upon compact close-out. In addition, ESIC has successfully brokered multiple relationships and agreements between public and private authorities since its inception, including companies and cooperatives on one hand, and ministries, municipal authorities, and community development groups on the other. As such, it can be argued that the fund made significant progress toward facilitating public-private collaboration around high-value public goods, even if the ESIC manual did not outline any formal process by which public-private collaboration would occur or how such collaboration would be measured.

Developing a sustainability plan earlier in compact implementation might have helped ESIC achieve its institutionalization objective. Given the importance of establishing ESIC as a model tool for GoES to adopt in the post-compact period, perhaps FOMILENIO II staff could have developed a plan for institutionalizing the fund during the first half of the compact period. Potentially, having a draft sustainability plan as early as the third call for proposals in early 2017 might have allowed FOMILENIO II to make more progress to date in promoting the tool to public authorities.

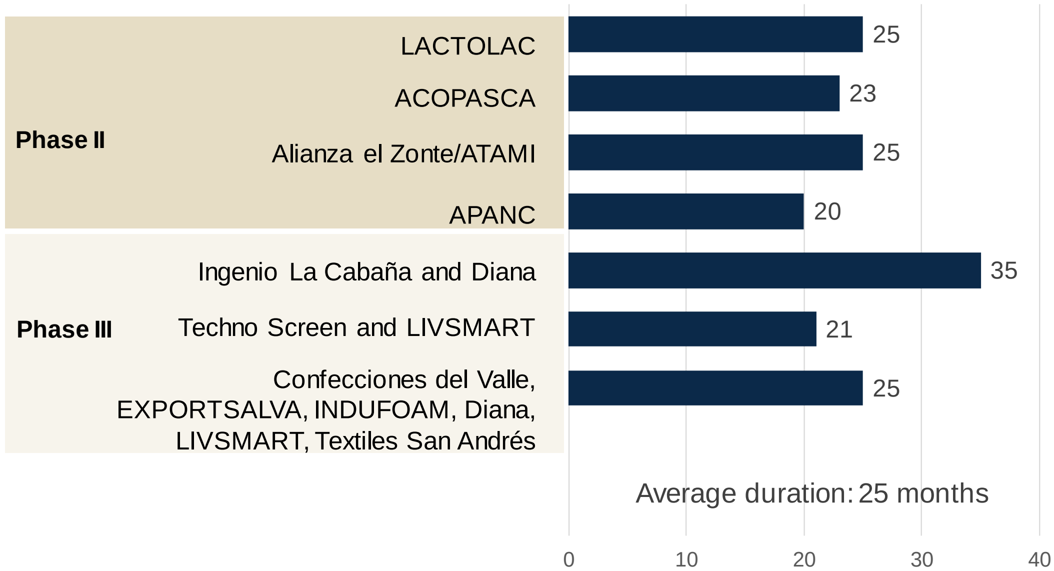
To what extent has the process for recruiting, reviewing, and selecting proposals from private investors been appropriate, efficient, and effective?

Not all awardees exported products at the time of the agreements, putting the consistent application of eligibility criteria in doubt. A core eligibility criterion of ESIC is that awardees are actively involved in the tradeable sector. As of late 2018, ESIC awardee APANC aspired to begin exporting, and that was indeed in their growth strategy, but they were not currently providing a tradeable product as defined under ESIC. Similarly, another awardee, EXPORTSALVA, was a duty-free zone and business park that facilitated exports but did not produce tradeable goods at the time they applied to ESIC. In contrast, the firm Super Repuestos, which imports, repackages, and then exports automotive parts, was not approved to move from the pre-feasibility to the feasibility stage of ESIC because the Investment Committee deemed that they were not a tradeable firm. When asked about this seemingly inconsistent application of the eligibility criteria in the manual, the ESIC team reported having some difficulties applying the key eligibility criterion of *participation in the tradeable sector* to a few applicants with special circumstances and asking MCC for guidance on a case-by-case basis. This case-by-case decision making may have produced a somewhat uneven application of eligibility criteria, particularly in the case of the exclusion of one firm that actively exported goods at the time of application but the inclusion of a firm that only aspired to export at the time of application.

Investments took, on average, around two years to develop, assess, and approve—pointing to potential areas for increased efficiency. According to FOMILENIO II administrative data, it took an average of two years to process applications from registration to the signature of agreements. Notably, proposals submitted in the Phase III took between 21 and 35 months to progress from registration to the agreement, likely due to firms joining applicant clusters at different times (Figure IV.6). Some of these delays were caused by FOMILENIO II or the Investment Committee. For example, it often took FOMILENIO II several weeks or months to recruit, identify, and hire experts for pre-feasibility studies. These delays may be in part due to FOMILENIO II procurement practices and transparency obligations, which mandate public dissemination of terms of reference and price quotes from multiple bidders. Other delays were fully outside of FOMILENIO II control, including the amount of time needed to obtain the necessary environmental, construction, and municipal permits to proceed with public and private investment.

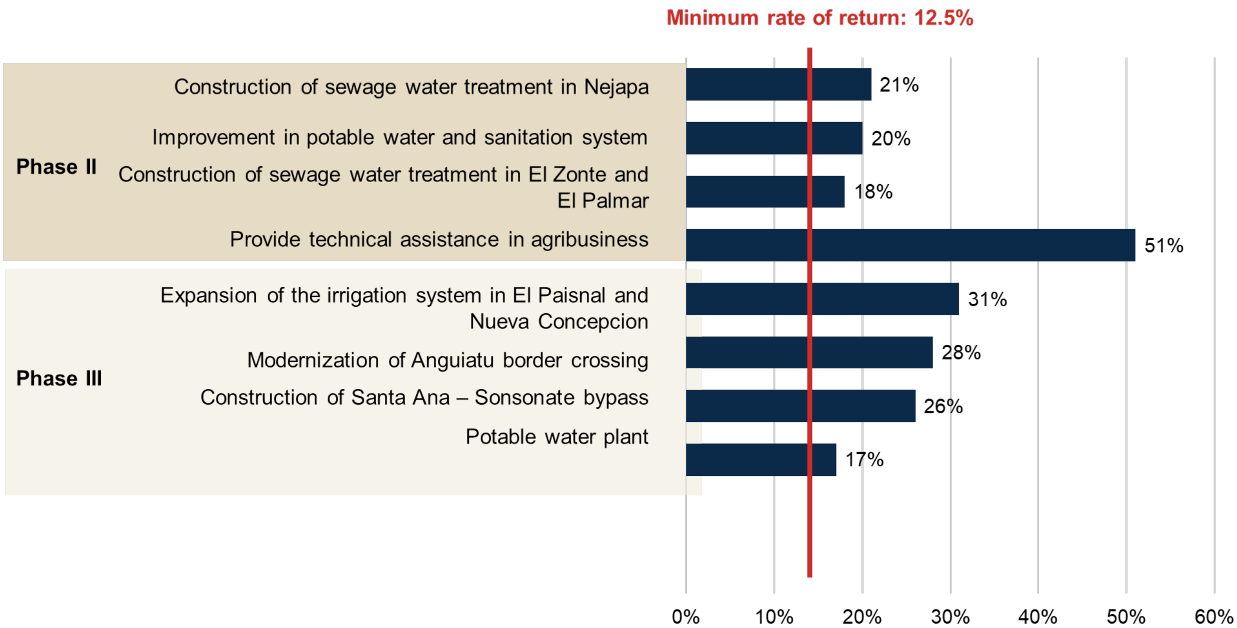
> ***After we submitted everything, it felt like the response from FOMILENIO II was slow.***
>
> ***–Private sector representative***
>
> ***The problem was that along each of the steps in the process there were surprises due to bureaucracy.***
>
> ***–Private sector representative***

Figure IV.6. Duration of the application process



The selection process appears to have yielded high-value public goods, as envisioned in the original program logic. FOMILENIO II staff conducted an economic evaluation using the cost-benefit methodology outlined in the project socio-economic evaluation manual. All the public investments from the awardees had economic rates of return above the minimum cutoff of 12.5 percent, suggesting that regardless of their ability to leverage private investment, public goods were strong investments that offered substantive benefits to their communities (Figure IV.7). However, the methodology of these analyses has not yet been verified.

Figure IV.7. Economic rate of return of public investments



Source: FOMILENIO II

Note: There was no economic evaluation for the public good requested by Aeroman.

The magnitude of private investment generated by ESIC is unclear. Having a 1:1 ratio of private to public sector investment is a core eligibility criteria of ESIC, as the primary objective of the fund is to leverage private investment that would not have otherwise occurred. All agreements met or exceeded this criterion, according to FOMILENIO II calculations (Figure IV.8). However, an analysis of investment plans reveals that several firms counted investments that took place before they formally submitted a proposal to ESIC toward their private-sector investment. Based on the information in the investment agreements and the dates of proposal submission provided by FOMILENIO, 47 percent of APANC, 81 percent of Aeroman, and 13 percent of Roberto Oceano Inversiones investments took place before the formal application submission. Because this public-to-private ratio captures some portion of private investment that occurred prior ESIC—and likely occurred without a strong expectation of an ESIC-funded public—it does not appear to be an accurate measure of investment generated by ESIC. This conclusion is consistent with qualitative interviews with ESIC awardees, most of whom said they would have invested a sizable portion of their counterpart pledge in the absence of the sub-activity.

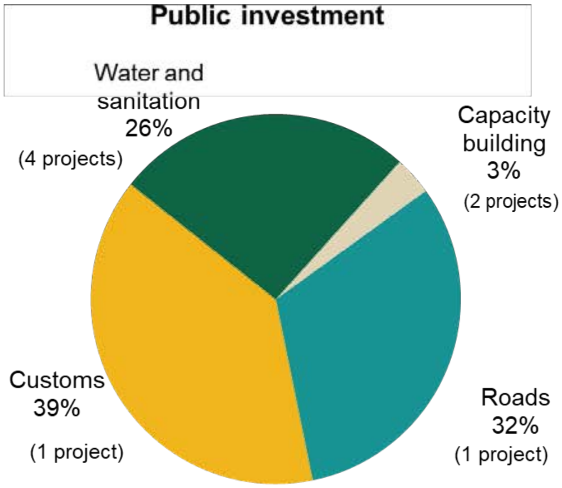
Figure IV.8. Private-to-public leverage ratio for awardees

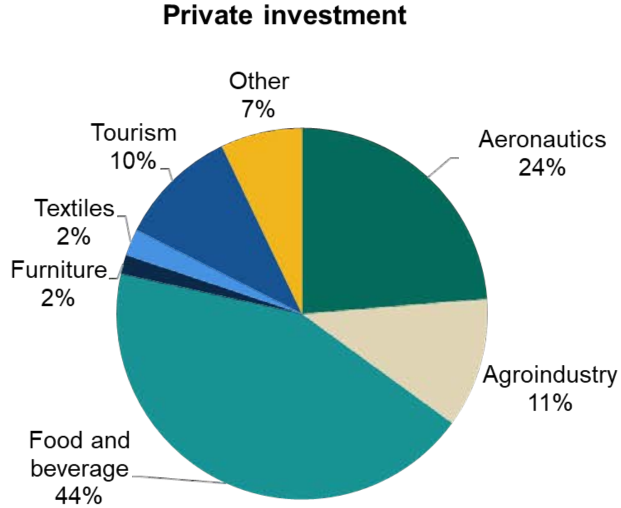
Source: Agreements signed between FOMILENIO II and awardees.

What types of proposed investments is the fund attracting?

Firms in the food and beverage, aeronautic, and agroindustry sectors account for most private investment; public investments are largely in customs and heavy infrastructure. As of April 2019, ESIC investments covered a wide variety of firms and activities in the export sector, with investments from 13 companies (Figure IV.9). Representing six public authorities, public goods and services funded under ESIC focused on infrastructure, including roads, customs office improvements at the border, and water and sanitation projects.

Figure IV.9. Distribution of public and private investments





Do potential investors see ESIC as an appropriate tool to leverage investment?

Awardees likely would have invested without ESIC but praised the tool's ability to speed up their investing timeline and influence the size of their investment. Without ESIC, private-sector representatives maintained that they would have made the same investments in their business that were logged as counterparts to public goods, but likely at a slower rate. Some firms also indicated that they invested more than originally planned because of the need to exceed the value of the cost of the public good to secure funding. Others indicated that ESIC catalyzed their investment—or essentially motivated them to invest the same amount as initially intended, but over a compressed timeline.

> ***I wouldn't change anything about ESIC. People are used to requesting and receiving grants or other donations, but as a mechanism to incentivize investments, ESIC is a great tool.***
>
> ***—Private sector representative***

Table IV.4. Private-sector accounts of ESIC's role in investment decisions

Cases in which ESIC catalyzed (or sped up) investment:	"I would have invested without ESIC, but it would have been done in phases." "We would have investment anyway, but it's unclear how quickly." "Had I not received support from ESIC, I would have invested anyway since it was already planned, and that decision was independent to FOMILENIO II's support. But in the long run, it would have taken longer."
Cases in which ESIC leveraged (or increased) investment:	"We had already identified areas for [private] investment but we liked that through ESIC we could also benefit our community. ESIC incentivized us to invest more than we would have." "We already had plans to invest [in our operations] but ESIC was interesting to us because it would also benefit the local community. ESIC helped us better define some investment ideas we had… it incentivized us to invest more than we had planned."

Table IV.4 *(continued)*

Cases in which ESIC catalyzed and leveraged investment:	"Yes [I would have invested anyway], but it would have been different in terms of when and how. Without FOMILENIO, the project was at a stand-still indefinitely—maybe 3 years, but maybe 30. ESIC made the project feasible earlier and also made it a larger project."

ESIC appeared to have some effect on keeping Salvadoran investment in the country. According to FOMILENIO II staff, ESIC was instrumental in ensuring that domestic investment remained in the country, as opposed to moving to investments abroad. One representative from the public sector highlighted that it was important to market ESIC as a tool to support domestic investment since many Salvadoran business people often complain that the government "only supports foreign investors."

What benefits has the investment fund produced to date?

Applicants, non-applicants, and selected firms alike felt that assistance from the ESIC team was instrumental in helping navigate bureaucracy. Interviewed firms reported that the largest benefit of ESIC is FOMILENIO II's individualized support in navigating bureaucratic processes—particularly with respect to permits associated with new investments. Even firms whose applications were not accepted noted that the help navigating unclear and often burdensome government processes alone was worth their involvement with ESIC. Although ESIC was not initially devised as a program to help firms eliminate bottlenecks caused by unclear or burdensome government processes, an unanticipated benefit of ESIC was in helping firms get permits faster so that they could proceed with their private-sector investments at greater speed.

ESIC forged new alliances between the private and public sectors, which is very difficult to accomplish in El Salvador. Several stakeholders indicated that a benefit of ESIC was its convening power to bring the public and private sector together toward a common goal—something that does not happen often in El Salvador. Representatives from the public sector also highlighted that, through FOMILENIO II's facilitation's role, many ministries were made aware of the constraints to private investments caused by bureaucratic delays.

Firms predicted stronger profit and employment due to ESIC, though this cannot yet be measured with precision. All firms felt that the combination of public and private investment would have strong benefits for their employment and profits, and even potentially unleash multiplier effects within their communities, including additional businesses and jobs linked to the public and private investments. However, since it is still early in implementation, it is too early to assess ESIC benefits on awardee income and employment outcomes. Mathematica will conduct an analysis of employment and revenue data for the next report, when the benefits derived from both the public and private investment can be determined.

To what extent are the selected investments expected to generate positive environmental and social impacts?

The ESIC Sub-Activity had positive effects in the compliance of environmental laws and procedures. The Ministry of Environment and Natural Resources has become an integral partner through the ESIC process. MARN has worked in the past years to streamline and make transparent several of their mandated procedures given their experiences working with ESIC applicants. ESIC's role in attracting investment has improved the communication between private firms and the ministry. As result, the sub-activity has attracted investment from companies that comply with environmental guarantees.

Private firms have included activities with a gender dimension as result of the ESIC Sub-Activity. Staff from FOMILENIO II expressed that private firms incorporated the inclusion of women in their activities; without the ESIC sub-activity, they might have taken more time to develop these activities. For example, the hotels located in El Zonte incorporated an inclusion policy whereby they actively encouraged women to apply for staff positions. Similarly, Aeroman made a recruitment call exclusively for women; these women were trained in techniques by Don Bosco University. Following this recruitment call, Aeroman hired a full-time gender specialist as part of their human resources team, which would likely not have happened without ESIC. Related to other investments in the tourism (El Zonte) and agribusiness (APANC, ACOPASCA) sectors, awardees noted that their private investments were successful in creating more employment and business opportunities for women in the region.

> ***The Minister of Environment told us that ESIC is the best regulator of environmental compliance in the country since it ensures investments meet all environmental permits.***
>
> ***ESIC is the carrot to encourage firms to comply with environmental permits and processes.***
>
> ***–FOMILENIO II team members***

Do stakeholders see the fund as an effective mechanism for allocating public money to higher-return projects?

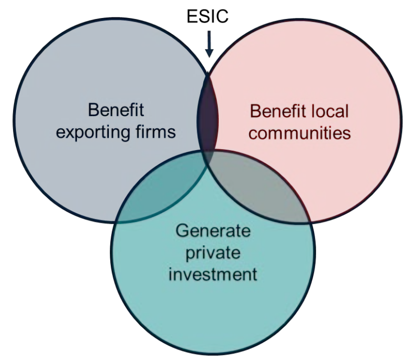
Staff from GoES and FOMILENIO II stated that the ESIC tool has improved the government's capacity to allocate public money toward higher-yield public goods. Stakeholders from the public sector and FOMILENIO II stated that the ESIC tool provided useful guidance to help prioritize scarce public resources to projects yielding greater public benefits. According to interviewees, the Anguiatú investment is perhaps the best example of GoES's decision to prioritize investments that yielded high returns. Anguiatú is one of the most important borders of El Salvador, with approximately $4 billion in exports annually. In this project, the public investment will improve two aspects of the border crossing: (1) rehabilitation of the infrastructure and (2) setting a single window system for exports. This investment in infrastructure and processes will have a catalytic effect and will lead to the upgrade of all the other borders, thereby leading to exponential benefits. Because most of the public projects are currently in execution phase, and final costs and benefits have not been calculated, it is too early to be able to effectively measure whether public money indeed went to high-return projects. As stated earlier, all public investments exceeded the required 12.5 percent return on investment, but the final costs, benefits, and assumptions will have to be reassessed at completion.

FOMILENIO and firms alike hope that ESIC will survive beyond the compact, but institutionalization planning seemed scarce as of early 2019. All interviewees indicated a desire to have ESIC (or a similar mechanism) continue after the end of the compact, although they expressed concern about the government's capacity to effectively manage the tool. Interviewees indicated that perhaps an independent or non-public entity would be best suited to manage the tool, as some isolation from political pressure would be required to prioritize public goods based on purely objective criteria. Because the FOMILENIO II team hopes that ESIC (or a similar mechanism) continues beyond the compact period, the team has been continually updating the manual. However, FOMILENIO II had made little progress toward an institutionalization plan for ESIC as of early 2019.

D. Insights and implications

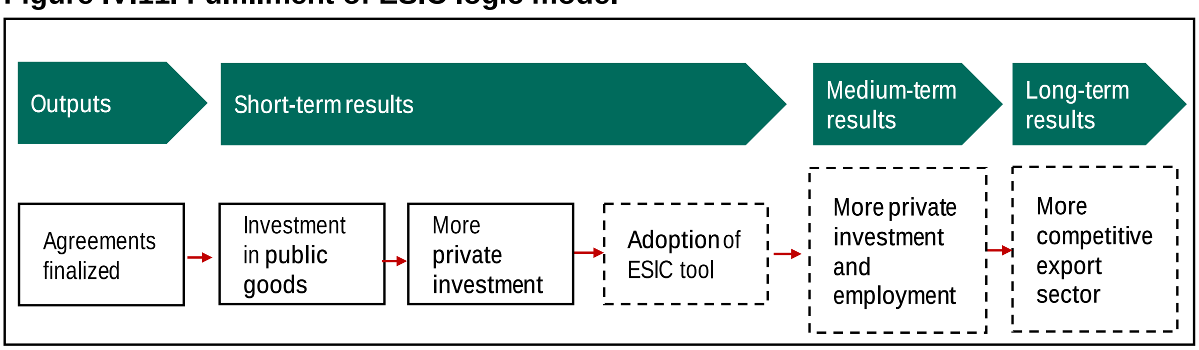
ESIC is greatly innovative in its structured approach to benefiting companies and communities alike. By all stakeholder accounts, ESIC represents a large innovation in the identification of public goods. The novelty of the tool lies in both the rigor with which public investments are selected and the fund's ability to identify public goods that benefit firms as well as neighboring communities. As discussed above, ESIC's effect on catalyzing investment in the case of some (but not all) awardees is another key benefit of the fund. As such, the fund is unique in that it provides multiple benefits—something of a "win-win-win" for companies, communities, and the tradeable sector at large in some select cases (Figure IV.10).

Figure IV.10. Intersection of ESIC benefits



ESIC has fulfilled most short-term results in the logic model, but a failure to institutionalize its model would jeopardize long-term results. Stakeholder interviews suggest that ESIC has generated its short-term goal of more private investment. However, as of early 2019, there were no firm plans to institutionalize the fund—either housed within a permanent public institution or as a stand-alone ESIC institution. Similarly, there were no substantive discussions about retaining key FOMILENIO II ESIC staff with whom private and public sector contacts had built trust over the compact period. This posed a potential threat to the sub-activity's medium-term goal of adoption of the ESIC tool by the end of the compact and long-term goal of a more competitive private sector (Figure IV.11). This threat to the fulfillment of the sub-activity's initial logic highlights the importance of initiating sustainability planning earlier in implementation to nurture stakeholder appetite, expectations and capacity for institutionalization post-compact.

Figure IV.11. Fulfillment of ESIC logic model



Note: Boxes with broken lines indicate outcomes that had not yet occurred as of mid-2019, three and a half years after compact entry-into-force.

V. PUBLIC-PRIVATE PARTNERSHIP SUB-ACTIVITY

This chapter reports initial findings on the first three and a half years of the PPP Activity, from September 2015 to April 2019. High-level findings are in Figure V.1, followed by a detailed discussion of implementation and initial results.

Figure V.1. High-level findings

PPP Sub-Activity: Summary of Findings

Design

- The sub-activity was designed to build GoES capacity to identify, assess, and develop PPPs, primarily within the country's PPP authority (PROESA) and fiscal authority (Minfin).
- The $7 million PPP Sub-Activity funded three pillars of support: (1) training on PPPs for public authorities, (2) hands-on coaching to PROESA and Minfin staff, and (3) financing for studies and transaction advisors for prioritized PPPs. The Sub-Activity also covered the salaries of PROESA technical staff during the compact period.
- The sub-activity had the goal of bringing at least two PPP projects to market during the compact period.

Implementation

- By March 2019, 65 public officials had participated in at least one training by FOMILENIO II, and 28 of these training participants obtained an official PPP professional credential by passing an independent exam.
- Coaches worked with PROESA and Minfin from 2017 onward to establish basic PPP development and analysis protocols, as well as to build capacity on the institutions' core PPP functions. Stakeholders considered coaching the most helpful support of the three pillars.
- Although the sub-activity's primary goal is bringing two projects to market, it has lent support to five PPPs in PROESA's portfolio through technical studies, transaction advisor services, and coaching assistance.

Initial results

- PROESA staff—and, to a lesser extent, Minfin staff—have leveraged FOMILENIO II-financed training, coaching, and salaried specialists to build in-house capacity.
- A general lack of political commitment from the executive branch, apathy from the designated contracting institution, and union opposition stalled one PPP, the airport cargo terminal expansion project, as of early 2019.
- Less controversial PPPs, including a highway safety project and border crossing improvements, were progressing toward a public offering as of early 2019.

Insights and implications

- In future PPP activities in El Salvador or elsewhere, a fourth pillar of strategic communications and lobbying could be added to the core set of PPP supports. In part, this pillar would involve stewarding MCC-supported PPPs through the politicized and often contentious legislative approval process.

A. Background on PPPs in El Salvador and the PPP Sub-Activity

In this section, we provide some background on the PPP enabling environment and key PPP stakeholders in El Salvador. This background is largely based on stakeholder interviews conducted in late 2018 and on the 2019 Infrascope report.

1. Steps of PPP development

As stipulated in the El Salvador's PPP law, PPPs in development must proceed through seven steps, progressing from technical studies to contracting (Figure V.2). PROESA's PPP unit and the contracting institutions play a large role in each of these seven steps, as they coordinate the completion of technical studies for PPPs and steward PPPs through the development and approval process. Other important actors in the development process include Minfin, which issues a fiscal impact ruling in Step 4, transaction advisors, which draft the terms of the invitation to tender in Step 5, and PROESA's board of directors, which approves the terms of the invitation to tender in Step 6. MCC-funded assistance with training, coaching, feasibility studies, and transaction advisors is largely concentrated in first four steps, centered upon technical studies and risk assessments, which require third-party technical services as well as in-house analysis by well-trained public authorities. (More detail on the full PPP development process are available in Figure A.2 in the appendix).

Figure V.2. Phases in the PPP lifecycle

1. Technical studies	2. Pre-feasibility	3. Feasibility	4. Fiscal impact ruling	5. Project structure and promotion	6. Tender	7. Contract

2. Enabling environment for PPPs in El Salvador

PPPs thrive in an environment where lawmakers, civil servants, and key aspects of civil society have a basic understanding of PPPs, and there is some consensus that PPPs can be an attractive alternative to traditional public procurement. High-level political champions—including the president and vice president and other visible public officials—are also critical to guiding PPPs forward and mitigating any political or institutional opposition that may arise in the development and implementation process. Lastly, a healthy business climate, including private-sector interest in signing concessionaire contracts and the availability of private finance, are success factors for PPPs. We assess the presence or absence of these PPP success factors in El Salvador from late 2015 to early 2019—the first three and a half years of the compact period.

> ***The Salvadoran authorities have adopted a legal framework that's very similar to the Chilean one … it requires a feasibility study for each prospective project, conducted by the contracting institution. This is a great requirement, because it separates the viable projects from the non-viable ones.***
>
> ***—PPP Coach***

The PPP legal framework was in place, but it was largely untested. El Salvador has a modern legal framework for the development of PPP projects, starting with specific constitutional provisions that allow for private-sector participation in the development of infrastructure. Adopted in 2013, the Special Law on Public-Private Partnerships and its regulations contain rules that detail the technical, social, environmental, fiscal, economic, legal, and regulatory aspects of PPP projects, the full process that PPPs must follow from identification to closing, and the roles that designated actors should play in each step of the process. However, the law was largely untested throughout the first three and a half years of the compact period—particularly its provisions on implementing, regulating, and auditing PPPs—as no PPPs had advanced to those stages in El Salvador.

El Salvador's PPP authority was young, but highly capable. As noted, a well-functioning PPP development system requires a strong and well-funded PPP authority that identifies, vets, develops and promotes PPPs. The designated PPP authority in El Salvador, PROESA, had clear mandate and resources to promote PPPs, and a board of directors made up of key ministries and private-sector representatives. Even prior to the compact period, PROESA took advantage of training and technical assistance opportunities to build in-house capacity to identify and assess potential PPPs on economic grounds. Thanks largely to PROESA's strong institutional mandate and its recent efforts to build in-house capacity, El Salvador had one of the highest scores in Latin America on the Infrascope PPP institutional index (Infrascope 2017 and 2019) during the first three years of the compact.

Other institutional actors lagged behind PROESA in building in-house capacity. A strong PPP ecosystem also requires an independent and capable Minfin to ensure the government does not assume undue fiscal risk as a result of PPPs. Staff at the Minfin acquired critical skills to assess PPPs during the first few years of the compact but did not appear to have strong in-house expertise on PPPs or available resources to devote to their analysis. Institutionally, El Salvador has also created a technical oversight body to regulate PPPs called the Audit Office for Public Private Partnerships—or the *Organismo Fiscalizadora de Asocios Público-Privado*s (OFAPP). However, this body existed in name only as of early 2019, thereby substantively weakening the overarching institutional framework.

PPPs did not have high-powered political champions in El Salvador from 2015 to early 2019. High-powered political champions of PPPs in Latin America often include the president, the vice president, and high-profile lawmakers, ministers, and other public officials. When these political champions are present, they can help clear the path for PPPs' development and approval—particularly by influencing ministry staff, local authorities, and unions to fall in line behind PPPs in play. When they are absent, however, PPPs can fall victim to opposing forces at various points in the assessment and development process. As of spring 2019, El Salvador did not have high-profile political proponents of PPPs in the executive or legislative branches. Stakeholders widely reported that the country's most powerful political leaders—the president, vice president, and technical secretary—had little interest, time, or political capital to spend on promoting PPPs, and little technical capacity to do so. This created an environment in which any PPP could be de-prioritized or delayed at any stage in the lifecycle due to bureaucratic, legal, or technical complications.

> ***These [PPPs] can go off the rails at so many different points. That's the real problem on PPPs. They can be incredibly powerful tools to be able to access infrastructure … but you must have a lot of good, strong, political support to do it well.***
>
> ***—MCC***

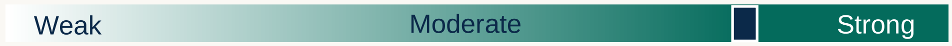
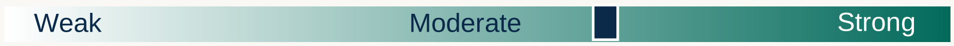
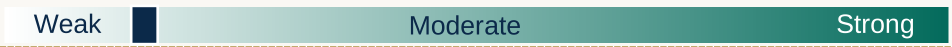
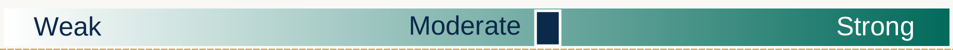
The national political and civil discourse was characterized by a lack of basic understanding of PPPs. Despite El Salvador's strong legal framework for PPPs and its rapidly evolving institutional framework, most domestic businesses, banks, public authorities, and the general public did not fully understand PPPs during the compact's first three and a half years—including the basic premise that unlike privatized businesses, PPPs allow private-sector actors to provide public goods, but the state retains ownership of these goods. This lack of understanding about the nature of PPPs posed a threat to PPPs in El Salvador—to the extent that FOMILENIO II and other stakeholders deemed it important enough to modify the PPP law in 2017 to clarify how PPPs differ from privatization (Prensa Grafica 2017).

> ***It's a good [PPP] law, well done, but there is no understanding of PPPs in El Salvador. The banks don't know what a PPP is either.***
>
> ***—Deloitte***

The economic climate for PPPs was moderately healthy. Economic climate refers to overall private sector interest in executing PPPs as well as the availability of financing for PPPs in the country. In recent years, El Salvador has had slow economic growth, a slowdown in foreign investments, and increased risk of a government default on debt obligations. Despite these concerns, there was moderate private-sector interest in PPPs in the country—particularly transportation infrastructure PPPs—which have several precedents in Central America. Through dollarization, El Salvador's minimal risk of currency devaluation also made it attractive for investment relative to other Central American countries, thus bolstering private sector perceptions of the country's investment climate. Although some stakeholders claimed there was limited financing for PPPs in El Salvador, others argued that several national banks and pension funds had a potential interest in financing PPPs.

Overall, El Salvador had a mixed scorecard on PPP success factors from late 2015 to early 2019. Summarizing the findings above, El Salvador had healthy PPP institutions and a sound legal framework (Figure V.3). As these are perhaps the core ingredients for successful PPPs, their presence in El Salvador during the compact period suggests that MCC investment in PPPs in the country was not misplaced. However, there was a poor understanding of PPPs among decision-makers, little appetite for PPPs among executive authorities, and no prominent political champions who can steward PPPs through Congress. These political factors likely elevated the risk of MCC investments in PPPs in El Salvador somewhat, as they could jeopardize the approval of even the most technically and economically sound PPPs.

Figure V.3. PPP success factor assessment: El Salvador

	Success factors
Legal and regulatory framework	• Comprehensive law with well-defined roles and processes; however, the law and its related regulations are largely untested. 
Institutional capacity	• PROESA and MinFin have the technical capacity to develo and assess PPPs, but there is not much capacity in contracting institutions that will eventually manage PPPs. 
Political support	• Poor understanding of PPPs among public officials and power brokers. Little support for PPPs by the executive branch. 
Economic climate	• Slow economic growth and a decrease in foreign investments. However, there is private-sector interest in financing and executing PPPs. 

Note: Success factors are generally consistent with Infrascope PPP enabling environment categories (Economist Intelligence Unit 2019). Legal and regulatory framework and institutional capacity align with Infrascope categories of *Regulations* and *Institutions*, respectively. Our *Political Support* and *Economic Climate* dimensions align somewhat with Infrascope categories of *Investment and Business Climate* and *Financing*, respectively. However, we elevate the role of political support to a stand-alone success factor, whereas political support is captured within Infrascope's *Investment and Business Climate* category.

3. Political economy of PPP stakeholders

PPPs in El Salvador, like those in other countries, are an intensely political phenomenon. As such, their outcomes can often be explained in terms of the overall PPP enabling environment as well as the balance of political power between interested actors. There were three tiers of political actors for PPPs in El Salvador during the first three and a half years of the compact period, from late 2015 to mid-2019. The most powerful actors were the executive branch, contracting institutions, the political party that held the presidency from 2009 to 2019—the Frente Farabundo Martí para la Liberación Nacional (FMLN)—and the Legislative Assembly and PROESA. These top-tier actors had the power to advance or derail PPPs at key points in the development process (Table V.1). Tier 2 actors—including Minfin, MCC, FOMILENIO II, and other political parties—also had considerable influence on PPPs, but they deferred to Tier 1 actors at key points in the development and approval process. Tier 3 actors such as municipal authorities and civil society did not have much power but could theoretically build power by building coalitions.

Table V.1. PPP stakeholders: Roles, interests, and power

Power tier	Actor	Role in PPP development and execution	Stance toward PPPs
1	Executive leadership	• Provides leadership in setting the PPP agenda and defining the PPP pipeline in El Salvador	• Generally unsupportive
	Contracting institutions	• Helps develop PPPs in their jurisdiction • Supervises PPP construction and manages PPP contract once the asset is operational	• Mixed, depending on the institution and project
	Legislative Assembly	• Formally approves projects	• Mixed, depending on the project
	Political party in power: FMLN	• No formal role in PPPs, but can influence the prioritization or de-prioritization of PPPs in development by exercising power over the executive and ministry leadership	• Generally unsupportive
	PROESA	• PPP unit identifies PPPs; evaluates their feasibility, value for money, and cost-benefit; and promotes viable PPPs for fiscal impact analysis by Minfin • Executive board reviews technical studies and approves the terms of the invitation to tender	• Highly supportive
2	FOMILENIO II and MCC	• Builds the capacity of public institutions to identify, assess, structure, and manage PPPs, including the financial support to fund studies and transaction advisors	• Highly supportive
	Minfin	• Issues a ruling after assessing the fiscal impact of projects, and issues an opinion on the tender guidelines	• Agnostic toward specific PPPs, given their mandate to vet each project
	Regulatory authorities, including OFAPP	• Oversees compliance with the obligations established in the PPP contracts, particularly with respect to contracting institution and concessionaire dealings	• Agnostic toward specific PPPs, given their mandate to regulate projects
	Political parties out of power	• No formal role in PPPs, but can influence the prioritization or de-prioritization of PPPs in development by exercising power over the executive and ministry leadership	• ARENA is generally supportive
	Special interest groups, including unions	• No formal role, but they have the power to advance or derail PPPs because they can influence top-tier actors	• Support varies by PPP, but unions are generally unsupportive
3	Private sector	• Bids on PPPs at the tendering stage • Builds and manages PPPs in the implementation stage	• Highly supportive
	Municipal authorities and civil society groups	• No formal role, but their collective action can advance or derail PPPs by influencing top-tier actors	• Support varies by PPP, but civil society is generally unsupportive

PROESA = Agencia de Promoción de Exportaciones e Inversiones de El Salvador, FOMILENIO II = Fondo del Milenio II, MCC = Millennium Challenge Corporation; OFAPP = Organismo Fiscalizador de Asocios Público Privados; ARENA = Alianza Republicana Nacionalista; FMLN = Frente Farabundo Martí para la Liberación Nacional

Political support for PPPs was generally mixed, but power dynamics varied widely by sector and project. As illustrated in Table V.1, Tier 1 players were evenly split between their general support for PPPs during first years of the compact—with strong support from PROESA pitted against weak support from the executive branch and FMLN. Furthermore, Tier 2 and 3 actors are relatively evenly distributed among PPP supporters and detractors. An implication of this overall balance among actors is that some PPPs likely had enough political support to progress to approval whereas some did not, depending on the balance of power across actors and the importance that key actors placed on each PPP.

> *The problem is that all the political polarization has contaminated everything—for this leftist government, any mention of PPPs sounds like privatization to them.*
>
> *—Anonymous*

Political parties were highly influential PPP players in the previous administration. The FMLN has historically opposed the country's economic elite and their well-entrenched business interests. As such, the FMLN likely had some ideological opposition to PPPs, inasmuch as PPPs represented privatization in the eyes of party leadership. Perhaps more importantly, interviewed stakeholders noted that FMLN had a strong financial interest in retaining control of large transportation assets such as the airport and seaports, and thus a natural aversion to PPPs that would require them to cede this control. In contrast, El Salvador's right-leaning national political party, the National Republican Alliance (ARENA), is generally pro-business—and pro-PPP by extension. During the compact's first three-and-a-half years, ARENA's leaders had the power and disposition to make its assembly representatives and local authorities fall in line behind PPPs.[4] However, because ARENA did not hold the presidency during this time, its municipal authorities and political operatives were arguably weaker power players than FMLN political leadership.

FOMILENIO II and MCC have provided much-needed support for PPPs, but they will soon disengage. To some extent, FOMILENIO II and MCC filled the leadership void from the executive by trying to galvanize support for PPPs in the legislature and with national political parties. But they did not wield the executive's magnitude of power—particularly with respect to incentivizing contracting institutions to step up their commitment to PPPs. The fact that FOMILENIO II will cease to exist in 2020 may not bode well for the current PPP pipeline unless the new administration entering in 2019 plays a role in championing PPPs.

4. PPP Sub-Activity: Goals and supports

The $7 million PPP Sub-Activity in El Salvador was designed to help the government attract private capital to fund and manage critical public goods and services through PPPs. PPPs are relatively new to El Salvador, so MCC's investments are largely focused on building the capacity of public institutions to assess, structure, and manage them. To that end, FOMILENIO II provides three pillars of support: (1) general training on PPPs for various government officials, based on the Certified Public-Private Partnership Professional (CP^{3}P) program[5], as well as additional specialized trainings; (2) day-to-day coaching and technical assistance for officials from Minfin and PROESA to help them develop PPP procedures and execute their roles in furthering PPPs; and (3) project level support, including financing for studies and transaction advisors (Figure V.3).

In addition to these three pillars of support, which were also present in a similar PPP activities in Guatemala and Honduras, FOMILENIO fully subsidized the salaries of several PROESA PPP

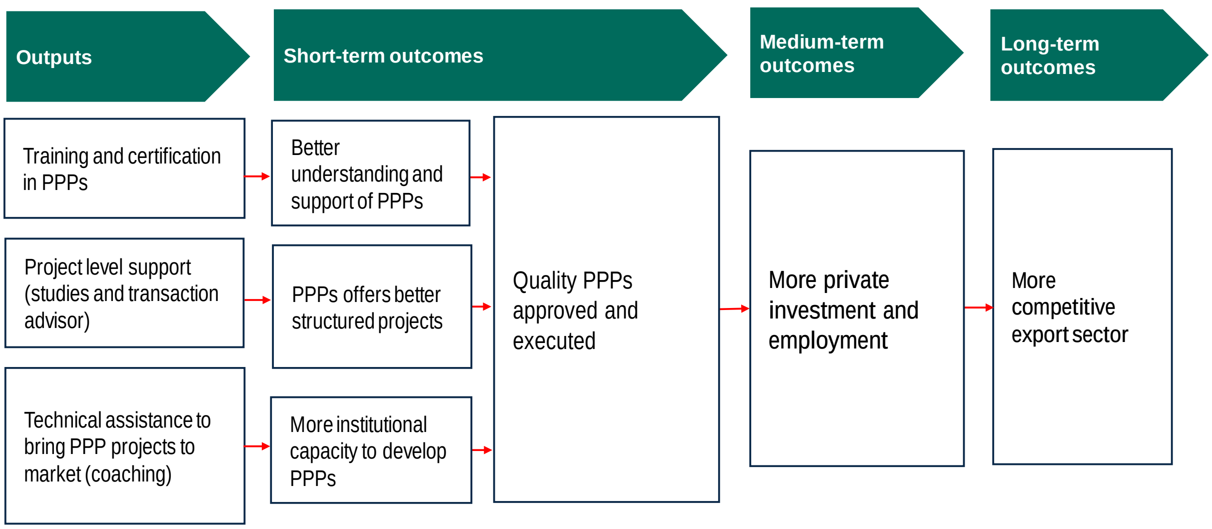
[4] The new president of El Salvador, Nayib Bukele, does not represent either of these two major parties. He assumed control of the executive branch in June 2019, and his stance on PPPs is generally positive, although some officials in his administration do not have a general understanding of PPPs as a contracting mechanism.

[5] This program is widely regarded as the industry standard in training and credentialing certified PPP professionals.

(continued)

specialists.[6] Taken together, these supports were designed to build public capacity to develop PPPs produce at least two approved PPPs in the compact period. In the medium term, these supports would generate more private investment and employment, thus enabling a more competitive tradeable sector in the long term (Figure V.4).

Figure V.4. PPP program logic



As stated in the compact, a primary goal of the PPP Activity was to fully develop two PPPs during the compact period—essentially shepherding them through the entire process of feasibility assessment, project structuring, tendering, and approval by the Legislative Assembly. In a series of high-level meetings during compact development in 2014 and 2015, GoES, PROESA, and FOMILENIO II constructed a short list of 10 large-scale infrastructure projects with the potential to be PPPs (Table V.2). These projects generally focused on the energy and transportation sectors. A consultant analyzed this initial set on economic, financial, and legal criteria, and recommended six particularly promising projects for additional study. GoES prioritized two of these six projects for the investment compact: the expansion of the El Salvador international airport and the development of a wind farm in the Metapán region. However, the compact stipulated that if one or both of these projects were not viable, FOMILENIO II and its partners could agree on alternative projects that could help generate private investment in the internationally traded goods and services sector.

[6] FOMILENIO II staff actually envision the PPP Sub-Activity as having two components: (1) a project development component related to feasibility studies and transaction advisor services, and (2) a capacity development component, which included training, coaching, and salaries for specialists at PROESA.

Table V.2. Initial assessment of potential PPPs

Project	Description	Consultant assessment	Recommended by consultant	Selected for compact
Street Lighting and Video Surveillance: Comalapa Highway	Install lighting and video surveillance over 140 KM of highway, financed by billboards and other advertisements lining the motorway	Viable: Low complexity and strong opportunities for learning; immediate benefits that can strengthen the argument for PPPs in El Salvador	X	
Selected border crossings (combined from two initial projects)	Improve the infrastructure and simplify procedures at the borders of El Poy, Anguiatú, El Amatillo and La Hachadura; operate new border crossings.	Viable: Low complexity and strong opportunities for learning	X	
Expansion of cargo terminal in the international airport	Expand the cargo terminal to double its capacity, and authorize a private consortium to manage it	Viable: High complexity, but strong development potential and robust economic and financial viability	X	
Ilopango Airport	Rehabilitate existing infrastructure and improve operations	Viable: Complex transaction, and its financial viability is uncertain, but it has strong development potential	X	X
Zacatecoluca Business Park	Construct a new business park for high-tech companies	Viable: Low complexity and strong opportunities for learning	X	
La Libertad Waste Water Treatment Plant	Expand an existing plant to increase capacity; Building new sewage network.	Not viable: legal prohibitions against PPPs in the water sector		
Metapán Wind Farm	Construct a new wind farm with a 40MW installed capacity	Viable: low complexity, strong learning potential, and strong potential to garner public support for PPPs	X	X
San Isidro Wind Farm	Construct a new wind farm with a 30MW installed capacity	Viable: low complexity, strong learning potential, and strong potential to garner public support for PPPs		
Road Project El Delirio-El Carmen	Construct a new 24km road	Not viable: poor financial and economic projections		

> ***There is a strategy behind the airport terminal and highway safety projects … they are self-sustained, they don't affect pedestrians, they are easier for bidders and lawmakers to understand, and they don't charge anyone that couldn't afford it. Strategically, that's the advantage of those two projects.***
>
> ***—PROESA staff***

Just as the compact period began in 2015, the two PPPs in the compact—the expansion of the International Airport and the Wind Park Metapan—were rejected by the designated contracting institutions, the Autonomous Executive Port Commission (CEPA) and the Executive Hydroelectric Commission (CEL), respectively, largely citing financial viability risks. Two alternate projects from the original list of 10 short-listed projects—the cargo terminal expansion and the street lighting and video surveillance project—took their place because of their strong economic potential (Table V.2). Stakeholders also presumed these projects to be the most politically palatable, given their presumed financial self-sustainability.

B. Implementation of the PPP Sub-Activity

How was the PPP Activity implemented?

This section has detailed findings on each of FOMILENIO's three pillars of support: (1) general training on PPPs, (2) coaching, and (3) project level support.

1. General training on PPPs

FOMILENIO II succeeded in providing sound training that helped 28 officials gain certification. At the beginning of the compact period, FOMILENIO II was unaware whether any official CP^{3}P training was available in Spanish—either in El Salvador or remotely. FOMILENIO II therefore selected and contracted with outside trainers who were not affiliated with CP^{3}P, and they developed and taught a foundational PPP course in 2017. Twenty-four public officials—largely representing PROESA's PPP unit and Minfin—participated in an eight-month foundational training. The training's nine modules followed the logical sequence of CP^{3}P certification materials—starting with basic PPP concepts, then moving to project design, risk management, and project management. Outside of the foundational course, several staff from PROESA, Minfin, CEPA, MOP, ESEN, Minfin and FOMILENIO II participated in additional PPP-related training financed by MCC, including more specialized PPP training and complementary software and technical training. By March 2019, 65 public officials had participated in at least one training by FOMILENIO II, and 28 foundational course participants and other training recipients had passed the CP^{3}P PPP Professional Level 1 Foundation examination that corresponded to the foundational training (See Appendix Table A.3 for a full accounting of all FOMILENIO-financed PPP training courses.)

> ***The (training) program was of high quality and adapted to the levels required by participants. Both trainees and trainers put a lot of effort into this."***
>
> ***"We have experts in PPPs with experience implementing in other countries. We felt supported developing the material for PPPs.***
>
> ***—Trainees***

Stakeholders generally appreciated the foundational PPP course. Representatives from PROESA, Minfin, and other agencies who took part in the eight-month foundational PPP course found it to be well structured and comprehensive. Participants praised the instructors' extensive experience with PPPs and the use of real-world examples throughout the course. Staff from Minfin said the course gave them a basic but nuanced understanding of all aspects of PPPs, which was a critical foundation they could use to develop the advanced skills required of their core PPP functions.

The diversity of backgrounds and experience among public officials created training challenges. Given asymmetries in prior knowledge of PPPs and technical skills—particularly between PROESA staff, who had been working on PPPs since 2013, and Minfin staff, who were largely new to PPPs— some participants found training valuable, and others found the content basic. For example, one training on risk assessment software was considered basic by PROESA staff, and they stopped attending. However, staff from Minfin found the course valuable and relevant to their work. Similarly, Minfin staff with non-financial and non-statistical backgrounds—particularly lawyers by training—struggled in the financial and statistical exercises introduced in the foundational PPP course, whereas PROESA staff were comfortable with these exercises given their academic background and previous exposure to these subjects on the job.

> ***It was challenging because I'm a lawyer and the training included statistics. I had to rely on colleagues and other books.***
>
> ***The instructors assumed that everyone had a background in finance. For those who did not have this background, understanding the content was challenging.***
>
> ***—Trainees***

FOMILENIO II continued to modify the training throughout the compact period to meet emerging needs. Following the PPP foundational course, FOMILENIO II conducted an assessment in 2017 to identify public servants' other PPP-related training needs. The assessment revealed training needs on risk analysis, corporate finance, and project finance, among other subjects. FOMILENIO II planned for additional trainings on these topics throughout 2017 and 2018. But even with this responsiveness, FOMILENIO II had not covered all training requests by late 2018. In part, FOMILENIO II's inability to keep pace with all training requests reflected the large number and variety of training requests and evolving training needs during 2017 and 2018 as PPPs progressed through the assessment and approval pipeline.

2. Coaching

PROESA's coach gradually moved from capacity building to hands-on technical assistance. PROESA selected its own coach, a Chilean national who had attended a PPP training abroad with a PROESA staff person before the compact period. This individual combined firsthand exposure to transportation PPPs in Latin America with a strong finance and engineering background. PROESA and the coach began by concentrating on building PROESA's capacity to conduct due diligence on contractors' feasibility studies, including value-for-money analyses, and worked to finalize the first projects' financial evaluations. The goal of this first phase of coaching—which largely took place from 2016 to mid-2017—was to help PROESA staff fully internalize the objectives and methodologies of each feasibility study they were charged with. In the second phase of coaching—from mid-2017 to late 2018—the coach provided technical assistance to help develop the terms of the invitation to tender for FOMILENIO-supported projects that had completed feasibility assessments. As PROESA built technical capacity throughout the compact period, its coach transitioned from a teacher role to becoming more of a team member in supporting the business at hand with each PPP.

Coaching at Minfin first focused on establishing processes, but later evolved to helping issue fiscal impact rulings. FOMILENIO II played a lead role in identifying and contracting with a coach for Minfin. This was a somewhat difficult task, because in Latin America there are few qualified experts in assessing fiscal risk from the government's perspective. During 2016 and 2017, the coach assigned to Minfin worked to establish and document procedures and methodologies by which the ministry would assess PPPs, liaise with other authorities, and eventually manage PPP fiscal risk once contracts were approved. In late 2017, the Minfin coach's contract was not renewed, and a former FOMILENIO II employee with expansive finance experience took on Minfin coaching responsibilities. Minfin was obligated to submit fiscal impact rulings starting in 2018, so coaching focused on building the team's capacity to complete the core fiscal risk analysis required by these rulings.

PROESA and Minfin reported substantively different experiences with their PPP coaches. FOMILENIO II used the same vehicle to contract with coaches for PROESA and Minfin, with comparable contract terms of reference and timelines. However, PROESA was completely satisfied with its PPP coach, noting that his strong experience with PPPs throughout Latin America made him a critical member of the team. In contrast, representatives from Minfin were not fully satisfied with their first coach, whom they described as knowledgeable, but somewhat "reactive" and uncommunicative when they needed a coach to proactively assess their needs and propose solutions. PROESA and Minfin's different experiences with their first coaches could be related to PROESA's experience with PPPs: PROESA had been working on PPPs since 2013, and had a clear vision of its objectives from the coaching arrangement. In contrast, Minfin staff had no experience with PPPs before the compact period, and they did not have a nuanced understanding of exactly what they needed in a coach.

Table V.3. Feedback on coaching

Positive feedback on the PROESA coach	*In PROESA, the coach has been one of the team, an important person who supports strategic issues and provides recommendations. It has been quite practical; together we have done financial modeling, bidding rules, strategic issues, and communication issues … that part has been helpful, along with the trainings.* —PROESA staff
Mixed feedback on the first Minfin coach	*There was a communication problem with the first coach; he was good and expert in PPPs from the point of view of Minfin. The problem was his personality, very introverted ... perhaps inexperienced in management and communication. There is also a lack of planning skills, such as anticipating potential problems.* —FOMILENIO II staff

3. Project level support

FOMILENIO II's has given specific support to five PPPs in the pipeline, more than initially envisioned. With a compact goal of signing two PPP contracts, FOMILENIO II financed the initial technical studies of the street lighting and video surveillance project and the airport cargo terminal project, and financed the prefeasibility and feasibility studies and the transaction adviser for these projects. Stakeholders said there were no problems in terms of the timeliness or quality of these studies. Possibly because there were no complications with these studies, FOMILENIO II staff established contracts for feasibility studies and transaction advisors for additional PPPs in the pipeline, depending on each project's progress and needs. This included prefeasibility and feasibility studies for two additional projects—the La Hachadura toll road and border crossings at El Poy, Anguiatú, El Amatillo and La Hachadura—as well as transaction advisor services for a new government center (Table V.4). Although the toll road was not on the initial short list of potential PPPs that were considered in compact development, it was brought to the attention of the PPP team because of its synergies with other FOMILENIO II investments in the ESIC Sub-Activity, among other compact investments. Similarly, the new government center—essentially a large office building to permanently house multiple national ministries—was not on the initial short list of PPPs considered for FOMILENIO II support, but it had been prioritized by PROESA in recent years after a third-party feasibility study found technical, financial, and economic conditions to be favorable for a PPP.

FOMILENIO II and customs authorities approve a feasibility study for selected border crossings, 2018. Photo courtesy of FOMILENIO II.

Table V.4. FOMILENIO II's specific project support

Origin	Project	Technical studies	Prefeasibility/ feasibility studies	Transaction advisor
From pre-compact list	Cargo terminal of the international airport	X	X	X
	Street lighting and video surveillance	X	X	X
	Selected border crossings		X	
Incorporated into FOMILENIO II's list in 2017 and 2018	La Hachadura toll road in the Pacific corridor		X	
	New government center			X

The transaction advisor's performance has been good despite a weak local presence. For the two projects that are in the structuring phase, the same company, Deloitte, won the transaction advisor contract. Deloitte performed this work well according to stakeholders, drawing on its robust client network to advertise the PPPs to prospective bidders. However, because PPPs are relatively new in El Salvador, Deloitte had no technical staff in El Salvador to serve as transaction advisor, and assigned staff based in Latin America and Europe to complete most of the work. These staff largely worked virtually, although they visited El Salvador as necessary. This lack of a physical presence in El Salvador complicated the work somewhat, but not enough to affect Deloitte's fundamental performance, according to stakeholders.

Does MCC's three-pillar approach to PPP assistance meet stakeholders' needs?

FOMILENIO II has been responsive to stakeholders' immediate needs under each pillar, but its focus on troubleshooting has come at a price. According to stakeholder interviews, the three-pillar approach has largely addressed stakeholders' basic needs for training and technical assistance. When necessary, FOMILENIO II has also provided supports that were not initially envisioned. For example, FOMILENIO II staff developed presentations to explain the PPP law at the request of Minfin and PROESA, and organized stakeholder workshops and study trips to the United Kingdom to help lobby lawmakers and other key decision makers on PPPs. In another instance, Minfin did not have access to the software it needed to conduct financial modeling and assess projects' fiscal risk. FOMILENIO II promptly got Minfin the software licenses and the relevant training and technical support. This type of ad hoc support exemplified FOMILENIO II's assistance from 2015 to 2018—it largely focused on addressing day-to-day information, training, and communication needs that inevitably surfaced in this new and innovative area. Potentially, this troubleshooting role may have compromised FOMILENIO II's ability to help public institutions plan for the post-compact period, build longer-term institutional capacity, and codify their roles in the process of identifying, selecting, and developing PPPs.

Training met most basic needs, but stakeholders said there were unmet needs for specialized training and hands-on learning. Foundational training largely met stakeholders' need to acquire a broad knowledge base to inform their work, and additional specialized training met PROESA and Minfin staff's more specific needs related to their core functions. However, FOMILENIO II assistance did not meet all needs for specialized training and hands-on learning, particularly for Minfin staff (Table V.5). As of late 2018, Minfin staff expressed strong interest in taking additional specialized courses in financial risk assessment and management—even after they had completed some supplementary technical and software training. Minfin staff said they would have liked a stand-alone course in Excel or financial management before the PPP foundational course, given that somewhat advanced Excel skills were a prerequisite for the foundational PPP course. In addition, Minfin, PROESA, and contracting institution staff all suggested international travel opportunities that would allow them to see how public institutions in other countries conducted the analyses they are called on to complete.

> ***FOMILENIO has juggled to keep the PPP activity alive—that has been our key role.***
>
> ***—FOMILENIO II staff***

Table V.5. Support of PPP stakeholder needs: 2015 to 2018

Actor	Need	Need met? By which component?	Remaining needs
PROESA and Minfin	Foundational training on PPP concepts, processes, and methodologies	Yes, by the PPP foundational course	None
	Specialized training on PPP concepts, processes, and methodologies	Yes, by additional PPP training in risk analysis, corporate finance, and project finance	Advanced Excel and financial management training before the foundational course (Minfin) Additional specialized training related to core PPP functions (Minfin and PROESA)
	Hands-on technical assistance on PPPs	Yes, by PPP coaches—particularly with respect to assessing PPPs	Hands-on technical assistance with risk management for contracted PPPs (Minfin)
	Learning by observing practitioners in other countries	No	Country visits to see foreign counterparts in action (Minfin and PROESA)
Contracting institutions	Foundational training on PPP concepts, processes, and methodologies	Partially, as very few contracting institution staff completed training	Foundational course completion
	Specialized training on PPP concepts, processes, and methodologies	No	Training in PPP contract management
	Hands-on technical assistance on PPPs	No	Hands-on coaching to prepare to administer PPPs headed toward contract signing
	Learning by observing practitioners in other countries	No	Country visits to see foreign counterparts in action

Were any pillars more useful than others?

Stakeholders viewed coaching as the most helpful support. Nearly all interviewed stakeholders agreed that coaching assistance was particularly valuable, given that coaches provided hands-on guidance and insight that simply was not possible through more theoretically based training. Assigning a distinct coach to the PPP authority and to the ministry charged with fiscal risk analysis—as opposed to assigning the same coach to both—was also viewed as a good decision by stakeholders, because each of these parties had distinctive technical assistance needs that could only be met by specialized professionals.

The combination of training and coaching was critical, according to interviewees. Stakeholders' enthusiasm for coaching is not meant to suggest that foundational and advanced PPP training were not critical to meeting the officials' capacity-building needs. In fact, interviewees reported that training and coaching worked as natural complements, because training gave public officials the skills and knowledge they needed to take advantage of coaching. In the absence of PPP training, coaches might well have spent too much time teaching staff PPP concepts, and not enough time helping them operationalize these concepts.

> ***Hands down, coaching was the best thing we did.***
>
> ***—MCC representative***

How could the three-pillar approach be improved?

A fourth pillar, strategic communications, could be added to the core set of PPP supports. Targeted communications are critical to PPPs' successful progress from identification to approval. Although stakeholders praised FOMILENIO II's communication and outreach activities to lawmakers to promote PPPs—including a trip to the U.K. for lawmakers—many noted that the activity lacked a coherent approach to communicating the value of specific PPPs to a targeted group of decision makers and influencers in the legislative and executive branches. Several stakeholders expressed the need to develop a strategic communication focused on: (1) providing general information about PPPs to assembly members and other decision makers to explain their potential benefits and differentiate them from privatization, and (2) providing relevant information on each FOMILENIO II-supported PPP to key groups, the general public, and civil society, aiming to influence their ultimate approval in the Legislative Assembly. These communication and lobbying efforts are particularly important in the Salvadoran context, given that stakeholder understanding of and political support for PPPs is the weakest dimension of the country's PPP-enabling environment.

Going forward, foundational PPP training courses should use certified CP^{3}P trainers. FOMILENIO II spent valuable time and resources identifying qualified PPP trainers and cobbling together a foundational PPP class when unbeknownst to them, a certified CP^{3}P foundations class in Spanish might have been available in El Salvador—at least virtually. Leveraging certified CP^{3}P courses in future PPP support efforts could save tremendous time and effort, because there is no need to reinvent the wheel on these foundational PPP courses.

Coaching pairings could be more intentional, assuming a suitable pool of coaches. Experience in El Salvador has shown that PPP coaching has both an interpersonal and a technical component: coaches must be able to impart technical skills, disseminate their work within partner institutions, and proactively lead teams. Future coaching arrangements could incorporate informal conference calls or meetings between public officials and potential coaches to assess technical and interpersonal fit. Stakeholders could also consider additional factors associated with highly productive coaching arrangements, such as consensus at the start of the contract with respect to vision and goals, a proactive approach to planning work, and a strong client orientation and discretion on the part of the coach (see Figure V.5). Minfin and ANADIE staff mentioned each of these practices at least once during focus group discussions and interviews.

Figure V.5. Best practices for successful coaching arrangements

What is the recipe for a productive coaching arrangement?

- **Clear vision** for the coaching relationship
- **International experience,** including a deep understanding of best practices and common pitfalls
- **Suitable personality fit**, or enough personal rapport that the coach feels like part of the team
- **Proactive approach to the work,** structuring assistance around intermediate and final goals
- **Client orientation and discretion,** including full accountability to clients

International study trips to shadow PPP professionals could complement PPP training and coaching. Minfin representatives expressed interest in visiting Peru or Chile to understand in depth how their finance authorities approach finance risk assessments and how they manage PPP budgets and future payments once PPPs are operational. In a sense, these study trips could give staff the modeling opportunities they would need to fully internalize the processes and methodologies they are expected to implement on the job.[7]

More permanent coaching arrangements are probably required across the board. Stakeholders noted the need for more permanent coaching or technical assistance arrangements at PROESA and Minfin during the post-compact period, because these institutions' needs will probably evolve as they begin to develop and assess more projects in a wider variety of sectors. In addition, contracting institutions may not have as critical a role as PROESA and Minfin during the initial identification and pre-feasibility phases, but they could benefit from intensive coaching assistance to enhance their work with transaction advisors and build their contract management capacity in anticipation of PPP construction and operation. Potentially, contracting institution coaches could secure funding from PPP proceeds (as in the case of PROESA) to finance tailored coaching and technical assistance as the first PPPs begin implementation.

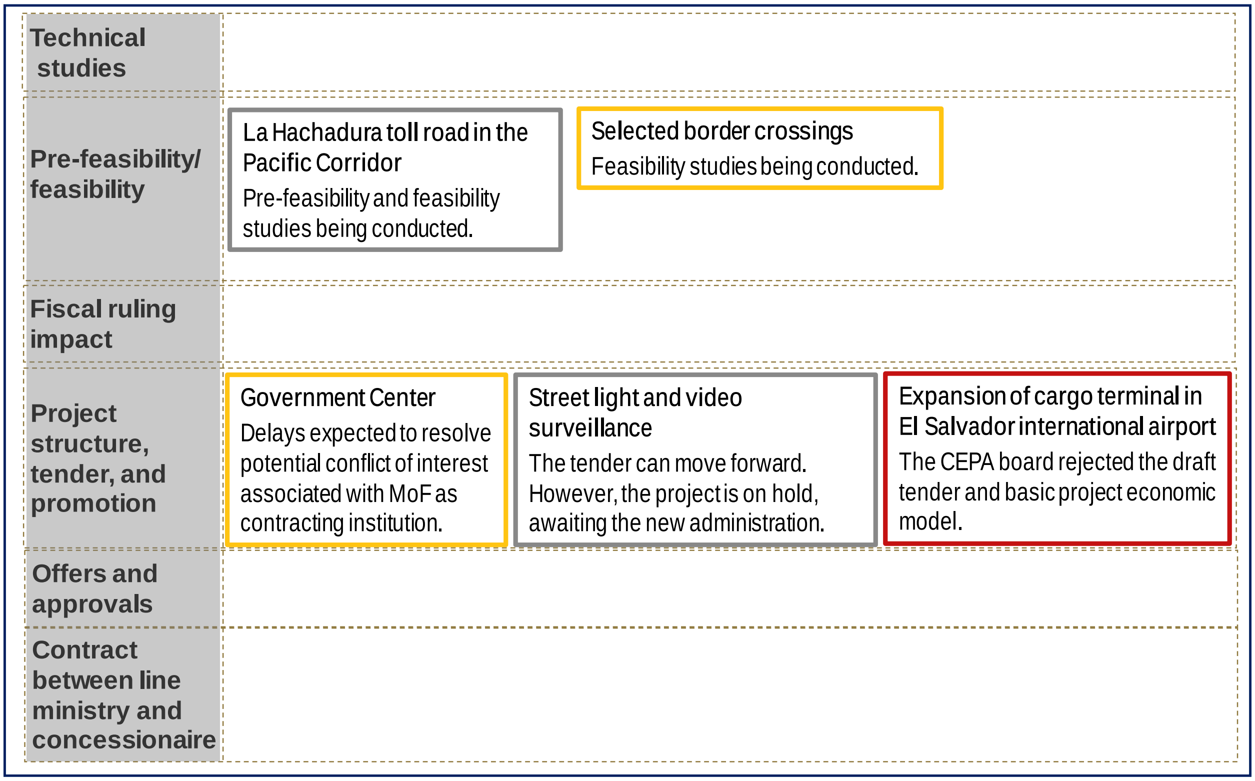
C. Initial Results of the PPP Sub-Activity

What is the current status of FOMILENIO-supported PPPs? What role has politics played in their progress?

Five FOMILENIO-supported PPPs were at play as of April 2019. By the end of the first quarter of 2019, two FOMILENIO II-supported projects were in the feasibility stage, and three were in the structure, tender, and promotion phase (Figure V.6). Of these projects, perhaps the street light and video surveillance and Hachadura toll road had the most potential to fulfill the sub-activity's goal of two approved PPPs by compact close-out, given the two projects' lack of legal, technical, and political complications. Below we discuss the status of each of these five PPPs.

[7] Minfin staff did get these international travel opportunities in early 2019, according to FOMILENIO II staff. Those international visits will be fully documented in the second report, which will focus on implementation during the full compact period.

Figure V.6. Status of FOMILENIO II-supported PPPs, April 2019

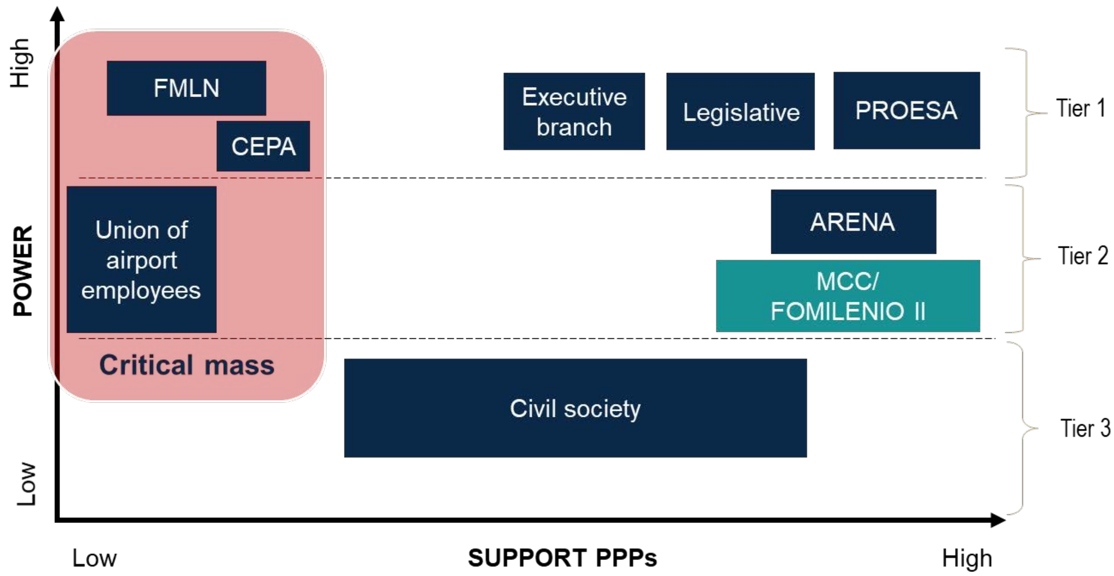


Notes: Gray boxes denote few delays or obstacles; yellow boxes denote some delays or obstacles, and red boxes denote substantive delays or obstacles.

Political forces stalled the PPP on the airport cargo terminal in early 2019. The expansion of the cargo terminal was expected to be tendered and approved by early 2019. Despite substantive expressions of interest from bidders, in January 2019 CEPA's board rejected the draft tender and the economic model proposed by FOMILENIO II for the management of the cargo terminal at the international airport. CEPA argued that it had new data to validate its ability to manage this asset directly, but some sources believe FMLN party leaders, motived by financial and ideological reasons, were behind this decision. This is not the first barrier faced by the project: in December 2018, when Deloitte was finalizing bidding conditions for the PPP, and CEPA was reviewing financial and technical aspects of the bid, unionized airport employees protested the planned expansion of the cargo terminal. The union was against the PPP, considering it tantamount to a privatization project. Potentially, the union's opposition to the project also influenced CEPA's rejection of the draft tender. As of mid-2019, opposition from FMLN, CEPA leaders, and unions had effectively sidelined the cargo terminal project (Figure V.6). CEPA's decision was poorly received by FOMILENIO II, MCC, PROESA, and potential private sector bidders.

> ***CEPA canceled the project after all the required studies were approved and 11 companies had already expressed interest [in bidding].***
>
> ***—PROESA staff***

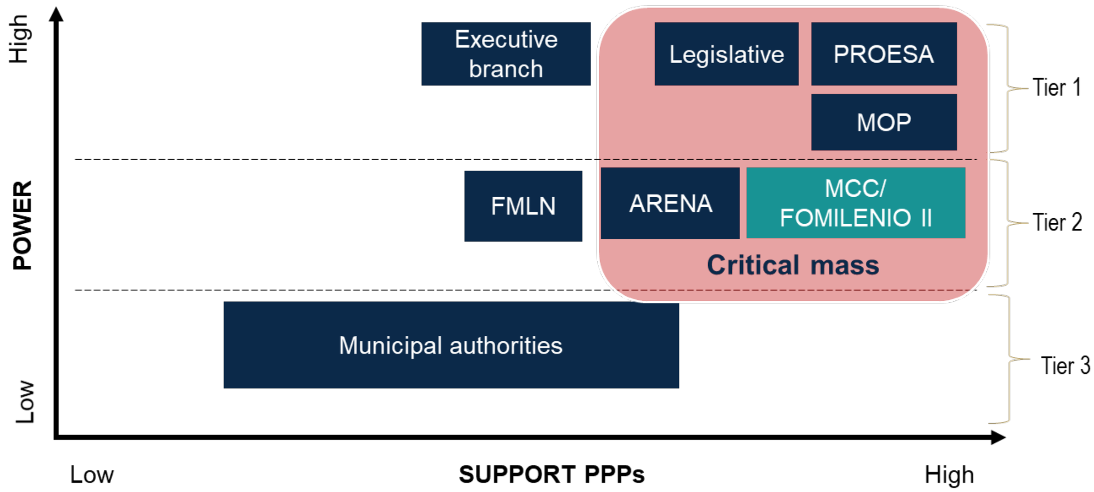
Figure V.7. Political economy of Cargo Terminal PPP, April 2019



FMLN = The Farabundo Martí National Liberation Front; PROESA = Export and Investment Promotion Agency of El Salvador; ARENA = Nationalist Republican Alliance; MCC = Millennium Challenge Corporation; FOMILENIO II = Fondo del Milenio II.

By mid-2019, the highway lighting PPP had the most potential to be the first FOMILENIO II-supported PPP tendered and approved. The street lighting and video surveillance PPP is designed to reduce accidents and deter crime in specific stretches of the highway between San Salvador and the Comalapa airport. However, the project was in some danger of being derailed in 2018. Mayors from municipalities that abutted the selected highway sections initially protested the project because it jeopardized income they received from unauthorized advertisements along the highway. However, MCC technical staff, ARENA leaders and the U.S ambassador to El Salvador were instrumental in influencing these mayors to drop their opposition to the project, thus keeping it alive with a critical mass of political support (Figure V.7). This PPP can also move forward after the enactment of the Law on Highways and Neighboring Roads in May 2018, which solidified the national government's legal ownership of all infrastructure surrounding highways for the specific purpose of enabling this PPP. In early 2019, PROESA representatives reported working hand in hand with the transaction advisor, Deloitte, to create promotional materials for the project and finalize a tender. As of May 2019, the project had generated substantial private-sector interest. However, with the new, more pro-business, government slated to assume power in June 2019, MCC and FOMILENIO II decided not to pursue this PPP until the new government was in place.

Figure V.8. Political economy of the Highway Safety and Lighting Project, April 2019



PROESA = Export and Investment Promotion Agency of El Salvador; MCC = Millennium Challenge Corporation; FOMILENIO II = Fondo del Milenio: MOP = Ministerio de Obras Publicas.

The new government center was in the project structure-and-promotion phase in mid-2019. As of mid-2019, FOMILENIO II was financing a transaction advisor for the government center, who would be responsible for preparing the economic model and the tender materials. For this project, the contracting institution is Minfin, but because Minfin is responsible for the fiscal analysis of all PPPs, it is concerned about a potential conflict of interest. Stakeholders are currently analyzing whether an alternate ministry should be the contracting institution. As of mid-2019, FOMILENIO II was waiting for a final decision on the contracting institution before contracting a transaction advisor.

Two projects, the la Hachadura toll road and the selected border crossing, were in the pre-feasibility and feasibility phases in mid-2019. As of mid-2019, FOMILENIO II was funding pre-feasibility and feasibility studies for both projects. Like the government center, the selected border crossing might be delayed because Minfin could have a conflict of interest as both the contracting institution and the authority that assesses the project's fiscal risk.

Did the GoES follow the PPP law and best international practice in developing and managing PPP projects?

PROESA is abiding by the core functions laid out in the PPP law. This includes playing an active role in assessing and promoting PPPs, coordinating PPP development and assessment with other stakeholders, including Minfin and potential contracting institutions, convening and reporting to its board of directors, and publicizing the results of key decisions on its website. To date, PROESA has reported to its board four times on progress with PPP selection and analysis, as required by law.

PPP selection may have been fully objective, but some stakeholders noted a lack of transparency in key decisions to date. A best practice in choosing projects is to use objective criteria and clearly communicate the methods and results of selection to stakeholders. As noted, before GoES and MCC signed an agreement, PROESA developed a pipeline of 10 potential PPP projects. In 2015, MCC contracted for a preliminary screening assessment of these 10 projects, which evaluated each project on political commitment, acceptable economic rate of return, social acceptance, and legal perspective. The goal of this assessment was to create a short list of priority projects—ranging from two to four projects. The methodology and selection criteria used for this assessment were well documented in the contractor's final report. However, some stakeholders were unclear how this report was used to select the projects that PROESA, FOMILENIO II, and MCC moved forward with in 2016: the airport cargo terminal and the street lighting and video surveillance project. Key stakeholders—including members of FOMILENIO II's PPP team—also said it was unclear how PPPs that were not on the initial short list—namely, the government center and the La Hachadura toll road—were evaluated and prioritized relative to the initial set of PPPs. In an interview, a PROESA representative expressed a different view—that PROESA followed fully objective criteria in prioritizing PPPs, and fully communicated these criteria and the results of their application to stakeholders.[8]

Minfin is completing its fiscal impact rulings as assigned but could better align its work with international best practices. Minfin is submitting its rulings and evaluations as stipulated in the PPP law, under the guidance of the FOMILENIO II-financed coach. However, according to this coach, some of its work could be better aligned with international norms, including the PPP Fiscal Risk Assessment Model (P-FRAM) tool developed by the International Monetary Fund and the World Bank to assess fiscal risk. Mathematica's second evaluation report will assess Minfin's compliance with best practices in more depth.

> ***There are some analytical products that should be better aligned to international norms … there are other technical issues … such as social prices, the discount rate, etc. … that [Minfin] has not mastered yet.***
>
> ***—Coach***

How well did the project facilitate greater capacity for PPPs within GoES?

The PPP Sub-Activity has markedly strengthened PROESA's capacity. Most stakeholders agreed that PROESA's PPP unit has taken full advantage of training and coaching opportunities to build robust capacity in economic, financial, technical, and legal analysis of PPPs (Table V.6). PROESA's coach remarked that the PPP team had not only mastered core financial and economic concepts of PPPs, but that, through its training and hands-on work with PPPs in the pipeline, had gained sound exposure to socioeconomic analysis, tender guidelines, financial guarantees and effective legal conditions within PPP contracts.

PROESA staff expressed confidence in their in-house capacity despite the loss of two key staff in 2018 and 2019. As of early 2019, PROESA had seven full-time staff devoted to PPPs, but had lost two key staff who had received substantial FOMILENIO II training and coaching support: a lawyer and a financial analyst. A PROESA representative maintained that PROESA can absorb these losses well, given the large degree of overlap in skills and experience among existing team-members and those that resigned.

[8] Mathematica's second report, scheduled for late 2020, will pursue this issue in depth, and offer more international best practices in identifying and developing PPPs.

Table V.6. PROESA and Minfin PPP capacity (2016 to early 2019)

	PROESA	Minfin
Organizational structure	There is a designated PPP unit within PROESA, which has the following sub-departments: legal, economic-financial, and engineering.	No designated PPP department. Staff assigned to PPPs belong to two different departments.
Staffing	7 full-time staff: 2 economists, 2 lawyers, 2 engineers, and 1 coach[a]	No full-time staff; 5 staff who each devote a portion of their time to PPPs
Turnover	Two specialists resigned in 2018 and 2019, including a lawyer and a financial analyst.	One analyst resigned in 2018.
Technical capacity	Strong financial and legal analysts with advanced degrees; no specialists—such as sociologists—for the social analysis, but financial analysts are developing relevant skills.	Capacity to assess fiscal risk is moderate; staff lack postgraduate finance training and had limited exposure to PPPs before the compact.

[a]Four of these seven staff are financed by FOMILENIO, but PROESA will pay their salaries at compact close.

Minfin has overcome initial skills deficits, but its structure is not optimized to handle PPPs. Even though a distinct unit in Minfin is assigned to PPPs, the team does not have a well-defined structure, and is housed in two different departments. Furthermore, staff can only dedicate a portion of their time to PPPs given their other responsibilities, and the team has lost one well-qualified member during the compact period. Despite these difficulties, the coach reports that the team is intellectually capable and has acquired the core skills related to their work through training. At this point, what they need most is specialized training—including advanced training in risk analysis and a supplementary course in the use of macros in Excel which would enable them to properly operate a fiscal risk assessment tool developed by the World Bank.

Contracting institutions appeared to have general capacity gaps on PPPs, but also limitations in the capacity of the staff assigned to PPPs. CEPA staff working with the transaction advisor do not appear to have strong capacity in assessing the merits of PPPs, nor an understanding of their potential role in managing a concessionaire for the new cargo terminal. One source noted that CEPA has capable staff—including strong lawyers, economists, and financial experts—who could build capacity on PPPs relatively quickly. However, according to this source, the fact that these individuals are not assigned to work on the cargo terminal PPP reflects a lack of political will at top levels of CEPA leadership. In contrast, MOP seems committed politically to the street lighting and video surveillance PPP, and is willing to build a strong team to prepare for work with the transaction advisor. However, one source noted that as of late 2018, MOP did not have the technical and financial capacity to help design and assess PPPs in house or to manage complex PPP projects.

In CEPA, there are good professionals in different areas. The problem is the leadership in the institution to promote PPPs.

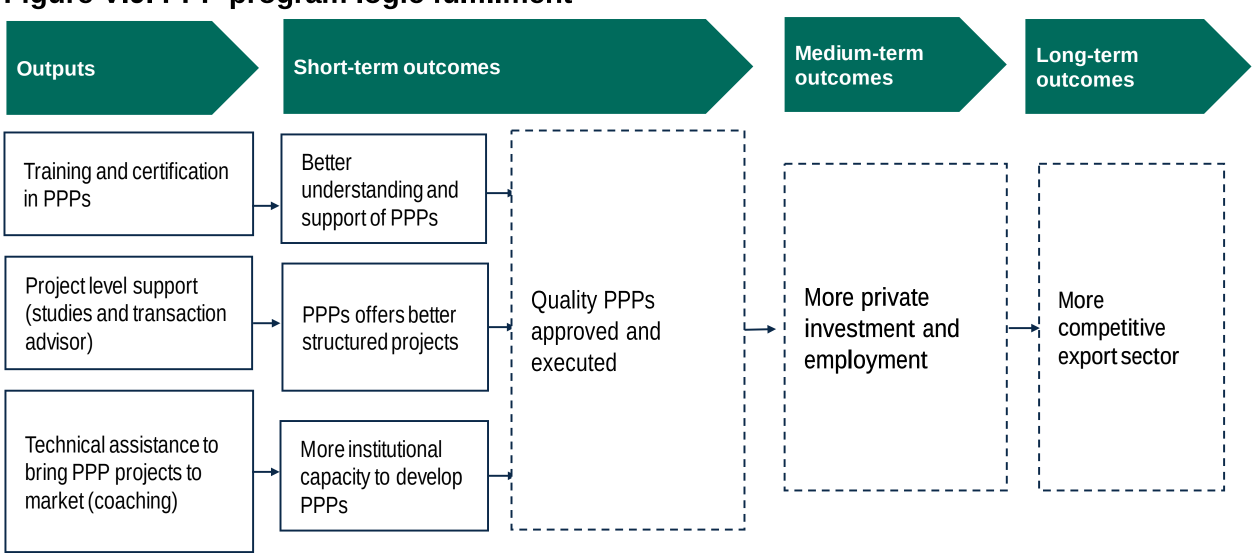
—FOMILENIO II staff

D. Insights and Implications

Each aspect of the three-pillar approach has filled a vital need—a need that will remain once the compact is complete. Stakeholders noted that training and coaching were critical to meeting their basic capacity-building needs in the past. Training and coaching worked particularly well in combination, because training provided a strong grounding in theory, whereas coaching was largely hands-on practice focused on skill-building. PROESA, Minfin, and contracting institutions will certainly need coaching and training for several years as the first PPPs enter new phases, and the next round of PPPs in new sectors advance. Without additional external or internal funding for training, hands-on technical assistance, and the verification of technical studies, PROESA, Minfin, and contracting institutions run the risk of developing suboptimal PPPs and mismanaging existing PPPs. A potential pathway to reducing these risks is reserving some portion of revenues from operating PPPs to finance coaching, technical assistance, and PPP studies in the post-compact period. However, this would require at least one PPP to be operational post-compact.

The Legislative Assembly must approve FOMILENIO II-supported PPPs to fulfill the program logic. As intended in the program logic, the PPP Sub-Activity has generated more public capacity to develop and assess PPPs, and there are now better structured PPPs in the pipeline. However, the fact that no PPP had been approved by the Legislative Assembly by April 2019 jeopardizes fulfillment of the program logic's short-term goals (Figure V.9). As noted above, political forces appear to have played some role in delaying PPPs' progress, particularly in the case of the airport cargo terminal expansion, to the extent that no single PPP has been introduced to the Legislative Assembly for approval. When MCC-supported PPPs move to the Legislative Assembly for approval, lawmakers' votes could likely align with their party loyalties and ideological orientations, as modeled above.

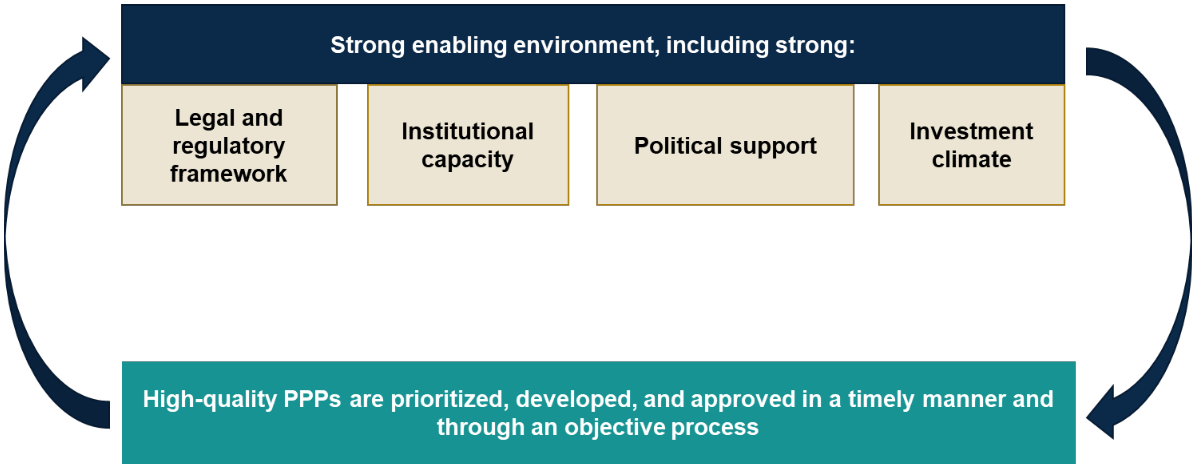
Figure V.9. PPP program logic fulfillment



Note: Boxes with broken lines indicate outcomes that had not yet occurred as of mid-2019, three and a half years after compact entry-into-force.

PPPs are in a critical stage in El Salvador. The timely approval of the first PPP (whether the cargo terminal in the international airport or the highway lighting) is critical, because it can help strengthen the enabling environment for PPPs in El Salvador, thus initiating a virtuous, self-reinforcing circle in which the enabling environment feeds strong PPPs, which in turn further strengthen the environment (Figure V.8). In contrast, if these PPP projects cannot be brought to market, the opposite effect may occur—setting off a vicious cycle in which the investment climate is eroded, public capacity is gradually lost, and the legal framework remains largely untested. This erosion of the PPP-enabling environment could complicate the approval of additional PPPs in the pipeline.

Figure V.10. Linkages between the enabling environment and individual PPPs



E. Findings across El Salvador and Guatemala

Under its current contract, Mathematica is also conducting a performance evaluation of the PPP Activity of the Resource Mobilization Program in Guatemala. Initiated in 2016, this sub-activity features the same three-pillar approach as the PPP Sub-Activity in El Salvador, composed of: (1) general training on PPPs; (2) day-to-day coaching; and (3) funding for feasibility studies and transaction advisors. Below we summarize common findings and implications for PPP support activities across El Salvador and Guatemala, as well as some divergent findings across the two countries.

The environment for PPPs was relatively healthy in El Salvador and Guatemala when MCC invested, suggesting PPP assistance is well-placed in the two countries. When PPP activities were initiated, both countries had a strong PPP laws and empowered PPP authorities who were steadily building internal capacity. To some extent, these sound legal and institutional frameworks ensured that PPP assistance would not be misspent in countries in which PPPs simply weren't yet feasible. However, neither country had enough resources, maturity in institutions, or a high-quality PPP pipeline for MCC to run the risk of providing assistance that wasn't critical or 'crowding out' local capacity building or technical assistance efforts. As such, both countries represented a chance for MCC funding to achieve strong additionality, or to generate positive results for PPPs that otherwise might not have occurred.

PPP assistance is not ‘light-touch’ or one-dimensional. In both countries, MCC and implementing entities were often called to exert political pressure to support specific PPPs in critical stages of development and approval. In Guatemala, MCC staff also directly intervened in technical aspects of feasibility studies and enlisted a consultant to help improve the airport economic analysis. These actions highlight that PPP assistance activities can be resource intensive for MCC and MCAs. The critical role that MCC consultants played in improving the airport feasibility assessment in Guatemala also highlights the importance of having a flexible contracting mechanism to draw on targeted expertise on short notice—including engineering, communications and lobbying expertise, depending on the critical needs of each PPP.

The three-pillar approach has met most PPP-related needs in both countries, except communications/lobbying and contracting institution capacity building. In both countries, staff at both ministries of finance and agencies promoting PPPs, have leveraged MCC-financed training and coaching to quickly build in-house capacity. In addition, MCC support for technical studies was also crucial in advancing prioritized PPPs. However, a strategic communications and lobbying component targeting key decision-makers was absent in both countries at the start of assistance. Given that general understanding of PPPs and political support for them are the weakest dimensions of the two countries’ enabling environments, this absence of a strong communications and lobbying component may have impeded progress on prioritized PPPs. What’s more, contracting institutions had only limited exposure to PPPs, as few of their staff participated in training and the ministries had no designated coach. This lack of contracting institution capacity poses no immediate risk for PPPs in the development stage. However, once PPPs are constructed and functional, contracting institutions will likely require hands-on assistance in contract management and other skills related to their core functions as PPP contracting ministries.

Training and coaching appeared to have gone more smoothly in Guatemala, but no PPP trainees in Guatemala earned a PPP credential. The Guatemalan Minfin coaching participants were highly supportive of their coach’s work, as was ANADIE (the agency tasked with promoting PPPs) staff. What’s more, training participants in Guatemala had few recommendations to improve the PPP foundations course. In El Salvador, Minfin requested the replacement of their first coach, and FOMILENIO II staff struggled to structure and staff the PPP foundations course when the sub-activity began. The distinct experiences between the two countries may be related to the personal characteristics of the coaches and trainers. Although coaches and trainers were highly qualified in both countries, the coaches and trainers in Guatemala proved particularly adept at structuring courses, explaining complex topics in simple terms, and even versatile enough to straddle a mix of coaching, training, and transaction advisor activities. However, although a total of 41 public officials from several public institutions completed the MCC-financed PPP course in Guatemala, none were certified due to miscommunication between several parties about MCC coverage of exam costs. In contrast, 28 public officials in El Salvador gained Level 1 CP^3P certification following their participation in the course, taking advantage of MCC-funded subsidies for the exam.

El Salvador did not experience Guatemala’s challenges with respect to the quality of feasibility studies, suggesting variation in contractor staff performance. In Guatemala, stakeholders found a feasibility study of Guatemala’s international airport expansion initially incomplete and methodologically weak. Improving the study required a concerted effort from

MCC, ANADIE, and their advisors, and caused a multi-month delay in the project. In El Salvador, MCC-financed feasibility studies of a cargo terminal expansion and the street lighting and video surveillance project had no such complications. Potentially this is due to the more difficult nature of the feasibility study of the airport compared to MCC-supported PPPs in El Salvador. Likely, it also reflects the wide variance in personnel leading feasibility studies of this nature, given that the same contractor worked in both countries.

El Salvador's highly centralized political power in the executive branch and Guatemala's public corruption may pose the largest long-term threats to PPPs. A consequence of El Salvador's highly centralized political power in the executive is that the party in power can either advance or thwart PPPs, depending on their ideological or practical stance toward PPPs. In Guatemala, the executive branch and national political parties are not as powerful, which gives individual lawmakers substantive power to advance or stall PPPs. In part, this creates an elevated potential for corruption among lawmakers in Guatemala. Based on interviews with political insiders, this potential for corruption may pose the largest risk to implementing high-quality PPPs in the country.

VI. REGULATORY IMPROVEMENT ACTIVITY

In this chapter, we present initial findings on the first three and a half years of the implementation of the RIA Activity, from September 2015 to April 2019. High-level findings are in Figure V.1, followed by a detailed discussion of implementation and initial results.

Figure VI.1. High-level findings

Summary of RIA Findings

Design

- With $6 million in funding, RIA co-financed the work of the Regulatory Improvement Organization (OMR for its Spanish initials), which is charged with helping public authorities improve regulatory and administrative processes.
- Also under the activity, OMR advocated for foundational laws in regulatory improvement, trained partner institutions to assess administrative burden, and began to establish a public registry of administrative requirements for Salvadoran firms.

Implementation

- OMR's work is marked by two distinct approaches to regulatory reform:
  - Phase I from 2015 to late 2017, in which OMR pursued legal and administrative reforms prioritized by private sector leadership in the areas of customs, business registration, and construction permitting
  - Phase II from late 2017 to late 2018, in which OMR prioritized (non-legal) administrative reforms through an exhaustive inventory of agencies' procedures
- Interviewed partner institutions gave largely positive reviews of OMR's assistance to date, citing its outside perspective, useful approach to identifying administrative burden, and ability to serve as a credible third party between public and private actors.

Initial results

- OMR scored early wins with legal reforms in customs, but has made limited progress on legal reforms in the areas of business registration and construction permitting.
- Almost all administrative changes recommended by OMR in business registration and construction permits were adopted, but several key administrative changes related to customs reform stalled.
- By late 2018, OMR had successfully completed a full inventory of administrative procedures of the executive branch. This inventory is a strong starting point for the national registry of regulatory procedures, or *Registro Nacional de Tramites*, an online portal that businesses can consult to access the full set of requirements associated with any permit or bureaucratic process.
- During the compact period, stakeholders achieved three legislative milestones toward the permanent institutionalization of the regulatory improvement system.

Insights and implications

- Driven in part by multiple leadership changes, OMR is still consolidating its identity and niche within the executive branch and larger bureaucracy.
- It is still too early to assess OMR's progress toward its short-term goals of increased transparency, consistent regulations, and reduced costs to businesses, given limited implemented reforms to date.

A. Background on the Regulatory Improvement Activity

1. Objectives and program logic

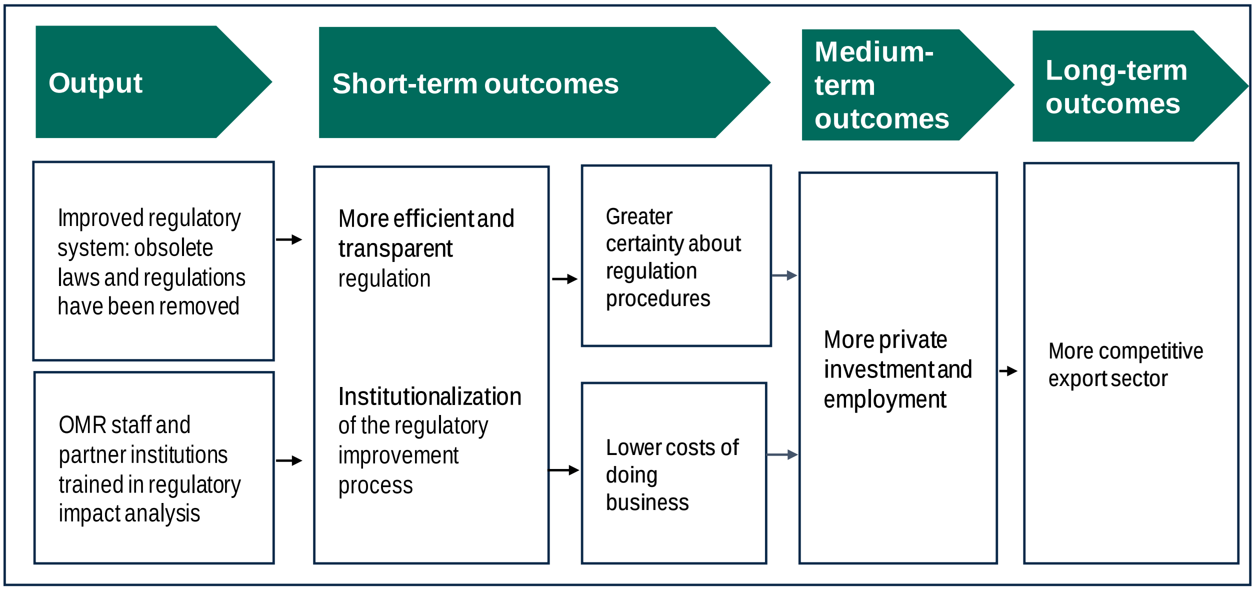
Under the Partnership for Growth initiative, a joint U.S. and El Salvador technical team identified low productivity in the tradeable sector as a binding constraint to economic growth in El Salvador. A comprehensive analysis of the country's constraints to economic growth revealed human capital deficiencies, bureaucratic red tape, and high transportation and logistics costs as key contributing factors to low productivity. To address the constraint of bureaucratic red tape—the burden to third parties created by unnecessary administrative and regulatory procedures—the GoES worked with MCC to design the Regulatory Improvement Activity (RIA) from 2012 to 2015.

Financed at around $6 million, RIA provided funding to help design the organizational and institutional architecture for a continual process of regulatory and administrative improvement within the GoES, called the Sistema de Mejora Regulatoria (SMR). The institutional centerpiece of the SMR is the Regulatory Improvement Organization (OMR for its Spanish initials), charged with helping public authorities—including national ministries and municipal authorities—analyze their regulations, identify and prioritize improvements, and implement administrative and legal actions to reduce bureaucracy and administrative burden.

RIA provided funding for OMR staff salaries during the compact period. The activity also designated funding for OMR staff to train government officials in regulatory impact analysis, an established cost-benefit methodology to quantify the potential impact of proposed regulations against potential alternatives. Also under the activity, GoES would establish the *Registro Nacional de Trámites* (RNT), a public registry of administrative requirements for Salvadoran firms. The RNT would be binding—meaning that public institutions would be able to require only those administrative procedures that appear in the RNT. The overarching goal of the RNT was to increase the transparency of all regulatory and administrative requirements and diminish the use of discretion in the application of these requirements at the national level. As part of the activity, OMR and FOMILENIO II would also collaborate to develop and promote legislation that would permanently establish the SMR and define the roles, functions, and relationships within the system that will govern future regulatory improvement in El Salvador.

By building public capacity for regulatory improvement, promoting more transparent and effective regulations, and reducing the administrative costs of compliance for firms, OMR and partner public institutions would work toward RIA's primary goal of reducing the cost of doing business in El Salvador. In the medium term, this reduced cost of doing business would increase private investment, thus generating a more competitive export sector in the long term (Figure VI.2).

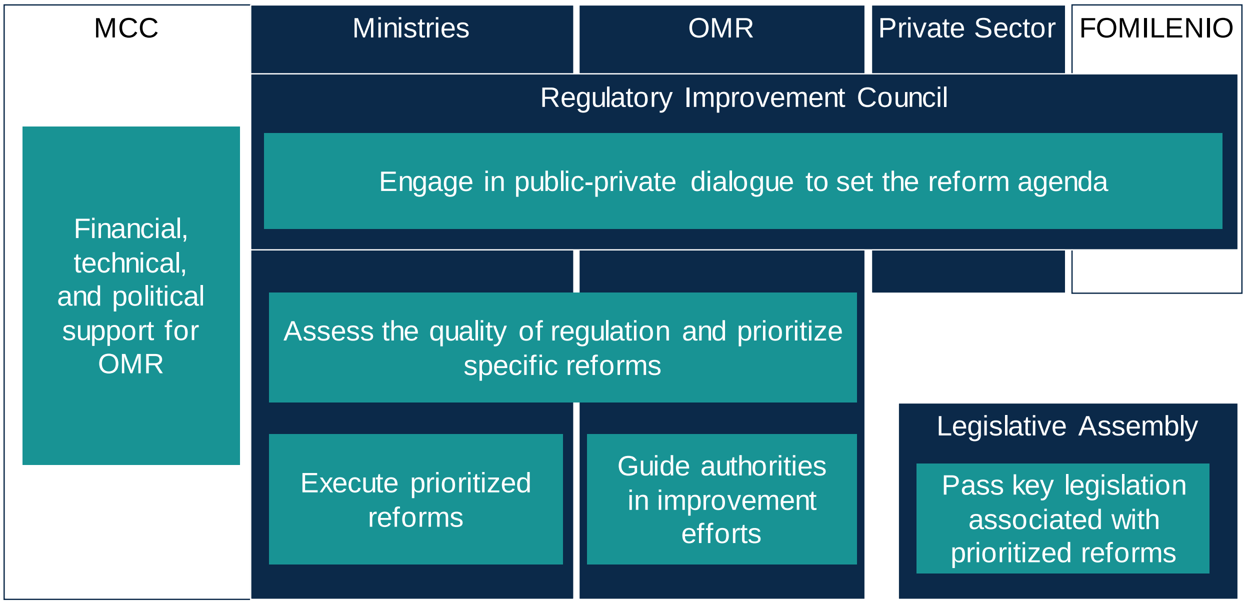
Figure VI.2. RIA program logic



2. Initial vision of the SMR

The SMR was designed to be a dynamic system in which multiple actors collaborate to improve the quality of regulations and administrative processes (Figure VI.3). Critical to a healthy, functioning SMR are meaningful dialogue and co-creation of enhancements by private- and public-sector representatives—both at the high level of prioritizing the reform agenda at the level of detailed analysis and modification of interrelated administrative procedures. Importantly, OMR and its governing board, the Regulatory Improvement Council (or *Consejo de Mejora Regulatoria*) were first conceived by stakeholders as credible intermediaries that could bring public authorities and private-sector actors together to formulate regulatory improvements. This need for a credible intermediary has become acute in El Salvador in recent years. There have been few successful public-private collaborations since left-leaning administrations first gained power in 2009.

Figure VI.3. SMR actors and core functions



Note: MCC and FOMILENIO appear in white because they will exit the SMR upon compact closure.

In initially formulating the SMR, GoES and MCC opted for a model grounded in positive incentives and autonomous institutions, in which public authorities receive ample training and technical assistance to determine and execute their own improvement agendas. In contrast, key private-sector leaders—including the American Chamber of Commerce and the *Comisión Intergremial para la Facilitación del Comercio* (CIFACIL)—wanted a model that featured more negative incentives to force compliance with approved regulatory reforms, including sanctions against public authorities that failed to formulate suitable reforms or enforce revised laws. However, the private sector interests were largely overruled on this point when stakeholders designed the initial structure of the SMR in compact development.

> ***The private sector was really pushing the government. They were interested in providing a stick [to motivate] the government if they got in the way of business operations…not a carrot.***
>
> ***—MCC representative***

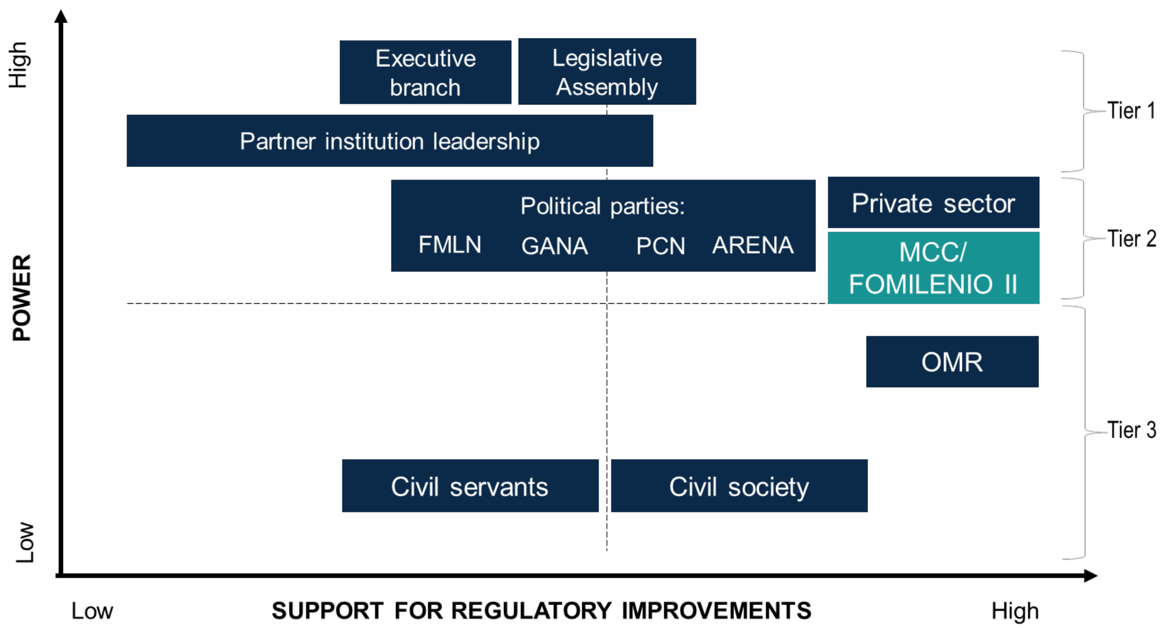
3. Political economy of regulatory reform

Before delving into initial implementation findings in the next section, it is important to understand the political context for regulatory improvement in El Salvador, as well as the dynamics between actors critical to effecting change. These findings are based largely on key stakeholder interviews with FOMILENIO II, MCC, and OMR representatives, as well as private sector spokespeople and legal experts.

Three tiers of actors dictated regulatory improvements in El Salvador from 2015 to early 2019. Similar to PPPs, regulatory improvements in El Salvador are intensely political phenomena. During the first years of the compact, the most powerful actors in the regulatory improvement space were the executive branch, the legislature, and partner ministries. These top-tier actors had the power to propose regulatory improvements, as well as the power to derail or stall regulatory reforms at key points. Tier 2 actors—including political parties, the private sector, and MCC and FOMILENIO—had considerable albeit indirect influence on regulatory improvements. OMR can be classified as a Tier 2 actor as well because it wielded strong direct influence on the technical aspects of regulatory improvements, but largely deferred to Tier 1 players on whether proposed improvements were approved and ultimately implemented. Tier 3 actors such as civil servants did not have much power to influence regulatory reform efforts, but they could undermine these efforts on a day-to-day basis by ignoring or undermining recently enacted reforms.

Opposition against, and support for, regulatory improvement was relatively balanced during the compact period. There was no preponderance of power for or against regulatory improvement from 2015 to early 2019. Overall, Tier 1 actors tended to have low levels of support for regulatory reform, but this was somewhat counterbalanced by Tier 2 actors' higher levels of support (Figure IV.4). This lack of consensus among major actors on the general topic of regulatory improvement implied that some proposed improvements could fail whereas others could succeed, depending on the balance of power between key actors in each sector and reform area.

Figure VI.4. Regulatory improvement stakeholders, late 2015 to early 2019



FMLN = Farabundo Martí National Liberation Front, GANA = Grand Alliance for National Unity, PCN = Party of National Conciliation, ARENA = Nationalist Republican Alliance. MCC and FOMILENIO II appear in a distinct color because they will cease to exist in El Salvador post-compact.

The executive branch held the power to set the regulatory reform agenda but had little appetite for expansive reforms. Exercising leadership on the Regulatory Improvement Council and dictating OMR's agenda, the technical secretary to the president led the implementation of the regulatory improvement from 2015 to early 2019. The technical secretary also had full power over the ministries of the executive branch and convening power over autonomous institutions. This gave the technical secretary substantive political power to both set the reform agenda and execute on key reforms if the president and vice president envisioned this regulatory improvement work as part of their agenda. However, the president, vice president, and party in power during this period, FMLN, did not appear to prioritize specific regulatory reforms in its political agenda from 2015 to 2019, according to most interviewed stakeholders. Some stakeholders reasoned that as a left-leaning party, the FMLN was resistant to reforms that largely serve business interests in the country. Others conjectured that executive leadership simply did not have the time or capacity to set and execute an aggressive regulatory reform agenda.

Ministries varied widely in their capacity and support for reforms. Salvadoran ministries are largely beholden to follow political signals from the executive branch, particularly non-autonomous ministries. However, if ministries do not get clear guidance from the executive in any area—including regulatory reform—each ministry has a wide degree of latitude in pursuing regulatory reform and implementing regulatory laws approved by the Legislative Assembly. From 2015 to early 2019, ministries varied significantly in their posture toward regulatory improvement, thus creating the potential for highly uneven implementation of reform efforts across ministries.

OMR had no enforcement power over partner ministries—it merely offered its support, expertise, and technical assistance. Under its 2015 mandate, OMR was charged with providing technical assistance to partner institutions and coordinating the reform efforts of all stakeholders. But it had no real authority over partner institutions—essentially, OMR could not force ministries to follow through with any reforms that did not have buy-in from top-tier executive actors or ministry leaders.

MCC and FOMILENIO II had strong but impermanent political clout to promote improvements. MCC and FOMILENIO II leadership attempted to leverage their political and financial power in the first three and a half years of the compact to move implementation of the activity forward by financing OMR, providing the new agency with technical support, and promoting legal reforms to institutionalize the SMR. However, FOMILENO II will cease to exist upon compact close-out in 2020 and MCC will have no presence in the country in the post-compact period, thereby erasing two powerful advocates of regulatory reform from the political economy landscape.

The private sector had some influence on ongoing regulatory improvement, despite limited access to the administration. The private sector generally promotes regulatory improvements and seeks to influence reforms to advance its direct financial interests. But the amount of power it exerts depends in part on its organization and political access to the party in power. The occupation of the executive branch by the left-leaning FMLN administration during the first years of the compact limited private-sector actors' power on the issue of regulatory reform, as they had no direct access to the president and his administration. However, private sector representatives retained some influence over pro-business ministries—namely the business registration and regulation authority, *Centro Nacional de Registros* (CNR)—and had strong informal connections with ARENA political leadership. Private sector leaders attempted to leverage this influence to shape key regulatory reforms from 2015 to 2019.

Some civil servants faced incentives to subvert reforms. Particularly in the case of issuing fines at customs checkpoints and approving permits for complex construction projects, civil servants faced personal incentives to undermine regulatory reforms designed to systematize agents' assessments and actions. This is because the national auditing authority, the *Corte de Cuentas*, had the authority to hold civil servants personally liable in cases in which they failed to issue the proper citations or did not request additional environmental studies related to building permits. As such, some officials likely erred on the side of issuing fines and requiring additional studies and approvals, even as their agency leadership adopted more streamlined and systematized processes to cut such red tape.

B. Implementation of the RIA

In this section, we provide information on the evolution of RIA since its initial inception and focus on implementation findings to date. The chapter is organized by research question; within research questions, findings are further categorized by phases, types of reforms addressed, and laws implemented.

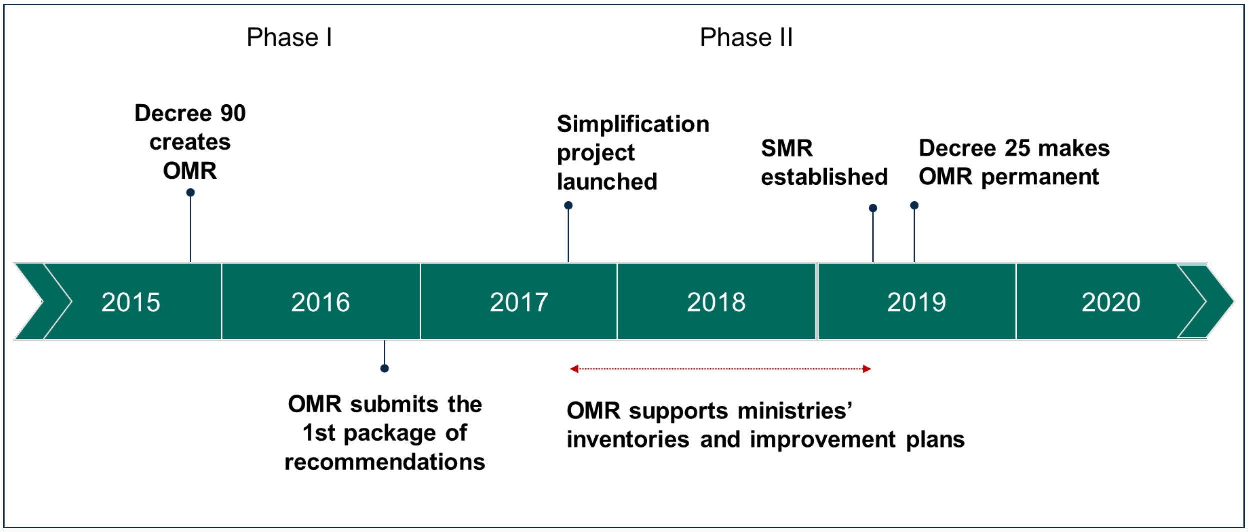
How has RIA been implemented over time?

OMR began in 2015 with an ambitious agenda. OMR and its governing body, the Regulatory Improvement Council, were established by executive decree on November 10, 2015, with fewer than 10 staff. FOMILENIO II and MCC conceptualized the first 18 months to three years of implementation as focusing on rapid, comprehensive cuts to laws and processes that were responsible for the largest administrative burden. This would be done through a comprehensive assessment and prompt reduction of burdensome administrative procedures and laws, known as a "regulatory guillotine," and implemented in other countries with some success. The logic of the guillotine was that a clean slate of regulations was required immediately to decrease the cost of doing business in El Salvador to a somewhat competitive level—and then stakeholders could work in the second half of the compact on technical assistance, capacity-building, and institutional reform to maintain the upfront gains from the guillotine.

OMR's work soon shifted toward a small number of sectors prioritized by the private sector. Executing the regulatory guillotine in OMR's first few months turned out to be overly ambitious, as start-up activities at OMR took a full year. By the time OMR had established a small staff, its first director of OMR did not see the guillotine as a priority and guided the organization toward tackling a shorter list of high-profile reform areas prioritized by private sector representatives on the Regulatory Improvement Council. These areas included customs transactions, business registration procedures, and the construction permitting process.

OMR's work to date is marked by two distinct approaches to regulatory reform—one top-down and one bottom-up. From November 2015 to September 2017—later called Phase I—OMR focused on a few high-profile reforms prioritized by the Regulatory Improvement Council. In the second phase initiated in October 2017, OMR continued its work on high-profile reforms, but focused on cultivating a strong relationship with the 14 non-autonomous ministries in the executive branch, helping each institution prioritize areas for regulatory improvement, and co-creating improvement plans (Figure VI.5). Whereas Phase I can be viewed as top-down reform driven by private sector leaders, Phase II can be viewed as bottom-up reform driven by a full inventory of institutions' requirements and a comprehensive analysis of administrative burden. We discuss OMR's two phases of reforms in more detail below.

Figure VI.5. Timeline of the implementation of the RIA



OMR = Organismo de Mejora Regulatoria; SMR = Sistema de Mejora Regulatoria.

1. Phase I implementation

Phase I work focused on four key areas identified by the Regulatory Improvement Council. Starting in late 2015, the Regulatory Improvement Council designated the follow four areas as high priorities for reform: (1) registering a business, (2) paying fines on weight discrepancies at customs, (3) importing and exporting samples with no commercial value, and (4) issuing construction permits. These were four areas that private sector representatives in and outside the Council had articulated as critical for immediate reform because of the uncertainty and delays they introduce in investment decisions and business operations. OMR and its partner institutions prepared regulatory impact assessments on these four areas. Based on the results of the assessments, OMR and partner ministries submitted the first package of recommendations for these four areas in 2016 (Table VI.2). These recommendations included action in two domains: legal reforms and administrative improvements (see text box below).

Regulatory improvement requires action at two levels:

- **Legal reforms.** Regulations to set the framework of economic and social interactions are designed in laws issued by all levels of government, so tackling these regulations usually requires some legal reform—either by amending existing laws or enacting new ones. OMR, partner institutions, and the executive branch also support amendments to key laws designed to improve competitiveness and promote investment in the tradeable sector. It can be difficult to implement these legal reforms because it requires strong leadership at partner institutions and consensus among multiple stakeholders. Critically, the partner institution must exercise leadership in formulating a proposal and presenting it to OMR, and the proposal must have enough support among special committee members, the Legislative Assembly, and the president to be ratified into law.
- **Administrative improvements**. When it is necessary to reshape an administrative process that has no legal basis, OMR works directly with partner institutions to reduce administrative burden on firms by improving procedures not governed by laws. OMR and its partner institutions' most common efforts in this domain include making procedures more transparent, eliminating or simplifying cumbersome procedures, standardizing procedures, and providing clearer guidance with respect to permitting and other paperwork. Because these improvements do not involve modifying laws, most are internal to partner institutions and can be completed in house with OMR assistance. The success of these efforts depends largely on leadership and technical capacity within each partner ministry.

Table VI.1. Legal and administrative changes recommended in priority topics during Phase I

Topic	Legal reforms recommended	Objectives of the legal reforms	Administrative changes recommended	Objectives of the administrative changes
Registering a business	Amendments to the Commercial Code	• Establish a simplified procedure for registering companies • Cancel the $2,000 capitalization requirement • Enable the integrated electronic portal, miempresa.gob.sv, to cover a larger suite of business registration and operation processes • Create a unique digital storage area for corporate documents, avoiding duplication of requirements and helping eliminate paperwork	7 administrative changes recommended for MINEC, MTPS, and DIGESTYC	• Enable Miempresa.gob.sv as a 'one-stop' integrated portal to register a business • Standardize accounting systems and make them available through Miempresa.gob.sv
Fines on weight discrepancies at customs	Amendments to the Special Law on Custom Offenses Fines	• Establish a transparent application of tolerance margins (ensure that it is 5% higher or lower than the declared weight) and reduce the costs generated by the sanctioning procedure	2 administrative changes recommended for Minfin and customs	• Provide information on the margins of tolerance and the sanctioning procedure • Streamline the sanctioning procedure
Import and export of samples with no commercial value	Amendments to the Law on Industrial and Commercial Free Zones	• Facilitate the import and export of samples through a consolidated declaration mechanism that applies differentiated treatment • Facilitate the identification of the samples through clear criteria • Reduce operating costs through simplified customs procedures for importing and exporting commercial samples • Ensure an agile dispatch of samples preserving the "next day delivery" service for companies	1 administrative change recommended for Minfin and customs	• Simplify the procedure for express delivery or courier companies
Construction permits	Amendments to the Special Law for the Streamlining of Procedures for the Promotion of Construction Projects	• Introduce more institutional accountability in procedures related to building permits, and reduce applicants' wait times and costs	14 administrative changes recommended, including 2 for MARN and 4 for ANDA	• Establish simplified processes and requirements to obtain construction permits

MINEC = Ministerio de Economía; DIGESTYC = Dirección General de Estadística y Censos (El Salvador); MARN = Ministerio de Ambiente y Recursos Naturales; ANDA = Administración Nacional de Acueductos y Alcantarillados; MTPS = Ministerio de Trabajo y Previsión Social.

OMR offered training on regulatory impact analysis in Phase I, but there was not much interest on the part of partner institutions. As mandated in its presidential decree, OMR had the obligation to train public officials in regulatory impact analysis. In compliance with this responsibility, in 2016 OMR staff facilitated training for about 30 government staff with the goal of equipping them with the tools and knowledge to initiate regulatory reforms at their respective ministries. According to OMR staff, training participants did not think the training was relevant to their day-to-day work. In addition, because there was no legal mandate for regulatory improvement analysis, there was no incentive for staff to implement what they learned. During 2017 and 2018, OMR did not offer training on regulatory impact analysis. However, OMR staff had plans to offer these trainings in future years, depending on partner institution interest and requirements of future legislation.

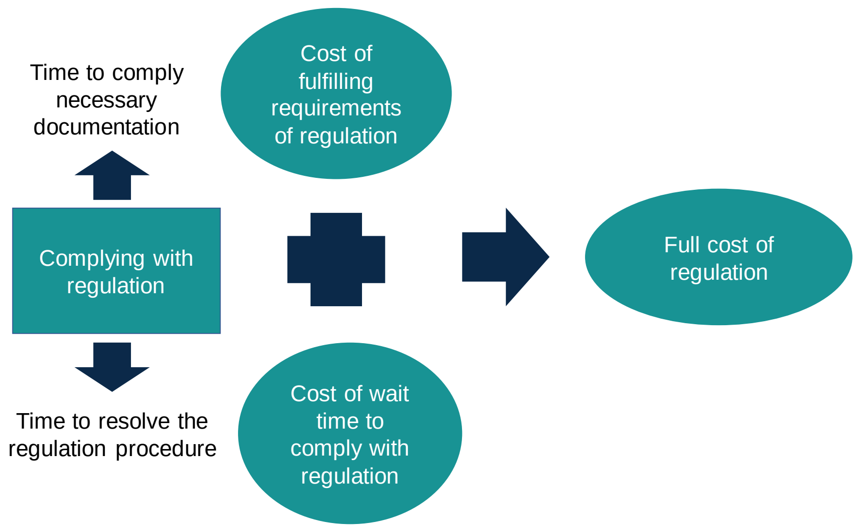
2. Phase II implementation

Phase II focused on building relationships with partner institutions and completing an inventory of procedures in the executive branch. By late 2017, OMR had built a staff of 19 economists, lawyers, and policy experts dedicated to designing, facilitating, and communicating key legal reforms and administrative changes. Leveraging this staff, in October 2017 the GoES and OMR launched the Simplification and Registration of Procedures Project with the primary goal of reducing the costs of procedures by at least 20 percent for all ministries housed within the executive branch. To initiate the project, OMR first secured each partner ministry's commitment to conduct regulatory improvements, which defined the scope, timeline, and staff responsible for the registration and analysis of the full catalogue of administrative procedures. Next, OMR collaborated with ministry personnel on a comprehensive inventory of all procedures at each ministry. There were multiple benefits to this work, as it gave OMR and partner institutions the information they needed to prioritize burdensome procedures for the next year's reform efforts and to create a data set of administrative processes that became the basis for the National Procedures Registry (RNT). By early 2019, OMR and its partners had successfully mapped all major administrative processes from 14 ministries—including a total of 835 processes with 2,200 variants.

In Phase II, OMR supported partner ministries in identifying burdensome procedures in need of simplification. Building on its inventory work with each ministry, OMR conducted a cost analysis of ministries' current business regulations and recommended key improvements and efficiencies. To do this, OMR used the SIMPLIFICA methodology, developed by the National Commission of Regulatory Improvement (CONAMER), which allowed it to quantify the economic social cost (CES, for its initials in Spanish) of each procedure. Applying the methodology to each procedure, one first monetizes the time invested by the users to meet the requirements, plus the time spent waiting to obtain a resolution (Figure VI.6). This cost is multiplied by the number of times the procedure is performed during a calendar year to arrive at the procedure's total economic social cost. OMR estimated that the CES for all the procedures in the 14 non-autonomous ministries of the executive branch in 2016 was $407 million, equivalent to 1.7 percent of the GDP.[9]

[9] The 14 ministries of the Executive branch are 1) Finance, 2) Economy, 3) Public Works, 4) National Defense, 5) Education, 6) Labor, 7) Foreign Affairs, 8) Interior, 9) Agriculture and Livestock, 10) Culture, 11) Justice and Security, 12) Environment, 13) Public Health, and 14) Tourism.

Figure VI.6. SIMPLIFICA methodology



Note: To estimate the full cost of regulation, costs must be multiplied by the number of times the procedure is performed

C. Initial results of the Regulatory Improvement Activity

Were Phase I OMR-facilitated recommendations adopted and meaningfully implemented by the relevant GoES entities? Why or why not?

OMR-facilitated customs reforms were approved but stakeholders made limited progress amending laws governing business registration and construction permits. OMR collaborated with officials at the Salvadoran Interior Ministry (or *Ministerio de Hacienda*) to streamline reforms for identifying and resolving weight discrepancies at customs. Building upon the combined work of customs, the private sector, and the legislative arena, the Legislative Assembly approved customs-related amendments in 2018. However, amendments to the commercial code and construction permitting reforms stalled, given a lack of full buy-in from partner institution leaders and a high degree of complexity and interrelated procedures across institutions (Figure VI.7).

Figure VI.7. Status of legal reforms and administrative recommendations

	Area	Legal reforms		Administrative changes	
		Recommended reforms	Status of reforms	Recommended changes	Number and status of changes
Commerce	**Business registration**	Alter the Commercial Code to reduce and simplify registration requirements	●	Standardize accounting systems across authorities	7
Customs	**Fines due to weight discrepancies**	Alter the Special Law on Customs Infractions to extend the weight discrepancy tolerance and facilitate fine payments	●	Streamline procedures for issuing/paying fines	2 1
Customs	**Import and export of samples with no commercial value**	Alter the Law on Industrial and Commercial Free Zones to enable a single declaration for multiple samples	●	Simplify the procedure for express delivery	1 4
Construction	**Permits for new construction**	Alter the Law to Streamline Procedures for Construction Projects to reduce requirements and expedite reviews	●	Simplify interim steps for construction permits	13 1

Source: Regulatory impact assessment reports and the report to the Regulatory Improvement Council.

Note: Green denotes reforms that were approved or administrative changes that were adopted as of mid-2019. Grey indicates reforms that were not approved or administrative changes that were not adopted as of mid-2019.

Partner institutions adopted almost all the recommended administrative changes for registering businesses and getting construction permits. OMR successfully collaborated with officials from various public authorities to streamline administrative processes to register a business and secure a construction permit. However, OMR and Minfin officials failed to execute most of OMR’s recommended administrative recommendations in customs because some of the proposed changes implied new procedures that were judged by some firms as just as burdensome as the onerous requirements they were designed to correct (Figure VI.7).

Next, we discuss in more depth the progress made by OMR and partner ministries in the three reform areas defined in Phase I: (1) business registration and operation, (2) customs procedures, and (3) construction permits.

1. Business registration and operation

Prior to RIA, the process to register a business entailed 11 steps involving five government institutions, a municipal authority, a fund manager for pensions, a notary, and a public accountant. In 2012, the GoES launched a new web portal (miempresa.gob.sv) intended to consolidate this process online. However, the portal was not widely used because business owners were still required to present documents in person at CNR and other institutions. For example, 2,611 businesses registered in El Salvador in 2015, and only 14.3 percent used miempresa.gob.sv for any step. Given the online portal’s underutilization and the prioritization of this issue among members of the Regulatory Improvement Council, OMR began working with public institutions to assess and streamline the portal and its multiple processes involved in business registration.

OMR-recommended reforms to the Commercial Code had too little political support. In 2016, OMR assessed the regulatory burden involved in registering and operating businesses. The assessment concluded that it was necessary to amend the Commercial Code to simplify registration procedures and offer full online registration. OMR staff helped author an amendment that, among other reforms, eliminated the requirement of presenting a public deed attesting to an initial business capitalization of at least $2,000. The amendment initially had the support of all the institutions involved in business registration, including MINEC, CNR, and the Dirección General de Estadística y Censos (DIGESTYC). Given this support, the amendment was sent to the Secretariat of Legal Affairs of the Presidency, the institution responsible for coordination between the executive and legislative branches, in July 2017. However, after the amendment was sent, the head of CNR took issue with the proposed reforms—directly contradicting the initial clearance given by CNR's legal unit. In particular, he argued that the proposed elimination of the public deed requirement would affect the economic interests of lawyers, who charge a fee to produce the deeds, and that some confirmation of businesses' capital reserves is an appropriate requirement for business registration. As of mid-2019, no agreement had been reached between institutions, and the amendment appeared to have stalled with the Secretariat.

Although legal reform was infeasible, MINEC and CNR spearheaded improvements to the online business registration portal. The most important of these was the enhanced functionality of the miempresa.gob.sv web site, which offered more simplified, virtual processes for registering a business than its previous iteration did. Improvements to the site included standardizing the public deeds used to create a company, offering downloadable standardized templates for accounting documents, and cutting requirements to appear in person at public institutions. In addition, the Miempresa.gob.sv portal added search functionality for clients to find notaries, accountants, and lawyers who could help with registration, and users could even browse their prices for services. The site also removed application requirements that were not required by law, particularly registration through the Ministry of Labor[10] and the record of solvency at DIGESTYC. Starting in August 2017, Miempresa.gob.sv became the single online portal business registration. Consequently, MINEC and CNR tested the portal's improvements and new linkages across public authorities before it went live.

Users of miempresa.gob.sv were generally very satisfied with the site but had several ideas for making it better. Lawyers are the primary users of miempresa.gob.sv, given that foreign and domestic businesses often contract lawyers to register their businesses in El Salvador and prepare necessary inputs. Lawyers who participated in focus groups reported using the site primarily to register their clients' businesses—ranging from multinational businesses to Salvadoran small business owners. The lawyers noted that using the new site has reduced the registration turnaround by at least half compared to the previous process, and largely simplified and consolidated registration procedures (Table VI.3). However, some lingering issues still exist: The site regularly freezes, and users said they are often unsure of when to expect a final decision in cases in which officials request follow-up information. However, encouraged by the large time savings and

[10] MTPS has simplified the requirements for the process. The details of the requirements can be found at http://tramites.gob.sv/procedure/219/55/step/220?l=es.

efficiency the site offers, users asked for even more functionality on the site—including adding links to related transactions with municipalities and the national social security institute (*Instituto Salvadoreño de Seguro Social* ([ISSS])

Table VI.2. Input from lawyers on improvements to Miempresa.gob.sv

Feedback on the Miempresa.gob.sv	"The portal has made the process more practical. It is possible to do the entire registration procedure…it is also possible to tell the client how long the process will take." "Since the portal became fully functional, the procedure [of registering a business] takes around half of the time [it did before] —[now it is] approximately 8 days."
Suggestions for future improvements to the site	"All the related procedures are included, except a tool to link the registration of business to procedures at the Salvadoran Institute of Social Security (ISSS). Procedures at ISSS take much time, and it would bring great benefits if it is added to the portal." "It would be useful to add all the municipalities to the portal. To date, only procedures in San Salvador and Santa Tecla are included."

The lack of legal reforms to the commercial code may keep the improved miempresa.gob.sv portal from realizing its full potential. Staff from OMR said the improvements made to the portal and the relaunching of the *miempresa* site were a positive development, but not enough to address most of the administrative burden identified in their initial assessment. They emphasized the importance of resuming the discussion on the proposed amendment to the Commercial Code to streamline the process of registering and operating a business, in addition to making it more inclusive. OMR staff argued that eliminating the requirement of a deed attesting to $2,000 in capitalization would have a positive impact for new entrepreneurs who seek to start companies with scant cash reserves.

2. Customs procedures

According to the Business Competitiveness Survey, the number of days it takes merchandise to clear customs has increased in El Salvador in recent years. In 2015, merchandise took 7.7 days to clear customs at border crossings, compared with 5.2 days in 2014 and 2.7 in 2011. In 2016, OMR assessed customs procedures and recommended simplifications in two areas: procedures to sanction weight discrepancies at customs and importing and exporting goods with no commercial value. For both areas, OMR issued recommendations for legal and administrative changes to decrease administrative burden.

With support from customs officials, the legislature passed key legal reforms around weight discrepancies at the border. Starting in 2017, OMR worked with customs authorities in the Salvadoran Interior Ministry (or *Ministerio de Hacienda*) to identify administrative changes needed to simplify customs procedures in the short run as well as legal reforms to streamline customs procedures. On June 6, 2018, the Legislative Assembly approved several reforms to the Special Law on Custom Offenses Fines (LEPSIA) to: (1) extend the weight discrepancy tolerance[11] range from 3 percent to 5 percent, thereby reducing the number of citations due to discrepancies; (2) extend the new margin of tolerance to all goods, not only to bulk products; (3)

[11] Weight discrepancy refers to the extent to which the stated weight of goods in customs forms matches the actual weight of goods at customs weigh stations.

apply the new tolerance range to exports, not just imports; and (4) allow businesses to pay fines for weight discrepancies almost immediately, avoiding unnecessary money transfers to border crossings and delays in shipping merchandise.

In interviews, businesses reported uneven application of customs reforms. In interviews in mid-2019, we found that companies had mixed perceptions of whether citations due to weight discrepancies had diminished. One company that managed a high volume of imports and exports did not report any awareness of recent customs reforms or note any changes in fines for weight discrepancies, whereas two other companies with a high volume of imports and exports did note a sizable reduction in fines for discrepancies. One company was pleased with expedited payments of fines, but another had not seen this new procedure in place—only business as usual in terms of how fines were issued and paid. These comments suggest some variation in application of the regulations—potentially by different border crossing areas or individual agents. This is consistent with the political economy analysis in Section A, which posits that some civil servants may have personal incentives to resist reforms—particularly when they believe full adherence to reforms could put them at risk of personal liability and fines.

Table VI.3. Input from private-sector actors on weight discrepancy reforms

Reflections on the increase in margins	"With the increase in the margin of tolerance, we have seen benefits. Our scale was slightly out of calibration with the one at customs, which caused discrepancies between declared and actual weight. And we had problems importing dry ice, which would lose weight in transit and exceed the allowed tolerance. The reform has reduced all of those fines." "The reform brought benefits because the fines have decreased due to the increase in the margin; however, the discretion of the customs officer prevailed."
Reflections on ease of payment of weight discrepancy fines	"It is quite agile, because it can be done electronically. It is possible to pay immediately with the customs order; this is a great benefit, since physical presence is not required to pay at the border." "In the case of the abbreviated process for the payment of a fine, they are not using the abbreviated process—they use the process that already existed. Nothing is done differently."

In 2018, the legislature passed reforms to simplify the import and export of goods with no commercial value. Starting in 2017, OMR, customs, and the private sector jointly developed legal reforms with respect to registering product samples. Private firms wanted to submit cumulative samples in a single declaration and pay less than $18 per sample, because it viewed that amount as excessive. This required an amendment to the Law on Industrial and Commercial Free Zones, which passed on January 3, 2018. Under the revised law, businesses can now submit a single declaration of merchandise containing up to 25 samples and pay only $18 for the entire declaration.

Private-sector opposition to reforms that affected imports and exports of noncommercial samples sent by courier effectively stifled these proposed improvements. Legal reforms that affect samples were accompanied by the launch of a simplified procedure to register express delivery and courier packages at the border. The private sector lobbied against this procedure because it would require a company to register all samples sent by courier, thus generating more paperwork than is currently required. Given this pressure, stakeholders suspended the simplified procedure, and the customs office and private sector representatives agreed to settle on a solution without OMR's involvement.

3. Construction permits

In 2011, a report from FUSADES entitled *Facilitation of Procedures: Diagnosis and proposals. Competitiveness for Development 2011* revealed that companies thought the most burdensome administrative process in El Salvador was obtaining a construction permit. According to this report, for a housing construction permit, 19 procedures are required from 9 different institutions, leading to an average processing time of two and a half years. This timeline does not include preparation time for environmental studies and work plans, which can take from 6 to 12 months. In 2016, OMR conducted a similar assessment on construction permits, with the goal of reducing this excessive permitting timeline. Based on its findings, OMR recommended reforms to the Special Law to Streamline Procedures for Construction Projects (LEAT) and simplified administrative procedures across several ministries.

> ***The cost [of noncommercial samples] decreased because with the legal reform, the cost is cumulative instead of by operation … this is a real benefit.***
>
> ***Before the reform, we delivered samples through DHL, who took care of all the paperwork. After the reform, we have to declare the accumulated merchandise at the end of each month… but we still have to pay t US $18 for each sample.***
>
> ***—Private-sector representatives***

The executive branch was still reviewing amendments to LEAT in mid-2019. In 2013, LEAT was ratified to resolve some eminent domain issues associated with building schools for FOMILENIO II's Human Development Project. The law includes an expedited and a normal process with respect to construction permits. In practice, however, the expedited process fails to trim time or steps, given that it begins with a judgment from ANDA that must be issued to proceed to the next step (just as the normal process does). In practical terms, the bottlenecks in the process created by ANDA still remained in the expedited construction permitting process as of 2019, and the executive branch appeared to place no political pressure on ANDA to enforce the LEAT. OMR's proposed reforms to the law would establish a truly expedited process by cutting some requirements with no legal grounding—including some ANDA requirements—as well as allowing various approvals to be sought and considered in parallel. An amendment containing these improved features was sent to legislative review authorities in the executive branch for approval and was pending resolution in mid-2019. However, the legislation did not appear to be a priority for lawmakers or executive authorities, given that had remained in executive review for several months.

The ministries responsible for issuing construction permits adopted changes to reduce administrative burden. Based on OMR's recommendations, ANDA, MARN, and MOP simplified administrative procedures to facilitate construction permitting (Figure VI.8). OMR staff noted that of the three ministries, MARN's improvements will likely have the most impact on permitting timelines. MARN classifies construction projects to determine the level

> ***In MARN the response times have improved; with the administrative changes made, there are minimal procedures for companies who want to start the environmental approval from MARN.***
>
> ***—OMR staff***

of the environmental studies required. Previously, companies had to complete seven or eight procedures to give MARN the necessary information to classify their project. Following OMR's recommendation, MARN eliminated most of these procedures, and now uses a single intake form to make the classification. OMR staff posited that this improvement would have an immediate impact on the average time needed to secure a permit. Future evaluations based on quantitative methods will assess these effects.

Figure VI.8. Recommended administrative changes adopted for construction permits

ANDA

- Publish the steps and standard response times to obtain water and sewer permits
- Systematize requirements for drinking water and sewage service permits
- Establish requirements, procedures and response times for feasibility studies and approvals
- Establish standards to approve aqueducts and sewage

MARN

- Establish a simplified process to classify projects for environmental impact studies
- Establish general terms of reference for environmental impact studies for the most common types of projects
- Create a manual guiding the environmental impact assessment process
- Simplify requirements to request an environmental impact approval

MOP

- Sign an agreement between institutions with respect to core requirements for a construction permit
- Sign an agreement to design an expedited process for low-risk projects to obtain construction permits

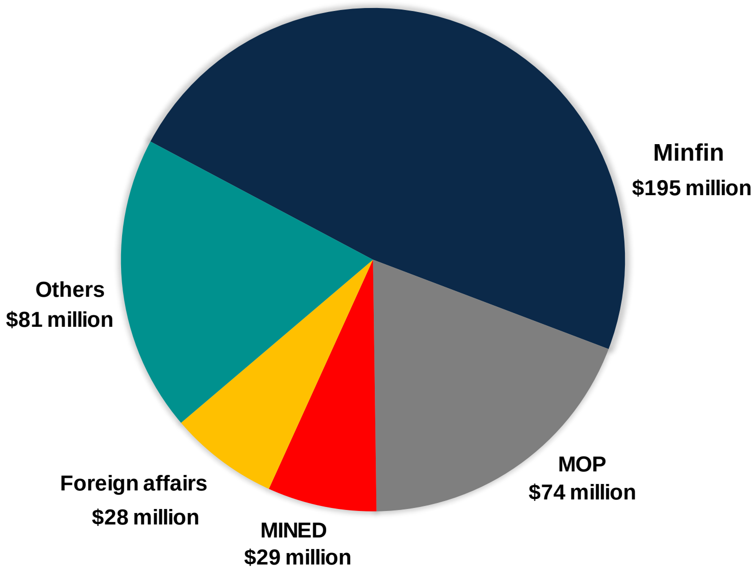
Source: Report to the Regulatory Improvement Council and data collected in a focus group with the construction sector.

ANDA = Administración Nacional de Acueductos y Alcantarillados; MARN = Ministerio de Medio Ambiente y Recursos Naturales; MOP = Ministerio de Obras Públicas.

Were Phase II OMR-facilitated recommendations adopted and meaningfully implemented by the relevant GoES entities? Why or why not?

OMR successfully completed a full inventory of the procedures of the executive branch. As noted, in 2018 OMR helped estimate administrative burden of procedures required by the 14 non-autonomous ministries of the executive branch. Out of all types of procedures, 80 percent are concentrated in seven ministries: *Ministerio de Agricultura y Ganadería* (MAG) with 348 procedures, Public Works or *Ministerio de Obras Publicas* (MOP) with 328, Ministerio de Hacienda (Minfin) with 288, Health with 269, Justice and Security with 234, National Defense with 166, and Economy with 160. Figure VI.9 is a characterization of the procedures in 2016 based on estimated economic social cost (CES). Most of the procedures were for companies (1,515), compared with 725 procedures for citizens. About 70 percent of the estimated CES is from procedures in two ministries—Interior and Public Works. Interior's large administrative burden is largely associated with its customs procedures.

Figure VI.9. Economic and social cost of procedures



Source: OMR's newsletter, available at OMR website.

Minfin = Ministerio de Hacienda, MOP = Ministerio de Obras Públicas; MINED = Ministerio de Educación.

Eleven of the 14 ministries of the executive branch developed a plan to cut red tape. Following the full inventory of their administrative processes, the Ministries of National Defense, Agriculture and Livestock, Environment and Natural Resources, Public Works, Finance, Interior, Public Health, Culture, Education, Tourism, and Economy developed plans defining the procedures that will be eliminated or simplified and the process they will use to decrease regulatory burden. The Ministries of Justice and Security, Labor, and Foreign Ministry were still prioritizing improvement areas and developing plans as of mid-2019.

> ***We can already see the positive results of this change. [Secondary school accounting] graduates no longer wait 250 days to obtain their accreditation.***
>
> ***—MINED representative***

With OMR's support, MINED[12] identified and eliminated its most expensive procedure in 2018. OMR helped MINED identify and implement a key change with respect to school accountants' accreditation requirements. In El Salvador, the accountant accreditation was regulated by the Commercial Code as well as the Tax Code Regulation, leading to two distinct authorities for accreditation. In June 2018, MINED made the Public Accounting Oversight Board the sole party responsible for accreditation, which immediately cut the wait-time for accreditation by several months.

[12] MINED changed its name to MINEDUCYT (Ministry of Education, Science and Technology) as of January 2019. For consistency, we still refer to this ministry in the text as MINED.

What were the major facilitators and barriers in spurring these entities to adopt and implement the OMR's proposal(s) and/or do regulatory impact assessments?

Facilitators

> ***With SIMPLIFICA, partner institutions stopped seeing OMR as an auditor; instead they saw the value of OMR's tools to prioritize key regulations.***
>
> ***—OMR staff***
>
> ***We should have just done SIMPLIFICA from the start… even if GoES only does SIMPLIFICA every 10 years, the return would be enormous.***
>
> ***—MCC representative***

OMR's outside perspective, useful methodology, and ability to serve as an intermediary all facilitated reform. Several interviewed staff from partner institutions noted that one of OMR's key strengths is the outside perspective it brings to assessing institutions' internal procedures—which helps its technical staff identify duplication or unnecessary burden more efficiently than staff who have been at an institution for years. Several institution representatives also praised OMR's use of SIMPLIFICA methodology, which they viewed as particularly strong in systematically identifying administrative burden. Representatives from partner institutions noted that OMR has functioned successfully as an intermediary or coordinator between ministries, and between ministries and the private sector. For example, one customs official said OMR facilitated the customs office's recent consultations with the private sector on customs reform—an area the customs office has struggled with in the past.

OMR's work is particularly welcomed by several ministries, who see it as an opportunity to fuel momentum on existing priorities. Several institutions —including *Ministerio de Educacion* (MINED), *Ministerio de Medio Ambiente y Recursos Naturales* (MARN), *Ministerio de Economía* (MINEC), and *Oficina de Planificación del Area Metropolitana de San Salvador* (OPAMSS)—view their work with OMR as the next phase in making regulatory improvements that have been in process for years. Strategically, these institutions have attempted to leverage OMR's expertise and resources to capitalize on this phase of reforms. For example, OPAMSS began working to trim wait times for construction permits several years ago, using Doing Business indicators as a basis for improvement. OMR has helped OPAMSS staff build on this work, using a more robust methodology to prioritize burdensome requirements and processes.

OMR developed closer bonds with partner institutions during Phase II. OMR signed new cooperation agreements and had closer communication with partner institutions during the implementation of the Simplification and Registration of Procedures Project. As result, it was able to communicate the benefits of the regulatory changes that were proposed or the value of the tools and methodologies being used. For example, partner institutions reacted well to SIMPLIFICA methodology once they understood its value. This collaboration bodes well for sustaining institutional relationships.

Barriers

Availability of resources and a lack of technical understanding are still barriers to reform. OMR did not have resources to help implement many of their recommendations, so partner institutions had to use their resources, time, staff and equipment, to implement the activities of the project. As result, some institutions decided to implement administrative recommendations that required fewer resources, even though the potential benefit from more comprehensive reforms could be greater. In addition, some of the recommendations assumed technological capabilities that are not available in partner institutions, which hindered implementation. Furthermore, a lack of technical understanding of regulatory improvement plagues the SMR at its highest levels. Notably, OMR's Regulatory Improvement Council—composed of private sector leadership and high-ranking public officials—is not well-versed in basic regulatory improvement principles. Due in part to this lack of understanding, private sector representatives pushed to resolve regulatory constraints faced by their companies, as opposed to focusing on OMR's prioritized recommendations which had been developed through comprehensive assessments.

> ***The Regulatory Improvement Council is not made up of technical staff. As a result, it has focused on resolving specific regulatory problems facing powerful actors, rather than improving the overall quality of regulations.***
>
> ***–OMR***

Civil servants are at the heart of improvements, and their behavior change depends on signals from leadership, incentives for self-protection, and their personal interest in reform work. Given their mastery of administrative procedures and regulations, mid-level bureaucrats play a critical role in formulating and enforcing key reforms. For mid-level bureaucrats to be substantively involved, they must face some directive from ministry leadership. However, the importance of regulatory improvement work is sometimes not communicated to mid-level staff. In addition, these same bureaucrats face strong incentives to request additional documentation and analyses related to approvals out of a desire to protect themselves from personal liability. These seemingly ad hoc requests often introduce great variation in the requirements. Under Salvadoran law, the national accounting authority, *Corte de Cuentas*, can and does hold public servants personally liable for incomplete adherence to laws and regulations, and issue hefty fines for noncompliance. Public servants find that if they 'cover all their bases' by requesting additional information of applicants, they are less likely to be found liable by the *Corte*. Another factor affecting public servants' adoption of improvement activities is the extent to which they are held accountable for the quality and efficiency of their institution's regulations, as well as the extent to which improvement activities form core functions of their jobs—as opposed to additional add-on responsibilities with no reduction of other work to rebalance their commitments.

> ***We need to change officials' perception on regulatory improvements. If they see regulatory improvement as a burden, sustainability of the RIA is in jeopardy.***
>
> ***–OMR staff***

What role have political and institutional factors played in achieving regulatory improvements?

The executive branch has supported basic legislation to establish regulatory improvement but has fallen short in stewarding high-profile improvements past the finish line. During much of the compact period, OMR was an independent interim entity within the executive branch. As such, OMR was largely reliant upon political support from the president and vice president in establishing its identity, executing its reform agenda, and consolidating its legal underpinnings. Interviewed stakeholders noted that executive leadership had exercised some support for OMR's work in promoting key legislation to permanently establish the SMR. However, according to interviewed stakeholders, there is widespread consensus that the president and vice president did not in fact prioritize regulatory improvement from late 2015 to early 2019, at least beyond giving its approval for core legislation establishing the SMR. Illustrating the executive's lack of support for regulatory improvements, the Regulatory Improvement Council—which presides over all improvement efforts—had not met for over a year as of mid-2019. This lack of political support from the highest levels of the administration weakened all reform efforts from late 2015 to 2019 to some extent—particularly in the case of high-profile legal reforms (such as Commercial Code and LEAT amendments) that the executive failed to help steward through the Legislative Assembly.

Ministry ownership and the complexity of reforms largely explain the success or failure of Phase I legal reforms. In the absence of executive leadership and support on high-profile reforms, variations in ministry buy-in led to uneven reform across institutions. For example, the biggest difference between the success of customs reforms and the failure of construction permitting and business registration reforms appears to be the extent to which the relevant ministries effectively sponsored or vouched for the proposed legal reforms (Table VI.4). Namely, customs leaders signaled their sponsorship of the law, whereas CNR leaders signaled their disapproval of the business registration law. These signals influence the Legislative Assembly and can determine not only whether a law can be voted on, but also influence whether the laws are ultimately approved. Complexity in reform needs—or the extent to which improvements must be sequenced and coordinated among various institutions—likely played some role in the success of customs reforms vis-à-vis business registration and construction permits, as most customs reforms involved procedures that are housed solely within the customs office—as opposed to building permit and business registration procedures, in which multiple ministries are involved.

Related to uneven reform across institutions, private-sector leaders complain about weak enforcement mechanisms. Private-sector representatives praised OMR's excellent assessment of regulatory burden with respect to construction permits and customs, but they believe that execution on the first round of reforms—particularly construction permits—has been incomplete. Largely, they attribute the lack of results on construction permits to weak political will on the part of the executive and key ministries (namely MARN and ANDA), permit authorities' natural incentives to require additional materials to protect themselves from personal liability, and a lack of political or legal recourse when ministries fail to implement prioritized reforms. According to one private-sector spokesperson, a fundamental flaw of RIA is that it allows public authorities too much latitude to determine and execute their own improvement agendas, rather than holding them accountable to some minimum level of regulatory improvement (discussed in Section A).

Table VI.4. Political and inter-institutional factors affecting the success of prioritized legal reforms

		Success factors				
Reform area	**Outcome of improvement efforts**	**Strong ministry ownership or co-ownership**	**Meaningful collaboration between public and private sector**	**Minimal complexity, as measured by the number of authorities involved**	**Meaningful coordination between public institutions**	**Few beneficiaries of the status quo**
Customs	Legal improvements passed/implemented	**Yes**: customs had strong buy-in from leadership	**Yes:** healthy collaboration for legal reforms	**Yes:** most processes were housed in customs	**Yes:** strong coordination between DGA, MINEC, and OMR	**Yes:** No private sector objections to the amendment
Building permits	Legal improvements ***not*** passed/implemented	**No**: little ownership or division of responsibilities between ANDA and MARN	**No**: the construction sector and the public sector did not have a collaborative relationship	**No:** numerous interrelated processes that contributed to the complexity of technical improvements	**No:** little coordination between ANDA, MOP, and MARN	**Yes:** Construction sector vocal about the unsustainability of the status quo
Business registration	Legal improvements ***not*** passed/implemented	**No**: lack of ownership from CNR leaders on legal reforms	**Yes**: collaborative relationship between private and public sector to make legal changes	**No:** numerous interrelated processes that contributed to the complexity of technical improvements	**Yes:** strong coordination in the formulation phase between MINEC, CNR, and DIGESTYC	**No:** some private sector interests (lawyers) helped stall reforms to the commercial code, threatened by the proposed elimination of paperwork that must be completed by a lawyer

Note: Shaded boxes indicate improvement efforts that were not successful as well as the absence of key success factors.

ANDA = Administración Nacional de Acueductos y Alcantarillados; CNR = Centro Nacional de Registros; DIGESTYC = Dirección General de Estadística y Censos (El Salvador); DGA = Dirección General de Aduanas; MINEC = Ministry of Economy; MARN = Ministerio de Medio Ambiente y Recursos Naturales; MOP = Ministerio de Obras Públicas (El Salvador).

FOMILENIO II's support has been critical in helping OMR promote foundational legislation and move high-profile reforms forward. FOMILENIO II has had an important role in communicating the benefits of the regulatory improvement agenda and adding support from other stakeholders in the process. For example, during the development of the Regulatory Improvement Law (discussed below), FOMILENIO II helped set up work groups with MINEC, SETEPLAN, and representatives of the private sector to present the draft of the law. FOMILENIO II also coordinated a joint mission to Peru and Mexico with members of the legislative and executive branches to learn about the scope and tools that the law should contain. The support from FOMILENIO II's top officials was also key for the approval of reforms in customs laws. This support from FOMILENIO II came at a price, however, as OMR's directors had some difficulty establishing an institutional identity and credibility independent of FOMILENIO II during the compact period.

> ***It was hard to create real separation between OMR and FOMILENIO II. The Executive Director had a hard time having authority independently of FOMILENIO's leadership. Because FOMILENIO must approve everything…that affected OMR's ability to operate independently.***
>
> ***—MCC representative***

How was the SMR developed and implemented?

By 2019, key SMR actors had achieved three legislative milestones towards the permanent institutionalization of regulatory improvement. With support from FOMILENIO II, OMR, and others, the Legislative Assembly enacted the Administrative Procedures Law on December 2017, and the law entered into effect in February 2019. The Assembly enacted additional milestones in regulation in December 2018—the Regulatory Improvement Law and the Law on Elimination of Bureaucratic Barriers—which took effect in April 2019. All three laws provide the structure and tools necessary for the implementation of the SMR. Taken together, these laws set up a series of positive and negative incentives in favor of regulatory improvement—outlining resources available to ministries that would like to pursue reform, but also outlining consequences if ministries fail to efficiently conduct their administrative processes (See Table A.4 in Annex for additional information on each law).

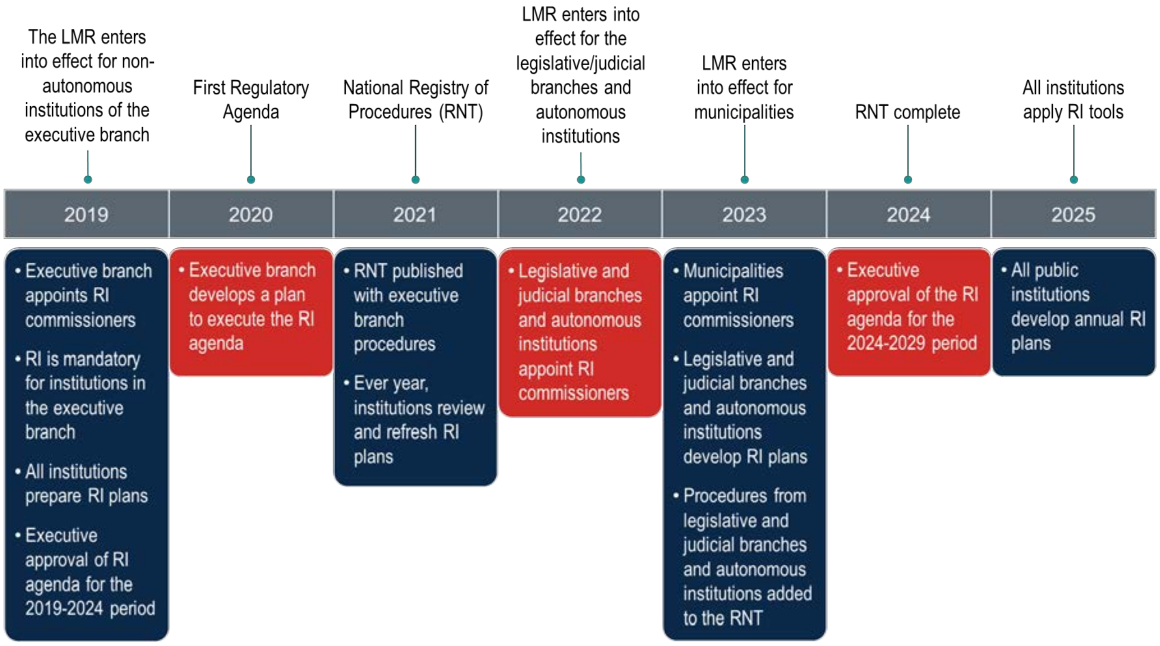
The Assembly session in December 2018 in which the Regulatory Improvement Law was enacted.
Photo courtesy of FOMILENIO II.

The Regulatory Improvement Law and its accompanying presidential decree establish OMR and SMR indefinitely. Developed by lawmakers and OMR with close support from FOMILENIO II, SETEPLAN and MINEC, The Regulatory Improvement Law outlines the structure of the SMR and the roles of each actor within it. The law defines the primary tools for regulatory improvement—regulatory impact analysis, the RNT and the regulatory improvement agenda—introduces requirements for public institutions to begin using these tools, and designates OMR as the authority with which institutions must work in formulating and executing regulatory improvements. The law is complemented by Presidential Decree 25, passed in May 2019. Besides establishing OMR as a permanent institution (as stipulated in the Regulatory Improvement Law), Decree 25 provides OMR with the authority to supervise the SMR's functioning, develop a regulatory improvement strategy, provide public institutions with guidance on regulatory improvement and the correct use of regulatory impact analysis, and develop and maintain the RNT, among other responsibilities. Importantly, the law and its accompanying presidential decree make OMR more powerful in its independent standing and permanent funding—less dependent upon the office of the president than when it was first established.

OMR-led training session outlining key aspects of the Regulatory Improvement Law to public authorities, 2019. Photo courtesy of FOMILENIO II.

The next five years will be a time of rapid expansion of regulatory reforms throughout the national government, reforms that will later extend to municipal authorities. The Regulatory Improvement Law institutes an ambitious implementation timeline of regulatory improvement starting with the law's ratification in 2019. As outlined in the law, non-autonomous institutions from the executive branch will appoint regulatory improvement commissioners and prepare annual regulatory improvement plans starting in 2019. The Regulatory Improvement Law will extend to autonomous institutions and agencies, as well as the legislative and the judicial branches in April 2022, and the law will take effect for all municipalities in 2023. This means that nearly all major national and municipal authorities will be responsible, at a minimum, for submitting annual regulatory improvement plans. Also according to the law, the RNT will be complete for most ministries of the executive branch by April 2021. By 2024, the RNT should contain all regulations and procedures for executive, legislative, and judicial authorities, as well as all autonomous institutions and municipalities (Figure VI.10).

Figure VI.10. Implementation of the Regulatory Improvement Law



Source: OMR site

LMR = Regulatory Improvement Law; RNT = National Registry of Procedures; RI = Regulatory Improvement.

Despite general support, the Regulatory Improvement Law has some key detractors. Although this law has widespread support as a foundational piece of legislation on regulatory improvement, there are some detractors—including private sector representatives, who claimed the law did not provide OMR with enough authority to ensure follow-through with much-needed regulatory improvements. Legal specialists at an influential Salvadoran think-tank, the Salvadoran Foundation for Economic and Social Development (Fundación Salvadoreña para el Desarrollo Económico y Social [FUSADES], also objected to the somewhat limited scope of the law, in that it did not provide OMR or any other public authority with the vested authority to hold public institutions accountable for a minimum level of regulatory improvement. Both private sector representatives and legal specialists made the point that the Regulatory Improvement Law is adequate in fomenting widespread regulatory improvement when there is strong executive support for such efforts, but dangerously inadequate in vesting OMR with enough authority to advance regulatory improvement in the absence of political support from the executive. In this sense, the law runs the risk of perpetuating the current political economy of regulatory reform discussed in Section A, in which progress toward regulatory reform is highly dependent upon the priorities of the president and party in power.

The Administrative Procedures Law is an effort to set the expectation of timely approvals as the new normal. The Administrative Procedures Law is the product of collaborations with a range of private-sector actors, public actors, and political parties. In 2017, an ad hoc commission of the Legislative Assembly initiated the law, inviting input from OMR, FOMILENIO II, sectors of civil society, the Supreme Court of Justice, FUSADES and the National Association of Private Business (Asociacion Nacional de la Empresa Privada [ANEP]). Subsequently, an inter-institutional technical team representing the Assembly, OMR, FOMILENIO II, FUSADES, ANEP, FMLN, ARENA, and others developed the law's articles. The law places some key parameters around the use of regulatory impact assessments and regulatory improvement plans. The law also introduces the concept of administrative positive silence, which means that if applicants receive no response by a pre-specified date, they can assume their submission has been accepted. This was not popular with public-sector parties, who viewed it as a loss of autonomy and authority to perform their jobs in the best way they see fit.

> ***When the law is implemented it will bring great benefits. For example, ANDA takes approximately 76 days to issue a drinking water judgment. With the Law, ANDA would have 20 days to issue a judgment or the applicants can assume that their submission has been accepted.***
>
> ***—MCC representative***

The Elimination of Bureaucratic Barriers Law embodies the private sector's need for accountability and enforcement. Originally developed as a chapter of the Regulatory Improvement Law, the Elimination of Bureaucratic Barriers Law creates the Tribunal to Eliminate Bureaucratic Barriers. The tribunal is responsible for assessing the legality and rationality of regulations for which complaints have been lodged, as well as imposing any necessary sanctions on public authorities. Key private-sector interests helped develop, promote, and pass this law simultaneously with the Regulatory Improvement Law. The law also faced some opposition from the public sector based on the perception that it would generate more bureaucracy with the creation of the Tribunal to Eliminate Bureaucratic Barriers.

> ***Laws cannot solve anything unless there is political will to enforce them.***
>
> ***—Large business owner***
>
> ***The new law will work great, as long as the executive [branch] is behind it. But without executive support, [the law] will fall short.***
>
> ***—FUSADES representative***

D. Insights and Implications

Driven in part by multiple leadership changes, OMR is still consolidating its identity and niche. Influenced by various leadership changes and the lessons it has learned since its inception in 2015, OMR has pivoted from being largely responsive to high-profile reform areas identified by the regulatory improvement council in Phase I to conducting a comprehensive inventory of administrative processes in Phase II and strengthening relationships with partner institutions. Over time, OMR will continue to refine its role in the regulatory improvement landscape, particularly as it prepares to help partner ministries with various tasks stipulated in the Regulatory Improvement Law, including setting the overarching regulatory improvement agenda, conducting regulatory impact assessment, and constructing the RNT. Sustained leadership within OMR in future years would presumably aid the agency’s efforts to implement the new law and solidify its identity as an institution.

It is still too early to assess OMR’s progress toward its short-term goals of increasing the transparency and consistency of regulations and reducing costs to businesses. As of mid-2019, several proposed reforms from Phase I were still in process, and improvement plans with executive ministries had just begun to be implemented. What’s more, OMR had not yet trained public officials on the use of regulatory impact assessment. Any tangible effects of these efforts would be unlikely to appear before 2021 or 2022. Mathematica will provide further information on these effects in the final report.

Whether the SMR has the right mix of positive and negative incentives to set up a permanent state of ongoing regulatory reform is still an open question. It is too early to assess the sustainability of the SMR because the LMR entered into effect in April 2019. However, the next two evaluation reports, will examine this issue. Of interest is whether the SMR establishes a healthy mix of positive and negative incentives for sustained reform.

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VII. CONCLUSIONS AND MAJOR FINDINGS

In this chapter, we provide high level findings that are relevant across at least two of the evaluation's three activities and sub-activities of interest: ESIC, the PPP Sub-Activity, and RIA.

Initiatives that require consensus among heterogeneous stakeholders need strong champions with real political power. Both the PPP Sub-Activity and the RIA require consensus among government stakeholders and between the public and private sectors. Given the divergent incentives of these different actors, a clear champion—ideally within the executive leadership team—is needed to provide the leadership (and in some cases the political pressure) to bring all stakeholders together on a set of priorities. The added challenge in El Salvador is that the administration changes every five years with no potential for reelection. This can raise obstacles to achieving compact objectives, because the delicate balance of political will supporting these activities can be lost in one election cycle.

FOMILENIO II staff played a critical role in convening the public and private sectors under all activities. In all sub-activities and activities—ESIC, PPPs and RIA—FOMILENIO II staff were instrumental in bringing together the interests of the public and private sectors to help prioritize investments. As part of RIA, for example, FOMILENIO II staff helped OMR convene these two groups, harmonize terminology, and in some cases reach middle-of-the-road compromises that largely satisfied both sides. In a country where the distrust between the public and private sectors runs deep, FOMILENIO II was an honest broker and trusted mediator between the two sides.

Strategic communication campaigns could facilitate the success of these innovative investment activities. ESIC planned a communications campaign as part of its launch, but internal disagreements about FOMILENIO II's priorities and early confusion about the purpose of ESIC negatively affected early recruiting. Similarly, the PPP Sub-Activity lacked a clearly defined communication and education campaign aimed at key decision makers and the general public. In the absence of a strong communications campaign, many stakeholders continued to associate PPPs with the unsuccessful privatization efforts of the past. For both ESIC and PPP sub-activities, public or targeted communication campaigns might have garnered support across multiple stakeholders. Such campaigns are particularly crucial in the case of innovative financial mechanisms like PPPs and investment facilities, which are largely novel concepts to most Salvadoran businesspeople, lawmakers, and politicians.

ESIC and RIA both worked to reduce regulatory burden on firms, but there appears to be no mechanism to collaborate or share lessons learned. Although reducing regulatory burden was not the intent of ESIC, all participants said FOMILENIO II's support in reducing red tape was the most helpful aspect of the sub-activity. Despite the commonalities between FOMILENIO II's work to reduce awardees' administrative burden at a micro level and OMR's work to reduce administrative burden at a macro level, there is no formal channel of communication or collaboration between the ESIC and OMR teams. It seems that the ESIC team could give valuable input to reform efforts, or connect OMR staff with ESIC awardees, some of whom could be interested in being part of private-sector consultations.

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Appendix A:

Tables and figures

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Figure A.1. ESIC application process

1. Initial application

Private firms that have a business idea and need additional public investment apply to the ESIC fund. In this phase, FOMILENIO II analyzes whether these expressions of interest are eligible based on the following requirements:

a. The proposal must describe a project that includes a private investment and a separate (complementary) public investment.
b. The private investment must belong to the tradeable sector, be sustainable, and be financed by one or more private investors.
c. The total amount of the private investment may not be less than $100,000.
d. Both private and public projects must be completed by September 8th, 2020.

2. Pre-feasibility

Once FOMILENIO II reviews the application and proposed projects, it works with the firm to ensure several core criteria are met: (1) public good has an internal rate of return of more than 12.5 percent, (2) there is a one-to-one match of private- to public-sector investment, and (3) there are no negative environmental, socioeconomic, or gender impacts. To be able to assess these core criteria, FOMILENIO II and the applicants work closely to further define what the necessary public good is and what permits would be required to execute that good. Once the public investment is defined, a FOMILENIO II economist proceeds with determining the internal rate of return of the investment. This aspect of the pre-feasibility phase is critical, because it ensures that the public investment alone (without the matching private investment) is viable. To calculate the internal rate of return of the public good, the FOMILENIO II economist uses the same methodology MCC uses to calculate economic rates of return. That is, the calculation takes into consideration what the “with and without project” scenario is and the social cost of goods, often requiring the monetization of costs or benefits. The calculations also include a sensitivity analysis.

3. Feasibility

If the pre-feasibility phase results in a determination that the third-party benefits of the public and private sector investment exceed the cost of the investment, the proposal is recommended to the Investment Committee for approval and signature. The agreement between the private partner, FOMILENIO II, and (where relevant) the public stakeholder counterpart defines each of the public and private investments, along with a detailed timeline for implementation. With the agreement in place, FOMILENIO II can start funding some of the necessary feasibility studies. These feasibility studies typically involve contracting subject matter experts to expand on the design of the public investment.

4. Execution

During this phase, the private-sector partner begins to receive the public good (in the case of technical assistance or capacity building), or, if the public good is in the form of infrastructure improvements, construction begins. FOMILENIO II provides oversight to make sure the investment is executed according to plan, particularly because all public investments need to be completed before the end of the compact (in September 2020). During this phase, private-sector partners report on key investments, activities, outputs, and results to FOMILENIO II at regular intervals.

Table A.1. Comparison of operations manuals across phases

	Operations manual	Manual for investors & project evaluation manual
Phase	**I and II**	**III**
Objectives	Leverage private investment in the tradeable sector through the provision of public investments	Increase private investment and improve businesses competitiveness in El Salvador
	Develop ESIC as a tool to attract investment	Promote the institutionalization of cost-benefit tools to prioritize public investments
	[Not present]	Improve relationships and the ability to reach agreements between multiple stakeholders from the central government, the private sector, and communities to make private-sector investments viable
Process	FOMILENIO II and PROESA publish calls for proposals on their websites and in two important newspapers	FOMILENIO II and PROESA publish calls for proposals on their websites and in two important newspapers. FOMILENIO II meets with firms directly to market and explain the benefits of the tool to the private sector. Firms could express interest directly through the FOMILENIO II portal and fill out a simplified application.
	Major steps include initial submission, pre-feasibility stage, feasibility stage, and implementation stage. Committee approval by majority vote required to progress to pre-feasibility and feasibility stage. Agreement of intent signed at the end of the pre-feasibility stage, formal contract signed before feasibility stage.	No change in major steps from Phase I and II
	Proponent defines public good in initial proposal	Public good defined through collaboration between proponent, FOMILENIO II, and relevant ministries.
	Formal interactions between actors at major steps	Continual interaction between players to ensure projects move through the stages with all technical, financial, environmental, social, and economic studies in place.

Table A.1 *(continued)*

	Operations manual	Manual for investors & project evaluation manual
Eligibility criteria to advance to pre-feasibility stage	Meets legal standing as a firm	Meets legal standing as a firm
	Includes complete private investment plan	Includes complete private investment plan
	Demonstrates financial capacity (either through bank credit or sufficient capital)	Demonstrates financial capacity (either through bank credit or sufficient capital)
	Demonstrates technical capacity to implement the private investment	*[No longer required]*
Eligibility criteria to advance to the feasibility stage	Internal rate of return of the public good greater than 12.5% (20% of score)	Internal rate of return of the public good greater than 12.5% (30% of score)
	1:1 ratio of public to private investment (12% of score)	1:1 ratio of public to private investment (50% of score)
	Net employment increases projected (18% of score)	*[No longer required]*
	Viable business plan (17% of score)	*[No longer required]*
	Technical and financial capacity of the private investor (16% of score)	*[No longer required]*
	Environmental benefits and impacts (12% of score) Social and gender benefits and impacts (5% of score)	Environmental and gender benefits and impacts (20% of score)
Scoring criteria weights	Each of the above criteria had a 5-point sliding scale that would yield a total score of 100%	Each of the above criteria has a 3-point sliding scale that would yield a total score between 1 and 3. Proposals over 2 would automatically be recommended for approval to the Investment Committee. Proposals between 1 and 2 are not automatically rejected but get additional support from FOMILENIO II.

Table A.2. Description of ESIC projects

Private sector entity/public sector stakeholder	Description of activities	Investment requirements (in millions)	Stage of the project (as of early 2019)
Project from the first call			
1. Aeroman (aviation company)	**Public good** Train future Aeroman technicians in airplane maintenance (workforce development) **Private investment** Increase aircraft maintenance operations	**Private investment:** 32.2 **Public investment:** 2.4	**Implementation** Agreement signed in April 2016; MOD signed in November 2017 As of September 2018: - 254 people have been certified as aeronautical technicians - 271 were undergoing training
Projects from the second call			
2. APANC (dairy cooperative)	**Public good:** Give technical assistance and training in processing and marketing dairy products such as milk, yogurt, and cheese. **Private investment** Construct a pasteurizing plant to break into the market of yogurt and dairy products	**Public investment:** 0.07 **Private investment:** 0.14	**Completed** Agreement signed in December 2017 As of September 2018: - 10 people (84 men and 26 women) were trained in the areas of production, stockpiling, collecting milk, marketing, accounting, and changes in generational, social, and gender patterns

Table A.2 *(continued)*

Private sector entity/public sector stakeholder	Description of activities	Investment requirements (in millions)	Stage of the project (as of early 2019)
3. ACOPASCA (agricultural cooperative)	**Public good** Improved potable water and sanitation system in the community of San Carlos (El Paisnal Potable Water Plant) Assistance obtaining the certification of the Global GAP Standard required for companies that export fruits and food **Private investment** Increased fruit production for export (banana, apples, papaya, etc.) Reactivated water well	**Public investment:** 0.94 **Private investment:** 0.67	**Implementation** Agreement signed in March 2018; MOD signed in July 2018
4. Alianza el Zonte/ Chiltiupan municipality (tourism complex)	**Public good** Wastewater treatment plant in beach El Zonte Sewage network to collect the wastewater produced in El Zonte **Private investment** New tourist complex that includes restaurants and stores New hotel (Eco Surf Hotel)	**Public investment:** 7.4 **Private investment:** 3.3	**Implementation** Agreement signed in March 2018 The company responsible for the design and construction of the wastewater treatment in Playa El Zonte Tourist area was contracted with in late 2018.
5. LACTOLAC, Grupo Callejas /Nejapa municipality (dairy company)	**Public good** Wastewater treatment to reduce pollution in the area Improved sewage network to collect wastewater produced in the industrial sector and in parts of the residential zone of the municipality of Nejapa **Private investment** New dairy processing plant to expand production Related machinery and equipment	**Public investment:** 15.5 **Private investment:** 5.3	**Implementation:** Agreement signed in April 2018 Construction permits of the public good were signed in October 2018.

Table A.2 *(continued)*

Private sector entity/public sector stakeholder	Description of activities	Investment requirements (in millions)	Stage of the project (as of early 2019)
Projects from the third call			
6. Confecciones del Valle, EXPORTSALVA, INDUFOAM, Diana, LIVSMART, Textiles San Andres (manufacturing companies)	**Public good** New bypass highway (connecting Santa Ana and Sonsonate highways) **Private investment** Photovoltaic system for power generation Expanded industrial park New machinery and equipment	**Public investment:** 23.7 **Private investment:** 34.2	**Implementation:** Agreement signed in January 2019 Expected to be completed by June/July 2020
7. Techno Screen and LIVSMART (manufacturing companies)	**Public good** Upgraded Anguiatú border crossing, including the relocation of the customs office **Private investment** Computer equipment, licenses, and machinery	**Public investment:** 29.0 **Private investment:** 34.5	**Implementation:** Agreement signed in January 2019
8. Ingenio la Cabaña, Diana/Paisnal municipality (agricultural company)	**Public good** Expanded irrigation system **Private investment** Infrastructure and farm equipment	**Public investment:** 10.1 **Private investment:** 17.2	**Implementation:** Agreement signed in January 2019
9. Alianza el Zonte (tourism)[a]	**Public good** Cantón El Palmar Potable Water Plant **Private investment** Infrastructure for a hotel and expansion of a private club	**Public investment:** TBD **Private investment:** TBD	**Feasibility assessment** Private sector applicants are currently assessing the profitability of the project

Source: Agreements signed between FOMILENIO II and awardees.

[a] The agreement between Alianza el Zonte and FOMILENIO II has not been signed.

Figure A.2. PPP development and tendering process

As stipulated in El Salvador's PPP law, PPPs in development must proceed through the following seven steps:

1. Technical studies

PROESA, contracting institutions, and consultants work together to commission and execute a series of studies—often starting with technical and legal studies to determine if prioritized projects are technically and legally viable before moving to an economic analysis.

2. Pre-feasibility

If the projects pass this hurdle, stakeholders commission an outside party to conduct a pre-feasibility study. This study must include the problem the proposed project is designed to solve; a description of how the project could solve it; main benefits and costs; socioeconomic and financial evaluation findings; and technical-economic analysis of the alternatives. Once the study is submitted, PROESA works with the contracting institution to fill any gaps in the analysis, bringing in technical and financial experts as needed.

3. Feasibility

If the pre-feasibility study has promising findings, the contracting institution and PROESA commission a feasibility study of the project. As stipulated in the PPP law, the study must contain, at minimum, a fiscal impact assessment that estimates fiscal impact and potential risk; an economic assessment of the project, including a value-for-money analysis; and a social impact assessment. Feasibility studies often include analysis of other factors, including environmental impact and political implications. If the feasibility study is favorable, the contracting institution presents the study results to PROESA's board of directors.

4. Fiscal impact ruling

Next, Minfin issues a ruling after assessing: (1) the allocation of risks and fiscal impacts of the project; (2) the value-for-money analysis; and (3) the fiscal consistency of future payment commitments and quantifiable contingent payments derived from PPPs.

5. Project structure and promotion

In this stage, a transaction advisor is hired to formulate the business model for the project. This advisor drafts the terms of the invitation to tender, or the technical, environmental, and financial requirements of the PPP, as well as the selection criteria and process.

6. Tender

PROESA and the contracting institution jointly finalize the terms of the invitation to tender, which must be approved by the PROESA board of directors. PROESA sends a copy of the terms to the competition superintendent, who issues an opinion on whether the terms could limit, restrict, or impede competition. The offers are evaluated by a commission that will be integrated by one staff member from PROESA, one from Minfin, and two representatives of the contracting institution. In this phase, the executive branch needs approval from the Legislative Assembly to tender PPP projects that commit resources in future fiscal years.

7. Contract

The contracting institution and the concessionaire[a] sign a contract, and the concessionaire registers an LLC in El Salvador. The contract details the responsibilities of the parties, risks of the parties, participants, conformations of associations, and payments for the project, among other stipulations.

[a] The bidder to whom the contract is awarded is often obligated to establish a limited liability company of Salvadoran nationality, whose purpose is to develop all the activities related to the PPP contract.

Table A.3. Participation in PPP professional development activities

Professional development activity	Offered by:	Duration	Participants
Infrastructure in Market Economy: Public-Private Partnerships in a Changing World	Harvard University	July 10 to July 22, 2016	1
Program on Investment Appraisal and Risk Analysis	Queens University	July 18 to August 12, 2016	2
Module I: Fiscal management in PPPs	World Bank and BCIE	October 24 to 28,2016	7
Module II: Fiscal Space Management for PPP Projects	World Bank and BCIE	June 5 to 9, 2017	6
Program on Investment Appraisal and Risk Analysis	Queens University	July 2 to 26, 2017	1
Corporate finances (Online program)	IE Business School	Abril 24 to June 26, 2017	1
Public Private Partnership and Infrastructure Finance for Lawyers	International Law Institute	July 10 to 21, 2017	1
Project Finance Techniques: Applications and Developments	International Law Institute	November 13 to 17, 2017	1
Structuring of PPP projects in Central America	World Bank and BCIE	December 4 to 7, 2017	2
Foundational PPP course (9 modules)	FOMILENIO II	NA	24
Structuring of PPP projects in Central America	World Bank and BCIE	June 11 to 13, 2018	5
Oracle Crystal Ball: basic and advanced	ORACLE y SSA Systems	July 31, 2018	12
Project Finance Masterclass	Moody's Analytics	September 11 to 13, 2018	1
International Project Finance	Euromoney Learning	October 15 to 19, 2018	1
Public Private Partnership Financial an Risk Analysis Seminar	NA	November 26 to 30, 2018	1

Source: FOMIENIO II’s administrative records.

NA = Not available.

Table A.4. Summary of regulatory improvement laws

	Regulatory Improvement Law	Administrative Procedures Law	Law to Eliminate Bureaucratic Barriers
Basic premise and features	Establishes the legal and organizational framework for the Regulatory Improvement System • Establishes OMR as an independent public institution • Defines the roles, functions, and relationships within the Regulatory Improvement System • Establishes the legal basis for the National Registry of Procedures (RNT) • Defines three tools for regulatory improvement—regulatory impact analysis, the RNT, and the overarching regulatory improvement agenda—and designates OMR as the authority on regulatory impact analysis	Places acceptable parameters around regulatory improvement and simplification activities, as well as wait times and response times • Puts limitations on the documents a public institution can request in administrative procedures, including documents that institutions already possess or that are accessible in public registries • Establishes standardized wait times with respect to administrative procedures related to identification and health services, among others • Introduces the concept of administrative positive silence, which means that applicants receiving no response by a pre-specified date can assume their submission has been accepted	Establishes mechanisms to enforce timely and efficient administrative procedures • Creates the Tribunal to Eliminate Bureaucratic Barriers, which has the authority to analyze the legality and undue burden of regulatory requirements, and impose necessary sanctions and penalties
Developed by	An ad hoc commission of the Legislative Assembly, advised by OMR	An ad hoc commission of the Legislative Assembly, advised by OMR	An ad hoc commission of the Legislative Assembly, promoted by key assembly representatives from center-right parties
Additional input from:	Public: FOMILENIO II, SETEPLAN, MINEC Private: CIFACIL, American Chamber of Commerce of El Salvador, ASI, ANEP, CASALCO The law also received comments from private citizens through the website "Legisla" of the Institute of Access to Public Information.	Public: FOMILENIO II, SETEPLAN, MINEC, Supreme Court of Justice Nonprofit: FUSADES, ANEP Political: FMLN, ARENA, PCN, GANA, sectors of civil society	Public: FOMILENIO II Private: CIFACIL, American Chamber of Commerce of El Salvador, ASI, ANEP, ABANSA

Table A.4 *(continued)*

	Regulatory Improvement Law	Administrative Procedures Law	Law to Eliminate Bureaucratic Barriers
Supporters	General support across parties in the legislature. Most institutions that provided input had a favorable opinion of the new law, including OMR and FOMILENIO II. Staff from a minority of public institutions thought the law would compromise their autonomy somewhat, particularly in requiring them to conduct regulatory impact assessments on a regular basis.	General support across parties in the legislature. Before the Law was sent to the Legislative Assembly, representatives of FOMILENIO II participated in the inter-institutional commissions.	Lawmakers in the Legislative Assembly from center-right parties—particularly ARENA—were the most avid supporters.
Opponents	Private sector representatives and legal analysts have pointed out shortcomings of the regulations. From their perspective, the main problem is that OMR does not have the required authority to force institutions to eliminate or reduce excessive procedures.	There was opposition from some members of the public sector before and after the law was sent to the Legislative Assembly. They perceived a loss of autonomy, in particular with the imposition of administrative positive silence.	There was some opposition from the public sector, where there was a perception that the law could generate more bureaucracy by creating the Tribunal to Eliminate Bureaucratic Barriers.

OMR = Regulatory Improvement Organization; Salvadoran Foundation for Economic and Social Development (FUSADES) CIFACIL = Inter-Trade Commission for Trade Facilitation; CASALCO = Camara Salvadoreña de la Industria de la Construcción; ASI = Salvadoran Association of Industrialists; ANEP = National Association of Private Enterprise; ABANSA = Salvadoran Banking Association; FUSADES = Salvadoran Foundation for Economic and Social Development; SETEPLAN = Technical and Planning Secretariat of El Salvador; FMLN = Farabundo Martí National Liberation Front, GANA = Grand Alliance for National Unity; PCN = Party of National Conciliation; ARENA = Nationalist Republican Alliance.

Appendix B:

Responses to stakeholder comments

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Table B.1. Responses to stakeholder comments

Reviewer Name/ Institution	Page Number (please reference the number at the bottom of the page)	Comment	Evaluator Response
MCC			
Jenny Heintz	1	ESIC is the English Acronym for API (El Salvador Investment Challenge) ICP is the acronym for Investment Climate Project.	Thanks. This has been corrected.
Jenny Heintz	4	I think this needs to include a discussion of the program logic. I know this is included in greater detail in the EDR, but the evaluation’s objective is to evaluate what is in the logic. That should be the starting point.	We map out the program logic in each of the three sections below. We now begin and end most sections with a discussion of the program logic. At the end of each chapter, we assess the extent to which the logic was fulfilled as of 2019.
Jenny Heintz	5	Be consistent with PPPs and ESIC, both are sub-activities.	Thanks. This has been corrected in the table as well as the text.
Jenny Heintz	7	How do we handle this if this has been dissolved? Make footnote? Maybe we should consult with Roberto and the RCM.	We have inserted a footnote to indicate that the technical secretariat was in fact dissolved by the incoming administration.
Jenny Heintz	9	I’m wondering if this can be shortened here and described fully in an appendix.	Yes, we have moved several pieces to the appendix, including the ESIC application process, a comparison of ESIC manuals across phases, a description of ESIC projects, the PPP development process, participation in PPP activities, and a summary of regulatory improvement laws
Jenny Heintz	13	Not quite. We required them to calculate third party benefits. They still have to calculate the ERR of the road, or whatever the public good is,	Thanks. We corrected this reference to ERRs.
Jenny Heintz	13	A lot of this needs to be tightened/shortened. Maybe 3 sentences per phase max.	We shortened the narratives around phases. We also summarized implementation to date first with 2-3 paragraphs, and then move to a discussion of phases in case readers want the 'big picture' findings first.
Jenny Heintz	16	These highlights either need to be very short and include more graphics or be moved to an appendix.	We agree. We deleted one awardee highlight and shortened the others. We also added photos wherever possible.
Jenny Heintz	19	Again, these call-outs are interesting but don’t do anything to reduce to length. Is there a better way to represent this information?	We agree. We deleted one awardee highlight and shortened the others.

Table B.1 *(continued)*

Reviewer Name/ Institution	Page Number (please reference the number at the bottom of the page)	Comment	Evaluator Response
Jenny Heintz	23	This is a good point to loop it back to the program logic. Does this same theory of change still stand? Have we moved away from that?	Agreed. We have included a discussion on whether the theory of change still stands for all sub-activities.
Jenny Heintz	24	I might just add a note/question about what this means for post-Compact sustainability. If F2 is gone, and they are a critical part of the process, then what happens when F2 doesn't exist?	This is a good point. We have added to the discussion of post-compact sustainability in Section 5--making this point suggesting that the trust that F2 individuals have built with public and private actors runs the risk of being lost if the fund is not institutionalized with at least some of the F2 team-members included in the next iteration.
Jenny Heintz	27	Does a product from a specific firm need to be an export to be a tradeable?	Not necessarily. We note in the report that there is ambiguity around the term "tradeable".
Jenny Heintz	31	Be consistent, in other places you use Salvadoran. I think Salvadoran is the correct word.	Noted and corrected.
Jenny Heintz	40	In what way? Above you say PPPs are a way of avoiding taking on a larger fiscal deficit. I tend to agree with the statement here, but it needs more explanation.	We have deleted this reference to country being able to "afford" PPPs, opting for more precise language about managing PPPs' fiscal risk.
Jenny Heintz	44	The quotes that are pulled out are really interesting, but it only works as a highlight section if you have 1-2 quotes. It needs to be easy to digest.	Agreed. This has been deleted.
Jenny Heintz	44	I think we could make this cycle into a simple infographic and put the description of each step in the appendix.	Agreed. We put the larger description of the process in the appendix.
Jenny Heintz	45	Again, reference the program logic.	Done.
Jenny Heintz	49	This sentence is slightly awkward. I think the paragraph could be shorten just be rewording.	Noted and shortened.
Jenny Heintz	54	For something like this I would just shorten it to the bolded text. Make it a quick takeaway	Noted and shortened.
Jenny Heintz	68	Preface this section with timeframe for analysis (through early 2019)	Done.
Jenny Heintz	73	Same comment as in the ESIC and PPP sections. Shortened these paragraphs to the main takeaways and put the rest in the appendices.	Agreed. We have made major efforts to streamline the implementation findings.
Jenny Heintz	83	Who are these quotes from? Every other one has a source.	Added.

Table B.1 *(continued)*

Reviewer Name/ Institution	Page Number (please reference the number at the bottom of the page)	Comment	Evaluator Response
Jenny Heintz	85	I think this graphic needs a little bit of formatting work. There's too much going on here.	Agreed. We cut out a lot of the extraneous information
Jenny Heintz	98	Seems odd to introduce a section that is just a page. Better to jump right in. I like this chapter though. For the Spanish Exec Summary please pull the bolded text one page pulling all three components together.	Agreed. We have shortened the introduction, but we retained one sentence that explained that lessons across at least two of the sub-activities are found in this section.
Jenny Heintz	98	No mention of RIA in the first sentence and then you go on to give an example from RIA.	Thank you. We have included RIA above.
OMR			
OMR - Michaelle Sermeno	54	I am no certain of the source of this information. If you took it from the initial documents for the design of the OMR, I am ok with it. Otherwise, I suggest reviewing it because it places de OMR as responsible of reviewing laws and regulations and implementing improvement actions. The OMR provides technical assistance and advise, but the institutions are the sole responsible and the ones in charge of analyzing their regulations, identifying and prioritizing regulations, and implementing administrative and legal actions to reduce bureaucracy and administrative burdens.	Thanks. We have reviewed the report and made this cleared in a few places--most notably in section 3 of chapter VI, Political economy of regulatory reform, where we note that OMR plays an advisory role, but ultimate responsibility for reform lies squarely with the partner institutions.
OMR - Michaelle Sermeno	54	The OMR worked with the technical secretary until May 2019. The new government eliminated said Secretary and currently the OMR works with the private secretary.	Good point. We added a footnote to clarify--see page 13.
OMR - Michaelle Sermeno	55	If we refer to the RNT that is included in the Law and in which we are currently working, I suggest to include that the Registry is binding for public institutions, in the sense that they will be able to demand only the requisites registered in the RNT and in the way that they are registered. This is an important effect, based in which we affirm that the Registry provides legal certainty.	Thanks. We have included this enforcement power of the RNT in the description of the registry.
OMR - Michaelle Sermeno	56	The figure suggests that the OMR executes the reform agenda, formulates regulatory and non-regulatory reforms and improvements, and implements non regulatory and regulatory improvements. The OMR provides technical assistance and advice, through the different tools stated in the Law and through the regulatory improvement plans. What or who is the "General Assembly"? do you mean the "Legislative Assembly"?	Thanks. We have clarified the role of OMR here and elsewhere. And we now use the term "Legislative Assembly" throughout the report instead of "General Assembly"

Table B.1 *(continued)*

Reviewer Name/ Institution	Page Number (please reference the number at the bottom of the page)	Comment	Evaluator Response
OMR - Yesenia Salas	56	It was the first OMR’s vision before the LMR	Yes, our figure attempts to capture the initial vision for OMR, not necessarily its role as of 2019.
OMR - Michaelle Sermeno	57	Another reason while OMR could be considered in Tier 2 during its early stage is that it was viewed as part of Fomilenio II and not as a public institution itself. Thus, there was a perceived strong association between OMR and Fomilenio II.	This is a good point. We've included this in our findings--the perceived association between the two organizations, and the pros/cons of that association.
OMR - Michaelle Sermeno	57	In political parties are you including the strongest? There were 2 other actors at the legislature that represented the political parties GANA and PCN, that were strongly involved in the discussions regarding the Law.	We have included these parties in the discussion here, as well as in the political economy figure. Thank you.
OMR - Michaelle Sermeno	58	Important is to mention or to pay attention at the number and frequency of the meetings of this Board. The last time it gathered was in early 2018. That speaks a lot as to the importance government gave to it and as to how strong it responded to the political context and the power struggles among their members inside and outside of the board.	This is a great point. We have included this information on the number/frequency of board/council meetings.
OMR - Michaelle Sermeno	60	In the legal framework, include the executive decree that creates the OMR as a permanent institution.	Yes, we have now included additional information on Decree 25.
OMR - Yesenia Salas	60	The legal framework didn’t enter into force at early 2019 as it is seen in the figure	Corrected in the figure--and verified that this does not occur in the text.
OMR - Michaelle Sermeno	62	Better Regulation Law or Regulatory Improvement Law.	Corrected throughout.
OMR - Yesenia Salas	62	SIMPLIFICA is not an OECD methodology, it is from CONAMER (Comisión Nacional de Mejora Regulatoria de México)	Corrected.
OMR - Michaelle Sermeno	62	Ministries and their dependencies. Simplifica did not include autonomous institutions or agencies, that technically are part of the executive branch.	Corrected.
OMR - Yesenia Salas	63	I think is better to say Cost of wait time to get a resolution than “to comply with regulation”	Corrected.
OMR - Michaelle Sermeno	64	Second. The OMR under Decree 90 had only 2 directors. The OMR under decree 25 (permanent institution) has had 2 directors from June 2019 to date.	Noted. The latest draft contains no precise count of the number of directors.

Table B.1 *(continued)*

Reviewer Name/ Institution	Page Number (please reference the number at the bottom of the page)	Comment	Evaluator Response
OMR - Michaelle Sermeno	64	ANDA is nor a Ministry but an autonomous institution or agency.	Noted and corrected.
OMR- Rafael Juarez	66	Es un poco fuerte la forma de plantearlo, pero es totalmente cierto	We have opted to leave the language as is since it reflects what we were told in meetings
OMR-Rafael Juarez	67	No indica que se debe multiplicar por el número de veces que se realiza el trámite	We added a note below the figure to specify
OMR-Rafael Juarez	68	Reemplazar mención de Ministerio del Interior por Ministerio de Hacienda	Noted and corrected
OMR - Michaelle Sermeno	69	The legal reforms related to the LEAT have not been sent to the legislature. They were sent to the Secretaría Jurídica y de Asuntos Legislativos de la Presidencia de la República.	Noted and corrected.
OMR - Yesenia Salas	72	La Ley define tres herramientas: 1. Agenda regulatoria. 2. Evaluaciones de Impacto Regulatorio y 3. Registro Nacional de Trámites	Noted and corrected.
OMR-Rafael Juarez	73	¿Este es MAG?	Noted and corrected
OMR - Yesenia Salas	75	el Indecopi es un control posterior. Por lo que en estricto sentido no define la agende de mejora regulatoria de las instituciones.	Thank you. We have softened the language on this point.
OMR - Michaelle Sermeno	77	The Decree 25 that creates the permanent OMR is missing.	Noted and corrected.
OMR - Michaelle Sermeno	79	Not sure this is accurate. The tribunal will analyze the legality and reasonability of procedures and their requisites and based on such analysis it will rule if they are valid or if changes need to be made.	Noted and corrected.
OMR - Michaelle Sermeno	79	The Registry is also a tool and according to the law, the regulatory agenda and the regulatory impact analysis are tools. The plans are not exactly considered tools.	Noted and corrected.
OMR - Michaelle Sermeno	79	PCN, GANA?	Yes, these have been added.
OMR - Michaelle Sermeno	81	The EIR is mandatory since 2019, the graph includes it only in 2025. The EIR also follows the gradual implementation of the Registry and the other tools	Noted and corrected.
OMR - Michaelle Sermeno	81	Group 2 needs to be adjusted to include autonomous institutions or agencies and constitutional organisms.	Noted and corrected.

Table B.1 *(continued)*

Reviewer Name/ Institution	Page Number (please reference the number at the bottom of the page)	Comment	Evaluator Response
OMR - Michaelle Sermeno	82	Excluding autonomous institutions or agencies.	Noted and corrected.
OMR - Michaelle Sermeno	82	Is the main input of the RNT to start its process of implementation. It is important to clarify, that the simplification project gathered information that is useful as an starting point for the Registry, but to be incorporated officially in the registry public entities will request the registration of their procedures and requisites to the OMR. The OMR will assess if said procedures and requisites have a valid legal base and accordingly decide if they can be registered fully, partially registered or rejected. The information from Simplifica, then, will not automatically pass to the Registry.	Thanks. We have softened the language a bit about SIMPLIFICA outputs forming the basis for the registry, given that additional requests and reviews.
OMR - Michaelle Sermeno	82	The inventory of procedures is not hosted there. It is in gob.sv	We have deleted this reference.
OMR - Michaelle Sermeno	82	"and searchable through the technological platform of the RNT". The pilot is being useful to test the platform and prepare guidelines and the process for registration.	We have deleted this reference.
OMR - Michaelle Sermeno	82	Consolidating instead of discovering	We have deleted this reference.
OMR - Michaelle Sermeno	82	This section should include the regulatory agenda and the RNT.	We have added these references.
API			
Salvador Vega Prado	2	Design-Build-Finance-Operate-Maintain (DBFOM) In social infrastructures as hospitals, jails, public schools, and similar; the concessionaire only Design-Build-Finance-Maintain (DBFM), the operation of the services is responsibility of the GOV.	Thank you--we have corrected this.
Salvador Vega Prado	29	PPP Sub-Activity has two components: Component 1: Development of projects Component 2: Strengthening capacities for PPP development in the Government entities (2.1 training on PPPs for public entities and 2.2 Human resource (coaches, specialists)	We have clarified in a footnote that FOMILENIO considers these to be two components, although MCC conceptualizes them as three pillars.

Table B.1 *(continued)*

Reviewer Name/ Institution	Page Number (please reference the number at the bottom of the page)	Comment	Evaluator Response
Salvador Vega Prado	30	Please explain that when PROESA is mentioned is referred to the PPP Direction of PROESA (DAPP – Dirección de Asocios Público-Privado) and also the Executive Board of PROESA (Consejo Directivo de PROESA)	Thanks for this clarification--we have made this clear in the PPP section of the report.
Salvador Vega Prado	30	MoF vets the PPP. PROESA evaluates according with the result of the feasibility study, value for money, cost benefit analysis, and other studies if the project can move forward to the next stage (fiscal impact evaluation by MoF)	Yes, this is our understanding. We believe the report reflects this process as well.
Salvador Vega Prado	30	Including the financial support to develop the studies (technical, legal, pre-feasibility, feasibility) and the transaction advisor	Yes, this is our understanding. We believe the report reflects this.
FOMILENIO			
Roberto Lopez	18	La institucionalización del uso del análisis de costo – beneficio en el marco de la implementación de API en FOMILENIO II si se ha logrado pero el reto es una vez la herramienta API pase a una entidad de Gobierno (aún no se tiene claro quien asumiría esta herramienta en el Gobierno), en el momento que se de esa trasferencia se podrá saber si se ha institucionalizado este tipo de análisis para ello existe un manual de evaluación económica, por el momento creo que es muy pronto para decir que no está institucionalizado en el Gobierno. Respecto a fortalecer la relación entre los entes públicos y privados se ha logrado tener acuerdos con Alcaldías, Ministerio de Obras Publicas y Ministerio de Hacienda, apoyo de ADESCOS (asociaciones de desarrollo comunal). Es correcto que el manual no proporciona las instrucciones explicitas para promover acuerdos entre el sector público y privado.	We have clarified the points here--actually making two fundamental points: (1) the API team had institutionalized the use of cost-benefit analysis within ESIC and FOMILENIO by mid-2019, but (2) there appeared to be no institutionalization of this analysis outside of API/FOMILENIO as of mid-2019.
Roberto Lopez	20	Debe revisarse con los plazos de las tres convocatorias. Como salieron esos porcentajes? ¿En función de inversión ejecutada por fechas? API debería explicar con mayor detalle el cumplimiento de este criterio.	Using investment information in applicant investment plans, we calculated the percentage of pledged counterpart investment that had already occurred at the time applications were submitted, under the assumption that ESIC was unlikely to change firms' behavior prior to the application submission date.

Table B.1 *(continued)*

Reviewer Name/ Institution	Page Number (please reference the number at the bottom of the page)	Comment	Evaluator Response
PROESA			
Jose Schafik Collazo Han	30	El Salvador?	Yes, the country name has been corrected. We apologize for this error.
Jose Schafik Collazo Han	30	Congress?	We have changed this to "Legislative Assembly" throughout.
Jose Schafik Collazo Han	30	Might be in Power tier 1.	Correct--we have made this change.
Jose Schafik Collazo Han	31	His presidency has a defined interest on PPP's, even though some officials are not clear about the usage of PPP contracts.	Thank you--noted and clarified.
Jose Schafik Collazo Han	33	Organismo	Thank you--fixed.
Jose Schafik Collazo Han	33	Not agree with Deloitte comment. There is some understanding in key players, but they need to see in place a few PPP contracts as of a demonstrative effect. Multilateral banks do have knowledge about PPP's and other local banks as Atlantida, Cuscatlan and Davivienda. In addition, AFP's as well (Confia and Crecer).	We have included your input as well, to counter Deloitte's comment.

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